

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.

The attached charts display detailed staffing and workload estimates based on the Resource Estimation and Allocation Process (REAP) baseline data.

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. Foremost, however, OGC supports the Department's efforts to focus on its core mission of home ownership, affordable housing and economic development.

Inclusive in the mission of the OGC, are the missions and duties of the Office of Enforcement (OE), which are to ensure the public trust by protecting residents, increasing the quality of housing and eliminating fraud, waste and abuse. In order to meet the above missions and goals, the OE has developed a focused and centralized approach to program enforcement Department-wide. Enforcements workload is made up of case referrals from the Office of Housing, Office of Public and Indian Housing (including the Troubled Agency Recovery Centers), Office of Community Planning and Development, Office of Fair Housing and Equal Opportunity (non civil rights cases), and referrals for action before the Mortgage Review Board.

1. HEADQUARTERS

The work of the legal staff will address the requirements and initiatives of the Secretary significantly increasing activities to assure the ethical administration of HUD programs both by HUD staff and program participants, enhance procurement, enhance Federally Assisted Affordable Housing, and enhance 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 Office of Enforcement. 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 Assistant Secretary for Congressional and Intergovernmental Relations, the Assistant Secretary for Policy Development and Research, as well as those generated by the President of 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 relate 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 provides 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 teleconferences, 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 Management Plan and operational manuals, and represents the General Counsel on various Departmental management committees and task forces. This staff is also responsible for developing and editing the Web Page.

f. OFFICE OF ASSISTED HOUSING AND COMMUNITY DEVELOPMENT

This Office of program counsel provides legal advice for practically all of the Department's grant programs, including legal responsibility for five formula-based grant programs—CDBG, HOME, Native American Housing Assistance Self Determination Act (NAHASDA) block grants, and Capital and Operating funds for public housing and the administration of Section 8 assistance and the homeless programs. 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. 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 Office serves as principal legal advisor for constitutional and other legal matters related to faith-based organizations.

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 the Quality Housing and Work Responsibility Act of 1998 (QHWRA). 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) the continuing legal implementation of QHWRA; (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. Perhaps the most telling programmatically significant changes are the use by public housing authorities of Capital Funds as security for local bond issuance, to accelerate project modernization. It has become clear that other components of QHWRA pose new series of legal questions in such areas as 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, related loan guarantees under section 108 of the same Act, the HOME program established under the National Affordable Housing Act, the McKinney-Vento Act homeless housing assistance programs, Empowerment Zones and Enterprise Communities, Renewal Communities, Comprehensive Housing Affordability Strategies (CHAS), Native American Housing Assistance Self Determination Act (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 with level staff 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-Vento 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 NAHADSAs). 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 outflows of NAHADSAs 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, Community Technology Centers, Round III of Empowerment Zones, the tribal colleges and universities facilities program and the American Dream Homeownership initiative. Within the lodestar CDBG program, Division attorneys will play a key role in HUD actions to promote better performance in the timeliness of expenditures.

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-Vento 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 key Departmental objectives. 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 world-wide. The Office's efforts in implementing NAHADSAs 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, Real Estate Settlement Procedure Act (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, are also critical to meeting Departmental objectives.

This office consists of three Divisions: Ginnie Mae/Finance, Program Compliance, and GSE/RESPA. An Assistant General Counsel supervises each Division.

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 designated communities, thus expanding home ownership opportunities for the most underserved homebuyers. Beginning in January 2002, Ginnie Mae book entry securities will be held by the Federal Reserve Bank of New York. Previously, Ginnie Mae book entry securities were held at the Depository Trust and Clearing Corporation. It is expected that the change will increase demand for Ginnie Mae securities, particularly among international investors, which should benefit homebuyers with federally insured and guaranteed mortgages. The Division has been involved in all aspects of this move, which is extremely complicated and detail intense, including publication of proposed and final rules, amendments to multiclass trust agreements and numerous other matters.

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 reviews all legal documents for all multi-class structured finance transactions for compliance with Ginnie Mae requirements. In fiscal year 2001 through June, Ginnie Mae guaranteed 65 structured finance transactions with more than \$45 billion in securities. The Division also supervises three legal services contractors that provide additional multi-class expertise.

The level of work for the Division has increased during fiscal year 2001 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 homebuyers, enforcement of anti-fraud and anti-kickback statutes, and collection of debts owed to the Department.

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, unearned fees, and other provisions. The Division attorneys work closely with the program office in carrying out investigations of RESPA violations. They draft subpoenas, conduct subpoena hearings, interview witnesses, prepare pleadings, negotiate settlements, 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 that allege RESPA violations. 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 title insurance and annual escrow disclosure requirements of RESPA. They have also worked closely with other HUD attorneys to seek RESPA enforcement as part of Mortgagee Review Board cases and to contribute to the development of legislation, regulations and policy pertaining to RESPA enforcement issues.

The Interstate Land Sales Full Disclosure program is a national program that requires developers to give full disclosure of material facts about subdivision sales offerings and to engage in honest sales practices. The Program Compliance Division's enforcement of the Act plays a significant role in enforcing disclosure and anti-fraud provisions in subdivision 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. The Division provides legal advice and opinion to the program office. Division attorneys are working on The Secretary's Southwest Border 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 program office has entered into a contract for professional investigation services that will be extended through FISCAL YEAR 2003. Investigations into suspected RESPA and Interstate Land Sales violations are under way and are expected to result in a greater enforcement caseload.

