

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

*(Dollars in Thousands)*

	<b>FY 2018 Actuals</b>	<b>FY 2019 Annualized CR</b>	<b>FY 2020 President's Budget</b>
<b>Personnel Services</b>	<b>\$89,092</b>	<b>\$89,430</b>	<b>\$94,367</b>
<b>Non-Personnel Services</b>			
Travel	1,153	1,000	900
Transportation of Things	15	-	-
Printing	930	900	800
Other services/Contracts	1,140	1,260	1,100
Training	620	610	600
Supplies	288	290	250
Claims and Indemnities	182	600	350
<b>Non-Personnel Services Subtotal</b>	<b>\$4,328</b>	<b>\$4,660</b>	<b>\$4,000</b>
Working Capital Fund	1,403	1,310	1,633
<b>Grand Total</b>	<b>\$94,823</b>	<b>\$95,400</b>	<b>\$100,000</b>
<b>Associated FTEs</b>	<b>542</b>	<b>527</b>	<b>551</b>

**1. Program Purpose and Budget Overview**

The General Counsel is the chief legal officer of the Department and is the legal advisor to the Secretary and other principal staff in the Department. The General Counsel provides legal opinions, advice, and services with respect to all programs and Departmental activities. The General Counsel defends the Department and enforces the Fair Housing Act and HUD's program requirements. The General Counsel oversees the Departmental Enforcement Center (DEC), an organization of financial and enforcement analysts who enforce the Department's program requirements and protect the Department's assets.

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The 2020 President’s Budget of \$100 million is \$4.6 million more than the 2019 Annualized Continuing Resolution (CR) level.

**Personnel Services (PS):** The \$94.4 million in personnel expenses supports 551 full-time equivalents (FTEs) an overall increase of 24 FTEs from the 2019 Annualized CR level. The additional FTEs will support the Secretarial direction that resources be made available to the DEC to increase oversight and monitoring of HUD-funded or HUD-insured assets to ensure the health, safety and fiscal soundness of HUD activities. In 2019, the DEC will hire 20 additional FTEs to conduct oversight and monitoring of HUD assets. Funding provided in this request will continue this level of effort by the DEC.

**Non-Personnel Services (NPS):** OGC’s 2020 President’s Budget request for non-personnel expenses is \$4 million, which is \$660 thousand less than the 2019 Annualized CR level. The 2020 NPS funding will support travel, relocation costs, printing, supplies, contracts, training, and claims and indemnifications (attorney’s fees for adverse parties prevailing in non-program related litigation). Printing funding supports the Department’s printing costs for the Federal Register and the Code of Federal Regulations. NPS funding also supports OGC’s access to online legal research and databases. These services include Lexis/RELX Inc., PACER, West LegalEdcenter, CyberFeds, and the Congressional Quarterly

**Working Capital Fund:** The 2020 President’s Budget request provides \$1.6 million to support shared services such as financial management, human resources, HR systems, and National Finance Center (NFC) payroll processes and other investments as determined by the Secretary.

### **President’s Management Agenda**

**Labor and Personnel.** HUD’s collective bargaining agreement with AFGE expired in 2018 and HUD has notified AFGE that it intends to renegotiate its labor agreement. OGC is providing legal support for this effort that will continue into 2020. OGC anticipates increased personnel law litigation and labor arbitrations in light of the President’s Executive Orders (EOs) issued on May 25, 2018 (Executive Order 13839, Promoting Accountability and Streamlining Removal Procedures, and Executive Order 13837, Taxpayer-Funded Union Time Use). Since the release of these EOs, the Department’s Collective Bargaining Agreement (CBA) with AFGE has expired, creating a conflict between OPM’s interpretation of EOs as “government-wide regulations” and Article 53.01 of the CBA which states that the current CBA remains in full force and effect until a new CBA is effective. In 2018, OGC defended the Department in 220 new personnel cases and handled 3,626 personnel and labor activities.

**Regulatory Reform.** In January and February 2017, the President issued two EOs directing deregulation and other regulatory reforms. OGC helps drive these reforms at HUD, provides legal advice to HUD’s Regulatory Task Force, and serves the Regulatory

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Reform Officer. OGC facilitates and drafts the deregulatory actions as identified by HUD's Regulatory Reform Task Force. Deregulatory actions will need to be published in the Federal Register. OGC manages the Federal Register printing for the Department and the 2020 President's Budget provides \$800 thousand in printing to support departmental deregulatory efforts and other printing in the Federal Register and Code of Federal Regulations.

### **HUD/Agency Priority Goals**

OGC provides legal support to the key initiatives of the Secretary, including the Advancing Economic Opportunity Task Force and the Agency-Wide Integrity Task Force. This includes providing legal support for homeownership opportunities for borrowers while safeguarding the housing finance system; enhancing the rental assistance programs; reducing regulatory barriers to affordable housing development; developing Envision Centers; facilitating housing recovery and creating resilient housing and communities; enforcing Section 3; and bolstering Opportunity Zones.

