

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ASSISTANCE PROGRAM

PROGRAM HIGHLIGHTS

	ESTIMATE 2002	ESTIMATE 2003	ESTIMATE 2004	INCREASE + DECREASE - 2004 vs 2003
(Dollars in Thousands)				
<u>Assistance to State and Local</u>				
<u>Agencies</u>				
Number of Awards	95	98	99	1
Obligations	\$28,198	\$26,649	\$30,750	\$4,101
<u>Budget Authority</u>				
Enacted or Proposed	25,649	25,649	29,750	4,101
Budget Outlays	22,384	23,399	24,649	1,250

SUMMARY OF BUDGET ESTIMATES

The fiscal year 2004 Budget request for the Fair Housing Assistance Program (FHAP) is \$29.750 million. The \$29.750 million proposed in this Budget will support the administrative enforcement and the education and outreach activities of 99 FHAP agencies (which includes an increase of one agency over fiscal year 2003), and provide enhanced data and information systems for these agencies.

This funding will continue the fight to eradicate discrimination in housing and will have the concurrent effect of increasing the overall national homeownership rate and supporting the President's Secretary's dynamic goal of adding 5.5 million new minority homeowners by the end of the decade.

The increased funding for FHAP in fiscal year 2004 will address the findings of recent HUD-funded studies which closely examined the following: (1) housing discrimination in the residential sales and rental markets nationwide; (2) public awareness of fair housing laws and how individuals respond to the experience of discrimination; (3) discrimination in mortgage lending; (4) the effectiveness of fair housing testing; and (5) compliance with accessibility requirements of the Fair Housing Act. Taken together, these studies reveal that discrimination in the residential housing and mortgage markets is a common experience and a very small percentage of those who experience it take any action against it. This is due, in part, to a lack of awareness of the Federal, State, and local resources available to address these problems, coupled with a belief that government agencies are not adequately equipped to address these issues. As a result of planned education and outreach initiatives, we expect an increase of FHAP complaints.

A principal concern of the Department is the performance of the FHAP agencies. This Budget, by providing additional funding, seeks to ensure that the agencies take measures to improve the quality and timeliness of their case processing. The FHAP agencies made significant progress in fiscal year 2002 reducing the aged caseload from 69.3 percent in fiscal year 2001 to 45 percent at the end of fiscal year 2002. Despite an expectant significant increase in caseload, it is projected that the aged caseload will decline to 43 percent in 2003 and 41 percent in 2004. To accomplish this the Department will require FHAP agencies to: develop a quality assurance protocol to evaluate the level of satisfaction of complainants and respondents with the agency's processing of their cases; have staff attend the newly proposed Fair Housing Training Academy; and enhance their technology to better monitor and process cases.

JUSTIFICATION

The justification for the increase in funding is based on the following:

The Findings of HDS 2000. The HUD-commissioned Housing Discrimination Study, conducted in 2000 (HDS 2000), provides the most rigorous nationwide estimates of housing discrimination since HUD's Housing Discrimination Study in 1989.

Although, HDS 2000 found that since 1989 African American renters and homebuyers and Hispanic homebuyers experienced modest declines in discrimination rates the level of housing discrimination against these groups remains intolerably high. Further, discrimination against Hispanic renters has remained virtually the same. We expect this problem to be exacerbated as the nation's Hispanic population continues to grow at unprecedented rates. The Hispanic population has already grown by 58 percent since 1990.

New Evidence of a Lack of Awareness of Fair Housing Laws. A recent HUD study, "How Much Do We Know?" dated April 2002, examined the extent to which the general public is aware of the nation's fair housing laws and their prohibitions against rental and sales discrimination.

The study indicates that while fair housing education and enforcement has greatly increased, many Americans do not recognize unlawful discrimination when it occurs. For example, 46 percent of people surveyed did not know that it is illegal for real-estate agents to limit a home search to certain neighborhoods based on the race of the home seeker and the racial composition of the neighborhood. When asked about differential treatment of families with children, an alarming 62 percent of those surveyed were not aware that it was illegal, even though it has been prohibited by Federal law for over 13 years.

New Evidence of an Underreporting of Housing Discrimination. The HUD awareness study, "How Much Do We Know?" also found that many persons who felt they had experienced discrimination did not report it.