The Division acts as advisory and enforcement counsel for the National Manufactured Housing Construction and Safety Standards Act of 1974, which last year regulated over one-sixth of all new housing starts in the country. The Division has been actively involved in several cases in Federal District Court. The Division supplies counsel to the program office on implementation of substantial new responsibilities under the Manufactured Housing Improvement Act of 2000, compliance and preemption issues, reform of regulations for enforcement, options to make manufactured homes safer, and the use of manufactured homes as part of affordable housing initiatives. The program will have additional new responsibilities involving the implementation of the Manufactured Housing Consensus Committee, installation standards and a national dispute resolution system. The Division continues to provide significant counsel to the program office in implementing changes to the Act's standards-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 recent incidence of bankruptcies in the industry has added bankruptcy counseling to the Division's responsibilities.

The Division provides legal counsel for the Department's debt management officials, 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, currently, 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 Division is also responsible for providing legal advice and assistance on Federal bankruptcy policy issues and expects to represent the Department in administrative wage garnishment cases after the Department issues its administrative wage garnishment rule in the first quarter of calendar 2002.

GSE/RESPA Division

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 continue to 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 statutory revisions to FHEFSSA and the GSEs' non-mortgage investments. The Division will provide advice on significant and controversial reports on these subjects as well as any additional reports on the GSEs to the Congress on GSE regulation. 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 2002, the Division will continue to provide all legal advice necessary to implement the Department's final rules containing 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 Division also provides all necessary legal services in support of HUD's \$100 million Lead-Based Paint Grant Program. The Division also provides all legal services for the development of Real Estate Settlement Procedure Act (RESPA) and Regulation X regulations and policy that cover settlement transactions for nearly every one-to-four family residential real estate loans in America. In fiscal year 2002, 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 2002, the Division will also have legal responsibility for all HUD initiatives on Predatory Lending. 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 serves as OGC's Environmental Clearance Officers, providing environmental review of Departmental regulations, funding notices and directives and draft provisions respecting environmental requirements. In 2002, the Division will collaborate in completing rules revising the Department's environmental regulations as necessary in light of legal

requirements and provide key legal advice to implement NAHASDA, including recent 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.

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 compliance with the HUD Reform Act of 1989. It also handles all legal issues relating to ethics and compliance with the Government-wide 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 Federal 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, including the Office of the Secretary and Principal Staff, regarding gift acceptance, prohibited financial interests, financial disclosure reporting requirements, and permissible political activity including mixed pursuant to the Hatch Act 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 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:

- responding to inquiries, audits and reports regarding the Department's ethics program 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 high level officials;
- ensuring that an effective system continues to be in place regarding the review and certification of public and confidential financial disclosure reports; 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, 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 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 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 the Multifamily Assisted Housing Reform and Affordability Act of 1997 and also works with the other OGC Offices on a regular basis. These legal services support the goals of increasing and maintaining 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 Mark-to-Market (M2M) program. 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 the 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, if any, could be provided through procurement of outside legal counsel so that legal support could be provided by OGC 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, Mark-to-Market, multifamily mortgage loan sales, low-income project preservation, 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; interpreting various program regulations for multifamily rental housing and health care programs; restructuring debt on projects with reduced section 8 project-based assistance (Mark-to-Market program); assisting the Office of Housing in implementing the E-SIGN and E-GOV statutes; assisting the Office of Housing in

its effort with the Department of Health and Human Services (HHS) to 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 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; sales of HUD-held multifamily mortgage loans; defensive litigation support to the Office of Litigation and to field offices on all cases of national import within the FHA and Mark-to-Market program areas; support for the Mark-to-Market program Office of Multifamily Housing Assistance Restructuring OMHAR and the Mark-Up-to-Market and the 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. This Division also prepares and provides training to attorneys in various field offices on multifamily and hospital loan closings.

Single Family Mortgage Division

This Division provides legal advice and support for FHA's single family mortgage insurance programs under Titles I and II of the National Housing Act and for the Housing Counseling program under section 106 of the Housing and Urban Development Act of 1968. The legal advice and counsel includes: assistance implementing new programs; assistance regarding mortgage insurance claims; reviewing and commenting on proposed legislation; and drafting and review of Handbooks, Housing Notices, Mortgagee Letters, regulations, regulatory waivers, Federal Register Notices (including Notices of Funding Availability), grant agreements, contracts, memoranda of understanding, mortgage forms, and correspondence. The legal advice generally concerns matters such as: approval of FHA Title I lenders and Title II mortgagees, mortgage credit analysis, property valuation, approval of appraisers and nonprofit organizations, condominium and PUD approval, deed restrictions, loan origination, loan servicing, loss mitigation, mortgage foreclosure and bankruptcy, mortgage insurance claims, loan sales, real property disposition, home equity conversion mortgage (HECM) loans, section 203(k) purchase and rehabilitation loans, distributive shares, and MIP refunds. Current initiatives for which legal services are being provided include: Automated Underwriting Systems, implementation of the E-SIGN and the E-GOV statutes, the Accelerated Claim Disposition demonstration, prevention of predatory lending, and the repair of 203(k) properties in New York City.

j. OFFICE OF LEGISLATION AND REGULATIONS

The Office of Legislation and Regulations provides legal advice to the entire Department on legislative, regulatory and appropriations issues, is responsible for the drafting of the majority of the Department's legislation, regulations and other 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; preparation of implementation guides for recently enacted appropriations acts; and maintenance of a legislative reference service for the Department and members of the public.

