

**FAIR HOUSING AND EQUAL OPPORTUNITY
FAIR HOUSING ASSISTANCE PROGRAM
2011 Summary Statement and Initiatives
(Dollars in Thousands)**

FAIR HOUSING ASSISTANCE PROGRAM	<u>Enacted/ Request</u>	<u>Carryover</u>	<u>Supplemental/ Rescission</u>	<u>Total Resources</u>	<u>Obligations</u>	<u>Outlays</u>
2009 Appropriation	\$26,000 ^{a/}	\$3,989	...	\$29,989	\$25,439	\$23,904
2010 Appropriation/Request	29,500 ^{b/}	4,399 ^{c/}	...	33,899	27,500	24,378
2011 Request	<u>28,500^b</u>	<u>6,399</u>	<u>...</u>	<u>34,899</u>	<u>34,500</u>	<u>28,565</u>
Program Improvements/Offsets	-1,000	+2,000	...	+1,000	+7,000	+4,187

a/ The fiscal years 2009 and 2010 Appropriations reflected in the justification include \$500 thousand for the creation and promotion of translated materials. No separate justification is provided for this smaller fair housing activity.

b/ Fiscal year 2010 includes up to \$295 thousand that may be transferred to the Transformation Initiative. Fiscal year 2011 includes up to \$285 thousand that may be transferred to the Transformation Initiative.

c/ Excludes \$151 thousand in expired funds.

Summary Statement

The fiscal year 2011 Budget request for the Fair Housing Assistance Program (FHAP) is \$28.5 million, a \$500 thousand decrease from the fiscal year 2010 FHAP appropriation, or a \$1 million decrease from fiscal year 2010 with the inclusion of the Limited English Proficiency Initiative in FHAP.

This request will ensure the availability of sufficient complaint-processing funds in light of the projected increase in the number of cases processed by FHAP agencies. This Budget also provides an increase in reimbursement for cases where an agency finds discrimination, in order to supplement costs associated with litigating the meritorious complaints. This Budget will allow a \$1,000 additional reimbursement for those costs, a \$500 increase over the current reimbursement amount of \$500. This will allow agencies to continue to enhance their capacity for fair housing and fair lending enforcement, and supplement costs associated with litigating meritorious complaints.

This Budget recognizes the continued need to support FHAP agencies when state and local governments are experiencing significant budget crises that have resulted in layoffs, hiring freezes, furloughs, and FHAP agency closures (three since July 2009). Since FHAP agencies are at the State and local level, they are often the most visible and accessible levels of government. Through FHAP, complainants have the benefit of local processing, while the enforcement is not jeopardized since FHAP agencies process complaints under state and local fair housing laws. These laws include rights, procedures, remedies, and the availability of judicial review that are substantially equivalent to the Federal Fair Housing Act.

