

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
ADMINISTRATIVE SUPPORT OFFICES
OFFICE OF GENERAL COUNSEL**

Program Area Overview:

The General Counsel is the chief legal officer of the Department and is the legal advisor to the Secretary and other principal staff of the Department. The General Counsel provides legal opinions, advice and services with respect to all programs and Departmental activities, including the development of the Department's programs and policies. The General Counsel is also the head of the Departmental Enforcement Center (DEC), a non-attorney organization of financial and enforcement analysts, which enforces the Department's program requirements.

In addition to conventional work performed by most departmental general counsel offices, HUD's Office of General Counsel (OGC) also conducts high-dollar value insured loan closings for affordable multifamily housing; nursing homes and hospitals; and the elderly and disabled housing programs; generates recovery income for the Federal Housing Administration fund; and pursues programmatic and Fair Housing enforcement actions.

The following table illustrates how OGC's work results in a positive return-on-investment/appropriation of more than 13-to-1:

OGC Financial Impact in Fiscal Year 2014 as of September 30	
FY 2014 Appropriation	\$ 94,000,000
Closing Fees/Collections:	\$ 150,475,745
MF Housing Project/CPD/PIH Recoveries:	\$ 14,206,678
FHA fund recoveries:	\$ 1,101,074,608
Debt collection activities:	\$ 710,299
Fair Housing Act and Civil Rights Resolutions:	\$ 12,176,000
Total return from OGC actions:	\$ 1,278,643,330
Return on appropriated funds:	1360.3%

Significant Accomplishments in Fiscal Year 2014

OGC Multifamily Housing provides legal services in connection with statutory, regulatory and case law interpretation as well as advice concerning proposed policy related to the origination and asset management of FHA-insured loans for multifamily projects, residential healthcare facilities and hospitals. In fiscal year 2014, OGC Multifamily Housing closed 1,509 insured loans for multifamily housing (including Rental Assistance Demonstration projects), hospitals, nursing homes, and elderly and disabled housing with a total dollar value of \$14.8 billion.

The DEC's mission is to strengthen the oversight of HUD programs and operations through monitoring, oversight and enforcement so that programs operate efficiently, effectively and with the highest degree of fiscal integrity. In fiscal year 2014, the DEC recovered \$14 million to redress abuses in HUD's Multifamily, PIH and CPD programs and completed 186 suspensions and limited denials of participation and 278 debarments of individuals responsible for \$191,283,000 in losses to HUD programs.

OGC Program Enforcement develops and litigates enforcement actions against FHA lenders and other HUD program participants, both in-house and with the Department of Justice. This function includes enforcement of the Department's statutory, regulatory and contractual obligations and responsibilities. In fiscal year 2014, OGC Program Enforcement's efforts recovered more than \$1.1 billion for the FHA Fund.

In fiscal year 2014, OGC Defensive Litigation defended the Department against \$1,251,597,000 in claims. This does not include personnel and tort claims.

TOTAL - SALARIES AND EXPENSES				
(Dollars in Thousands)				
	FY 2014	FY 2015	FY 2016	FY 2015 to FY 2016
Personnel Services	\$87,768	\$89,425	\$91,982	\$2,557
Non-Personnel Services				
Travel	891	845	970	125
Transportation of Things	88	20	20	-
Printing	852	1,000	1,000	-
Other Services/Contracts	1,549	900	1,199	299
Training	562	540	540	-
Supplies	438	320	320	-
Furniture/Equipment	532	-	-	-
Claims & Indemnities	537	950	950	-
Non-Personnel Subtotal	5,449	4,575	4,999	424
GRAND TOTAL	\$93,217	\$94,000	\$96,981	\$2,981
Associated FTE	596.1	600.9	609.9	9.0

DESCRIPTION OF CHANGE FROM FY 2015 TO FY 2016

The Office of General Counsel (OGC) requests \$96,981K and 609.9 Full Time Equivalents (FTE) in fiscal year 2016, with an increase from fiscal year 2015 enacted of \$2,981K.

- Personnel Services: OGC requests \$91,982K and 609.9 FTE. This request represents an increase from fiscal year 2015 enacted budget of \$2,557K and 9.0 FTE. A nominal amount of funding is included to fund the pay raise, promotions and within-grade increases. The net increase of 9.0 new FTE across several functions are due to changing workload:
 - The Departmental Enforcement Center (DEC) function requests an additional 2.1 FTE for financial analysts to perform financial reviews of public housing agencies (PHAs), providing improved oversight of PHAs. The DEC does not currently have the capacity to provide the level of services needed for this increased oversight role.
 - OGC requests a total of 9.7 FTE to assist Fair Housing and Equal Opportunity in conducting reviews and providing training and technical assistance required by implementation of the Affirmatively Furthering Fair Housing (AFFH) rule.
 - OGC requests 2.0 FTE to support the Rental Assistance Demonstration initiative.
 - OGC will reduce 4.8 FTE in the Multifamily Housing legal function through attrition in order to redirect funding to the above activities.

