

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SALARIES AND EXPENSES, HOUSING AND URBAN DEVELOPMENT

BUDGET ACTIVITY 10: GENERAL COUNSEL

SCOPE OF ACTIVITY

The General Counsel, as the chief legal officer of the Department, is the legal adviser to the Secretary and other principal staff of the Department. It is the responsibility of the General Counsel to provide legal opinions, advice and services with respect to all programs and activities, and to provide counsel and assistance in the development of the Department's programs and policies.

WORKLOAD

The principal workload of the Office of General Counsel (OGC) consists of providing advice to program managers; preparing memoranda on legal problems arising under HUD programs; representing the Department in litigation and administrative hearings; and drafting, reviewing and clearing regulations and legislation and legislative and regulatory materials. OGC plans to support the Department's efforts to significantly reform programs and delivery mechanisms to respond to locally driven priorities and the Secretary's HUD 2020 Management Reform.

1. HEADQUARTERS

The work of the legal staff will address the requirements and initiatives of the Secretary significantly increasing activities to restore the public trust, enhance procurement integrity, and support program administrators in their efforts to empower communities, enhance Federally Assisted Affordable Housing, and open home ownership accessibility to larger numbers of people, including public housing residents and Section 8 recipients.

a. IMMEDIATE OFFICE OF GENERAL COUNSEL

The General Counsel is responsible for providing all of the legal advice and service necessary at the Headquarters level for the formulation, implementation and operation of Departmental programs and administrative management. The General Counsel also provides professional supervision to the staff and functions of the legal offices of the Department in Headquarters and in the field and the Enforcement Center. The Immediate Office is professionally staffed by the General Counsel, Senior Advisors and administrative personnel.

b. OFFICE OF DEPUTY GENERAL COUNSEL (PROGRAMS AND REGULATIONS)

The primary function of the Deputy for Programs and Regulations relates to legal work in connection with Government National Mortgage Association (Ginnie Mae) activities, Fannie Mae and Freddie Mac oversight, capital markets and tax matters, and with the drafting, development, clearance and publication of the Department's regulations and legislation. Consequently, the Deputy for Programs and Regulations focuses primarily on the legal issues raised by the Assistant Secretary for Housing; the President of Ginnie Mae, the Assistant Secretary for Congressional and Intergovernmental Relations, the Assistant Secretary for Policy Development and Research, as well as those generated by Ginnie Mae and regulation of, Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac). This Deputy also addresses programmatic issues of the Assistant Secretary for Public and Indian Housing and the Assistant Secretary for Community Planning and Development. The Deputy for Programs and Regulations works very closely with OGC's Office of Finance and Regulatory Enforcement, and Office of Legislation and Regulations.

c. OFFICE OF DEPUTY GENERAL COUNSEL (LITIGATION)

The primary function of the Deputy General Counsel for Litigation relates to litigation in connection with Federal Housing Administration (FHA) activities; Community Development; Public Housing Authorities; and with the development, clearance and publication of the Department's regulations. Consequently, the Deputy focuses primarily on non-civil rights litigation raised by the Assistant Secretaries for Housing, Public and Indian Housing, Community Planning and Development, and Policy Development and Research. One of the Deputy's primary focuses is the enforcement in HUD's programs. The Deputy coordinates OGC's activities regarding civil and administrative actions that the Department pursues in all program enforcement areas that are not addressed by the Enforcement Center (EC), including, but not limited to, Multifamily Housing, Public and Indian Housing and Community Planning and Development.

d. OFFICE OF DEPUTY GENERAL COUNSEL (EQUAL OPPORTUNITY AND ADMINISTRATIVE LAW)

The primary functions of the Deputy for Equal Opportunity and Administration relates to legal work in connection with civil rights, employment and procurement. In the area of civil rights the Deputy General Counsel addresses legal work in connection with Title VIII of the Civil Rights Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Executive Order 11063 concerning Equal Opportunity in Housing, Executive Order 11625 concerning Minority Business Enterprises, and Section 3 of the Housing and Urban Development Act

of 1968. Therefore, the Deputy for Equal Opportunity and Administration focuses on civil rights issues facing the Department and Fair Housing litigation issues.

e. OFFICE OF DEPUTY GENERAL COUNSEL (HOUSING FINANCE AND OPERATIONS)

The Office of Deputy General Counsel for Operations provides day-to-day operational guidance to OGC and Field Operations with respect to all administrative, management and organizational issues, including all personnel, staffing, budget, training and travel activities, as well as the development of computerized systems and facilities. The Deputy is the rating official for all Field Assistant General Counsel with the General Counsel being the reviewing official. This Office is responsible for the oversight and effective management of the salaries and expenses budgets for both Headquarters and the Field Legal Services. The Deputy directly oversees all activities of the General Counsel's Office of Insured Housing and all operational activities of all other aspects of the Headquarters and Field Legal Services. The Deputy for Operations also represents the General Counsel at all levels inside and outside the Department and acts in the absence of the General Counsel or the Deputy General Counsel for Programs and Regulations, Deputy General Counsel for Litigation or Deputy General Counsel for Equal Opportunity and Administrative Law. This Deputy is a member of the Executive Resources Board, the Performance Recognition Board and the Contract Management Review Board. The Office includes the Management and Administrative Services Staff and the Field and Management Operations Staff. The Deputy also relates to legal work in connection with Federal Housing Administration (FHA) and transactional real estate matters associated with the insured and assisted housing programs and legal issues resulting from contractual arrangements with outside counsel for legal services related to program development and enforcement. The Deputy directly oversees the OGC's Office of Human Resources, with respect to contracting and personnel.

Management and Administrative Services Staff

This Staff provides day-to-day operational guidance and support to the Office of General Counsel with respect to all administrative, budgetary, management and organizational functions. This includes providing management support for the use and control of staff and fund resources, preparing the budget and providing budget oversight, and providing and/or coordinating all OGC personnel/staffing, labor and employee relations, travel, space management, and general administrative services. This staff also coordinates Headquarters Management Reform and Business and Operating Plan (BOP) activities.

Field and Management Operations Staff

This Staff assists in providing oversight of and support to Field Assistant General Counsel, Chief Counsel, Chief Attorneys and their staff with respect to all administrative, management and organizational issues, including personnel, staffing, budget and travel activities. This also includes monitoring the delivery of legal services as well as facilitating communication between Headquarters OGC staff, program staff and Field Counsel through audio/video conferencing, meetings and briefings. This Staff also oversees the installation and maintenance of computer hardware and software, the development of computer systems and the provision of access to legal research services for Headquarters and Field legal staff. In addition, this Office prepares the BOP and operational manuals, and represents the General Counsel on various Departmental management committees and task forces such as the Best Practices Task Force and the HUD 2020 Management Reform Executive Team.

f. OFFICE OF ASSISTED HOUSING AND COMMUNITY DEVELOPMENT

This Office of program counsel is at the point of the spear of the Department's core functions, including legal responsibility for six formula-based grant programs—CDBG, HOME, Native American Housing Assistance Self Determination Act (NAHASDA) block grants, Capital and Operating funds for public housing, and the administration of Section 8 tenant-based assistance. Historically, program and legal practice has demonstrated that while the establishment of formula grants and block grants tends to reduce workload demand at the field office level, it is imperative that clear, reliable policy for HUD administration and enforcement be maintained at the Headquarters level. Program counsel perform a key role in this respect. At the same time, the Quality Housing and Work Responsibility Act of 1998 (QHWRA) revamping of the public housing program stretched well beyond its funding mechanisms. Further funding over \$2 billion of Headquarters-administered discretionary grant competitions impels additional legal workload.