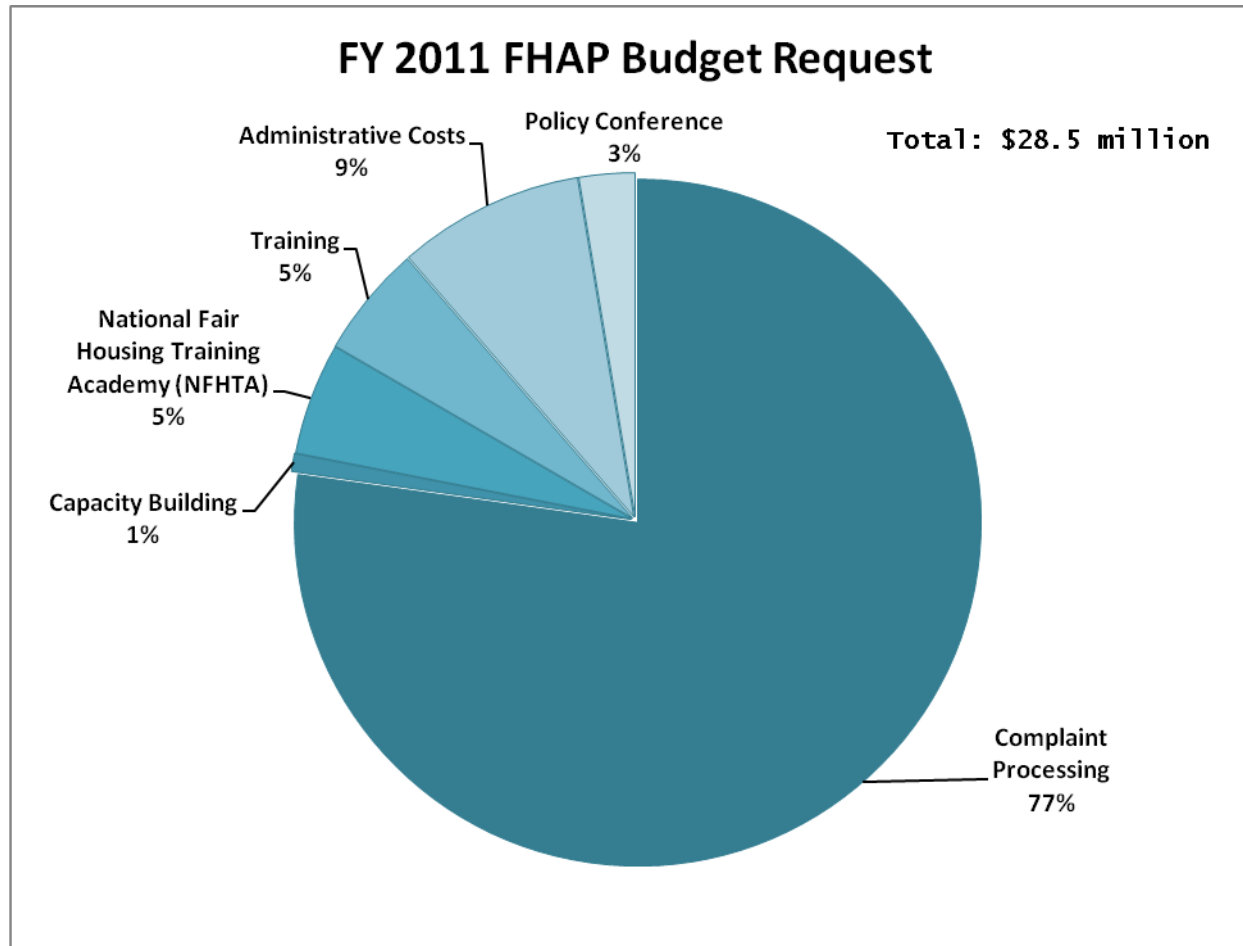
Fair Housing Assistance Program

FHAP funds will be allocated to program components as follows (Reference Figure 1.):

- Complaint Processing \$22.01 million (\$590 thousand decrease)
- National Fair Housing Training Academy (NFHTA)..... \$1.5 million (no change)
- Biennial Policy Conference \$750 thousand (\$150 thousand decrease)
- Training \$1.5 million (no change)
- Administrative Costs \$2.5 million (no change)
- Capacity Building \$240 thousand (\$240 thousand increase)
- TOTAL..... \$28,500,000 (\$500,000 decrease)

NOTE: The Biennial Policy Conference is included in training in fiscal year 2010 request.

Figure 1.