Major areas of responsibility for regulations include: development, drafting and clearing regulations and other policy documents (e.g., notices of funding availability, policy statements,) necessary to carry out the Department's programs and policies; managing HUD's implementation of rulemaking under the following authorities--

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 Departmental issuances prepared by the program offices;; preparation of implementation guides on authorization acts and all other legal services with respect to rulemaking; and maintenance of a rule docket service for the Department and members of the public.

Because the Office's familiarity with Departmental and other authorities is broad and crosses program and agencies lines, the Office of Legislation and Regulations is frequently called upon by the General Counsel and the Deputy General Counsels for special projects (for example compilation of the programs of HUD, service on interagency task forces), and for coordination of legislative, regulatory and appropriations issues with OMB and other agencies and with offices throughout the Department, including other OGC offices.

The Office is responsible for ensuring that the legislative and regulatory 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 significant reduction in FTEs (particularly through retirement of experienced staff from both Divisions) and has advised of the critical need for an additional attorney in the Regulations Division and an attorney with substantial experience in appropriations law for the Office. 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 Secretary's new initiatives and priorities 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 major 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 OMB) 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.

The Legislation Division has recently assumed increased responsibility for advising the Department on cross-cutting appropriations issues as the new Administration seeks the expertise and coordinating role of this office to bring consistency in interpretation to department wide appropriations issues. The new Administration also has placed greater responsibility on the Legislation Division for the legislative process. The Legislation Division will assume a more active role for OGC in the Department's budget process than in recent years. Additionally, the Legislation Division is currently working on and will continue to work on for the next several months, HUD's fiscal year 2003 authorization and appropriation legislation. The Secretary's significant authorization legislation, however, will be HUD's fiscal year 2003 authorization legislation that will involve legislative consolidation and streamlining of certain HUD programs, as well as new initiatives that are determined key to HUD's core mission. The work on the fiscal year 2003 authorization legislation begins mid-July and will continue through 2002. The Legislation Division will draft the majority of this legislation as well as coordinate the legislative review process within the Department and with OMB.

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 for fiscal year 2002 involves regulatory implementation of four major statutes. These are the fiscal year 2002 HUD Appropriations Act, the American Homeownership and Economic Opportunity Act, the Mark-to-Market Extension 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. As is customary with HUD's appropriations acts in recent years, the fiscal year 2002 HUD Appropriations Act has certain provisions that must be implemented through rulemaking or notice, for which the Regulations Division will assume key responsibility.

In addition to the rulemaking workload, the Regulations Division assumes considerable responsibility for the development, drafting, and coordination of review within the Department and with OMB of the Department's notices of funding availability. Since 1998, the Department has published a SuperNOFA, which is the publication in one Federal Register edition of approximately 40 NOFAs. The Regulations Division has the lead for development, processing and publication of the SuperNOFA. The coordination required to achieve publication of this many documents on the same date is significant and involves considerable staff time.

The Regulations Division will also play a central role in the implementation of the new Administration's initiatives. The new Administration has certain initiatives that they intend to pursue that must be implemented through rules or notices. Key among these initiatives is the prohibition of predatory lending practices, and further improvements to HUD's public housing programs. The Regulations Division already has begun work on rules to address certain predatory lending practices. Additionally, the Administration has agreed to negotiated rulemaking to address changes to the formula allocation for the Native American Housing Assistance Block Grant. The negotiated rulemaking process will require significant involvement of staff from the Regulations Division. The Regulations Division also has the lead for several "reform" initiatives directed at ensuring more openness and accountability in the announcement of funding awards, in the regulatory waiver process and in the establishment of committees that offer input and suggestions to the Department on various initiatives.

k. OFFICE OF LITIGATION

The Office of Litigation performs a central coordinating role utilizing the Defensive Litigation Tracking System, with respect to all litigation brought against HUD. The Office, working in conjunction with the Department of Justice (DOJ), handles the defense of major, non-routine lawsuits against the Department involving substantial programmatic issues of nationwide impact, or raising issues of particular importance or sensitivity. The Office is also responsible for preparing responses for the HUD and FHA audits, concerning threatened and pending litigation matters.

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. Each attorney is also responsible for monitoring cases handled by attorneys in the Field. The Assistant General Counsel for each division supervises trial attorneys, and provides guidance and policy oversight review.

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

The attorneys in both of the Office of Litigation's 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 also coordinates and handles subpoenas, testimony approval, issues, appeal recommendation to DOJ, representation requests, and other matters Departmentwide. 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, as well as with the Offices of the Secretary, Deputy Secretary, Public Affairs, and Congressional Affairs, 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 handles 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 Division 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.

The Insured Housing and Community Development Litigation Division

The Insured Housing and Community Development Litigation Division handles major cases involving the operation of HUD's insured housing programs pursuant to the National Housing Act, and related statutes. The Division 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 prepayment of mortgages on multifamily projects, and the Multifamily Assisted Housing Reform and Affordability Act of 1997.