Program counsel perform work on the development and initial implementation of statutory, regulatory, and other administrative policy governed by Headquarters, including providing written opinions, oral advice, and some drafting of regulations. In addition, program counsel must construe authorization-type legislation enacted annually through the appropriations process. Beyond these statutory and regulatory responsibilities, initiatives in connection with Departmental Field reorganization, program consolidation, and other HUD management priorities of the Administration, fall within the program area coverage of this Office.

As counsel for the Section 8 program, these attorneys ensure that fair and legally appropriate interpretations of law governing the renewal of Section 8 housing are consistently applied. This function, along with legal advice to accommodate the fusion of Section 8 subsidies with restructuring of debt, is crucial to maintaining participation in the Section 8 programmatic equilibrium and disincentivizing Section 8 opt-outs. Increasing affordable housing and home-ownership is the keynote of program law counsel in connection with public housing, Section 8, and

the other assisted housing programs. The community development programs for which this Office provides continuing legal advice address homelessness, and promoting jobs and economic development. Also, the Office's careful counsel on the content and terms of Headquarters-fashioned Notices of Funding Availability (NOFAs) for competitively distributed program assistance is a linchpin in carrying out legally and equitably the Department's discretionary grant programs. This Office also maintains legal consonance of diverse areas that range from buttressing admission and eviction policies with firm legal foundations to ensuring opportunities of tenants in assisted housing projects to enjoy their Constitutionally endowed free exercise of religion.

The combination of dramatic downsizing and Field decentralization demands sureness and uniformity in questions arising from the Field. In this connection, program counsel in this Office assist in establishing clear and consistent precedent. HUD's Field Counsel are experienced but that experience is broad-based and covers a variety of programs, and does not permit the specialization which Headquarters program counsel can provide. At the same time, the Assistant Secretaries and their staffs administering programs in Headquarters require prompt and dependable advice from the General Counsel's Office to ensure legality in Headquarters program decisions, whether in developing a new policy or in handling a tricky case problem arising in the course of a national competition funding round.

The Office is made up of two Divisions: the Assisted Housing Division and the Community Development Division.

Assisted Housing Division

The Assisted Housing Division provides legal advice in connection with the Department's programs under the United States Housing Act of 1937, including the Capital Fund for public housing development and modernization, and the counterpart Operating Fund, the Section 8 housing assistance programs, the Housing Development Grant Program, Indian housing loan guarantees and homeownership and resident management programs. It serves as program counsel for HOPE VI (the Urban Revitalization Demonstration) and for other mixed-finance initiatives to leverage private and other non-Federal investment in developing low-income housing. This Division also has responsibility for the Housing for Special Populations: Elderly and Disabled programs, HOPE 1 Homeownership, administration of the Architectural Barriers Act, tax-exempt financing, the elimination of drugs in assisted housing, and congregate housing.

The Assisted Housing Division has experienced increased demands for services from the Office of Public and Indian Housing, in particular with respect to transaction work in mixed-finance and the overhauling of public housing under QHRA. With the funding of these programs and statutory changes, the demand for legal advice has grown significantly. The Assisted Housing Division also monitors hundreds of litigation cases in which HUD or a Public Housing Authority (PHA) is a party.

Recent initiatives added to this Office include: (1) legal implementation of QHRA; (2) replicating mixed-finance models while handling a burgeoning caseload of transactions; (3) stepping up equitable but get-tough housing occupancy policies; and (4) operationalizing integration of the needs-driven allocation system for the Drug Elimination grant programs into the Administration's Operating Fund proposal. In particular, the evolution of the public housing modernization and operating subsidy budgets into the now enacted permanent Capital and Operating Funds commands new legal interpretational workload for this Division. It has become clear that other components of QHRA pose new continuing series of legal questions in such areas as low-income deconcentration, the PHA Plan, and demolition and disposition of public housing developments. Legal implementation issues also surround the new mechanisms for Section 8 tenant-based assistance and for realistic, fair terms for renewal of Section 8 project-based assistance that deter owner opt-outs.

Community Development Division

The Community Development Division provides legal counsel in connection with the Community Development Block Grant (CDBG) program authorized under title I of the Housing and Community Development Act of 1974, the HOME program established under the National Affordable Housing Act, the McKinney Act homeless housing assistance programs, Empowerment Zones and Enterprise Communities, Comprehensive Housing Affordability Strategies (CHAS), NAHASDA, Youthbuild, the Housing Opportunities for Persons With AIDS (HOPWA) program, the HOPE 3 program, phase-out of the Urban Development Action Grants (UDAG) program, and the revolving fund for liquidating programs. The Office also is responsible for the provision of legal services regarding the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as it affects all HUD programs.

The Community Development Division has maintained the substantial increase in its workload resulting from the additional programs for which it was given responsibility under the last major legislative initiatives (HOME, HOPE 3, McKinney Act homeless assistance, Empowerment Zones and Enterprise Communities, Economic Development Initiative (EDI) and Brownfields (BEDI) grants in connection with the Section 108 Loan Guarantee program, Housing Opportunities for Persons with AIDS, and NAHASDA). In various approaches, this legal work assures conformance to statutory and regulatory requirements undergirding the Department's strategic objectives to reduce homelessness and promote jobs and economic development.

This high level of workload can be expected to continue as the Division assists in legal aspects of monitoring initial outflows of NAHASDA funds. This formula grant transition for Native American assistance programs reduces the heavy workload stemming from legal advice for Headquarters discretionary grant programs (which had been the subject of Congressional and Office of Inspector General critiques), but the follow-up implementation of that fund requires speedy, reliable legal counsel. For this formula grant program, it is imperative that the lessons of early implementation be broadcast and monitored through performance measures against which Indian tribes are fairly but clearly held accountable. Other major new initiatives to be assisted by the Division are implementation of the Renewal Communities legislation, Round III of Empowerment Zones, and the tribal colleges and universities facilities program.

Last, there will be a need for program counsel's heavy involvement in areas such as the existing Empowerment Zones and Enterprise Communities, administration of competitive funding for the McKinney Act homeless programs, continuing simplification of the HOME program. HUD's statutory, staff-intensive responsibilities for defense base closures, and simplified planning requirements through the Department's incorporation of statutory CHAS and other planning requirements into the Consolidated Plan.

g. OFFICE OF FINANCE AND REGULATORY ENFORCEMENT

OGC's Office of Finance and Regulatory Enforcement provides legal services for a wide band of key enforcement, regulatory and program functions of the Department all of which are presently operated from HUD Headquarters. These functions are essential to carrying out all six of the Department's Strategic Objectives including: Increasing Affordable Housing and Home ownership, Reducing Homelessness, Fighting for Fair Housing, Promoting Jobs and Economic Development, Empowering People and Communities, and Restoring the Public's Trust. By way of examples, the Office's support of Ginnie Mae and GSE regulatory activities result in billions of dollars of capital for mortgages to low- and moderate-income families and families underserved by mortgage credit increasing affordable housing and home ownership while supporting HUD's fair lending efforts. Likewise, the Office's exercise of its responsibilities in support of HUD's Manufactured Housing program makes possible the provision of more than a third of the nation's new affordable housing stock. The Office's legal assistance to HUD's international program is essential to HUD's efforts to develop housing policy and empower people and communities worldwide. The Office's efforts in implementing NAHASDA and in ensuring that HUD's activities meet environmental and labor standards requirements support jobs promotion, economic development and community empowerment. Moreover, the Office's regulatory responsibilities including Manufactured Housing, RESPA, Interstate Land Sales, and Lead-Based Paint requirements, as well as its review of all HUD debarments, LDPs, and settlements along with its audit resolution functions, empower people and communities and are essential to restoring public trust.