Administrative Support Offices - Office of General Counsel

	Personnel Services Functional Summary					
	(Dollars in Thousands)					
	FY 2014		FY 2015		FY 2016	
Function	FTE	Cost	FTE	Cost	FTE	Cost
Management	7.2	\$1,060	7.0	\$1,042	7.0	\$1,056
Operations	24.0	\$3,533	24.0	\$3,571	24.0	\$3,619
Multifamily Housing	145.5	\$21,427	146.7	\$21,837	143.9	\$21,703
Single Family Housing	25.2	\$3,710	25.4	\$3,780	25.4	\$3,831
Ginnie Mae	11.2	\$1,649	11.3	\$1,682	11.3	\$1,704
Program Enforcement	31.6	\$4,652	31.9	\$4,747	31.9	\$4,811
Departmental Enforcement Center	101.2	\$14,899	102.0	\$15,178	104.1	\$15,700
Fair Housing	49.1	\$7,229	49.5	\$7,366	56.5	\$8,521
Community Planning & Development	16.6	\$2,444	16.7	\$2,485	17.7	\$2,669
Assisted Housing	31.9	\$4,697	32.2	\$4,792	33.9	\$5,113
Ethics & Personnel Law	55.0	\$8,097	55.9	\$8,318	55.9	\$8,430
Legislation & Regulations	15.0	\$2,208	15.1	\$2,247	15.1	\$2,277
Administrative Law	14.5	\$2,135	14.6	\$2,173	14.6	\$2,202
Procurement Law	13.1	\$1,929	13.2	\$1,964	13.2	\$1,991
Litigation	52.0	\$7,656	52.4	\$7,797	52.4	\$7,903
Native American Programs	3.0	\$443	3.0	\$446	3.0	\$452
Total	596.1	\$87,768	600.9	\$89,425	609.9	\$91,982

KEY WORKLOAD INDICATORS				
Workload Indicator	FY 2014	FY 2015	FY 2016	FY 2015 to FY 2016
Fair Housing Act Charges of Discrimination	24	30	36	6
Suspensions and Limited Denials of Participation	186	190	200	10
Debarments	278	300	310	10
Personnel Litigation--New Cases Opened	105	120	135	15
Defensive Litigation--New Cases Opened	106	108	117	9

Fair Housing Act Charges of Discrimination: The number of Fair Housing Act charges of discrimination will increase in fiscal years 2015 and 2016 as a result of Fair Housing/Equal Opportunity's concentration on reducing investigative backlogs and because of the increased public awareness that will result from high-profile Supreme Court Fair Housing Act litigation, HUD's issuance of a final rule on affirmatively furthering fair housing (AFFH) in fiscal year 2015, and HUD's issuance of a proposed rule on harassment prohibited by the Fair Housing Act. Increased public awareness causes more Fair Housing Act complaints to be filed which will, in turn, result in additional charges of discrimination.

Suspensions, Limited Denials of Participation and Debarments: In addition to other accomplishments, two additional full-time equivalents in the Departmental Enforcement Center in fiscal year 2016 will conduct more financial reviews that reveal losses to HUD programs. This additional oversight will result in increased program integrity and more suspensions, limited denials of participation and debarments for liable persons.

Personnel Litigation--New Cases Opened: In fiscal year 2016, OGC anticipates an increase in legal advice and related litigation resulting from Departmental transformational initiatives such as the transformation of HUD's Office of Multifamily Housing to a more effective operating model that will allow employees to accomplish more mission-related work at a higher quality, with less effort and fewer resources. Similar transformations are planned for the Offices of the Chief Human Capital Officer and Chief Financial Officer. These activities are expected to result in an increase in labor-management disputes as well as personnel litigation in fiscal year 2016.

Defensive Litigation--New Cases Opened: The increases in litigation result from 1) the implementation of Phase 2 of the Rental Assistance Demonstration (RAD) and 2) the issuance of the final AFFH rule, based on the number of comments. OGC anticipates continued increases in RAD litigation and individual challenges to the implementation of the AFFH rule as HUD's regulations are implemented.