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 compliance and enforcement activities under Department civil rights authorities, including 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 and the Fair Housing Act. The Office provides leadership on all legal issues relating to the administration and enforcement of the Fair Housing Act and other HUD civil rights authorities and conducts or participates in the initiation and trial of novel and complex cases before HUD Administrative Law Judges. 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 on all other civil rights authorities applicable to HUD programs and activities and drafts regulations involving all civil rights authorities. 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 divisions: The Fair Housing Enforcement Division and the Fair Housing Compliance Division.

a. The Fair Housing Compliance Division

The Fair Housing Compliance Division provides legal services and advice throughout the Department on matters pertaining civil rights issues of national significance and interest, including preparing legal opinions on such matters. 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), and the implementation of fair housing and civil rights regulations. The Division reviews for the purpose of concurring or nonconcurring with substantially all Department issuance including NOFAs, regulations, guidance and notices to insure that they comply with civil rights requirements and, to the extent feasible, affirmatively further fair housing.

The Division conducts administrative enforcement activities involving discrimination involving HUD assisted and public housing and community development programs. 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. 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 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.

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, predatory lending and rural housing development.

b. The Fair Housing Enforcement Division

The Fair Housing Enforcement Division oversees fair housing enforcement activities for the Department. The Division's attorneys review reasonable cause determinations, draft and file charges of discrimination, and enforce the charges before the administrative tribunal. The Division's attorneys serve as desk officers for field counsel fair housing enforcement operations providing legal assistance required. The Division also 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 provides legal advice to FHEO's Office of Enforcement and reviews cases involving unresolved issues between Field Counsel and FHEO Hub Directors. The Division develops and delivers fair housing training for attorneys and investigators.

The Division provides legal advice on the FHEO Fair Housing Assistance Program (FHAP) and 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 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 the design and construction requirements of the Fair Housing Act in building code language. The Division also works with HUD's clients and partners such as the National Association of Attorneys General, the International Building Code Congress, the National Association of Homebuilders and numerous civil rights organizations.

m. OFFICE OF APPEALS

The Office of Appeals advises the Office of the Secretary with respect to appeals from initial decisions HUD administrative law judges in fair housing and other enforcement cases, and from debarments and suspensions and actions of the Mortgagee Review Board.

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 handles 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 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.

n. OFFICE OF ENFORCEMENT

The Office of Enforcement (OE), formerly known as the Departmental Enforcement Center, (DEC), was established in fiscal year 1998, and was realigned to the Office of General Counsel (OGC), during fiscal year 2002. The Office of Enforcement (OE), was established to ensure the public-trust in HUD's ability to provide decent, safe and sanitary housing by effectively consolidating and administering timely enforcement actions. The Office of Enforcement strives to achieve these objectives by: (1) consolidating enforcement functions of the Department, and centralizing scattered and

inconsistent enforcement policies; (2) creating a cadre of experienced attorneys and analysts to focus on and resolve the Department's most difficult cases, freeing program staff to better service and support the Department's core initiatives; (3) promoting credibility and results for HUD's enforcement efforts; (4) enhancing critical partnerships between HUD program areas and with external agencies and organizations; (5) taking aggressive action against those that are in serious non-compliance with statutory and regulatory requirements of the Department; (6) consolidating suspension and debarment authority within the Department; and (7) eliminating fraud, waste and abuse of HUD programs by recipients and other beneficiaries.

The attached charts display detailed staffing and workload estimates based on the Resource Estimation and Allocation Process (REAP) baseline data.

1. Office of Chief Counsel

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

a. Administrative Proceedings Division

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

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

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

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

b. Program Enforcement Division

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

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

c. Satellite Legal Division

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

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

2. Office of Operations

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

a. HQ Operations Division

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

b. Satellite Offices

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

	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2003</u>
Referrals for			
Physical/Financial Non-	2,438	2,300	2,300
compliance.			
Referrals for Non-submission			
of Financial Statements . .	900	4,800	4,800
.			

3. Office of Compliance & Mortgagee Review Board

a. Compliance Division

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

Compliance Division staff evaluate suspension and debarment recommendations and referrals from various sources. The Compliance Specialist drafts administrative sanction notices when warranted. When a referral is found by the Administrative Proceedings Division to lack sufficient support to sustain an administrative sanction, the Compliance Division is charged with the responsibility of working with the referring office to marshal additional evidence or of informing the source of the referral that the case is being closed due to lack of evidence.

The Office of Enforcement takes compliance actions against participants in any and all HUD program areas including Housing (Title I and Title II and Multifamily and Single Family), Public and Indian Housing, Community Planning and Development, and the Government National Mortgage Association (Ginnie Mae). Referrals come to the DEC from various sources including the OIG (including Investigation and Audit), the eighteen Multifamily Hubs, the four Single Family HOCs, the five OE Satellite Offices, and other HUD program and field offices.

b. MRB Division

The purpose of the Mortgagee Review Board (MRB) Division is to support the MRB in its efforts to oversee the performance of lenders participating in the FHA insurance programs. On the basis of its review the MRB determines whether the Department should continue doing business with a lender. Approximately 95 percent of the matters considered by the Board pertain to lenders participating in FHA's Title I and Title II Single Family insurance programs. Only a few cases involve Multifamily participants. The Home Ownership Centers provide approximately 90 percent of the referrals and the Office of Inspector General refers approximately 10 percent of the cases based on its

audits or investigations. The Mortgagee Review Board is authorized to take any of the following administrative actions: Letter of Reprimand; Probation; Suspension of Approval; Withdrawal of Approval; Civil Money Penalty; or Settlement Agreement.

4. Office of Information and Technology

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

5. Office of Administrative and Management Services

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

TRAVEL

The table below identifies travel requirements unique to this activity.