Fair Housing Assistance Program

Program Background

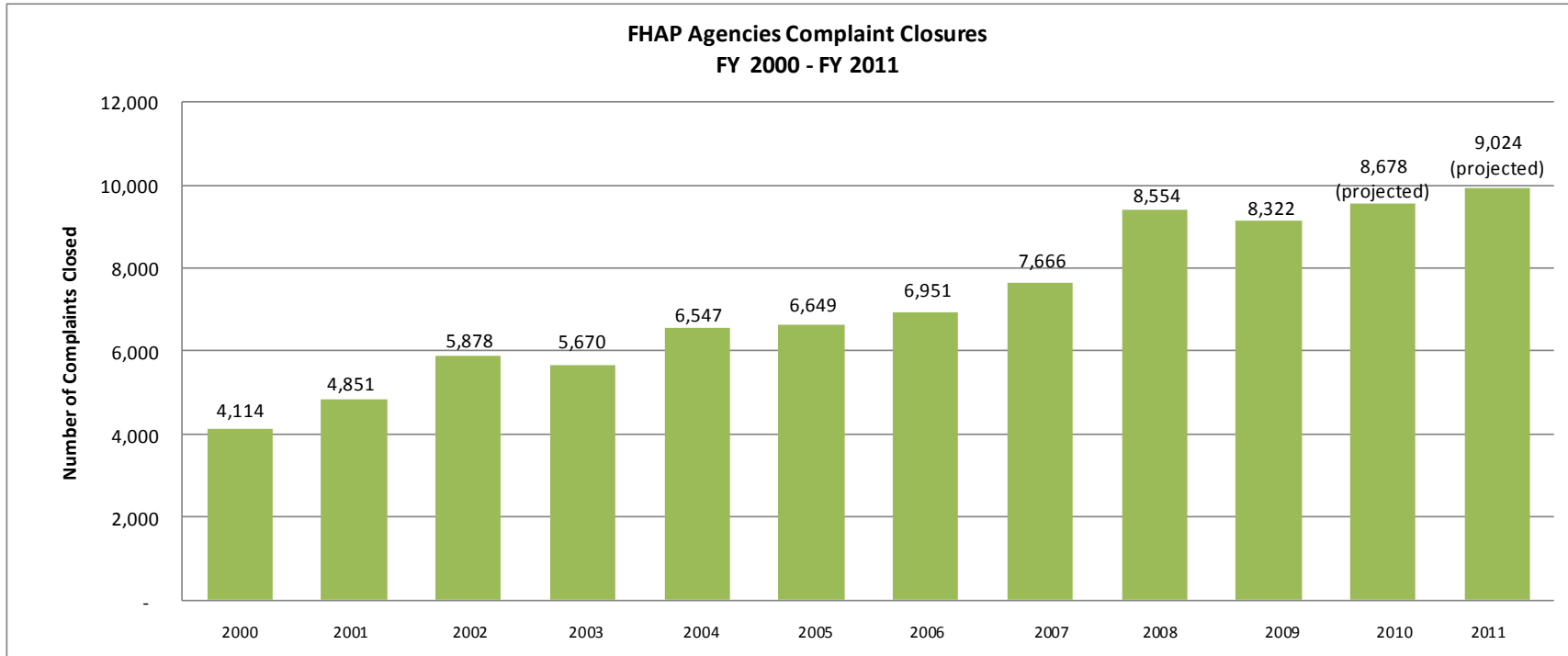
Since 1980, the Department has provided financial assistance under the FHAP to state and local agencies administering substantially equivalent fair housing laws. In fiscal year 2011, these funds are projected to be distributed across the country to 72 local agencies and 38 States, including the District of Columbia.

Each FHAP agency must administer a substantially equivalent fair housing law and execute a written agreement with HUD, according to the implementing regulation for the FHAP, 24 CFR Part 115. To maintain substantial equivalence status, FHAP agencies must conform complaint processing to quality and timeliness standards enumerated in the regulation, at 24 CFR 115.206. An agency that participates in the FHAP must also: 1) conform to reporting and record-keeping requirements; 2) agree to on-site technical assistance and guidance and implementation of corrective action; 3) adhere to policies and procedures provided by the Department; 4) not unilaterally reduce the level of financial resources currently committed to complaint processing; 5) spend at least 20 percent of its total annual budget on fair housing activities if the agency administers other anti-discrimination laws; and 6) participate in HUD-sponsored or HUD-approved training.

Legislative Authority. The Fair Housing Act, 42 U.S.C. sec. 3601 et seq., prohibits discrimination in the sale and rental of housing; in residential real estate-related transactions; in the making and targeting of loans; and in other housing-related activities. Section 810(f) of the Fair Housing Act requires the Secretary to refer fair housing complaints to state and local agencies when such agencies enforce laws that provide rights, remedies, procedures, and availability of judicial review substantially equivalent to the Fair Housing Act. Section 817 of the Fair Housing Act provides that the Secretary may assist such state and local agencies in administering a fair housing law through the provision of financial assistance. Sections 808(e)(3) and (5) require 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 out programs that prevent or eliminate discriminatory housing practices 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.