According to the study, almost one in every five people who believe they experienced discrimination do not know what their rights are and where to complain. This suggests "a much greater incidence of perceived housing discrimination among the general public than a tally of complaints by government agencies, fair housing groups, or the legal system indicate." As a result of these findings, the report emphasizes that actions need to be taken "to raise the level of public knowledge about the complaint and enforcement process, and to encourage greater trust in the efficacy of the system."

The results of this study concur with the findings of a 2001 study of segregation in Washington DC by the George Washington University. That study found that, "Out of the 10.9 percent of blacks who reported that they experienced discrimination within the housing market, more than 90 percent did not take legal action, and one of the key reasons for not doing so was because they thought that nothing would come of it." The study also reported that of all respondents who experienced discrimination, 37 percent did nothing about it because of a lack of funds and lack of knowledge of where to file a complaint. The report concluded, "In light of the number who took no legal action because they did not have the money, or did not know where to file a complaint, there appears to be a substantial misunderstanding of the rights available to housing discrimination victims. Stronger enforcement efforts are warranted. An increased effort is needed to address discrimination issues facing prospective homebuyers and rental seekers."

New Evidence of Discrimination in Mortgage Lending. A recent HUD-commissioned study of two major metropolitan areas titled "All Other Things Being Equal" dated April 2002, documented how African Americans and Hispanics are more likely than whites to receive unfavorable treatment when they inquired about mortgage loans. African American and Hispanic Homebuyers were more likely to be denied basic information on loan amounts, quoted lower loan amounts, told about fewer products, offered less coaching, and received less follow-up than white with similar financial characteristics.

Proven Effectiveness of Fair Housing Testing. The HUD-funded Urban Institute study, "A National Report Card on Discrimination in America: The Role of Testing" concluded, "There is a broad agreement that a meaningful reduction in rental discrimination will require a great deal more testing and enforcement. These tests will, over time, require the use of more sophisticated testing techniques and necessitate a higher level of expenditure." The study specifically stated that organizations need adequate funding under HUD's fair housing programs in order to carry out this critical activity.

An Expected Increase in Disability-Related Complaints. Finding accessible housing is one of the biggest challenges for persons with disabilities. Two recent reports, one by the National Council on Disability and one funded by HUD found that much more must be done to achieve compliance with the Fair Housing Act's multifamily housing accessibility requirements that went into effect in 1991.

Additionally, President Bush's New Freedom Initiative calls for the swift implementation of the Supreme Court's decision in Olmstead vs. L.C. Olmstead holds that unjustified isolation or segregation of qualified individuals through institutionalization is a form of unlawful disability-based discrimination. The Department expects an increase in disability-related complaints as qualified individuals move into mainstream society.

EXPLANATION OF INCREASES AND DECREASES

In light of these findings, FHEO requests an overall increase of \$4.1 million to achieve the following:

Establish a Fair Housing Training Academy. This \$1 million initiative will create a Fair Housing Training Academy to provide continuing fair housing education to current professional staff of State and local fair housing enforcement agencies, in addition to training and certification for new staff. The Academy will be the national leader in establishing policy and performance standards for all fair housing professionals who receive HUD funds. The Academy will promote more consistent and timely enforcement of fair housing laws and the reduction of the overall level of housing discrimination.

Instruction on conducting fair housing investigations (including the use of testing) will be a major feature of the Academy. HUD will work with FHAP agencies, to develop the curriculum. The Academy will also provide instruction on case management, civil rights laws, legal updates, compliance testing and monitoring, and investigation and conciliation skills. HUD will approve all courses to be offered by the Academy. Once investigators satisfactorily complete an established curriculum, they will receive certification as accredited fair housing investigators. The training and certification will enhance the quality, speed and professionalism of fair housing investigators.

Fund an Education Campaign in Six Cities Targeted at Hispanic Americans. The HDS 2000 study found that the level of discrimination against Hispanics in residential rental market has not changed over the past decade, while the nation's Hispanic population continues to grow. The Department proposes to conduct extensive enforcement and education and outreach in six cities with significant or rapidly growing Hispanic populations. HUD will work with the six FHAP agencies carrying out this campaign to ensure that they are appropriately staffed with bilingual persons who have a comprehensive understanding of the Hispanic community and that all literature is printed in Spanish and English. The Department will also help the designated FHAP agencies to design specific performance measures to assess their accomplishments in the six cities over a 1-year period.