	ACTUAL 2001	ENACTED 2002	ESTIMATE 2003	INCREASE + DECREASE - 2003 vs 2002
	(Dollars in Thousands)			
Travel (HQ)	\$440	\$903	\$903	....
Travel (Field)	\$389	\$860	\$860	....
Total.....	\$829	\$1,763	\$1,763	....

The proposed travel budget of \$1,763 thousand in fiscal year 2003 will support travel for both the Headquarters and satellite offices and will be used for travel supporting the Secretary's priorities associated with maintaining and expanding the Office of Enforcement's role as the enforcement arm of the Department. The Director plans to travel locally and nationally to communicate to HUD's constituency and other interested parties the mission, role and responsibilities as the OE works to ensure the public trust.

Enforcement's travel for the fiscal year 2003 estimate is approximately \$1,476 thousand, of which will be distributed as follows; \$732 thousand for headquarters and \$744 thousand for the field. The Office of Enforcement anticipates receiving approximately 2,300 referrals. Travel will be required for multiple site visits; detailed evaluations; to meet with owners; management agents; Assistant U.S. Attorneys; and Department of Justice attorneys. The requested amount will also provide for witness travel. Witnesses may be called to appear in enforcement proceedings in U.S. Courts throughout the Country.

CONTRACTS

The table below identifies contract requirements unique to this activity.

Salaries and Expenses, Housing and Urban Development
 Budget Activity 10: General Counsel

	ACTUAL 2001	ENACTED 2002	ESTIMATE 2003	INCREASE + DECREASE - 2003 vs 2002
	(Dollars in Thousands)			
Technical Services	\$1,041	\$1,396	\$1,396	....
General Support	\$612	\$920	\$920	....
Training	\$112	\$172	\$172	....
Total.....	\$1,765	\$2,488	\$2,488	....

The proposed funding level for fiscal year 2003 is \$2,488 thousand. Funding levels include resources necessary for the Office of Enforcement to continue their enforcement duties as well. Of the funding levels requested approximately \$2,004 will be made available for the Office of Enforcement, of which will be distributed as follows; Technical Services \$962 thousand, General Support \$870 thousand, and Training \$172 thousand. The following are descriptions of the type of workload that will be outsourced.

Technical Services

- Legal Services contracts provide legal support services that will assist Enforcement Center attorneys in pursuing affirmative litigation against project owners receiving the benefit of FHA insured financing and/or Section 8 assistance.
- Technical assistance contracts for Assessment and Analysis Services will also be used to provide the Center with histories of the ownership of the project; descriptions of the project's physical condition; analysis of current financial status; and recommendations for resolving the problems identified by the contractor.
- Contracts for court reporting services and transcripts are essential in deposing witnesses and taking affidavits in preparation for evidentiary proceedings.

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

OGC's potential contracting out cost is anticipated not to exceed \$484 thousand for technical services in fiscal year 2003. This level represents no increase above the fiscal year 2002 enacted estimate. Technical services costs, (\$434 thousand), includes the administration of the FEDLINK contract for Westlaw and Lexis-Nexis legal research services. OGC has recommended that the activity be included in the Departmental library contract and funded annually as a mandated, non-discretionary line item. And approximately \$50 thousand is requested for General Support, which is needed for continued system support functions of the goals and objectives of the OGC.

Detail of General Counsel Staff Requirements

Workload Guideline	Workload Indicator	----- Fiscal Year 2002 -----				----- Fiscal Year 2003 -----				
		Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE	Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE	
Headquarters Employment (General Counsel)										
Offices of General Counsel and Deputy General Counsels										
Office of General Counsel - Immediate Office	General Direction	1	18	2,088.00	17.00	1	18	2,088.00	17.00	
Office of Deputy General Counsel - Programs and Regulations	NA	2	...	...	0.00	2	...	...	0.00	
Office of Deputy General Counsel - Equal Opportunity and Administrative Law	NA		...	...	2.00		...	...	2.00	
Office of Deputy General Counsel - Litigation	NA	1	18	2,088.00	1.00	1	18	2,088.00	1.00	
Office of Deputy General Counsel - Housing Finance and Operations Immediate Office	NA		...	...	3.00		...	...	3.00	
Provide Day-to-Day operational guidance to field staff	NA		...	...	4.00		...	...	4.00	
Provide Day-to-Day operational guidance to Headquarters staff	NA	1	...	...	6.00	1	...	...	6.00	
Office of Appeals	NA		...	...	1.00		...	...	1.00	
Subtotal					34.00				34.00	
Office of Litigation										
Immediate Office	NA		...	...	1.00		...	...	1.00	
Management Support Staff	NA		...	...	5.00		...	...	5.00	
Assisted Housing and Civil Rights Litigation Division	NA	1	...	...	9.00	1	...	...	9.00	
Insured Housing and Community Development Litigation Division	NA	1	...	...	8.00	1	...	...	8.00	
Freedom of Information Division	NA	2	...	...	15.00	2	...	...	15.00	
Subtotal					38.00				38.00	

