

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administrative Support Offices

Office of General Counsel

SALARIES AND EXPENSES

(Dollars in Thousands)

	2021*	2022			2023		
	Actuals	Carry Over	Annualized CR	Total	Carry Over	President's Budget	Total
Personnel Services:	\$104,996	\$3,430	\$99,206	\$102,636	\$3,500	\$116,784	\$120,284
Non-Personnel Services:							
Travel	67	-	90	90	-	1,242	1,242
Transportation of Things	11	-	-	-	-	-	-
Rent and Utilities	-	-	-	-	-	-	-
Printing	430	-	600	600	-	800	800
Other Services/Contracts	1,099	-	1,360	1,360	-	1,810	1,810
Training	-	180	310	490	-	930	930
Supplies	159	-	140	140	-	300	300
Furniture and Equipment	-	-	-	-	-	-	-
Claims and Indemnities	749	-	500	500	-	650	650
Total, Non-Personnel Services	\$2,515	\$180	\$3,000	\$3,180	-	\$5,732	\$5,732
Working Capital Fund	1,469	462	1,548	2,010	-	3,584	3,584
Carryover	4,072	-	3,500	3,500	-	-	-
Grand Total	\$113,052	\$4,072	\$107,254	\$111,326	\$3,500	\$126,100	\$129,600
FTEs	595	19	536	555	18	606	624

*Includes 2020 Carryover.

PROGRAM PURPOSE

The General Counsel is the chief legal officer of HUD and principal legal adviser to the Secretary and other principal leadership in the Department. The Office of General Counsel (OGC) provides legal opinions, advice, and services with respect to all departmental programs and activities in Headquarters and throughout the field. OGC attorneys draft or review legislation, regulations, and policy guidance to create, revise and implement HUD programs and initiatives. OGC attorneys also provide litigation support for the Department, including representing HUD in defensive litigation, enforcing the Fair Housing Act, and bringing enforcement actions against individuals and organizations that violate the rules of HUD programs, both administratively and in coordination with the HUD Inspector General and the Department of Justice. In addition, OGC attorneys provide transactional legal services in connection with the Department's various housing programs and the activities of the Federal Housing Administration, and advice on the issuance of mortgage-backed securities and various related financial, capital market, and securitization transactions by the Government National Mortgage Association. OGC attorneys represent the Department with other federal agencies in support of joint initiatives and projects, and before the Office of Management and Budget and other external parties.

The Departmental Enforcement Center (DEC) provides independent oversight of the administration of HUD programs and HUD's external partners. To this end, the DEC offers support and

recommendations to HUD program offices through reviews of program activities in the field and analysis of financial statements and data on the physical condition of housing.

BUDGET OVERVIEW

The 2023 President's Budget requests \$126.1 million for the OGC, which is \$18.8 million more than the 2022 Annualized CR level. The Budget reflects total funding (carryover and new authority) of \$129.6 million, \$18.3 million above 2022 total funding.

The total OGC funding request in 2023 supports the DEC's total requirement of \$20 million, of which \$3.5 million will be funded through 2023 carryover and \$16.5 million with new authority.

Personnel Services (PS)

The Budget reflects total funding (carryover and new authority) of \$120.3 million for PS, an increase of \$17.7 million above 2022 total PS funding. The funding supports 624 full-time equivalents (FTEs), an increase of 69 FTEs above 2022. The DEC's staffing level will be increased to 118 FTEs in 2023 from 112 FTEs in 2022 for the DEC to conduct oversight and monitoring of HUD assets. The Budget also supports a 4.6 percent Federal pay raise. OGC anticipates utilizing the additional FTEs in 2023 to increase staffing levels to provide accurate and timely legal counsel for:

- Compliance, enforcement and defense of fair housing and civil rights initiatives.
- Expanding efforts of CPD, Housing and PIH to meet the needs of local communities, including disaster response and implementation of HUD's climate action plan.
- Advancing Administration priorities related to supporting workplace flexibilities and furthering Presidential Executive Orders to further equity and ethics in the Federal workforce

The additional funding and FTEs will also support the following:

- OGC's proposal in the 2022 President's Budget to convert the 10 Regional Counsels to Senior Executive Service employees due to their increased portfolios and workload.
- At least 10 Legal Honor positions as part of OGC's succession planning using its 50+ year program to bring graduating law students on board in OGC.