This office consists of three Divisions: Ginnie Mae/Finance, Program Compliance, and GSE/RESPA. Each Division is supervised by an Assistant General Counsel.

Ginnie Mae/Finance Division

The Division provides capital markets and tax advice to the Department as well as virtually all of the legal services for the Government National Mortgage Association (Ginnie Mae). Ginnie Mae is a government corporation whose annual revenues exceeded expenses by approximately \$700 million in the last fiscal year. The Division increases affordable housing and home ownership by providing legal support to Ginnie Mae as it assists lenders in raising capital in the secondary market and providing market liquidity. The development of Ginnie Mae's Targeted Lending Initiative, in which the Division played a significant role, provides an incentive to invest in 72 designated central city communities, thus expanding home ownership opportunities for the most underserved home buyers.

The Division provides opinions concerning Ginnie Mae's statute, regulations and handbooks, including recommendations and drafting support for the preparation or revision of proposed or amended legislation or regulations. The Division provides legal services to Ginnie Mae in connection with all Ginnie Mae defensive, affirmative and enforcement litigation, including: preparation of the administrative record; researching relevant case law; drafting affidavits, briefs and other filings; attending depositions, hearings and trials; coordinating with Justice, contract counsel and opposing counsel; and initiating and responding to settlement offers. In connection with this litigation, the Division drafts the annual audit letter concerning pending and threatened litigation and claims, and a monthly litigation report. With respect to issuer defaults, the Division travels to execute the default, if appropriate, and provides legal support in the recovery, possession and control of the Ginnie Mae mortgage portfolio, including all legal and servicing documents and accounts.

The Division provides tax and capital markets advice to the Department, including tax advice on difficult development areas. The Division reviews for legal sufficiency all Ginnie Mae Guides (and revisions), All Participants Memoranda, significant correspondence and agreements. The Division provides research and advice on legal policy issues, such as the impact on Ginnie Mae programs proposed by other Departmental offices or by other agencies (e.g., the Department of Veterans Affairs), or the legal implications of new technologies or technology issues.

The Division review all legal documents for all multiclass structured finance transactions for compliance with Ginnie Mae with Ginnie Mae requirements. In fiscal year 2000,

Ginnie Mae guaranteed 38 structured finance transactions with more than \$20 billion in securities. The Division also supervises three legal services contractors which provide additional multiclass expertise.

The level of work for the Division has increased during fiscal year 2000 as the Division acquired increased responsibilities. The Division handles all matters involving patents and trademarks, including applications, oppositions and litigation. Finally, the Division has been assigned responsibility for tracking all outstanding audit recommendations that are coded "J," indicating that a legal matter is involved. The Division prepares a report showing the outstanding audit recommendations, the responsible attorney, the status of the legal matter and any change that should be made in the audit code.

Program Compliance Division

The Program Compliance Division provides legal services in consumer protection, enhancement of public safety, disclosure of information to land purchasers and home buyers, enforcement of anti-fraud and anti-kickback statutes, and collection of debts owed to the Department. This work directly supports the Department's objectives of increasing affordable housing and restoring the public trust.

The Division manages all the legal work for the nationwide enforcement of the Real Estate Settlement Procedure Act (RESPA). The Division has assisted the program office with a number of new RESPA cases to enforce the statute's anti-kickback and unearned fees provisions. The Division attorneys work closely with the program office in carrying out investigations of RESPA violations. They draft subpoenas and conduct subpoena hearings, interview witnesses, prepare pleadings and negotiate settlement and are engaged in major RESPA enforcement efforts. The Division has worked closely with the Department of Justice, the FTC and other regulatory agencies in predatory lending cases. These cases have resulted in not only injunctive relief but also restitution for victims of the predatory practices. The Division has also initiated enforcement through civil penalties for violations of escrow and annual disclosure requirements of RESPA. They have also worked closely with other HUD attorneys to seek RESPA enforcement as part of a Mortgagee Review Board cases.

The Division acts as the advisory and enforcement counsel for the National Manufactured Housing Construction and Safety Standards Act of 1974, which regulates one third of all new housing starts in the country. The Division has been actively involved in several cases in Federal District Court. The Division supplied counsel to the program office on preemption issues, assisted in the reform of regulations for enforcement, developed options to make manufactured homes safer, and worked on the use of manufactured homes as part of the Secretary's affordable housing initiatives. The Division has and is continuing to provide significant counsel to the program office in implementing many new legislation that requires changes to the Act's standard development process for manufactured homes. Division attorneys have assisted in successful litigation and negotiation of settlements. The Division is now actively involved in several enforcement actions, including an action against a manufacturer for building hundreds of homes that are unsafe or poorly constructed and fail to meet Federal standards. Additional enforcement actions against manufactured home producers and dealers with defective or unsafe homes are in the initial stages of development. The Division also assists the program office with drafting regulations and Interpretative Bulletins, and prepares memoranda on legal issues that arise in the program.

The Interstate Land Sales Full Disclosure Act requires developers to give full disclosure of material facts about the sales offering and to engage in honest sales practices. The Program Compliance Division's enforcement of the Act plays a significant role in encouraging ethical practices in land sales. The Division has been actively involved in cases to stop fraud and misrepresentation to consumers, and making sure that consumers are not overcharged in their purchase of land and receive required disclosures before they purchase subdivision land. Division attorneys are working on a task force looking into the severe problems for residents in the various colonias developments in the southwest United States. Enforcement actions under the Land Sales Act may be a significant tool for improving the living conditions for the colonias residents.

The Division provides legal counsel for the Department's debt management, including advising the Chief Financial Officer and other Headquarters clients on collection policies and strategies and enforcing collection in administrative and Federal Court forums. In this regard, the Division is part of the CFO's Debt Collection team, which is identifying and resolving issues to improve HUD's debt management and collection, including preparation and consolidation of applicable handbooks. The Division also drafts regulations for the CFO, most recently a revision of 24 CFR Part 17 subpart C. Division attorneys represent the Department in offset collection cases before the Office of Administrative Law Judges. The volume of debt collection cases is expected to continue at the same level until mid 2001, then increase as the Treasury Department implements its administrative wage garnishment capability. The Division is also responsible for providing legal advice and assistance on Federal bankruptcy policy issues.

GSE/RESPA Division

The Division provides all necessary legal services to carry out key regulatory functions of the Department which, in turn, are integral to carrying out several of the Department's Strategic Objectives.

The Division is responsible for providing all legal services for the Secretary's regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), both referred to as GSEs, under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (FHEFSSA), which revised the Secretary's regulatory responsibilities and the GSEs' Charter Acts. The GSEs finance most of the conventional, non-governmental mortgages in the nation. In carrying out its efforts in support of the Department's GSE regulatory functions, the Division provides legal services for HUD's: (1) monitoring and enforcing low- and moderate-income housing, central cities, and special affordable housing goals which apply to the GSEs; (2) reviewing and soliciting requests for new programs from the GSEs; (3) implementing Fair Housing/Fair Lending requirements under FHEFSSA; and (4) protecting and disclosing GSE data, including operating a new public use data base. During this fiscal year, the Division will provide legal services necessary to implement the final rule which establishes new housing goals for the GSEs for the year 2001 and beyond and significant revisions to the GSE regulations including, but not limited to, the establishment of new data and monitoring requirements. The Division also will provide services central to the Department's first comprehensive review of the GSEs' automated and traditional underwriting guidelines under FHEFSSA to ensure their consistency with FHEFSSA as well as the Fair Housing Act. The division will assist the Department's review of new program requirements and the Department's development and issuance of rules regarding the GSEs' nonmortgage investments. Finally, the Division will develop significant materials and testimony on improvements to the GSEs' regulation.