Increase the Capacity Building Funding Amount. The amount provided to agencies for capacity building has remained the same for over 5 years. Agencies use this funding to train staff, process complaints and support other activities necessary to improve their complaint processing. This budget increases the amount new agencies receive for capacity building from \$115,000 to \$120,000, a \$5,000 increase. Fourteen agencies would receive this funding.

Fund an Additional FHAP Agency. When a jurisdiction has a law that is substantially equivalent to the provisions of the Fair Housing Act, it is eligible to receive FHAP funds to enforce the fair housing law in the jurisdiction. This arrangement allows for greater local expertise, and assures that all persons have fair housing protection. HUD is presently working with several jurisdictions to develop substantially equivalent laws in those areas. It is anticipated that in fiscal year 2004, one additional jurisdiction will be eligible for the creation of a FHAP agency.

Funding for Increased Caseload. Studies conducted by HUD and others demonstrate that housing discrimination on the basis of race, disability, and familial status are still significant problems. Studies further show that housing discrimination is underreported. Budgets for fiscal years 2003 and 2004 include education and outreach initiatives. Taking all of these factors into account, HUD anticipates an increase in housing discrimination complaints in fiscal year 2004.

TOTAL BUDGET ALLOCATION

Overall, the fiscal year 2004 Budget will support 99 FHAP agencies. Funds will be allocated in the following manner:

Case Processing--\$15.472 million. HUD reimburses FHAP agencies the costs incurred in reconciling complaints, from receipt through the administrative and/or civil proceedings. It is estimated that in fiscal year 2004, FHAP agencies will handle and process 67 percent of all complaints received by the Department. In fiscal year 2004, it is projected that the Department will receive over 12,000 allegations as a result the outreach efforts undertaken by HUD, FHAP and FHIP agencies.

There is no increase in the average per case payment over fiscal year 2003. On average, for each complaint correctly processed, an agency will receive between \$1,800 and \$2,300. The amount of the reimbursement will depend upon the timeliness, complexity, and enforcement activities that take place regarding the case.

HUD expects an increase in complaints in fiscal year 2004. This Budget is based on an estimated 8,040 FHAP processed complaints. Based on previous performance, it is estimated that approximately 2,000 complaints will be eligible for the maximum repayment amount of \$2,300, for a total of \$4.6 million; and approximately 6,040 complaints will be eligible for \$1,800, for a total of \$10.872.

HUD will also develop performance measures to assess aged cases within each FHAP agency.

Capacity Building--\$1.680 million. Agencies use this funding to develop and enhance complaint processing, to train staff, and to develop efficient means for implementing the jurisdiction's fair housing ordinances. The requested amount is approximately 4.4 percent more than the fiscal year 2003 request. Approximately 14 agencies will receive Capacity Building funds of \$120,000 in fiscal year 2004.

Training--\$4.854 million. HUD will oversee the establishment of a Fair Housing Training Academy to train and certify fair housing professionals at an estimated cost of \$1 million. The training and certification will improve the quality and timeliness of fair housing investigations.

The remaining \$3.854 million will fund other training needs of the State and local agencies. This includes funds for FHAP "contributions agencies" that have participated in the program for three or more years to support participation in HUD-sponsored or HUD-approved training. A total of \$704,000 will be used by HUD's ten regional offices for the training of FHAP agencies within each region. Finally, the Department will use approximately \$600,000 for a national policy conference to address the broad fair housing policy issues.

Targeted Education and Enforcement Following Up on HDS--\$2 million. The HDS 2000 study found that since 1989, the level of discrimination against Hispanic renters has remained essentially the same. According to the 2000 Census, the Hispanic population is increasing faster than any other population. HDS recommends, "that education and enforcement should target Hispanic renters." We propose conducting a focused education and outreach campaign in six cities with significant Hispanic populations. The Department will assist the six FHAP agencies to ensure that literature is available in both Spanish and English and that those working on the new initiatives are bilingual and have an understanding and appreciation of the local Hispanic population.

Special Enforcement Efforts (SEE)--\$985 thousand. Agencies receive SEE funds if they meet the criteria set forth in Part 115.305 of 24 CFR. The receipt of these funds is based upon the agency's prior year of outstanding performance. The funds are designed to help agencies enhance their enforcement processes. An agency is eligible to receive 20 percent of the agency's cooperative agreement in the previous year. Approximately 60 percent of the agencies are eligible to receive SEE funds, so approximately 60 agencies will each receive an estimated \$16,500. The funding for this effort remains at the fiscal year 2003 level.

