

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ASSISTANCE PROGRAM

PROGRAM HIGHLIGHTS

	ACTUAL	ENACTED	ESTIMATE	INCREASE + DECREASE -
	2001	2002	2003	2003 vs 2002
(Dollars in Thousands)				
<u>Assistance to State and Local</u>				
<u>Agencies</u>				
Number of Awards	93	96	98	+2
Obligations	\$20,694	\$25,649	\$25,649	...
<u>Budget Authority</u>				
Enacted or Proposed	\$22,000	\$25,649	\$25,649	...
Rescission	<u>-\$48</u>	<u>...</u>	<u>...</u>	<u>...</u>
Subtotal	\$21,952	\$25,649	\$25,649	...
Budget Outlays	\$13,825	\$13,134	\$22,399	+\$9,265

SUMMARY OF BUDGET ESTIMATES

The fiscal year 2003 Budget request for the Fair Housing Assistance Program (FHAP) is \$25.649 million, the same as provided in the fiscal year 2002 appropriation. This request supports the Department's focus on eliminating housing discrimination in the rental and sales markets and to combat lending discrimination. In conjunction, the Budget focuses on making homeownership a reality for all persons.

FHAP provides assistance to those State and local agencies that HUD has determined effectively enforce laws or ordinances, which provide rights and remedies substantially equivalent to the Federal Fair Housing Act (the FHAct). The \$25.649 million proposed in this Budget will support both the enforcement and the education and outreach activities conducted by these agencies. The fiscal year 2003 Budget also maintains the fiscal year 2002 allocation of \$4.5 million for the Partnership Initiative. This Initiative, which for the first time in fiscal year 2002, allowed the FHAP agencies to create partnerships with private, for-profit or not-for-profit organizations, special interest groups, faith-based organizations, housing counseling agencies, and individuals with expertise (such as architects or medical experts in disability cases) that the agency may need to assist it in carrying out its fair housing law.

The Partnership supports the Department's commitment to increasing homeownership rates among minorities, increasing the agency's visibility by encouraging more education and outreach activities, serving as a reinforcement to the agency's enforcement activities, and allowing the FHAP agencies to develop a comprehensive approach to deal with housing and lending discrimination matters.

The FHAct's prohibition against discrimination has been in effect for more than 30 years. However, studies continue to show high indices of race and national origin discrimination in the rental and sales markets nationwide. Discrimination in the lending and sales markets have contributed to continued significant disparities between the homeownership rate of whites and minorities. Home mortgage disclosure data indicate that lenders still reject black and other minority applicants at a rate almost twice that of whites. Builders continue to construct housing, which is inaccessible to persons with disabilities, and in certain parts of the United States, discrimination limits the housing choices of families with children.

The FHAP agencies and community and faith-based partners work together to address the fair housing enforcement needs of underserved populations, especially minority

populations that are not English-speaking. The Partnership Initiative will be administered exclusively through the FHAP.

EXPLANATION OF INCREASES AND DECREASES

The fiscal year 2003 Budget request for the Fair Housing Assistance Program (FHAP) is \$25.649 million, the same as provided in the fiscal year 2002 appropriation. The requested funds will provide support for approximately 98 FHAP agencies, an increase of two over fiscal year 2002. Agencies participate in FHAP either as Capacity Agencies (agencies receive an annual lump sum amount for up to 3 years when first entering the program) or Contributions Agencies (agencies in the program for more than 3 years receive funds under various categories of activities (administrative, case processing, training, Special Enforcement Efforts (SEE) funds) based upon their workload). All of the agencies, except those in their first year of receiving Capacity Building, will be eligible to receive funds for Partnership Initiative activities.

The \$25.649 million funding level for agencies participating in the FHAP for fiscal year 2003 will be allocated as follows:

Case Processing--\$14.054 million. It is estimated that in fiscal year 2003, the FHAP agencies will handle and process approximately 65 percent of all complaints received by the Department. In fiscal year 2002, it is projected that the Department will receive over 10,000 allegations. This category covers the costs incurred by the FHAP agencies for processing complaints from receipt through the administrative and/or civil proceedings. For each complaint correctly processed, the agency will receive \$1,800 to \$2,300. The amount received will depend upon the level of work and time and resources needed to process the case. For example, if an agency must complete an on-site investigation and extensive resources of the agency are used, the complaint is eligible for a maximum of \$2,300. This amount is the same as in fiscal year 2002 Budget.