The Residential Lead-Based Paint Hazard Reduction Act of 1992 (the 1992 Act) substantially expanded the Department's and the Division's regulatory and enforcement responsibilities respecting lead-based paint poisoning prevention and abatement. The Division provides all counselor and enforcement services to the Department for the Department's Lead-Based Paint Hazard Reduction Program under this Act. In 2001, the Division will continue to provide all legal advice necessary to implement the Department's final rules revising all lead-based paint requirements for Federally assisted and Federally owned residential housing. The Division will also provide all legal services to enforce and direct the enforcement of HUD's Lead-Based Paint Disclosure Rule including continuing the Office's remarkably successful partnership with the Department of Justice to bring major cases against large scale violators of the Act. The Office GSEs' nonmortgage investments. The Division will provide advice on significant and controversial reports on these subjects as well as the Secretary's Annual Report to the Congress on GSE regulation. The Division also provides all necessary legal services in support of HUD's \$100 million Lead-Based Paint Grant Program. The Department's Lead-Based Paint activities Increase Affordable Housing, Empower People and Communities, and Restore the Public Trust.

The Division also provides all legal services for the development of Real Estate Settlement Procedure Act (RESPA) and Regulation X regulations and policy which cover settlement transactions for nearly every one-to-four family residential real estate loan in America. The Division's activities, including preparing legislation, RESPA rules and opinions, are essential to increasing Affordable Housing and Home ownership and Restoring the Public Trust. In fiscal year 2001, in addition to providing day-to-day regulatory advice, including responding to a heavy volume of inquiries from compliance officers, regulatory officials and firms nationwide, the Division will provide extensive legal services in support of HUD's efforts to implement guidance and regulations concerning the application of RESPA to Internet Lending in light of new E-Signature Legislation and new internet origination systems. The Division will also develop major new regulations and legislative proposals to simplify and improve RESPA requirements to increase competition and lower costs for consumers. In 2000, the Division had lead legal responsibility for HUD and the Treasury's report on Predatory Lending. In 2001, the Division will have lead legal responsibility for effectuating HUD initiatives in this area. The Division will also develop further advice and guidance on mortgage broker and other fees under RESPA, as well as finalizing rules on telemarketing and mortgage servicing disclosures and new policy statements on mortgage insurance and other business arrangements.

The Division provides advice and review for all Headquarters environmental and Davis-Bacon issues with a nationwide effect on the Department's programs. Division staff serve as OGC's Environmental Clearance Officers, providing environmental review of Departmental regulations, funding notices and directives and drafting of provisions respecting the environment. In 2001, the Division will collaborate in completing a final rule revising the Department's regulations on Floodplain Management including codification of the Department's review of wetlands, collaborate in completing a proposed rule revising HUD's Part 58 regulations and continue to provide key legal advice to implement NAHASDA, including December 2000 NAHASDA amendments concerning environment and labor standards. As part of its environmental responsibilities, the Division also counsels HUD's core programs on significant issues such as implementation of Environmental Justice requirements and recipients' environmental obligations prior to the expenditure of funds. The Division's legal services will include efforts in support of HUD's nationwide implementation of Davis-Bacon prevailing wage rate requirements, HUD-determined wage rates for public housing, Indian and Native Hawaiian housing block grant project operations and related labor standards. On an ongoing basis, these services include advice on all labor related HUD program issues, legislative initiatives, liaison with the Office of the Solicitor of Labor and representing the Department as needed in cases before the Department of Labor's Administrative Review Board. The Division's Labor, Environment and Lead-Based Paint activities promote Jobs and Economic Development, Empower People and Communities and Restore Public Trust.

h. OFFICE OF HUMAN RESOURCES LAW

The Office of Human Resources Law provides legal services pertaining to the programs and functions of the Assistant Secretary for Administration, the Chief Financial Officer, the Chief Procurement Officer, the Inspector General, and the Assistant Secretary for Public Affairs. The office handles multiple personnel, ethics and contract matters relating to the Office(s) of the Secretary and Deputy Secretary. The Office of Human Resources Law is a critical component of the Department's HUD 2020 Management Reform operations, the procurement reform initiatives and the Department's compliance with the HUD Reform Act of 1989. It also handles all legal issues relating to ethics and compliance with the Governmentwide Standards of Conduct, with financial disclosures by Presidential appointees and senior Departmental officials, the Hatch Act Amendments and issues regarding political and official travel. The Office also represents the Department in Unfair Labor Practice claims before the Federal Labor Relations Authority, adverse and disciplinary employee actions before the Merit Systems Protection Board, and discriminatory employment matters filed before the Equal Employee Opportunity Commission. The Office of Human Resources Law advises Department officials regarding contract and procurement issues, and represents the Department in bid protests and contract claim disputes before GAO, the HUD Board of Contract Appeals, the U.S. District Court, and the U.S. Court of Federal Claims. The Office has three Divisions: the Ethics Law Division, the Personnel Law Division, and the Procurement and Administrative Law Division.

Ethics Law Division

The Ethics Law Division plays a critical role in the Secretary's goal of Restoring the Public's Trust. The Division recommends and implements Departmental policy to ensure compliance with the Ethics in Government Act, the HUD Reform Act of 1989, the criminal conflict of interests statutes under 18 U.S.C., and the Standards of Ethical Conduct regulation for employees of the Executive Branch. The Division provides advice to agency officials at all levels regarding prohibited financial interests, financial disclosure reporting requirements, political and official travel, and outside and post-Government activities. The Division coordinates with the White House Counsel's Office and the Office of Government Ethics on all conflict of interest and standards of conduct issues related to the confirmation of individuals nominated by the President to positions requiring Senate confirmation, and coordinates all corrective and disciplinary action with HUD program offices regarding conflict of interest declinations issued by the Justice Department. The Division advises the Office of the Secretary and Principal Staff on matters of gift acceptance, the Hatch Act, and the reporting requirements governing official and political travel. The Ethics Law Division is charged with assisting the Department in meeting an array of mandatory requirements imposed by law and regulation. These include the responsibility for:

- coordinating the Department's ethics program and responding to inquiries, audits and reports from the Office of Government Ethics, GAO and other governmental entities;
- providing annual ethics training to HUD employees throughout the nation, including training for newly hired employees, and all new Community Builders;
- ensuring that an effective system continues to be in place regarding the review and certification of public and confidential financial disclosure reports;
- providing Departmentwide advice and counsel to the Agency's 11,000 employees regarding compliance with the Governmentwide Standards of Ethical Conduct regulation at 5 CFR Part 2635, the Federal criminal statutes under 18 U.S.C., HUD Reform Act of 1989, and the Hatch Act; and
- ensuring that all assistance distributed by competition comply with the HUD Reform Act of 1989.