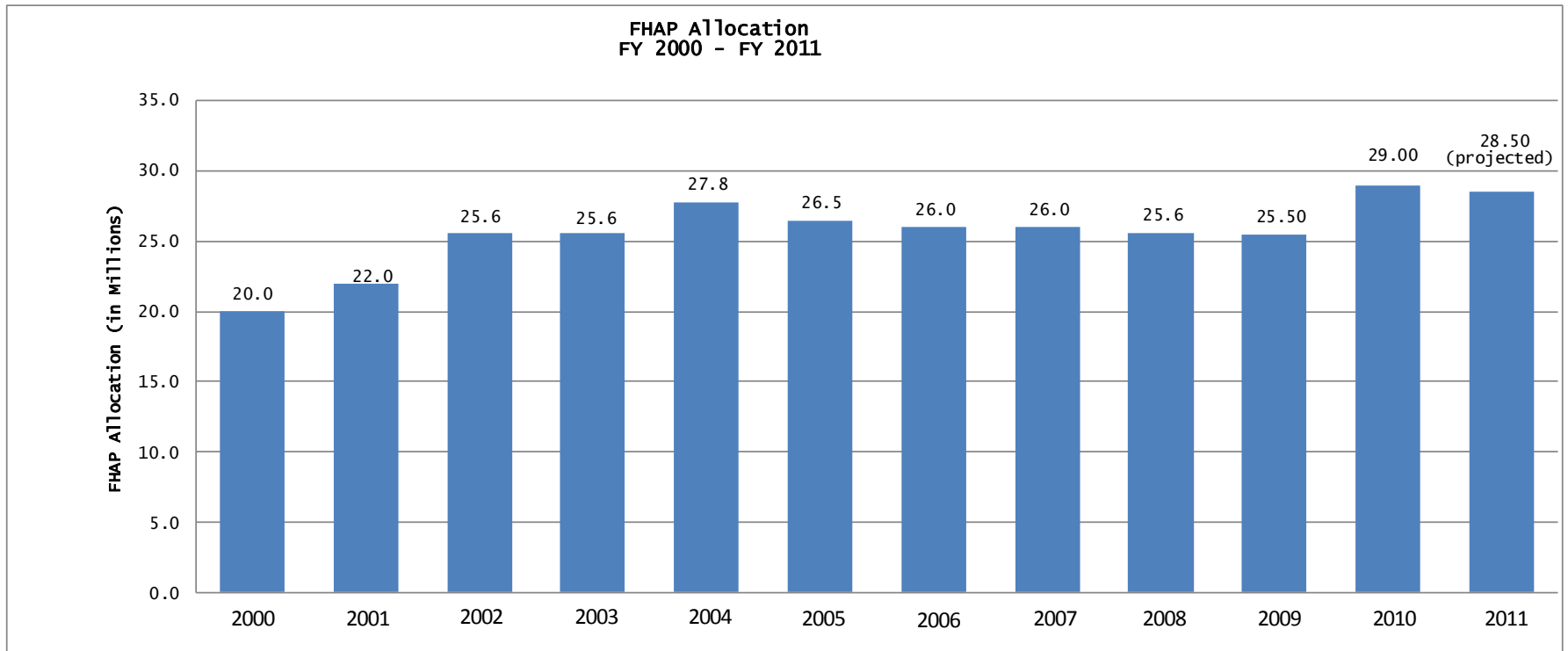
Fair Housing Assistance Program

Program Status



In fiscal year 2009, the Department and FHAP agencies closed 10,697 complaints. The FHAP agencies closed 8,322 complaints, or about 78 percent of the complaints filed nationwide.

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In the 8,322 investigations that FHAP agencies completed in fiscal year 2009, FHAP agencies reached a determination of no cause to believe that discrimination occurred in 50.4 percent of the complaints. They closed another 12.6 percent for administrative reasons where, for example, a complainant could no longer be located. FHAP agencies negotiated conciliation or settlement agreements between the parties in 29.8 percent of the complaints, and they reached a determination of cause to believe that discrimination occurred in 7.2 percent of the complaints.

In an example of one such case, a Missouri state court ordered an apartment owner and manager to pay \$300,000 in damages to tenants in a case investigated and prosecuted by the Missouri Commission on Human Rights (MCHR), a FHAP agency. The case involved a landlord who repeatedly removed a ramp that two tenants with disabilities used to enter and exit their apartment. The tenants used wheelchairs and scooters and had their own metal ramp attached to their apartment door to enter and exit. When the apartment building ownership changed, the new property manager removed the ramp several times after the tenants' family members reinstalled it. The landlords also made changes to the apartment grounds so that it would no longer accommodate the ramp, causing the tenants to be homebound and unable to enter or exit their apartment for approximately 3 weeks. As a result of the landlords' actions, the tenants missed doctor appointments and had to have family members bring them groceries. Eventually, the tenants had to move to a new apartment. On June 19, 2009, a judge ordered

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a default judgment of \$50,000 in actual damages and \$100,000 in punitive damages to each resident, for a total award of \$300,000, the largest damage award in a housing case in MCHR history. The court also ordered the landlord to cease and desist from such unlawful discrimination.