In the second year, HUD will work with the FHAP agencies to assist them in dealing with their aged cases. HUD will prepare guidance for the agencies and provide it to them in advance of their receipt of fiscal year 2003 funds so that they will be aware of any new requirements or performance policies.

This Budget is based on approximately 6,500 complaints. It is estimated that approximately 1,500 complaints may be eligible at \$2,300 each for a total of \$3.45 million; and 5,000 complaints may be eligible at \$1,800 each for a total of \$9 million. The remaining \$1.604 million will be used to reduce the FHAP's aged-case backlog.

Capacity Building--\$1.610 million. The requested funds will be used in fiscal year 2003 to enable approximately 14 capacity building agencies to develop and enhance comprehensive complaint processing resources, to train staff, and to develop and carry out activities deemed necessary for the efficient and effective implementation of the jurisdiction's fair housing ordinance. Each Capacity Building agency would receive \$115,000. This amount is the same as in the fiscal year 2002 Budget.

Training--\$3.3 million. All contributions agencies that have participated in the FHAP for 3 or more years are eligible to receive training funds to support participation in HUD-sponsored or HUD-approved training and education and outreach activities. During fiscal year 2003: approximately 35 State agencies may receive \$30,000 each for training, \$5,000 of which may be used for education and outreach activities (\$1,050,000); and approximately 60 local agencies may receive \$25,000 each for training, \$3,000 of which may be used for education and outreach (\$1,500,000). In addition, each of FHEO's ten "Hubs" will have access to approximately \$75,000 to supplement the training needs of FHAP agencies (\$750,000).

Administrative Costs--\$1.2 million. The Department will allocate administrative costs to the agencies using a formula based on the number of complaints correctly processed in the previous funding year. If the agency does not meet the standards set out in Part 115 of 24 CFR for allocation by formula, a flat rate of \$15,000 (flat rate reflects no increase from fiscal year 2002) will be provided to each agency for administrative costs.

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The Budget is calculated on approximately 60 agencies receiving the flat rate of \$15,000 for a total of \$900,000 and approximately 35 will receive various amounts using the formula totaling approximately \$315,000.

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

Partnership Initiative--\$4.5 million. FHAP agencies may qualify for funding under this category to carry out: (1) enforcement, and (2) other enforcement-related/education and outreach activities based on criteria provided in the policy guidance outlined for this category. FHAP State agencies will be able to provide training to new agencies seeking substantial equivalency status and FHAP agencies will be able to provide translation services within the State to communicate with people who do not speak English. The activities will be conducted with fair housing enforcement organizations and other agencies and organizations, including housing counseling agencies and community and faith-based organizations.

1. Enforcement activities. Approximately \$2.5 million is set aside to carry out enforcement activities. The FHAP will be able to partner with any organization or individual to affirmatively further the provisions of the agency's fair housing law or ordinance. The FHAP agencies will be able to provide financial assistance to such qualified individuals, agencies, and organizations to assist them in carrying out activities to support them in implementing their fair housing laws. Such activities include, testing, investigation assistance, obtaining the services of a translator to assist in the intake, investigation, and resolution of complaints, and other activities that lead to the resolution of complaints. The FHAP agencies will be able to provide financial assistance to individuals and/or organizations where technical expertise is needed (i.e., architects, medical experts in disability cases).

2. Education and outreach and other enforcement-related activities. Approximately \$2 million is set aside for enforcement-related education and outreach partnership activities within the State and local jurisdictions. The FHAP agencies will partner with HUD housing counseling agencies programs or activities that serve to increase homeownership opportunities; or work with community and faith-based organizations to conduct seminars to educate the community on fair housing, etc).

