

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

*(\$ in Thousands)*

|  | <b>FY 2015<br/>Actual</b> | <b>FY 2016<br/>Enacted</b> | <b>FY 2017<br/>Request</b> |
|--|---------------------------|----------------------------|----------------------------|
| Personnel Services                         | \$88,629                  | \$89,512                   | \$90,270                   |
| <b>Non-Personnel Services</b>              |                           |                            |                            |
| Travel                                     | \$938                     | \$970                      | \$938                      |
| Transportation of Things                   | \$47                      | \$20                       | \$20                       |
| Printing                                   | \$938                     | \$1,000                    | \$107                      |
| Other services/Contracts                   | \$1,354                   | \$1,210                    | \$1,404                    |
| Training                                   | \$471                     | \$540                      | \$374                      |
| Supplies                                   | \$289                     | \$298                      | \$289                      |
| Claims and Indemnities                     | \$317                     | \$950                      | \$317                      |
| Working Capital Fund                       | \$0                       | \$0                        | \$1,482                    |
| <b>Non-Personnel Services<br/>Subtotal</b> | <b>\$4,354</b>            | <b>\$4,988</b>             | <b>\$4,931</b>             |
| <b>Grand Total</b>                         | <b>\$92,983</b>           | <b>\$94,500</b>            | <b>\$95,201</b>            |
| <b>Associated FTE</b>                      | <b>585.7</b>              | <b>581.0</b>               | <b>576.0</b>               |

**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. This table illustrates how OGC's accomplishments produced a positive return-on-investment/appropriation--greater than 7-to-1--for fiscal year 2015:

**OGC Financial Impact in Fiscal Year 2015 as of September 30**

|  |                    |
|--|--------------------|
| FY 2015 Appropriation                          | \$94,000,000       |
| Closing Fees/Collections:                      | 180,509,703        |
| MF Housing Project/CPD/PIH Recoveries:         | 33,992,817         |
| FHA fund recoveries:                           | 314,687,494        |
| Debt collection activities:                    | 404,896            |
| Fair Housing Act and Civil Rights Resolutions: | <u>216,607,550</u> |
| Total return from OGC actions:                 | 746,202,460        |
| Return on appropriated funds:                  | 793.8%             |

**Requested Level and Justification**

OGC's \$95,201K fiscal year 2017 request reflects the move of base Federal Register and Code of Federal Regulations printing activities from OGC to the Working Capital Fund (WCF), and includes an estimate of \$1,482K to pay WCF fees for shared services, including OGC's share of Federal Register printing, and other investments determined by the Secretary.

- Personnel Services: Funding of \$90,270K will support 576.0 FTE and provide for the pay raise, within-grade increases, career ladder promotions and benefit increases.
- Non-Personnel Services funding of \$4,931K to support funding requirements for travel, printing, supplies, contracts, training, claims and indemnities.
  - An increase of \$194K in Other Services to fund 1) 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 2) costs of a contract for a reader needed for a reasonable accommodation.
  - A decrease in Printing of \$893K due reflects the move of Departmental Federal Register and Code of Federal Regulations printing to the WCF.

Attorney Fees for Program Litigation. As part of prudent planning OGC estimates that there could be approximately \$1.4 million in attorney's fees claims resulting from program litigation across the Department in 2017. For any program litigation attorney's fees, OGC would cover 10 percent, or up to \$140K in 2017, and the appropriate program office(s) would cover any remaining costs. While the Congressional Justifications reflect HUD's expectation that it will succeed in all pending litigation, to the extent such

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costs materialize, HUD anticipates the ability to pay these estimated costs from within the total requested amount for applicable accounts.

OGC dedicates resources to specific Departmental priority goals in the following ways:

Priority 1: The Affirmatively Furthering Fair Housing rule is requiring HUD to review all Assessments of Fair Housing (AFHs) submitted by HUD's program participants within 60 days of their receipt, or the AFHs will be deemed accepted notwithstanding any deficiencies. For HUD to properly implement the rule in the two years and avoid liability for failing to affirmatively further fair housing in HUD programs, counsel must provide legal advice to FHEO and answer their questions relating to each AFH, particularly where FHEO indicates concerns. To train employees and provide counsel for meetings and negotiations, the travel request includes \$125K to support the implementation.

OGC anticipates the need to redeploy regional and field attorneys from other Departmental work to provide legal assistance to FHEO to handle legal work associated with reviews of AFH plans. OGC anticipates utilizing 8.2 FTE in fiscal year 2017 to handle all the legal work associated with the implementation of the AFFH rule, including the reviews of up to 107 AFH's and training of field staff.

Priority 2: Attorneys who previously worked on Multifamily Housing transactions have been redeployed to work on Rental Assistance Demonstration (RAD) transactions, as Multifamily Housing loan closings have decreased by 13.4 percent (982 in fiscal year 2014 to 866 in fiscal year 2015), while RAD transactions have been increasing. The RAD program is predicting a 385 percent increase in the number of RAD transactions from fiscal year 2015 to fiscal year 2017 (130 to 500 transactions). OGC estimates the need for 8.9 FTE in fiscal year 2016 and 28.3 FTE in fiscal year 2017 to support RAD transactions.

