

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administrative Support Offices

Office of General Counsel

SALARIES AND EXPENSES

(Dollars in Thousands)

| | 2022* | 2023 | | | 2024 | | |
|--------------------------------------|------------------|----------------|------------------|------------------|----------------|--------------------|------------------|
| | Actuals | Carryover | Enacted | Total | Carry Over | President's Budget | Total |
| Personnel Services | \$106,424 | \$4,352 | \$112,764 | \$117,116 | \$5,200 | \$126,268 | \$131,468 |
| Non-Personnel Services | | | | | | | |
| Travel | 159 | 50 | 860 | 910 | - | 950 | 950 |
| Transportation of Things | - | - | 100 | 100 | - | 200 | 200 |
| Rent and Utilities | - | - | - | - | - | - | - |
| Printing | 550 | 100 | 700 | 800 | - | 800 | 800 |
| Other services/Contracts | 1,441 | - | 1,344 | 1,344 | - | 1,538 | 1,538 |
| Training | - | - | 700 | 700 | - | 850 | 850 |
| Supplies | 46 | - | 50 | 50 | - | 60 | 60 |
| Furniture and Equipment | - | - | - | - | - | - | - |
| Claims and Indemnities | 295 | - | 450 | 450 | - | 500 | 500 |
| Total, Non-Personnel Services | \$2,491 | \$150 | \$4,204 | \$4,354 | - | \$4,898 | \$4,898 |
| Working Capital Fund | 2,771 | 1,100 | 830 | 1,930 | 2,002 | 1,610 | 3,612 |
| Carryover | 5,602 | - | 7,202 | 7,202 | - | 224 | 224 |
| Grand Total | \$117,288 | \$5,602 | \$125,000 | \$130,602 | \$7,202 | \$133,000 | \$140,202 |
| FTEs | 568 | 22 | 572 | 594 | 25 | 610 | 635 |

*Includes 2021 Carryover

PROGRAM PURPOSE

The General Counsel is the chief legal officer of the Department of Housing and Urban Development (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 HUD 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) helps ensure that HUD programs and HUD's external partners operate according to program guidelines and regulations. 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 2024 President's Budget requests \$133 million for the Office of General Counsel, which is \$8 million more than the 2023 enacted level. The Budget reflects total funding (carryover and new authority) of \$140.2 million, \$9.6 million above 2023 total funding.

The total OGC funding request in 2024 supports the DEC's total funding level of \$20 million, of which \$2 million will be funded through 2023 carryover and \$18 million with new authority.

Personnel Services (PS)

The Budget reflects total funding (carryover and new authority) of \$131.5 million for PS, an increase of \$14.4 million above 2023 total PS funding. The funding supports 635 full-time equivalents (FTEs), an increase of 41 FTEs above 2023. The DEC's staffing level will be increased by 1 to 119 FTEs in 2024 from 118 FTEs in 2023 for the DEC to conduct oversight and monitoring of HUD assets. The funding request supports a 5.2 percent Federal pay raise in 2024.

OGC anticipates utilizing the additional 40 FTEs in 2024, of which 18 FTE are to support its key operations, including increased legal demands for civil rights and fair housing, legislative and regulatory review, personnel support and to support federally-assisted housing programs. The additional 22 FTEs will be targeted for:

- Four FTEs - Fair housing and civil rights attorneys in Headquarters and in OGC's Regional Offices to support the implementation of the Affirmatively Furthering Fair Housing (AFFH) program and Violence Against Women Act (VAWA);
- Three FTEs - Program counsel for development and implementation of Department-wide initiatives such as Build America Buy America (BABA), and Disaster Relief, and the corresponding regulatory and administrative guidance for Administration priorities;
- Five FTEs - Trial attorneys to support human capital initiatives and personnel support in Headquarters and the field; and
- 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.

Non-Personnel Services (NPS)

The Budget reflects total funding (carryover and new authority) of \$4.9 million for NPS, an increase of \$544 thousand from total 2023 funding, which will continue to support travel, relocation costs, scanning, printing, supplies, contracts, training, and claims and indemnifications (attorney's fees for adverse parties prevailing in non-program related litigation).

- The \$40 thousand increase in travel is due to the anticipation of increased demand for traveling to trainings and conferences. In 2024, OGC will reinstitute the OGC Peer Technical Assistance Program (PTAP). Through this program, OGC managers will conduct 4 to 5 onsite visits to Regional and Field Offices to provide a review of the legal services being provided to the Department and to provide technical assistance to OGC staff in those offices.