Personnel Law Division

The Personnel Law Division provides counsel to HUD management on the implementation of an array of Federal personnel laws and regulations governing whistleblower protection actions, equal employment opportunity, adverse and disciplinary employee actions, labor relations, and the Department's reorganization operations. Attorneys in this Division serve as Agency Representatives in administrative hearings before the Merit Systems Protection Board (MSPB), the Office of Special Counsel, the Equal Employment Opportunity Commission (EEOC), and the Federal Labor Relations Authority (FLRA). The Division assists Assistant U.S. Attorneys in personnel litigation actions filed in the Federal courts.

The functions of the Personnel Law Division are critical to the Department's HUD 2020 Management Reform, especially as it relates to consolidation and reorganization activities. Given the Department's budget and staffing constraints, it will require aggressive action to meet with stated goals. As a result, the Division's workload will substantially increase throughout the next and outlying fiscal years. As the agency moves forward with Management Reform activities, the number of personnel actions is likely to increase in every forum, including appeals filed in the Federal courts. The Division will continue to play a major role toward avoiding litigation through innovative Alternative Dispute Resolution action. The Division will

be a critical link to the personnel legal services being provided at the location of the ASCs and will provide advice, guidance, and oversight of the centers.

Procurement and Administrative Law Division

Attorneys in the Procurement and Administrative Law Division advise HUD management on matters relating to procurement and contracting, bid protests, delegations of authority, and matters filed with the General Accounting Office (GAO), the HUD Board of Contract Appeals, and in litigation before the Court of Federal Claims. The Division also reviews and drafts decisions on Freedom of Information Act (FOIA) appeals for the Deputy General Counsel for Housing Finance and Operations and provides legal assistance regarding training and other administrative law and litigation activities.

The Division is essential to the HUD 2020 Management Reform goal of Restoring the Public Trust by enhancing HUD's procurement integrity. The legal services provided by Division attorneys require expedited legal research and expert legal advice regarding the award and administration of procurement contracts. These functions require that the Division maintain expertise regarding the Federal Acquisition Regulation, the Competition in Contracting Act, and the Federal Property and Administrative Services Act. The staff serves as legal counsel to numerous Technical Evaluation Panels. Division attorneys provide critical procurement advice and guidance to management officials. The Division is central to the Department's contract streamlining actions and provides legal assistance in implementing several streamlining recommendations. The workload in this Division is expected to increase over the next several years, as the Department moves toward consolidation and outsourcing of functions and operations. The Division will continue to play a major role toward avoiding litigation through innovative alternative Dispute Resolution procedures. The Division will be a critical link to the legal services on procurement matters being provided at the location of the ASCs and will provide advice, guidance and oversight to those centers.

OGC training responsibilities have increased with HUD's management reform initiatives, and relate to enhanced program enforcement as well as concern about HUD's contracting integrity and reliance upon technology. In order for OGC to meet the challenges of the new HUD, training OGC staff has assumed greater significance. Coordination of training is an important function of the Division, and reflects the importance of training to the accomplishment of OGC's goals and objectives.

The Division is also responsible for the processing and disposition of FOIA appeals. With the reassignment of the FOIA operations to OGC, it has been necessary to divide responsibility between FOIA intake and initial determination, which is handled by the FOIA Division, and FOIA appeals, which is handled by the Procurement and Administrative Law Division. The FOIA Division reports to the Associate General Counsel for Litigation.

i. OFFICE OF INSURED HOUSING

The Office of Insured Housing serves as program counsel for FHA which is the single largest program area in the Department. The term "program counsel" is used to describe those attorneys who specialize in the interpretation of statutes, regulations, administrative guidance, and case law that govern the operation of Departmental programs. The work includes providing oral and written legal guidance, preparation of correspondence on program legal matters, and drafting contracts and other legal documentation. The Office has substantial contact with HUD field offices, HUD Housing program staff, and members of the public on matters affecting FHA mortgage insurance programs.

The Office provides legal services with respect to all FHA mortgage insurance programs under the National Housing Act and works with the other OGC Offices on a regular basis. These legal services support the goals of increasing affordable housing and home ownership and restoring the public trust in the Department. The Office actively supports the Office of Legislation and Regulations by drafting legislation and regulations on FHA programs and by submitting comments on regulatory and statutory initiatives as well as on NOFAs. The Office provides significant legal support for development and operation of the Market-to-Market (M2M) program and the Homebuyer Protection Plan. The Office coordinates with the Office of Litigation on Departmental representation for defensive litigation as well as the Office of Fair Housing for compliance with the Fair Housing Act and civil rights laws. The Office works with Departmental Enforcement Center on matters concerning affirmative litigation and preparation of legal advice relating to actions before the Mortgagee Review Board. The Office coordinates with the Office of Assisted Housing and Community Development on matters (e.g., the Section 8 program) that affect the FHA programs.

The Office of Insured Housing provides legal advice and support for the FHA program activities described below. The need for uniform interpretation (precedential in scope) of statutory and regulatory authority as well as program administrative requirements require the services of experienced program counsel in Headquarters OGC. This specialized legal expertise usually is not available in Field Offices where the legal work calls for a broader range of skills and experience from each attorney. Extensive staff reductions would require a reprioritization of legal services as well as a determination of which functions could be provided through procurement of outside legal counsel so that support could be provided in a manner that will further the Secretary's priorities. Further staff reduction would cause delays in providing legal services and could create a material weakness.

Multifamily Mortgage Division

This Division provides legal advice and support for FHA's multifamily programs which include multifamily rental housing, elderly housing, nursing homes, intermediate care facilities, hospitals, group practice facilities, cooperatives and condominium projects, multifamily mortgage loan sales, preservation programs, and property disposition initiatives. This legal advice includes: support for the Office of Housing in development of new FHA mortgage insurance programs under existing insurance authorities; streamlining various program regulations for multifamily rental housing and health care programs; assisting the Office of Housing in its effort with the Department of Health and Human Services (HHS) to develop and implement several major health care initiatives designed to strengthen communities by offering better quality health care to citizens; management and disposition of the HUD-owned property inventory; operation of the State and Local Housing Finance Agency (HFA) Risk-Sharing program and the Reinsurance Pilot program involving Fannie Mae and Freddie Mac; developing new and modifying existing policies and procedures for avoiding loan defaults and mortgage insurance claims; implementation of legislative provisions affecting the Prepayment and Preservation program; sale of HUD-held multifamily mortgages; defensive litigation support to the Office of Litigation and to field offices on all cases of national import within the FHA program area; support for the Portfolio Reengineering Demonstration programs, the M2M program under the Office of Multifamily Housing Assistance Restructuring (OMHAR), and the Mark-Up-to-Market and MAP/DAP Initiatives; review of FHA documents in time-sensitive bond refunder transactions; processing FHA multifamily mortgage insurance claims; and advice regarding operation and improvement of existing programs of mortgage insurance, including the interpretation, application, and revision of existing documents, guidelines, and regulations.