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**Full-time Equivalents**

| <b>Staffing</b>   | <b>FY 2015<br/>FTE</b> | <b>FY 2016<br/>FTE (Est)</b> | <b>FY 2017<br/>FTE (Est)</b> |
|---|------------------------|------------------------------|------------------------------|
| IMMEDIATE OFFICE OF THE<br>GENERAL COUNSEL              | 11                     | 10                           | 10                           |
| DEPUTY GENERAL COUNSEL FOR<br>OPERATIONS                | 22                     | 23                           | 22                           |
| ASSOCIATE GENERAL COUNSEL<br>FOR FAIR HOUSING           | 18                     | 18                           | 18                           |
| DIRECTOR, DEPARTMENTAL<br>ENFORCEMENT CENTER HQ         | 18                     | 18                           | 19                           |
| DEC SATELLITE OFFICE,<br>ATLANTA                        | 19                     | 18                           | 18                           |
| DEC SATELLITE OFFICE,<br>CHICAGO                        | 13                     | 12                           | 12                           |
| DEC SATELLITE OFFICE, FORT<br>WORTH                     | 17                     | 18                           | 21                           |
| DEC SATELLITE OFFICE, LOS<br>ANGELES                    | 17                     | 16                           | 17                           |
| DEC SATELLITE OFFICE, NEW<br>YORK                       | 15                     | 15                           | 14                           |
| OFFICE OF PROGRAM<br>ENFORCEMENT                        | 23                     | 25                           | 24                           |
| OFFICE OF LEGISLATION AND<br>REGULATIONS                | 18                     | 17                           | 17                           |
| OFFICE OF FINANCE AND<br>ADMINISTRATIVE LAW             | 28                     | 32                           | 32                           |
| OFFICE OF ETHICS, PERSONNEL<br>LAW AND APPEALS          | 21                     | 24                           | 23                           |
| OFFICE OF INSURED HOUSING                               | 21                     | 22                           | 22                           |
| OFFICE OF ASSISTED HOUSING<br>AND COMMUNITY DEVELOPMENT | 23                     | 25                           | 22                           |

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| <b>Staffing</b>                          | <b>FY 2015<br/>FTE</b> | <b>FY 2016<br/>FTE (Est)</b> | <b>FY 2017<br/>FTE (Est)</b> |
|--|------------------------|------------------------------|------------------------------|
| OFFICE OF LITIGATION                     | 20                     | 19                           | 18                           |
| OFFICE OF REGIONAL COUNSEL,<br>REGION 1  | 24                     | 20                           | 21                           |
| OFFICE OF REGIONAL COUNSEL,<br>REGION 2  | 31                     | 28                           | 27                           |
| OFFICE OF REGIONAL COUNSEL,<br>REGION 3  | 27                     | 24                           | 24                           |
| OFFICE OF REGIONAL COUNSEL,<br>REGION 4  | 35                     | 38                           | 38                           |
| OFFICE OF REGIONAL COUNSEL,<br>REGION 5  | 46                     | 45                           | 44                           |
| OFFICE OF REGIONAL COUNSEL,<br>REGION 6  | 35                     | 35                           | 34                           |
| OFFICE OF REGIONAL COUNSEL,<br>REGION 7  | 21                     | 18                           | 19                           |
| OFFICE OF REGIONAL COUNSEL,<br>REGION 8  | 18                     | 17                           | 16                           |
| OFFICE OF REGIONAL COUNSEL,<br>REGION 9  | 34                     | 32                           | 32                           |
| OFFICE OF REGIONAL COUNSEL,<br>REGION 10 | 11                     | 12                           | 12                           |
| <b>Total</b>                             | <b>586</b>             | <b>581</b>                   | <b>576</b>                   |

OGC hires a class of approximately 20 Legal Honors at the end of each fiscal year, depending on available funding, to fill vacancies left by departing and retiring attorneys. This succession program has staffed OGC and the Department well for nearly 50 years by recruiting qualified and committed legal staff dedicated to the Department's mission. OGC also intends to address staffing losses in the DEC through the hiring of Presidential Management Fellows.

**Key Operational Initiatives**

OGC 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 2015, OGC closed 1,184 insured loans for multifamily housing, hospitals, nursing homes, and elderly and disabled housing with a total value of \$13.1 billion.

In fiscal year 2015, OGC attorneys reviewed 130 Rental Assistance Demonstration transactions for 18,982 units with a contract value of \$2.7 billion.

The Departmental Enforcement Center's mission is to strengthen the execution of HUD programs and operations through monitoring, oversight and enforcement so that the programs operate more efficiently, effectively and with the highest degree of fiscal integrity. In fiscal year 2015, the Departmental Enforcement Center (DEC) produced 271 written recommendations after conducting on-site and remote reviews and submitted them to the requisite PIH and CPD program offices. In making these recommendations, the DEC found \$283,329,974 in unsupported expenditures, \$4,113,022 in ineligible expenses, and \$342,442 in unreasonable costs.

For the Office of Multifamily Housing Programs, the DEC negotiated 37 settlement agreements totaling \$1,146,600 in civil penalties. In addition, the DEC's work on 126 insured and assisted Multifamily housing and health care facilities resulted in recoveries to those projects of \$22,823,681.

The DEC issued 279 Final Determinations, 163 Suspensions and 254 Proposed Debarments in fiscal year 2015. These actions involved individuals and entities who had caused losses to HUD-related federal programs of over \$285,115,126. As mentioned in the Government Accountability Office's fiscal year 2014 873 Report to Congress, the DEC's work led to HUD enforcing the highest number of debarments of all civilian agencies in the federal government. In terms of debarments, HUD is second only to the Department of Defense.

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 2015, OGC Program Enforcement's efforts accomplished the recovery of more than \$314 million for the FHA Fund.

In fiscal year 2015, OGC Defensive Litigation function defended the Department against \$2,456,800,000 in claims. This does not include personnel and tort claims.

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

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Office of Departmental Equal Employment Opportunity (ODEEO); and the Davis-Bacon function from the Office of Field Policy and Management (FPM). For more information on the RLE segment please see the Information Technology Fund Congressional Justification.

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.
- 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.