FHAP agencies are mandated to close fair housing cases within 100 days, unless it is impracticable to do so. Those cases that exceed 100 days are referred to as “aged.” In fiscal year 2009, FHAP agencies closed 96.5 percent of the cases that had been “aged” at the start of the fiscal year, which exceeded the HUD management plan goal by 1.5 percentage points. Additionally, of all complaints received during fiscal year 2009, FHAP agencies closed 53 percent within 100 days, which exceeded the HUD management plan goal by 3 percent. Fiscal year 2009 was the first year that both FHAP management plan goals were met.

The FHAP regulation includes performance standards to improve the timeliness and quality of FHAP agency complaint processing. Specifically, the standards require timely investigations, limited and appropriate use of administrative closures, conciliation attempts throughout complaint processing, compliance reviews of conciliation agreements, appropriate relief sought for victims of discrimination, receipt and processing of a reasonable number of complaints, and reporting to HUD on the final status of all complaints processed. The regulation also sets forth timeframes in which HUD will conduct on-site performance assessments of the FHAP agencies, and specifies processes when FHAP agencies are in non-compliance with the performance standards. In fiscal year 2009, HUD utilized the performance deficiency processes to address issues at seven FHAP agencies related to timely and comprehensive investigations, receiving and processing a reasonable number of complaints, and compliance with finance-related requirements of FHAP participation.

To further implement the new regulation and improve FHAP performance, in August 2008, HUD rolled out a FHAP agency performance assessment report template. Prior to that time, FHAP agency performance assessment reports varied by HUD region, and certain HUD regions were not assessing FHAP agencies in accordance with appropriate standards and requirements. The performance assessment report template includes all standards and requirements that a HUD regional office must use when reviewing a FHAP agency during a performance assessment. The template also includes instructions to clarify what information should be reviewed, and how best to obtain it. HUD regional offices were trained on use of the template on August 28, 2008, and the training is archived on the HUD website for future viewing.

National Fair Housing Training Academy

To improve consistency in complaint processing by FHAP agencies, in August 2004, HUD launched the National Fair Housing Training Academy (Academy) to provide comprehensive instruction to fair housing investigators on topics such as fair housing law, critical thinking and investigations, interviewing techniques, and conciliation. HUD requires that fair housing investigators satisfactorily complete 200 hours of advanced training in theory and techniques. This requirement applies to the approximately 500 full-time investigators working in FHAP agencies.

The Academy was designed to provide training to fair housing professionals to ensure consistent, effective, and efficient case processing. Since the Academy opened its doors in 2004, 282 fair housing investigators have completed the core curriculum. A recent study, the “Level 3 and Level 4 Training Evaluation conducted by the Center for Organization Excellence,” evaluating the effectiveness of the Academy found that “progressive completion of the courses and application of information learned appears to lead to increased competence on the job, improved timeliness and quality of casework, and increased HUD reimbursement for FHAP agencies.” The study concluded, “There is a strong positive relationship of course completion to business results for most case types, across nearly all regions, and within every fiscal year from 2005 through 2009 (1st quarter).”

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The Academy works to further enhance the capabilities of the Fair Housing Assistance Program agencies by offering a new course for fair housing commissioners and a course for intake personnel in fiscal year 2010. Further, the Academy is implementing new delivery systems for its courses. FHAP agencies will be able to access courses on-line and fair housing courses will be available in different locations across the country. We continue to develop new methodologies to ensure the widest dissemination of course offerings nationwide.