- Resources for printing are level with 2023 and supports the Department's printing costs for the Federal Register and the Code of Federal Regulations.
- The \$150 thousand increase in training will add additional capacity to train staff on the new legal requirements associated with program updates and new Administration initiatives, such as AFFH, VAWA and BABA.
- The \$194 thousand increase in contracts and other services supports OGC's access to online legal research and databases. These services include Westlaw, PACER, West LegalEd, CyberFeds, and the Congressional Quarterly.

Working Capital Fund (WCF)

The 2024 WCF funding level is \$3.6 million, \$1 million above the 2023 funding level, of which \$650 thousand was forward funded in 2022. The WCF funding level reflects payments for baseline WCF services (including inflationary adjustments and changes in service utilization) and the addition of the End-User Devices, Scanning and Archiving Services business lines.

KEY OPERATIONAL INITIATIVES

Priority #1: Increase in staffing to support the implementation of Administration priorities, including legislative and regulatory review, fair housing and civil rights, and federally assisted housing programs.

In 2024, OGC expects a significant increase in demand for legal services necessary to implement HUD's strategic objectives and the President's Executive Orders and Administration priorities.

Timely and effective legal counsel is integral to the initiation, management and success of HUD programs and initiatives. Over the past two fiscal years, OGC has been stretched to meet the legal needs of the program offices and experienced a measurable increased demand for legal assistance. Based upon the completion of the administrative priorities in 2023, along with the new initiatives in 2024 proposed by program offices, there will be additional demands on OGC for timely and effective counsel, as illustrated above.

The increased demand for legal services will be related to the need for program support and legislative and regulatory review for affordable housing and infrastructure, BABA, fair housing and civil rights, particularly the implementation of the AFFH program and the VAWA reauthorization in 2022.

This increased demand will be in addition to OGC's critical role in providing transactional legal services in connection with the Department's various housing programs and the activities of the Federal Housing Administration, as well as advice and guidance on the issuance of mortgage-backed securities and various related financial, capital market, and securitization transactions by the Government National Mortgage Association.

Priority #2: Proposed Realignment of HQ OGC Offices

OGC proposes a realignment of functions within the Headquarters Office to streamline operations. This proposed restructuring will appropriately distribute reporting lines and better align the OGC structure with that of a key client, the Government National Mortgage Association (GNMA).

Priority #3: Increase in staffing to support personnel and litigation demands on the Department

To further the Department's investment in human capital, OGC will need to provide increased counsel to promote diversity and equity in the workforce of the Department, as well as efforts to hire and retain personnel. Without timely and sound legal to help the Agency hire and retain personnel and to hold them accountable in an ethical manner, HUD's ability to support this Administration's agenda will be negatively impacted.

Additional litigation support is critical in supporting and defending the Administration's agenda. These attorneys handle the most consequential and precedential lawsuits related to HUD programs nationwide. These suits entail litigation risk that could cost the Department millions of dollars. Strong legal support for such litigation is vital for the agency to be good stewards of tax dollars while advocating for the Department and the people it serves.

Priority #4: Departmental Enforcement Center

In 2024, the DEC, an integral part of OGC, will dedicate resources to increase the staffing capacity to 119 FTEs, and backfilling attrition as it occurs. The 119 FTEs are needed to fulfill the DEC's mission.

- **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. 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 (e.g., Unsupported, ineligible, unallowed and/or unreasonable) are identified. 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 receives 3098 automatic/elective referrals from the Office of Multifamily Housing and the Office of Healthcare Programs in a typical year. 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.

Priority #5: Legal Honors and Succession Planning

The lynchpin of OGC's succession planning efforts is its Legal Honors Program. The Legal Honors program has been in place for over 50 years. 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 2024 will allow OGC to continue its Legal Honors program and bring a class of at least 10 Legal Honors to start in September 2023 and whose salaries will largely be paid in 2024.

Priority #6: Peer Technical Assistance Program

In 2024, OGC will reinstitute the OGC Peer Technical Assistance Program (PTAP). Through this program, OGC managers will conduct 4 to 5 onsite visits to Regional and Field Offices to provide a review of the legal services being provided to the Department and to provide technical assistance to OGC staff in those offices. The PTAP program is a valuable resource to assist OGC to meet its management goals and provide OGC insight into management operations and legal services. Through the PTAP program in prior years, OGC has gained information to ensure the highest quality of legal services are provided to the various program offices and ensured that OGC operations nationwide are consistent with HUD policies and procedures.

Priority #7: Investment in Training for OGC and Program Offices

In concert with helping our program offices stand up new programs, OGC will need training funds for new FTEs joining the office and for current staff to improve their capacity to meet new needs. Effective and timely counsel requires training on the latest legal developments and case law. Additionally, with program updates and new Administration initiatives, such as AFFH, VAWA and BABA, OGC will also need additional capacity to train program staff on the legal requirements of these new Administration initiatives.