Single Family Mortgage Division

This Division provides legal advice and support for FHA's single family mortgage insurance programs. These programs include: Approval of Title I lenders and Title II mortgagees; Title I property improvement and manufactured home programs; Title II mortgage insurance programs; single family mortgage loan sales; property disposition sales initiatives; affordable housing initiatives; and housing counseling. The legal advice and counsel provided includes drafting agreements as well as reviewing handbooks, mortgagee letters, and regulations for approval of Automated Underwriting Systems; assistance in expanding housing programs and developing affordable housing; implementing new policy issuances regarding appraisal and inspections requirements for FHA insurance eligibility; implementing new statutory authority for loss mitigation; assistance in the management and the sale of the HUD-held mortgage loan portfolio; implementation of new strategies in the area of housing counseling; improving the management of FHA's acquired asset inventory, including novel methods for the sale of loan and REO inventory; implementation of programs meeting specific needs (e.g., Home Equity Conversion Mortgage program for elderly homeowners and mortgage insurance and/or guarantees on Native American lands); reviewing or drafting regulations, handbooks, or other issuances to implement new housing initiatives; reviewing and commenting on proposed legislation that could affect FHA single family mortgage insurance programs; and reviewing and commenting on program initiatives that will increase necessary oversights in the management of FHA programs in order to ensure adequate protection of the mortgage insurance funds.

j. OFFICE OF LEGISLATION AND REGULATIONS

The Office of Legislation and Regulations provides legal advice to the entire Department on legislative and regulatory issues, is responsible for drafting the majority of the Department's legislation, regulations and other legislative and regulatory policy documents, and manages and oversees the Department's legislative and regulatory agendas. The Office has two Divisions: the Legislation Division and the Regulations Division, each headed by an Assistant General Counsel.

Major areas of legislative responsibility include: development, preparation and clearance of the annual and special programs of authorization legislation; provision of legal counsel during Congressional consideration of the legislation; preparation and clearance of reports on proposed or pending Federal legislation; provision of drafting and all other legal services with respect to appropriations law and the Department's annual and other appropriation Acts; response to Congressional technical drafting service requests for assistance in drafting HUD-related appropriation and authorizing legislation; and maintenance of a legislative reference service for the Department and members of the public.

Major areas of responsibility for regulations include: drafting and clearing regulations and other policy documents (e.g., NOFAs) necessary to carry out the Department's programs and policies; managing HUD's implementation of rulemaking under 24 CFR Part 10, Section 7(o) of the Department of Housing and Urban Development Act, the Regulatory Flexibility Act, the Paperwork Reduction Act, and Executive Order 12866; preparing the Semiannual Agenda of Regulations, the Annual Regulatory Plan of the Department, and Annual Unfunded Mandates Report; clearing within the Office of General Counsel non-regulatory Departmental issuances; preparing the Department's views on proposed Executive Orders; and advising the program offices and program counsel and offices concerning newly enacted legislation which may give rise to a need for new or amended regulations.

Finally, because its familiarity with Departmental and other authorities is broad and crosses program and agency lines, the Office of Legislation and Regulations is frequently

called upon by the General Counsel and the Deputy General Counsels for special projects, and provides advice to the other Associate General Counsels.

The Office is responsible for ensuring that the policies of the Department are translated into action documents of the highest quality, frequently under exceedingly tight time schedules. Since each Division's work products become enacted as statutes or promulgated as regulations, or otherwise have the force of law, perfection is always the necessary goal. The work is exacting and relentless: "new "priority" regulations and legislative assignments are frequently added. This office already has experienced a reduction in FTEs and has advised of the critical need for an additional attorney in the Regulations Division. Any further reduction of FTEs will require the Office to set more stringent priorities for the work of its two Divisions. Since the implementation of the expected demands of the Secretary's initiatives are to a large extent within the responsibilities of the Office, this management task will be very challenging.

Legislation Division

The demand for the Legislation Division's services has grown dramatically over the last several years and is expected to continue at or above the current level for the foreseeable future as authorization and appropriation legislation affecting the central mission of the Department is proposed by the Administration and considered by the Congress. Priority work performed by the Division includes: ensuring that HUD's annual legislative program is completed on time and at the level of quality that is required effectively to present the Department's legislative priorities; preparing reports (requests for comments on pending and proposed legislation from the Congress and the Office of Management and Budget) so that the Department can communicate its views within the Administration and with the Congress on a host of important proposed and pending bills in a timely manner; meeting Congressional requests for technical drafting and other services; and providing ongoing informal and written advice on budget and appropriation law matters for all of HUD. Additionally, the new HUD Administration has requested that the Legislation Division undertake a review of all HUD programs to assist the new leadership in determining where there may be program duplication, or inactive programs, among other things, which may provide a basis for program consolidation or elimination.

Regulations Division

The Department has historically carried a docket of over 300 rule assignments, and that has not changed in recent years. Priority work for the Regulations Division currently and for the upcoming year involves regulatory implementation of four major statutes enacted near and at the end of calendar year 2000. These are the fiscal year 2001 HUD Appropriations Act, the American Homeownership and Economic Opportunity Act of 2000, the Consolidated Appropriations Act of 2001, and the Electronic Signature Act. All four statutes carry numerous rulemaking requirements, many of which must be published under tight statutory deadlines. The Regulations Division also has responsibility for regulatory implementation of the Government Paperwork Elimination Act for which compliance is required by 2003. In addition, the new Administration has certain initiatives that they intend to pursue that must be implemented through rules or notices. The Regulations Division also is expected to provide support to the HUD's representative to the President's interagency task force on Federalism.

k. OFFICE OF LITIGATION

The Office of Litigation performs a central coordinating role with respect to all litigation brought against HUD. The Office, working in conjunction with the Department of Justice (DOJ), handles the defense of major, nonroutine lawsuits against the Department involving substantial programmatic issues of nationwide impact, or raising issues of particular importance or sensitivity.

The Office of Litigation has three divisions: Assisted Housing and Civil Rights Litigation; Insured Housing and Community Development Litigation; and the Freedom of Information Act (FOIA). The Office's two Litigation Divisions divide substantively between them all of the Department's programs and activities. Attorneys in either division may be assigned to handle cases from the other division including FOIA litigation, in order to accommodate workload fluctuations between the divisions and to optimize efficient allocation of resources. Attorneys in both divisions are responsible for handling, in conjunction with DOJ counterparts, lawsuits in Federal courts throughout the country. Each attorney is responsible for handling all aspects of litigation with respect to his or her individual caseload, which can vary in size, depending on the work demands of the assigned cases.

Cases that are sufficiently important, complex, and/or sensitive must be handled in Headquarters by the Office of Litigation, and not in HUD field offices, because:

The attorneys in both of the Office of Litigation's (Litigation) Divisions are experienced in handling cases requiring familiarity with complexities of constitutional law and the Administrative Procedure Act, including recent developments in those fields. Working with DOJ, the Office is able to present legal arguments that are on the very cutting edge of the law. Many cases handled have implications for HUD nationwide.

In addition, the Office performs a central coordinating function with respect to major legal issues in litigation brought against the Department. The Office acts as a convenient and logical conduit to coordinate events that are happening throughout the country. HUD field

counsel, by contrast, generally handle cases with implications within their designated geographic area.

Since cases involving issues of nationwide impact almost always challenge decisions made in Headquarters, the decision makers must be consulted throughout the litigation, both for the preparation of HUD's defenses, as well as toward possible settlement. The Office's location in Headquarters affords ongoing access to decision makers in a much more efficient and cost effective way than if the various Field Assistant General Counsel had the lead. The Office spends considerable time and effort coordinating with HUD program officials so that the Department's responses to discovery, and the positions taken in legal briefs accurately reflect HUD practice and policy. Finally, the cases the Office of Litigation handles are normally also assigned by DOJ to Main Justice cases, rather than United States Attorneys' offices, and this Office works with Main Justice on an ongoing basis.