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**FAIR HOUSING AND EQUAL OPPORTUNITY
FAIR HOUSING ASSISTANCE PROGRAM
Summary of Resources by Program
(Dollars in Thousands)**

<u>Budget Activity</u>	<u>2009 Budget Authority</u>	<u>2008 Carryover Into 2009</u>	<u>2009 Total Resources</u>	<u>2009 Obligations</u>	<u>2010 Budget Authority/ Request</u>	<u>2009 Carryover Into 2010</u>	<u>2010 Total Resources</u>	<u>2011 Request</u>
Fair Housing Assistance Program	\$26,000	\$3,989	\$29,989	\$25,439	\$29,205	\$4,399	\$33,604	\$28,215
Transformation Initiative	<u>---</u>	<u>---</u>	<u>---</u>	<u>---</u>	<u>295</u>	<u>---</u>	<u>295</u>	<u>285</u>
Total	26,000	3,989	29,989	25,439	29,500	4,399	33,899	28,500

NOTE: The 2009 Budget Authority includes \$500 thousand for the creation and promotion of translated materials.

<u>FTE</u>	<u>2009 Actual</u>	<u>2010 Estimate</u>	<u>2011 Estimate</u>
Headquarters	4	8	8
Field	<u>19</u>	<u>19</u>	<u>19</u>
Total	23	27	27

**FAIR HOUSING ASSISTANCE PROGRAM
Program Offsets
(Dollars in Thousands)**

Fair Housing Assistance Program	<u>Amount</u>
2009 Appropriation	\$26,000
2010 Appropriation/Request	29,205
2011 Request	<u>28,215</u>
Program Improvements/Offsets	-990

NOTES:

1. The fiscal years 2009 and 2010 Appropriations reflected in the justification include \$500 thousand for the creation and promotion of translated materials. No separate justification is provided for this smaller fair housing activity.
2. Fiscal year 2010 includes up to \$295 thousand that may be transferred to the Transformation Initiative. Fiscal year 2011 includes up to \$285 thousand that may be transferred to the Transformation Initiative.

Proposed Actions

The fiscal year 2011 FHAP budget requests \$28.5 million, a \$500 thousand decrease compared to the fiscal year 2010 FHAP appropriation. This Budget provides \$22.01 million in Complaint Processing funds, \$1.5 million for the National Fair Housing Training Academy, \$750 thousand for the biennial National Fair Housing Policy Conference, \$1.5 million in Training funds, and \$2.5 million in Administrative Costs funds. In addition, the Department is requesting \$240 thousand for Capacity Building. Historically, HUD has provided capacity building funds to any new agency that demonstrated it enforces a substantially equivalent fair housing law. This has resulted in several states with both state FHAP agencies and numerous local FHAP agencies while there are certain states that have no FHAP agencies, either state or local. In fiscal year 2011, the capacity building funds will be targeted to current non-FHAP states and local jurisdictions with limited fair housing enforcement presence. The following provides background on the individual program activities and explains the adjustment in funding levels.

The following provides background on the individual program activities and explains the adjustment in funding levels.

Complaint Processing--\$22.01 million (\$590 thousand decrease)

Complaint processing funds are used to reimburse FHAP agencies for timely and comprehensive investigations of fair housing complaints that are within the jurisdiction of the Fair Housing Act. Without this funding, FHAP agencies may not be able to investigate and resolve complaints of housing discrimination, lending discrimination, and predatory lending.

Allocation. Based on recent trends, HUD estimates that in fiscal year 2011, 9,024 complaints will be investigated by FHAP agencies throughout the country, which represents a 4.5 percent increase in complaints compared to projections for fiscal year 2010. In fiscal year 2011, we propose that the amount for reimbursement vary between \$0 and \$2,600. The amount an agency is reimbursed will depend on the timeliness, complexity, and quality of the complaint investigation, in

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accordance with departmental guidance. We are proposing that an agency may be reimbursed an additional \$1,000 for complaints that reach the adjudication phase (i.e., a charge of discrimination is issued or a determination of probable/reasonable cause is made). The increase to \$1,000 for meritorious complaints that reach the adjudication phase will provide additional support to agencies for litigation costs associated with proceeding to administrative hearing or filing a civil action in court. Based on past trends of FHAP complaint outcomes, HUD estimates that approximately 632 complaints (7 percent of 9,024) processed in fiscal year 2011 will warrant the \$1,000 bonus.

In total, FHAP agencies will be reimbursed \$22.01 million for investigating, resolving, and litigating fair housing cases.

National Fair Housing Training Academy (NFHTA)--\$1.5 million (No change)

HUD requires fair housing investigators to satisfactorily complete 200 hours of training in the theory and techniques of fair housing investigations at the Patricia Roberts Harris National Fair Housing Training Academy (Academy). The Academy provides courses on such topics as fair housing law, critical thinking, investigations, interview techniques, conciliation, reasonable accommodations, fair lending, and leadership.