Detail of General Counsel Staff Requirements

Workload Guideline	Workload Indicator	----- Fiscal Year 2002 -----				----- Fiscal Year 2003 -----			
		Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE	Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE
Office of Assisted Housing and Community Development									
Immediate Office			...	...	2.00		...	...	2.00
Provide timely, succinct, comprehensive and accurate legal advice and services concerning Assisted Housing Programs	NA		...	...	13.00		...	...	13.00
Provide timely, succinct, comprehensive and accurate legal advice and services concerning Community Development Programs	NA	1	...	...	9.00	1	...	...	9.00
Subtotal					24.00				24.00
Office of Finance and Regulatory Enforcement									
Immediate Office	NA		...	...	2.00		...	...	2.00
Provide legal services in areas of very high priority, including HUD's regulation of Fannie Mae and Freddie Mac, the application of consumer protection requirements to the mortgage industry, Federal environmental laws including HUD's lead-based paint hazard control requirements and enforcement, Federal labor standards requirements, and other key Departmental activities including the International program and administrative sanctions	NA	3		...	7.00	3	...	...	7.00

Detail of General Counsel Staff Requirements

Workload Guideline	Workload Indicator	----- Fiscal Year 2002 -----				----- Fiscal Year 2003 -----			
		Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE	Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE
Provide timely, succinct, comprehensible and accurate legal advice and counsel to program clients, program contractors, and state and private inspection agencies, and assist in the enforcement of the Real Estate Settlement Procedures Act, Interstate Land Sales Act, Manufactured housing Act, Debt Collection Act and their implementing regulations	NA		...	...	14.00		...	...	14.00
Act as corporate counsel to Ginnie Mae and provide tax and intellectual property support to the Department		2	...	...	6.00	2	...	...	6.00
Subtotal					29.00				29.00
Office of Insured Housing									
Immediate Office	NA		...	...	3.00		...	...	3.00
Provide timely, succinct, comprehensible, and accurate legal advice and counsel to program clients in order to assist them in meeting their goals and objectives in carrying out provisions in the National Housing Act regarding mortgage or lender approval and all single family FHA mortgage insurance programs	NA	2	...	...	11.00	2	...	...	11.00

Detail of General Counsel Staff Requirements

Workload Guideline	Workload Indicator	----- Fiscal Year 2002 -----				----- Fiscal Year 2003 -----			
		Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE	Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE
Provide timely, succinct, comprehensible, and accurate legal advice and counsel to program clients in order to assist them in meeting their goals and objectives in carrying out provisions in the National Housing Act and related statutes for all multifamily mortgage insurance programs and in carrying out provisions in the Multifamily Assisted and Affordability Act of 1997n for the Mark-to-Market program.	NA	2	...	...	14.00	2	...	...	14.00
Subtotal					28.00				28.00
Office of Legislation and Regulations									
Immediate Office	NA	1	...	...	2.00	1	...	...	2.00

Detail of General Counsel Staff Requirements

Workload Guideline	Workload Indicator	----- Fiscal Year 2002 -----				----- Fiscal Year 2003 -----			
		Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE	Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE
Provide timely and sound legal advice and legislative services to HUD officials and staff; coordinate the development and clearance of HUD's annual authorization legislation; participate in the development of budget and legislative proposals; provide legal counsel during congressional consideration of HUD-related authorization and appropriations legislation; provide legal advice in connection with appropriations law; prepare policy positions on pending legislation; provide technical drafting services, legal review, and other technical assistance, upon request, for Members of Congress and their staffs, in connection with authorization and appropriation legislation.	1	1	...	...	7.00	1	...	...	7.00

Detail of General Counsel Staff Requirements

Workload Guideline	Workload Indicator	----- Fiscal Year 2002 -----				----- Fiscal Year 2003 -----			
		Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE	Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE
Provide timely, succinct, comprehensible and accurate legal advice to the HUD Secretary, the General Counsel, and all program Assistant Secretaries on all regulatory issues; draft the majority of the Department's regulations, notices of funding availability (NOFAs) and other Federal Register documents that directly support these officials' implementation of the housing and community development programs. Manage and oversee the Department's regulatory agenda; provide for coordination of HUD's regulatory agenda with the Office of Management and Budget and Congress.	NA		...	...	10.00		...	...	10.00
Subtotal					19.00				19.00
Office of Human Resources									
Law									
Immediate Office	NA	0	...	...	3.00		...	...	3.00
Personnel Law Division	NA		...	...	9.00		...	...	9.00
Ethics Law Division	NA	1	...	...	9.00	1	...	...	9.00
Procurement and Administrative Law Division	NA	2	...	...	9.00	2	...	...	9.00
Subtotal					30.00				30.00
Office of Fair Housing									
Immediate Office	NA		...	...	2.00		...	...	2.00

Detail of General Counsel Staff Requirements

Workload Guideline	Workload Indicator	----- Fiscal Year 2002 -----				----- Fiscal Year 2003 -----			
		Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE	Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE
Provide legal and enforcement services to the Office of the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO) in connection with the Department's Fair Housing and equal opportunity priorities.	NA		...	...	8.00		...	...	8.00
Provide legal and compliance services to the Office of the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO) in connection with the Department's Fair Housing and equal opportunity priorities.	NA	2	...	...	8.00	1	...	...	8.00
Subtotal					18.00				18.00
Subtotal OGC HEADQUARTERS					220.00				220.00
<u>Field Employment (General Counsel)</u>									
Regional Field Legal Services Centers									
Provide legal advice and guidance on administrative law issues.	Number of administrative law issues		1,716	2.23	1.80		1,716	2.23	1.80
Provide legal advice and guidance in connection with the Community Planning and Development Programs.	Number of CPD issues that require legal guidance		429	4.67	1.00		429	4.67	1.00
Provide legal advice and guidance on enforcement issues.	Number of enforcement cases		692	17.50	5.80		692	17.50	5.80