**Priority 1: Rental Assistance Demonstration and PRAC 202 Conversions.** In 2018, OGC conducted legal reviews of 253 RAD transactions (26,977 units). In March 2018, Congress raised the statutory unit cap on the RAD program to 455,000 units from 225,000 units. Congress also authorized the conversion of the 202 PRAC portfolio (approximately 2,800 properties with 120,000 units). These conversions will begin after the publication of the implementing notice in 2019 and continue throughout 2020. The increase in the cap and the addition of the 202 PRAC portfolio will significantly increase OGC's legal review activity in 2020.

**Priority 2: Envision Centers.** OGC continues to provide legal support for the development and implementation of the Secretary's signature initiative, the Envision Centers. The Envision Centers are based on public-private partnerships that present complex legal questions involving governmentwide ethics standards, the HUD Reform Act, questions of administrative law and contractual issues.

**Priority 3: Affirmatively Furthering Fair Housing (AFFH).** In 2019, the Department anticipates streamlining its AFFH regulation, tools and related provisions. Implementation in 2020 will require legal guidance and actions to defend likely litigation challenging the changes.

### **OGC's Priority Goals**

**Priority 1: eDiscovery and FOIA.** OGC manages the Department's eDiscovery program. This includes not only handling eDiscovery for litigating attorneys and responses to Congressional oversight data requests, but also collections for the FOIA and OIG programs. Based on trends that include historical and 2018 data, in 2020 OGC forecasts requests to collect an average of 36

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custodians per work day (3 requests per day times 12 custodians per request), or 720 custodians per month (36 custodians per day times 20 work days). This is a 350 percent increase in collection volume scope from 2018.

**Priority 2: Insured Loan Closings and Transfers of Physical Assets.** In addition to increasing the number of FTEs to handle the RAD and PRAC conversion workload increases, OGC must maintain and backfill attrition for the approximately 125 OGC FTEs who are dedicated to performing or supporting insured loan closings for multifamily housing, healthcare facilities, and hospitals. In 2018, OGC closed insured loans valued at over \$18.7 billion and performed legal reviews of 305 transfers of physical assets valued at over \$2.4 billion.

**Priority 3: Legal Honors and Succession Planning.** In 2020, 168 of OGC's current employees are eligible for full retirement. This represents over 30 percent of OGC's current workforce. The lynchpin of OGC's succession planning efforts is its Legal Honors Program. The Legal Honors program is over 50 years old. OGC backfills attorney attrition with Legal Honors at the GS -11 level and then invests in their training and professional development. The 2020 President's Budget funding will allow OGC to restart its Legal Honors program and bring a class of at least 15 Legal Honors to start in September 2019 and whose salaries will largely be paid in fiscal year 2020. Due to the uncertainty of personnel funding in 2018, OGC put a 1-year hold on its program and did not onboard a class in September 2018. This has hampered OGC's succession planning efforts and restarting and maintaining the program is a top priority. In 2020, OGC will hire a class of 15 Legal Honors to start in September 2020.

In 2020, OGC DEC will be in its 22<sup>nd</sup> year and most of the employees who started with the DEC when it was created will be retiring. Many have over 40 years of service. Resources will be dedicated to maintaining the additional 20 FTEs that will be hired in 2019 and backfilling attrition.

**Priority 4: Performance-Based Contract Administrator (PBCA) Litigation.** Contract administrators manage all aspects of the Office of Housing's Section 8 Project-Based Rental Assistance program. Historically, under this program, the contract administrators (PHAs) received renewal funding pursuant to an annual contributions contract. Pursuant to a court order, in the future, the Office of Housing will have to procure a contractor to assist in administering the program. The process of awarding new contracts has been surrounded by significant and ongoing litigation, and HUD anticipates that costs associated with that ongoing litigation will continue to be incurred through the Budget window.

## 2. Key Operational Initiatives

**Priority 1: Legal Support to the Department.** OGC continues to provide a full array of legal support to the Department, including defending the Department's programs against over \$800 million in claims; defending against \$40 million in tort claims; reviewing Ginnie Mae Multiclass Securities transactions valued at over \$387 billion; issuing charges of discrimination under the Fair Housing Act; handling bid protests and procurement claims at the Civilian Board of Contract Appeals; reviewing over \$5.1 billion of Departmental procurements; managing the Department's ethics program for over 2,500 financial disclosure filers; defending the Department in personnel and labor actions; processing regulatory waivers; drafting legislative amendments, reviewing draft interagency legislative documents; drafting Federal Register documents; reviewing and drafting sub-regulatory directives; drafting regulations; reviewing transfers of physical assets; reviewing interest rate reduction documents; representing the Department's interests in Multifamily foreclosures; and reviewing FOIA packages and handling FOIA appeals; collecting over \$4.8 million in debts owed to the Department; and handling over 11.7 thousand legal actions to protect the single-family inventory.

**Priority 2: Enforcement and Protection of HUD Assets.** OGC leads the Department's efforts to enforce HUD program requirements and protect HUD assets. In 2018, OGC's enforcement efforts returned over \$653.5 billion to the FHA Fund and returned almost \$25 million to PIH and CPD programs and activities. In 2018, the DEC suspended 75 irresponsible parties from participation in federal programs and debarred 201 irresponsible parties from participation in all federal programs. The DEC obtained over \$59 million in recoveries for the Multifamily Housing Program.