Allocation. For fiscal year 2011, the Department has requested \$1.5 million to support the operation and management (including course delivery) of the Patricia Roberts Harris National Fair Housing Training Academy. In fiscal year 2009, a total of 560 participants attended training at the Academy. FHEO anticipates training a minimum of 610 attendees in fiscal year 2010 and 660 attendees in fiscal year 2011 through traditional classroom delivery methods. Once online courses are available, the Department expects enrollment to increase even more. This funding will further enhance the Academy's ability to provide wide-spread, quality higher learning opportunities; develop additional curricula; implement a certification process; and maintain the Learning Management System (customized software that tracks student registrations and progress).

The Department's request for funding in fiscal year 2011 has not changed from the fiscal year 2010 request level because the Academy's budget will be supplemented through fees of approximately \$150 thousand collected from non-FHAP attendees. These fees will defray some of the Academy's expenses by covering course development for fiscal year 2011.

Training/Policy Conference--\$2.25 million (\$150 thousand decrease)

Agencies that participate in the FHAP for more than 1 year may be eligible for training funds for HUD-sponsored or HUD-approved training. These funds can be used to attend the Patricia Roberts Harris National Fair Housing Training Academy, and other fair housing training approved by HUD. As more FHAP agency staff complete the Academy core curriculum, the agencies are able to use funds for attendance at the advanced and specialized courses, like "Predatory Lending," "Lending Discrimination," "Litigating Fair Housing Cases," and "Hearing Fair Housing Cases" (developed for agency commissioners, hearing officers, and others that hear fair housing cases). Successful completion of these courses is intended to increase capacity to handle complex lending cases, and provide effective legal representation and adjudication in fair housing and fair lending cases.

The biennial policy conference provides an opportunity to bring together fair housing professionals and interested parties to discuss civil rights policy and the department's direction. The conference allows FHAP and FHIP participants and other fair housing professionals through general sessions and focus groups to discuss policy issues specific to HUD and FHEO. In addition, the conference will highlight civil rights initiatives; facilitates information sharing between program

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participants and HUD staff; and encourage strategic planning on a range of fair housing and civil rights matters. Since the conference is open to FHAP and FHIP policy makers, local/state government representatives, attorneys, civil rights professionals, HUD staff, and the general public, there could be approximately 1,000 conference attendees. FHEO intends to utilize \$750 thousand to support the fiscal year 2012 National Fair Housing Policy Conference. This funding is necessary in fiscal year 2011 to allow sufficient time to plan the conference and secure an appropriate venue for the conference.

Allocation. For fiscal year 2011, the Department requests \$1.5 million for the cost of FHAP agency travel and per diem costs associated with the National Fair Housing Training Academy. Another \$750 thousand will support FHEO's biennial policy conference being held in 2012.

Administrative Costs--\$2.5 million (No Change)

Administrative Costs are allocated to agencies based on the amount of funding received in the prior fiscal year. Consistent with 24 CFR 115.304, agencies that acceptably process 100 or more cases in fiscal year 2010 are entitled to 10 percent of the agency's total FHAP payment amount for the preceding year. If the agency processes fewer than 100 cases, then it will receive a flat rate for administrative costs, contingent on fiscal year appropriations. Administrative costs are directed to activities designed to create, modify, or improve local information systems concerning fair housing matters (including the purchase or upgrade of computer systems), and other administrative activities related to the FHAP agency's fair housing enforcement.

Allocation. FHEO estimates that 30 agencies will process more than 100 cases in fiscal year 2010 making those agencies potentially eligible for 10 percent of their fiscal year 2010 funding; approximately \$2.2 million will be awarded to these agencies. The remaining \$300 thousand will go to agencies that process fewer than 100 cases.

Capacity Building--\$240 thousand (\$240 thousand increase)

Capacity building funds are for new agencies participating in the FHAP. In accordance with the FHAP regulation, at 24 C.F.R. Section 115.302, capacity building agencies are not paid per complaint, but are provided a fixed amount of funds to build the agency's capacity to administer a substantially equivalent fair housing law. After the first year of FHAP participation, HUD transitions an agency off of capacity building funds, and provides the other categories of FHAP funding to the agency.