Detail of General Counsel Staff Requirements

Workload Guideline	Workload Indicator	----- Fiscal Year 2002 -----				----- Fiscal Year 2003 -----			
		Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE	Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE
Provide legal advice and services with respect to the enforcement of civil rights laws and equal opportunity requirements applicable to HUD.	Number of Title VIII cases, ADA cases, and Section 504 cases		3,888	10.60	19.70		3,888	10.60	19.70
Provide legal services in connection with HUD's insurance of mortgages on multifamily properties.	Number of multifamily issues		2,163	12.67	13.10		2,163	12.67	13.10
Provide litigation support which 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 government activities.	Number of items of litigation		2,947	24.15	34.10		2,947	24.15	34.10
Provide assistance for "TEAM HUD" activities	NA	1	...	...	20.73	1	...	...	20.73
Provide advice with respect to matters related to Native American Programs.	Number of Native American issues		527	21.24	5.40		527	21.24	5.40
Provide legal advice and services to the Department on personnel law issues, including misconduct, unsatisfactory performance, labor relations, equal employment opportunity and ethics, and other employee-related matters.	Number of opinions and items		3,063	7.07	10.40		3,063	7.07	10.40
Provide legal advice on a variety of procurement and contracting issues	Number of procurement and contracting issues		417	18.18	3.60		417	18.18	3.60

Detail of General Counsel Staff Requirements

Workload Guideline	Workload Indicator	----- Fiscal Year 2002 -----				----- Fiscal Year 2003 -----			
		Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE	Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE
Provide a wide range of legal services in connection with public housing.	Number of public housing issues		1,200	8.54	4.90		1,200	8.54	4.90
Provide legal advice with respect to project-based and tenant-based Section 8 programs.	Number of items (meetings, phone calls, memos, and assignments)		520	7.07	1.80		520	7.07	1.80
Provide legal advice with respect to the Section 202/811 programs.	Number of Section 202/811 program issues		1,328	9.69	6.20		1,328	9.69	6.20
Provide legal advice with respect to single family housing	Number of single family housing issues		1,721	6.87	5.70		1,721	6.87	5.70
Provide supervisory, management, and administrative support to the Office of Assistant General Counsel.	NA		...	...	9.97		...	...	9.97
Provide legal services in connection with multifamily housing property disposition.	Number of multifamily property disposition issues		618	15.64	4.60		618	15.64	4.60
Provide legal advice and guidance with respect to Young v. Martinez and Walker v. Martinez.	Number of issues		2,148	4.13	4.20		2,148	4.13	4.20
Subtotal					153.00				153.00
37 Subordinate Field Legal Offices		4	...	...	97.00	4	4		97.00
Subtotal OGC FIELD					250.00				250.00
<u>Headquarters Employment (Enforcement Center)</u>									
Immediate Office									

Detail of General Counsel Staff Requirements

Workload Guideline	Workload Indicator	----- Fiscal Year 2002 -----				----- Fiscal Year 2003 -----			
		Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE	Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE
Provide Service to Support DEC's Mission	NA		---	---	5.4		---	---	5.4
Subtotal			---	---	5.4		---	---	5.4
Information Technology Division									
Provide Information Technology Support and Maintenance	Number of Systems/Sub-systems Supported		6	2,088.00	6.0		6	2,088.00	6.0
Subtotal					6.0				6.0
Administrative & Management Services Division									
Perform Administrative and Management Support Services for personnel DEC HQ and Satellite Offices	Number of supported	35.0	246	118.74	12.0	35.0	246	118.74	12.0
Subtotal					12.0				12.0
Office of Operations									
Perform General Direction	N/A	1.0	---	---	0.0	1.0	---	---	0.0
Subtotal			---	---	0.0		---	---	0.0
Office of Operations - Operations Division									
Provide Support to the DEC HQ and Satellite Offices	NA	2.0	---	---	9.0	2.0	---	---	9.0
Subtotal			---	---	9.0		---	---	9.0
Office of Special Programs									
Perform General Direction	NA		---	---	1.0		---	---	1.0
Subtotal			---	---	1.0		---	---	1.0
Office of Special Programs - Compliance Division									
Process Suspensions and Debarments	Number of suspensions and debarments		882	21.30	9.0	18.0	900	21.30	9.0
Subtotal					9.0				9.0

Detail of General Counsel Staff Requirements

Workload Guideline	Workload Indicator	----- Fiscal Year 2002 -----				----- Fiscal Year 2003 -----			
		Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE	Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE
Office of Special Programs - Mortgage Review Board Division									
Process MRB Referrals	Number of mortgagee review board referrals		77	108.46	4.0	3.0	80	108.46	4.0
Conduct MRB Case Reviews	Number of mortgagee review board referrals	80.0	80	26.10	0.0	80.0	80	26.10	0.0
Subtotal					4.0				4.0
Office of Chief Counsel									
Provide Management and Support to the Office of the Chief Counsel	NA		---	---	4.0		---	---	4.0
Subtotal			---	---	4.0		---	---	4.0
Office of the Chief Counsel - Program Enforcement Division									
Provide Management and Support to the Program Enforcement Division	Number of Cases (Multifamily, CMP, PIH, Litigation, Bankruptcy)		990	14.76	7.0		990	14.76	7.0
Subtotal					7.0				7.0
Office of Chief Counsel - Administrative Proceedings Division									
Perform Review for Legal Sufficiency	Number of RLS Cases	500.0	1,040	4.17	1.1	500.0	1,040	4.17	1.1
Process Suspension Debarment Appeals	Number of Appeals	115.0	240	129.89	7.8	115.0	240	129.89	7.8
Process Credit Watch, Mortgage Termination, and Mortgage Review Board Cases	Number of Cases	274.0	568	35.87	5.1	274.0	568	35.87	5.1
Process Civil Money Penalty Cases	Number of Cases	116.0	241	21.05	1.3	116.0	241	21.05	1.3
Perform Case Administration and Related Requests	NA		---	---	4.8		---	---	4.8
Subtotal					20.1				20.1