The DEC will accomplish all its stated 2023 goals with greater focus on moving to a more project and knowledge management-based strategy. As a result of the pandemic, the "new normal" involves more remote managing of personnel and work products. With a shortage of affordable housing across the nation there will be increased program monitoring and thus more referrals to the DEC.

Non-Personnel Services (NPS)

The Budget indicates total funding (carryover and new authority) of \$5.7 million for Non-Personnel Services (NPS) requirements. The total NPS requirements reflect an increase of \$2.6 million from 2022 total funding, which will continue to support critical training, technology needs, travel, digitization, government printing, supplies, contracts, and claims and indemnifications (attorney's fees for adverse parties prevailing in non-program related litigation). At this level, increased investments will be made in both training and additional travel above 2022 levels. Training and travel were delayed during 2022 and additional expenses are expected in 2023 to meet deferred needs. 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 LegalEd, CyberFeds, and the Congressional Quarterly.

Working Capital Fund (WCF)

The 2023 WCF funding level is \$3.6 million, an increase of \$1.6 million from the 2022 total level. The WCF funding level reflects payments for baseline WCF services (including inflationary adjustments and changes in service utilization) and the additions of the End-User Devices business line, the Printing Services business line, HR platform licensing, and the full cost recovery of Financial Services Acquisition and Development Division (FSADD) Financial Management expenses.

Information Technology (IT)

Within the IT Fund, the Budget requests \$150 thousand for OGC SharePoint Support.

Program Pain Point

OGC uses SharePoint for many purposes, such as consolidating program performance information that is used in Congressional and OMB communications, the eDiscovery Program, and to manage and track enforcement referral investigations and other compliance monitoring activities. OGC SharePoint development projects require greater technical knowledge and a deeper understanding of software design and development techniques.

Limited support services are currently provided under the legacy eDiscovery Program support contract. The current, limited SharePoint support is not sufficient to meet OGC's ever-growing development requirements and increased project complexity. In addition, utilizing the new HUD Microsoft O365 development tools to improve project efficiencies requires greater technical knowledge and a deeper understanding of software design.

Mission Benefits

DOJ, litigation opposing counsel, Congress, OIG, and FOIA requesters all rely on the Department's eDiscovery program to work smoothly and timely. The improvements to SharePoint applications will ensure HUD's ability to manage all aspects of the program, including managing the queue of requests. HUD relies on OGC's Clearance Calendar, Reports to Congress application, compliance monitoring activities, and other products and will benefit from SharePoint improvements.

Target Functionality

Continued functionality for key Department-wide and OGC applications will provide transparency, streamlined data collection, and business process administration for HUD mission support at a low cost. This also allows OGC to maximize the benefits provided by OCIO's enterprise investment in SharePoint and O365 software development tools.

Projected Cost Savings

OGC could potentially save one full-time FTE Tier 3 for SharePoint troubleshooting, administration, and design advice.

For additional information regarding HUD's Information Technology investments, please see the IT Fund justification.

KEY OPERATIONAL INITIATIVES

Priority 1: Fair Housing and Civil Rights Compliance and Enforcement

As a priority of the Biden Administration, OGC and the Office of Fair Housing and Equal Opportunity (FHEO) are increasing compliance, enforcement and defense of fair housing and civil rights initiatives. OGC has also taken on additional legal reviews associated with a substantial increase in complaints alleging Fair Housing Act violations and significantly more Secretary-

initiated investigations, complaints, and compliance reviews. OGC is a key partner in supporting increased fair lending enforcement and undertaking investigations of complaints alleging discriminatory appraisal services. To ensure effective advocacy of this priority, in-depth training and technical assistance is necessary for program participants to meet their fair housing obligations. This will necessitate a large commitment of resources by OGC, in creating the program, providing training and technical assistance, and in enforcing the program. To support these goals, OGC has had and will continue to have a significant need for resources and to add additional staff as requested in this Budget.

Priority 2: Ethics and Personnel

Personnel and ethics are two of the most critical components of any Federal agency. This is especially true given this Administration's Executive Orders on Equity, Ethics, and the Federal workforce. Without timely and sound legal advice in these two areas, HUD's ability to effectively carry out its mission is significantly compromised. Indeed, without sound advice being provided to help the Agency hire and retain personnel, hold them accountable, and ensure they are carrying out their duties in an ethical manner, HUD's ability to support this Administration's agenda will be negatively impacted. To support this vital agency work, OGC has a need for additional staff attorneys requested in this Budget.