Allocation. The Department requests \$240 thousand for capacity building in fiscal year 2011. With this funding, HUD intends to provide funding to two underserved jurisdictions-- states that are not currently participating in the FHAP or local jurisdictions that are based in states that are not participating in the FHAP.

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**FAIR HOUSING AND EQUAL OPPORTUNITY
FAIR HOUSING ASSISTANCE PROGRAM
Program Offsets
(Dollars in Thousands)**

Transformation Initiative	<u>Amount</u>
2009 Appropriation .....	...
2010 Appropriation/Request	\$295
2011 Request	<u>285</u>
Program Improvements/Offsets	-10

Proposed Actions

The Transformation Initiative allows the Secretary the necessary flexibility to undertake an integrated and balanced effort to improve program performance and test innovative ideas. One percent of the funds appropriated for the FHAP account may be transferred to the Transformation Initiative account to undertake research, demonstrations, technical assistance, and technology improvements.

**FAIR HOUSING AND EQUAL OPPORTUNITY
FAIR HOUSING ASSISTANCE PROGRAM
Justification of Proposed Changes in Appropriations Language**

The fiscal year 2011 President's Budget includes proposed changes in the appropriations language listed and explained below. New language is italicized and underlined, and language proposed for deletion is bracketed.

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, [~~\$71,500,000~~]\$61,100,000, to remain available until September 30,~~[2011]~~2012, of which [~~\$42,500,000~~]\$32,600,000 shall be to carry out activities pursuant to such section 561 *Provided*, That notwithstanding 31 U.S.C. 3302, the Secretary may assess and collect fees to cover the costs of the Fair Housing Training Academy and may use such funds to provide such training: *Provided further*, That no funds made available under this heading shall be used to lobby the executive or legislative branches of the Federal Government in connection with a specific contract, grant or loan[: *Provided Further*, That no funds made available under this heading, \$500,000 shall be available to the Secretary of Housing and Urban Development for the creation and promotion of translated materials and other programs that support the assistance of persons with limited English proficiency in utilizing the services provided by the Department of Housing and Urban Development].

Explanation of Changes

The provision setting aside funding for the creation and promotion of translated materials to support the assistance of persons with limited English proficiency has been removed. In fiscal year 2009 and 2010, \$500 thousand was provided. HUD is not requesting any additional funds for translation purposes.

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**FAIR HOUSING AND EQUAL OPPORTUNITY
FAIR HOUSING ASSISTANCE PROGRAM
Crosswalk of 2009 Availability
(Dollars in Thousands)**

<u>Budget Activity</u>	<u>2009 Enacted</u>	<u>Supplemental/ Rescission</u>	<u>Approved Reprogrammings</u>	<u>Transfers</u>	<u>Carryover</u>	<u>Total 2009 Resources</u>
Fair Housing Assistance Program	\$26,000 ^{a/}	...	...	...	\$3,989	\$29,989
Transformation Initiative	<u>...</u>	<u>...</u>	<u>...</u>	<u>...</u>	<u>...</u>	<u>...</u>
Total	26,000	...	...	...	3,989	29,989

a/ Fiscal year 2009 enacted reflected in the justification includes \$500 thousand for the creation and promotion of translated materials. No separate justification is provided for this smaller fair housing activity.

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**FAIR HOUSING AND EQUAL OPPORTUNITY
FAIR HOUSING ASSISTANCE PROGRAM
Crosswalk of 2010 Changes
(Dollars in Thousands)**

<u>Budget Activity</u>	<u>2010 President's Budget Request</u>	<u>Congressional Appropriations Action on 2010 Request</u>	<u>2010 Supplemental/ Rescission</u>	<u>Reprogrammings</u>	<u>Carryover</u>	<u>Total 2010 Resources</u>
Fair Housing Assistance Program	\$29,205 ^{a/}	...	...	\$4,399 ^{b/}	\$33,604
Transformation Initiative	<u>...</u>	<u>295</u>	<u>...</u>	<u>...</u>	<u>...</u>	<u>295</u>
Total	29,500	...	...	4,399	33,899

a/ The fiscal 2010 Appropriation reflected in the justification includes \$500 thousand for the creation and promotion of translated materials. No separate justification is provided for this smaller fair housing activity.

b/ Excludes \$151 thousand in expired funds.