Detail of General Counsel Staff Requirements

Workload Guideline	Workload Indicator	----- Fiscal Year 2002 -----				----- Fiscal Year 2003 -----			
		Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE	Underfunded Workload/ Allocation	Projected Accomplishment	Projected Unit Cost (Hrs)	FTE
Subtotal Headquarters			---	---	77.5				77.5
Satellite Offices (Atlanta, Chicago, Fort Worth, Los Angeles, New York)									
Handle FASS Cases	Number of FASS Cases	15.0	1,278	57.64	34.9		1,151	57.64	31.8
Handle PASS Cases	Number of PASS Cases	5.0	302	321.84	45.8	5.0	274	321.84	41.5
Handle EF Cases	Number of EF Cases	2.0	82	189.19	7.2	2.0	74	189.19	6.5
Handle EP Cases	Number of EP Cases	2.0	90	390.68	16.5	2.0	82	390.68	15.0
Perform Special Projects and General Administrative Functions	NA		---	---	29.9		---	---	29.9
Process Civil Money Penalties (Non-submission of financial statements)	Number of CMP Cases		---	---	0.0	88.0	4,800	4.35	9.8
Handle PASS Referrals with Scores Between 31 and 60		700.0	700	38.78	0.0	700.0	700	38.78	0.0
Subtotal Satellite Offices					134.3				134.5
Total					211.8	212.0			

Detail of General Counsel Staff Requirements

	Estimate 2002	Estimate 2003	Increase + Decrease - 2003 vs 2002
Headquarters Employment			
General Counsel			
Office of General Counsel, Offices of Deputy General Counsel, and Office of Appeals	34.0	34.0	0.0
Office of Litigation	38.0	38.0	0.0
Office of Assisted Housing and Community Development	24.0	24.0	0.0
Office of Finance and Regulatory Enforcement	29.0	29.0	0.0
Office of Insured Housing	28.0	28.0	0.0
Office of Legislation and Regulations	19.0	19.0	0.0
Office of Human Resources Law	30.0	30.0	0.0
Office of Fair Housing	18.0	18.0	0.0
Enforcement Center			
Immediate Office	5.4	5.4	0.0
Information Technology Division	6.0	6.0	0.0
Administrative & Management Services Division	12.0	12.0	0.0
Office of Operations	0.0	0.0	0.0
Office of Operations - Operations Division	9.0	9.0	0.0
Office of Special Programs	1.0	1.0	0.0
Office of Special Programs - Compliance Division	9.0	9.0	0.0
Office of Special Programs - Mortgagee Review Board Division	4.0	4.0	0.0
Office of Chief Counsel	4.0	4.0	0.0
Office of the Chief Counsel - Program Enforcement Division	7.0	7.0	0.0
Office of Chief Counsel - Administrative Proceedings Division	20.1	20.1	0.0
<u>Satellite Offices (Atlanta, Chicago, Fort Worth, Los Angeles, New York)</u>	134.3	134.5	0.2
Total	431.8	432.0	0.2
Field Employment			
General Counsel			
10 Regional Field Legal Service Centers	153.0	153.0	0.0
37 Subordinate Field Legal Offices	97.0	97.0	0.0
Total	250.0	250.0	0.0

Detail of General Counsel Staff Requirements

	FTE			Increase + Decrease - 2003 vs 2002
	Actual 2001	Estimate 2002	Estimate 2003	
Headquarters.....				
..	392.0	431.8	432.0	0.2
Field				
.....	230.0	250.0	250.0	0.0
Total				
.....	622.0	681.8	682.0	0.2

HEADQUARTER EMPLOYMENT

EXPLANATION OF CHANGES FROM 2002 BUDGET ESTIMATE TO 2003 ESTIMATE

In Headquarters, a limitation on resources will adversely affect the Secretary's initiatives of Ethics, the pursuit of enforcement actions related to RESPA, and Lead Base Paint, as well as GSE oversight and Ginnie Mae support. The Department initiatives on procurement integrity will also be adversely affected if there are insufficient legal resources to support the CMRB. Insufficient resources will also adversely affect the Department's litigation capability and its overall responsiveness on legislation and regulations.

FIELD EMPLOYMENT

EXPLANATION OF CHANGES FROM 2002 BUDGET ESTIMATE TO 2003 ESTIMATE

If OGC is not provided with the staffing requested, work will have to be further prioritized and a determination will have to be made as to what can and what cannot be accomplished. Failure to provide the resources necessary will impact on OGC's ability in the Field to assist program offices in meeting their goals relating to multifamily closings, and Title VIII Fair Housing Enforcement.