Priority 3: Legislation and Regulations

OGC's Office of Legislation and Regulations continues to be a key office in advancing Administration and HUD priorities through HUD's regulatory agenda and in cultivating the support and coordinating with Congressional leaders in support of HUD's legislative priorities. OGC has seen a significant increase in legislative reviews from Congress to support the Secretary's efforts to build a more robust relationship with Congress and the authorizing committees. Additionally, regulatory work will continue on key rules to ensure compliance with the Fair Housing Act and other civil rights laws. To support timely and effective legal counsel for these new initiatives, OGC has a significant need for resources and additional staff requested in this Budget.

Priority 4: Litigation

OGC's Office of Litigation is critical for effective and strong advocacy to support and defend the interests of the Department for litigation related to implementation of Administration priorities, including those related to fair housing and civil rights. Many suits against HUD involve constitutional, statutory, regulatory, and contractual challenges to HUD programs nationwide that involve litigation risks that could cost the Department millions of dollars. Without effective support and staffing in the Office of Litigation, the Department is limited in its ability to defend itself from challenges, to be good stewards of tax dollars, and to advocate for the people the Department services. To support these efforts, the Office of Litigation has a significant need for resources and additional staff requested in this Budget.

Priority 5: Legal Honors and Succession Planning

For over 50 years, a key component for OGC's succession planning efforts is its Legal Honors Program. OGC continues to backfill attorney attrition with Legal Honors at the GS-11 level and then invests in their training and professional development with a career ladder to support advancement and retention. OGC's funding request in 2023 will allow OGC to continue its Legal Honors program and bring a class of at least 10 Legal Honors to start in September 2022 and whose salaries will largely be paid in 2023.

Priority 6: Legal Support to the Department

OGC provides vital legal support to the Department related to HUD's existing programs as well as supplemental disaster and recovery funds. To continue to provide timely and accurate legal counsel, including legal counsel related to FHA's trillion-dollar insurance portfolio, the trillions of dollars guaranteed by Ginnie Mae and billions in rental and homelessness assistance, additional staff and resources identified in this Budget are necessary. In a fiscal year, OGC also: defends the Department's programs against hundreds of millions of dollars in claims; formally reviewed at least \$300 million of Departmental procurements; manages the Department's ethics program for over 2,600 financial disclosure filers; represents the Department's interests in Multifamily foreclosure; and handles almost 6,000 legal actions to protect the single-family inventory.

Priority 7: Departmental Enforcement Center

In 2023, OGC DEC will be in its 25th year and most of the employees who started with the DEC when it was created are eligible to retire. Resources will be dedicated to increasing the staffing capacity to 118 FTEs, and backfilling attrition as it occurs.

Program Oversight Reviews: In a typical year, the DEC completes 26 program oversight reviews. These reviews are targeted regulatory compliance reviews. At the request of HUD's program areas such as Public and Indian Housing, Community Planning and Development, DEC oversight reviews focus on key areas of program compliance. Key review areas include Financial, Internal Controls, Governance and Physical Condition. As a result of the reviews, the DEC annually makes over 200 recommendations to the program areas pertaining to improved oversight and/or repayment accountability for violations. Additionally, on average \$68 million in misused funds annually (e.g., Unsupported, ineligible, unallowed and/or unreasonable) are identified. Due to pent up work due to delays from the 2020-2021 pandemic there will be an increased need for DEC reviews. By performing these reviews, the DEC supports the program area mission of affordable housing and viable communities through enforceable program adherence and compliance.

Multifamily Housing and Office of Healthcare Program Referrals: The DEC projects it will receive 3,098 automatic/elective referrals from the Office of Multifamily Housing and the Office of Healthcare Programs in 2023. The referrals focus on late filing of annual financial statements, regulatory compliance, and substandard physical conditions of assisted and non-assisted properties. The results of the DEC reviews on average result in over \$12.3 million in Civil Money Penalties, \$78.9 million in Recoveries and \$5.9 million Directed Payments. Actions by the DEC ensure that affordable housing is being preserved and that owners are aware that non-compliance is not to be taken lightly.

Suspensions and Debarments: The DEC pursues suspension and debarment actions that result in the exclusion of a sanctioned party from further participation in HUD procurement and non-procurement programs and other Federal Government programs. Suspensions and debarments seek to ensure the highest standards of professional conduct and ethical business practices by the Federal Government's business partners. Annually, the DEC receives on average over 200 referrals resulting in the DEC issuing 87 Suspensions, 145 Proposed Debarments and 146 Final Debarments in a typical year.