The Assisted Housing and Civil Rights Litigation Division

The Assisted Housing and Civil Rights Litigation Division involves major cases concerning the operation of HUD's assisted housing programs, both public and private, pursuant to the United States Housing Act of 1937. The staff also handles major cases involving claims of civil rights discrimination and violations of the Fair Housing Act and Title VI of the Civil Rights Act of 1964. In connection with the major civil rights cases which it handles, the Division performs the unique function of combining negotiations of settlements with its defensive role. Since the Department does not control the origination of the cases in defensive litigation, the staff is not able to decline to defend these cases, particularly in the implementation of court orders or settlement agreements. The staff also performs an oversight function for the implementation of settlements and consent decrees relating to civil rights litigation. The staff prepares work on defensive litigation civil rights issues of national significance and interest.

The Insured Housing and Community Development Litigation Division

The Insured Housing and Community Development Litigation staff handles major cases involving the operation of HUD's insured housing programs pursuant to the National Housing Act, and related statutes. The staff also handles major cases involving community development programs pursuant to the Housing and Community Development Act of 1974, and related statutes, and housing for the homeless programs pursuant to the Stewart B. McKinney Homeless Assistance Act and related statutes. The staff also handles litigation involving other programs not covered by the major categories mentioned. At present, the Division is handling the defense of cases involving the Low-Income Housing Preservation and Resident Homeownership Act of 1990, the discontinuation of the single family mortgage assignment and forbearance program, the Department's sales of HUD-held mortgages, the Department's contracting practices, and the Homeowner's Equity Conversion Mortgage (reverse mortgage) program.

FOIA Division

The FOIA Division is responsible for processing all Freedom of Information Act requests received at HUD Headquarters. Additionally, it is responsible for providing both legal and technical guidance on FOIA issues to Headquarters program offices and to HUD field offices. It is headed by an Assistant General Counsel and staff includes attorneys, non-attorney FOIA specialists and clerical support. It is responsible for assuring: (1) timely response to FOIA requests, (2) the accuracy of the response in compliance with the statutory requirements, and (3) consistency of application of the standards. The Division is currently involved in activities related to the implementation of the revised FOIA regulations, and for making sure that the Department is in compliance with statutory requirements for making agency records available electronically. The Division also conducts ongoing training programs to insure that all HUD staff are aware of their legal responsibilities under the FOIA. In addition, it provides subject matter support to the Office of Litigation on cases involving FOIA issues.

1. OFFICE OF FAIR HOUSING

The Office of Fair Housing performs all legal work in connection with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act, the Fair Housing Act, Executive Order 11063 concerning Equal Opportunity in Housing, and Executive Order 11625 concerning Minority Business Enterprises. The Office of Fair Housing analyzes state statutes and reviews field counsels' analyses of local ordinances to identify whether the provisions are substantially equivalent to the fair housing act and provides advice to the Office of Fair Housing and Equal Opportunity (FHEO) on state and local recertification issues. The Office drafts legal opinions on Fair Housing Act questions and drafts regulations involving the Fair Housing Act. The Office represents the Department with the National Association of Attorneys General and other Interagency Task Forces; and also conducts fair housing training for field counsel and FHEO staff. The Office of Fair Housing has two division: The Fair Housing Enforcement Division and the Fair Housing Compliance Division.

a. The Fair Housing Compliance Division

The Fair Housing Compliance Division prepares legal opinions on civil rights issues of national significance and interest. These opinions require substantial research and expertise

in civil rights law and routinely include policy considerations involving the General Counsel and the Assistant Secretary for Fair Housing and Equal Opportunity. The Division provides legal advice on the Fair Housing Initiative Program (FHIP), the Fair Housing Assistance Program (FHAP), and the implementation of fair housing and civil rights regulations. The Division conducts administrative enforcement activities involving discrimination involving HUD assisted housing and community development programs. The Division also works with the Assistant Secretaries for Housing, Public and Indian Housing, and Community Planning and Development in developing procedures for assuring that housing and community development activities promote the achievement of the goal of fair housing.

The Division advises and assists the Office of Fair Housing and Equal Opportunity in conducting and evaluating reviews of recipients of HUD funding to determine their compliance with nondiscrimination requirements of applicable civil rights laws, such as Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and Section 109 of the Housing and Community Development Act of 1974. In connection with the Department's exercise of supervisory authority with regard to the Government Sponsored Enterprises, the Division provides advice and guidance on the consistency of underwriting guidelines used by the enterprises with the nondiscrimination requirements in the Fair Housing Act. The Division also works with the Department of Justice and other Federal agencies on special interagency civil rights initiatives, such environment justice, housing and school desegregation and rural housing development.

b. The Fair Housing Enforcement Division

The Fair Housing Enforcement Division oversees all fair housing enforcement activities for the Department and plays a critical role in addressing the Secretary's initiatives to increase fair housing enforcement actions and the public awareness of fair housing rights. The Division's attorneys review reasonable cause determinations, draft charges of discrimination, and enforce the charges before the administrative tribunal. The Division handles all aspects of appeals of administrative law judge decisions to the Secretary. The Division works with the Department of Justice on cases where there has been an election to Federal District Court and develops recommendations to the Attorney General for appeals to circuit courts, recommendations for appearances as *amicus curiae* in fair housing cases in Federal district court and comments on recommendations to seek certiorari.

The Division reviews state and local fair housing laws and ordinances and provides the Assistant Secretary for Fair Housing and Equal Opportunity with a legal assessment of the extent to which the laws or ordinances provide rights and remedies for housing discrimination that are substantially equivalent to those provided in the Federal Fair Housing Act. The Division drafts and reviews proposed legislation affecting the Fair Housing Act and its enforcement and develops regulations for implementation and enforcement of the Act.

The Division provides guidance regarding the responsibility of the Secretary and HUD program participants to administer programs and activities relating to housing and urban development in a manner that affirmatively furthers fair housing. The Division also assists in the Department's efforts to provide advice and guidance in support of public and private efforts to comply with the nondiscrimination requirements of the Fair Housing Act such as the development of an analysis of differences between model building codes and Fair Housing Act on features of accessible design and construction, the development of building code language for use in the International Building Code, and the HUD review and recommendations for program changes relating to the Boston Housing Authority's response to racial and ethnic harassment.

2. FIELD

The primary mission of the field legal staff is the provision of support, advice and counsel to program administrators in the field. Field legal services are increasingly being called upon to be a source of stability and a source of authority to provide the necessary assurance program managers seek in their assumption of new responsibilities. In the field, the Assistant General Counsel, Chief Counsel and Chief Attorneys are the chief legal officers of their respective Offices. They receive operational direction, administrative support, and professional advice and direction from the General Counsel and Deputy General Counsel for Housing Finance and Operations.

a. Legal Service Centers. Ten Legal Service Centers provide the full range of legal services and assistance to Secretary's Representatives, State/Area Coordinators, and managers and staff in program and administrative offices located within the Center's geographic jurisdiction. Each Center is headed by an Assistant General Counsel, who reports to the Deputy General Counsel for Housing Finance and Operations in OGC Headquarters.