Administrative Support Offices - Office of General Counsel

- Non- Personnel Services: OGC is requesting \$4,999K. This request represents an increase from fiscal year 2015 enacted of \$424K.
 - Travel increased by \$125K to conduct DEC audit and compliance reviews, carry out enforcement activities to protect the integrity of HUD programs, and provide training and technical assistance required to implement the AFFH rule.
 - Other Services increased by \$299K:
 - \$200K to fund increased costs of the online research contract, which enables OGC attorneys to perform legal research to provide legal advice for all HUD programs, defend the Department against lawsuits and pursue enforcement actions; and
 - \$99K to pay the professional bar dues of OGC attorneys who are required to maintain law licenses in order to represent the Department. OGC will be required to pay these fees by the proposed collective bargaining agreement that will likely be ratified by fiscal year 2016.

SUMMARY OF SYSTEMS/TOOLS REQUIRED TO MANAGE PROGRAM

The Regulatory, Legislative and Enforcement (RLE) segment supports five HUD offices: the Office of General Counsel (OGC); the Office of Fair Housing and Equal Opportunity (FHEO); the Office of Lead Hazard Control and Healthy Homes (OLHCHH); the Office of Departmental Equal Employment Opportunity (ODEEO); and the Davis-Bacon function from the Office of Field Policy and Management (FPM).

Below is a summary of the systems in the RLE segment funded by the IT Fund:

- The creation of the HUD Enforcement Management System (HEMS), in fiscal year 2015, will consolidate and automate the enforcement processes for the DEC, FHEO, OHHLHC and FPM (Davis-Bacon). In fiscal year 2015, HEMS will allow the RLE segment to decommission FHEO's Title Eight Automated Paperless Office Tracking System (TEAPOTS). HEMS will also allow for the eventual decommissioning of three systems supporting OGC's DEC (the Department Enforcement Center Management System, the Enforcement Center Information System, and the Enforcement Center Program Compliance Integration System), as well as OHHLHC's Lead Enforcement Tracking System, and FPM's LR2000, which supports Davis-Bacon compliance activities. In fiscal year 2016, the HEMS initiative will deliver operational efficiencies by enabling collaboration across multiple HUD enforcement offices through a shared database in an integrated environment.
- At the end of fiscal year 2016, the current sole-source, fixed-price E-Discovery contract will expire. OGC will begin the re-competition process during the summer of fiscal year 2015. OGC envisions that the contract will have a base year (fiscal year 2016) plus four option years (fiscal years 2017-2020). The transition process from the current contract to a new contract will likely create additional costs, including the cost of migrating data to a new system. OGC projects that growth in the number of

Administrative Support Offices - Office of General Counsel

additional personnel cases and enforcement actions against FHA lenders will result in a need for additional E-Discovery storage. Currently, over 4,000 HUD employees are subject to litigation holds of their electronic information.

- In fiscal year 2016, OGC will continue to use LawManager, hosted on Amazon's FEDRAMP-secured Cloud, to track and report on its legal workload. By purchasing off-the-shelf software for legal workload tracking in fiscal year 2014, the service and costs include automatic upgrades.
- In fiscal year 2016, the Department will continue to use FDOonline for ethics financial disclosures unless the Office of Government Ethics mandates migration to a different system.
- In fiscal year 2016, the Department will continue to use EEO-MIS for personnel law reporting unless the Equal Employment Opportunity Commission mandates migration to a different system.
- In fiscal year 2016, the RLE segment will need contractor support to continue operations and maintenance for the HUD OGC SharePoint Support Services contract that includes the HUD Departmental Clearance Calendar, OGC Bi-Weekly Report and other customized business tools.

OGC will continue to require access to various online legal research and legal support services as OGC continues to reduce its hard-copy legal libraries. Budget authority for these systems comes from OGC Non-Personnel Services funding. These systems include:

- Public Access to Court Electronic Records (PACER) is an electronic public access service that allows OGC users to obtain case and docket information from federal appellate, district and bankruptcy courts. Without PACER, OGC would not have access to court documents and be able to defend the Department.
- WestLegal Ed provides 600 OGC employees with a comprehensive library of over 8,000 online training courses. The service includes courses offering continuing legal education credits, which allow OGC attorneys to maintain their bar licenses and quickly get up to speed in new areas of law or take refresher courses in complicated areas of law, such as bankruptcy. The service also provides courses of interest to DEC employees and allows administrative support staff to take courses for paralegal certification.
- Lexis Online provides OGC with the ability to conduct legal research. In fiscal year 2012, OGC cut its online legal research contracts by \$1.5 million by reducing from two to one comprehensive online legal research tools. OGC's headquarters and field law libraries have been reduced as online research has increased.
- CyberFeds provides OGC up-to-date information on critical federal employment issues provided by the nation's most recognized federal employment law experts.
- Hein Online contains legislative histories and other historic legal content that is not available on Lexis.
- Congressional Quarterly (CQ.com) allows OGC to track up-to-date information on pending legislation.