PROGRAM DESCRIPTION AND ACTIVITY

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

Since the inception of the FHAP in fiscal year 1980, the participating agencies have received funds to carry out activities aimed at eliminating housing discrimination in the United States such as: complaint processing; employee training; the purchase of data and information services; and, for newly participating agencies (Capacity Agencies), capacity building to handle complaints filed under the State or local law. While FHAP has successfully funded these *basic activities* since its inception, program funds have not been available to address more systemic discrimination or to pursue more comprehensive

solutions to remedy housing discrimination. Without such support, FHAP agencies face challenges in: working with private fair housing organizations or other experts to develop programs that address emerging, as well as, more novel and complex forms of housing discrimination, such as predatory lending, architectural barriers confronting people with disabilities, and substandard housing in communities along the U.S. Mexican border, known as "Colonias"; partnering with housing counseling agencies; providing education and outreach to lenders and other real estate professionals to ensure non-discrimination and equal opportunity in their transactions; or working with faith-based organizations to conduct fair housing education and outreach activities in their communities. The funding proposed in this Budget will allow FHAP agencies to address all of these priorities.

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

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

The Fair Housing Act provides that the Department cooperate with and render technical assistance to State and local agencies formulating or carrying out programs to prevent or eliminate discriminatory housing practices. FHAP and the substantial equivalency certification process both serve to further fair housing by providing financial assistance and by encouraging State and local governments to enact and enforce legislation designed to ensure fair housing. Through training, legal and administrative technical assistance, issuance of written guidelines, participation at meetings and conferences, and review of proposed legislation, the Department provides extensive assistance to help State and local fair housing enforcement agencies obtain certification under the Fair Housing Act. The Department also provides individually tailored technical assistance to any State or local government requesting such assistance.

The implementing regulation for the FHAP, 24 CFR part 115, requires that the fair housing law administered by the agency be substantially equivalent and that a written agreement be executed. Also, agencies that participate in the FHAP must: (a) conform to reporting and record-keeping requirements; (b) agree to on-site technical assistance and guidance and implementation of corrective action; (c) adhere to policies and procedures provided by the Department; (d) not unilaterally reduce the level of financial resources currently committed to complaint processing; (e) spend at least 20 percent of its total annual budget on fair housing activities; and (f) participate in HUD-sponsored or HUD-approved training. FHAP funds are divided into two categories: capacity building and contributions. Most FHAP agencies do not have sufficient staff to carry out the tasks that would be needed in the investigation of complex fair housing cases, the FHAP will provide funds for assistance in such investigations.

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

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agency has the administrative capability to carry out the provisions of its fair housing law.

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

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

The FHAP program supports the Department's integrated program efforts to achieve strategic Goal #7: Ensure equal opportunity and access to housing. In addition, all of the Department's programs are focused on increasing awareness of fair housing laws to assist in achieving these goals as well as expending participation of faith-based and community partnerships.

The predominant role of the Office of Fair Housing and Equal Opportunity is to contribute to and facilitate the achievement of Strategic Objective 7.1: Reduce housing discrimination. External factors that are not completely within the control of the Department that impact the success of achieving this objective include the following: (1) many people are not aware of their fair housing rights; and, (2) discrimination can be subtle as well as overt, which makes prevention and enforcement difficult.

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

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SELECTED PERFORMANCE MEASURES

NOTE: Targets are preliminary and may be revised with the submission of a full APP document.

STRATEGIC GOAL/OBJECTIVE	ACTUAL 2001	ENACTED 2002	ESTIMATE 2003
Strategic Goal 4: Strengthen and expand faith-based and community partnerships that enhance communities.			
Discretionary BA (Dollars in Thousands)	...	...	...
FTE			
Headquarters	...	...	3
Field	...	...	...
Subtotal	...	...	3
Strategic Goal 7: Ensure equal opportunity and access to housing.			
Discretionary BA (Dollars in Thousands)	\$21,952	\$25,649	\$25,649
FTE			
Headquarters	87	86	83
Strategic Objective 7.1: Reduce housing discrimination.			
Indicator: The number of enforcement agencies rated as substantially equivalent under the Fair Housing Act increases by two to total 98 agencies.	93	96	98
Indicator: FHAP grantees increase the number of fair housing conciliation/settlement agreements processed by 20 percent.	NA	Establish Baseline	Baseline + 20%
Indicator: The percentage of fair housing complaints aged over 100 days will decrease by 5 percentage points from the FY 2002 level of the inventory of substantially equivalent agencies.	Baseline to be Determined	Baseline -5 percentage points	Baseline - 10 percentage points
Field	258	262	262
Subtotal	345	348	345
FTE Total	345	348	348

NA = Not Applicable