Within the jurisdiction of the Legal Service Centers are 37 State/Area offices where Multifamily, FHEO, CPD and/or Public Housing Hubs/Centers are located. Each State/Area office is headed by a Chief Counsel or Chief Attorney who respond to the field Assistant General Counsel.

b. Litigation. Litigation is a major responsibility of the Field Counsel. It involves working with the U.S. Attorneys in handling cases to which HUD is a party and participation with local government or private attorneys in handling cases involving HUD-assisted local governmental activities. The caseload covers the full range of the Department's program responsibilities, including subsidized and insured housing, property management and disposition, and community development programs, as well as cases involving claims collection, environmental issues, civil

rights, landlord-tenant matters, architectural and construction contract disputes, and tort claims. Field Counsel also handle judicial foreclosures of multifamily projects, single family defensive foreclosure actions, and some of the affirmative litigation cases instituted by the Department.

c. Fair Housing and Equal Opportunity Enforcement. This function involves providing legal services with respect to the enforcement of civil rights laws and equal opportunity requirements applicable to HUD programs. Field Counsel have a critical role in the doubling of fair housing enforcement. Other services provided include nondiscrimination in HUD-assisted programs, equal employment opportunity, and increased employment opportunities for lower-income persons in connection with HUD-assisted projects. Field Counsel also make the initial determination of the substantial equivalency status of State and local ordinances on fair housing. The effort to eliminate systemic discrimination in housing and the Department's strengthened procedures for Title VI compliance reviews have substantially increased the fair housing/equal opportunity workload of Field Counsel.

Field Counsel are fully involved in Fair Housing enforcement: they must review the Final Investigative Report (FIR) where a determination of reasonable cause or no reasonable cause has been made by the Office of Fair Housing and Equal Opportunity; they represent complainants and the Secretary at hearings held before Federal Administrative Law Judges in certain types of cases; they assist the DOJ and the U.S. Attorneys in fair housing cases tried in Federal District Court; they process requests for prompt judicial relief where a unit will be sold or rented before a case can be investigated and litigated or where a complainant is about to be evicted; and they attend training on the processes involved in the handling of fair housing enforcement cases.

d. Procurement and Administrative Law. Legal advice is provided on a variety of administrative law issues, including procurement, contract administration, Freedom of Information Act, Privacy Act, delegations of authority, and similar matters.

With regard to procurement and contracting issues, generally the Legal Service Center located where ASCs are located dedicates attorneys who are responsible for providing legal advice and litigation services, including representing the Department before administrative forums to defend HUD's position in bid protests and claim disputes.

As a result of increased emphasis on the importance of quality control in procurement and contracting matters, attorneys are located in the Legal Centers for each of the Administrative Service Centers (ASCs) to provide legal advice and guidance to the Contracting Division managers and staff members in those ASCs. Because these attorneys provide contracting legal support covering several programmatic and geographic jurisdictions, the Legal Center attorneys have a dual reporting responsibility to both the Deputy General Counsel for Housing and Operations and the Assistant General Counsel for the Legal Centers servicing the ASCs. Such dual reporting responsibility ensures greater consistency and quality of service throughout the country.

e. Personnel Law. Legal advice and services to the Department are provided on personnel issues, including misconduct, unsatisfactory performance, labor relations, equal employment opportunity, and other employment-related matters. The legal support includes working with the Department of Justice in representing the Department in Federal court.

In addition to legal support within OGC-Headquarters, attorneys located in the Legal Centers in each of the ASCs provide advice and guidance to the Human Resources Divisions in those ASCs. Because the Legal Center attorneys provide legal support to managers and staff covering several programmatic and geographic jurisdictions, the Legal Center attorneys have a dual reporting responsibility to both the Deputy General Counsel for Housing Finance and Operations and the Assistant General Counsel for the Legal Centers servicing the ASCs. Such dual reporting responsibility ensures greater consistency and quality of service throughout the country, as well as providing legal assistance to supplement that given by Headquarters OGC.

f. Federal Tort Claims Center. The Function of this Office is to provide centralized handling of tort claims filed against HUD from the Field Legal Center in New England. All claims throughout the country are forwarded to the Claims Center, where staff review incoming tort claims, determine if additional documentation or investigation is necessary, and decide whether the claim should be denied or settled. If the claimant initiates litigation, the Claims Center is responsible for handling the litigation, including monitoring contract legal services that may be procured for this purpose. This approach ensures that tort claims are dealt with in a systematic, consistent manner.

g. Single Family. For those Offices in which a Single Family Homeownership Center (HOC) is located, the Field Legal Center includes staff dedicated to providing legal support and assistance to the HOC managers and staff. This support includes a wide range of legal issues affecting FHA single family mortgage insurance programs, from title concerns and land trust matters to administrative sanction review and case preparation.

h. Housing Programs. Field Counsel provide all legal services required in connection with HUD's insurance of mortgages on multifamily properties, including representing the Department at initial and final closings of projects, among which are those financed by tax-exempt bonds. The closing attorney is responsible for assuring the legal sufficiency of all

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closing documents for full insurance projects. Field Counsel provide legal reviews of applicable documents where there is a change in the mortgagor entity, and furnishes legal assistance in connection with the non-judicial foreclosure of multifamily projects, the management and disposition of acquired properties, debt collection, and bankruptcies. Field Counsel also review Section 202 and Section 811 capital advance applications for elderly and disabled projects, and conduct initial and final closings of Section 202 and Section 811 projects. In addition, Field Counsel provide legal advice and guidance on Single Family Mortgage Insurance programs. Field Counsel will be assuming greater responsibility for Mortgage Sales Portfolio Reengineering and HOPE VI.

i. Community Planning and Development. This function includes the provision of legal services required in connection with the CDBG program. Field Counsel prepare contracts, amendments, special contract conditions, and sanctions imposed for noncompliance with program requirements. Field Counsel are also responsible for making legal determinations relative to environmental and labor requirements, for rendering decisions in connection with field office consideration of relocation appeals by displaced persons, and for providing legal advice concerning CDBG monitoring activities.

j. Public and Indian Housing. In the conventional Public Housing program, Field Counsel are responsible for the review of program matters with legal implications, such as demolition/disposition of projects, cooperation agreements between housing authorities and general purpose governments, and eminent domain and other takings. Field Counsel also provide a wide range of legal services in connection with the low-rent public housing projects in occupancy, such as the income eligibility and landlord-tenant matters like evictions. With respect to the Section 8 Lower-Income Housing Assistance program, Field Counsel are responsible for making determinations as to the legal capacity of participants in the program, and related occupancy matters. Field Counsel are assuming responsibility for public housing transformation efforts, including HOPE VI and mixed-finance developments.

TRAVEL

The table below identifies travel requirements unique to this activity.

	ACTUAL 2000	BUDGET ESTIMATE 2001	CURRENT ESTIMATE 2001	ESTIMATE 2002	INCREASE + DECREASE - 2002 vs 2001
	(Dollars in Thousands)				
Travel (HQ)	\$270	\$160	\$171	\$171
Travel (Field)	\$19	\$170	\$116	\$116
Total.....	\$289	\$330	\$287	\$287

The proposed travel budget of \$330,000 for the Office of General Counsel for its Headquarters and field staff would be used primarily for travel supporting the Secretary's priorities associated with litigation activities, fair housing enforcement, program enforcement, and to facilitate interaction between Headquarters and all field legal offices and within the field offices. Funding at the 2002 level is sufficient only to cover travel necessary for litigation. It is not adequate to cover travel associated with office consolidations, increases in enforcement activities, monitoring visits and field assessments by the Assistant General Counsel, travel for field Counsel meetings, or training related travel.

CONTRACTS

	ACTUAL 2000	BUDGET ESTIMATE 2001	CURRENT ESTIMATE 2001	ESTIMATE 2002	INCREASE + DECREASE - 2002 vs 2001
	(Dollars in Thousands)				
Technical Services	\$382	\$306	\$306	\$306
General Support	\$256	\$179	\$178	\$178
Total.....	\$638	\$485	\$484	\$484

OGC's potential contracting out cost is anticipated not to exceed \$485,000 for technical services. Technical services cost include the administration of the FEDLINK contract for Westlaw and Lexis-Nexis legal research services.