Partnership Initiative--\$3 million. This category allows FHAP agencies to carry out enforcement and education and outreach activities based on criteria provided in the policy guidance outlined for this category. FHAP agencies use this money to work with local organizations such as schools, churches, and community groups to implement their fair housing mandates. FHAP agencies use this money to partner with local groups to present education programs on housing discrimination. For example, one FHAP used this funding to develop a computer infrastructure to assist it in research and complaint processing.

Administrative Costs--\$1.759 million. Administrative costs are calculated based on the number of complaints processed in the previous funding year. If an agency does not meet the standards set out in Part 115 of 24 CFR for allocation by formula, a flat rate of \$15,000 (flat rate reflects no increase from fiscal year 2003) will be provided to each agency for administrative costs. Based on performance in previous years, we estimate that 60 agencies will receive the flat rate of \$15,000 and approximately 39 will receive administrative funds using the formula.

PROGRAM DESCRIPTION AND ACTIVITY

1. Legislative Authority. The Fair Housing Act, 42 U.S.C. sec. 3601 et seq., prohibits discrimination in the sale or rental of housing; in residential real estate-related transactions; in the provision of brokerage services; and in other housing-related activities. Section 810(f) of the Fair Housing Act allows the Secretary to refer complaints filed under that law to the FHAP agency whenever a complainant alleges a discriminatory housing practice within the jurisdiction of the State or local agency that has been certified as providing rights, remedies, procedures, and the availability of judicial review which are substantially equivalent to those in the Fair Housing Act. Section 817 of the Fair Housing Act provides that the Secretary may assist State and local agencies in administering a fair housing law by providing them with financial assistance. Section 808(e)(3) and (5) requires the Secretary of HUD to cooperate with and render technical assistance to Federal, State, local and other public or private agencies, organizations, and institutions that are formulating or carrying on programs to prevent or eliminate discriminatory housing practices

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and to administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of the Fair Housing Act.

2. Program Background. Since 1980, the Department has provided financial assistance under the FHAP to State and local agencies administering substantially equivalent fair housing laws and ordinances. When the Fair Housing Amendments Act was enacted in 1988, all State and local agencies were required to amend their respective laws and ordinances if they wished to obtain substantial equivalency certification with the amended Federal law. The implementing regulation for the FHAP, 24 CFR Part 115, requires that the fair housing law administered by the agency be substantially equivalent and that a written agreement be executed. Agencies that participate in the FHAP must also: (a) conform to reporting and record-keeping requirements; (b) agree to on-site technical assistance and guidance and implementation of corrective action; (c) adhere to policies and procedures provided by the Department; (d) not unilaterally reduce the level of financial resources currently committed to complaint processing; (e) spend at least 20 percent of its total annual budget on fair housing activities; and (f) participate in HUD-sponsored or HUD-approved training.

The Fair Housing Act's prohibition against discriminatory housing practices has been in effect for more than 30 years. However, studies continue to show high levels of race and national origin discrimination in the rental and sales markets nationwide. Discrimination in the lending and sales markets has resulted in significant disparities between the homeownership rates of whites and minorities. Home mortgage disclosure data indicates that lenders still reject black and other minority applicants at a rate almost twice that of whites. Studies also show that builders continue to construct housing which is inaccessible to persons with disabilities. Finally, in certain parts of the United States, discrimination limits the housing choices of families with children.

HUD's effort to assist FHAP agencies in reducing their aged caseload has focused on both providing written guidance and providing funds targeted directly for this purpose. HUD expects and will ensure that the focus on aged case reduction will not diminish the quality of the FHAP agencies' case processing activities.

ADMINISTRATIVE EXPENSES

FTE/OBJECT CLASS	ESTIMATE 2002	ESTIMATE 2003	ESTIMATE 2004
FTE			
Headquarters	4	11	11
Field	16	20	20
Total FTE	20	31	31
S&E Cost (Dollars in Thousands)			
Personal Services	\$1,703	\$2,503	\$2,512
Travel	2	30	30
Total S&E Cost	\$1,705	\$2,533	\$2,542