

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
ADMINISTRATION, OPERATIONS, AND MANAGEMENT
OFFICE OF THE GENERAL COUNSEL

The Office of the General Counsel (OGC), as the chief legal officer of the Department, acts as the legal adviser to the Secretary and other principal staff of the Department. It is the responsibility of the General Counsel to provide legal opinions, advice and services with respect to all programs and Departmental activities, and to provide counsel and assistance in the development of the Department's programs and policies. The General Counsel leads the Department's efforts to enforce the Fair Housing Act and other civil rights and programmatic requirements. Through the Departmental Enforcement Center (DEC), the General Counsel focuses on and resolves the Department's most difficult housing cases by taking aggressive action against those that are in serious non-compliance with regulatory and business agreement requirements. Suspension and debarment authority is consolidated in the DEC. The bulk of OGC's staff are employed as closing attorneys (closing more than \$16 billion in loans in fiscal year 2011) or enforcement professionals and the fees and recoveries that they generate exceed their salaries. Additionally, OGC attorneys defend against more than \$2 billion annually in claims against the FHA fund.

HUD's OGC consists of the Headquarters organizations, 10 Regional Offices, 36 Offices of Counsel, and 5 DEC Satellite Offices. As of December 17, 2011, OGC had an on-board staff of 625.3 FTE, 319.2 FTE in Headquarters and 306.1 FTE in the field offices. Of the 319.2 FTE in HQ, 105 of those positions are in the DEC physically located in Washington, D.C., New York, Chicago, Atlanta, Fort Worth and Los Angeles. Of the attorney positions, 162 are located in Headquarters and the remaining 233 are located in the 46 Field Offices.

Unlike many Offices of General Counsel, HUD's OGC has significant affirmative litigation responsibilities and programmatic functions. OGC, through its Office of Program Enforcement (OPE) and the DEC, takes enforcement action against HUD program participants who violate program regulations. Another of OGC's programmatic functions is partnering with the Office of Housing to provide FHA mortgage insurance in the financing of new or existing privately owned multifamily structures and insured healthcare facilities. These responsibilities and functions also include assisting in the investigations of possible violations of the Fair Housing Act, issuing Charges of Discrimination when warranted, conducting discovery, attempting settlement where possible, and handling the Charge in an administrative hearing forum. OGC's staffing by office is shown in the following table:

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OGC Staffing Levels			
Headquarters Offices	FTE	Field Offices	FTE
Immediate Office of the General Counsel (GC)	8.0	Region I (Boston, Hartford, Manchester, Providence)	25.0
Associate GC for Fair Housing	20.6	Region II (New York, Buffalo, Newark)	29.6
Departmental Enforcement Center	103.0	Region III (Philadelphia, Baltimore, Pittsburgh, Richmond, Washington)	30.0
Associate GC for Program Enforcement	21.0	Region IV (Atlanta, Birmingham, Miami, Greensboro, Jackson, Jacksonville, Louisville, Nashville, Puerto Rico)	46.0
Associate GC for Legislation and Regulations	15.0	Region V (Chicago, Cleveland, Columbus, Detroit, Indianapolis, Milwaukee, Minneapolis)	46.0
Deputy GC for Operations	24.0	Region VI (Fort Worth, Houston, Little Rock, New Orleans, Oklahoma City, San Antonio)	39.0
Associate GC for Finance and Administrative Law	32.0	Region VII (Kansas City, Des Moines, Omaha, St. Louis)	22.0
Associate GC for Ethics and Personnel Law	23.0	Region VIII (Denver)	18.0
Deputy GC for Housing Programs	3.0	Region IX (San Francisco, Honolulu, Los Angeles, Phoenix)	36.0
Associate GC for Insured Housing	22.5	Region X (Seattle, Anchorage, Portland)	14.5
Associate GC for Assisted Housing and Community Development	25.6		
Associate GC for Litigation	21.5		
Headquarters Total	319.2	Field Total	306.1

Additionally, OGC provides legal advice to all program offices, assists HUD policy makers in the development of new programs and provides legal support to the Department in the business areas of administrative law, ethics, personnel and labor law, procurement, Davis-Bacon, environmental law and others.

OGC field counsel support the accomplishment of this goal through a broad spectrum of direct and indirect activities. They provide written and oral guidance to the Department's Homeownership Center (HOC) staff, Community Planning and Development (CPD) staff and program participants concerning the legal aspects of the development and management of single family housing, property dispositions, community and economic development, the HOME Program, and the Department's activities with respect to the American Recovery and Reinvestment and Buy America Acts. Field counsel also provide legal advice and guidance to the HOC staff in connection with: Department owned real estate; real estate sales to nonprofits; land banking issues; title issues; deeds; resolutions and ordinances; condominium fees and taxes; real estate taxes; wells; easements; license agreements; requests for waivers; delegation of authority matters; the removal of appraisers, brokers, consultants, nonprofits and inspectors; sanctions including limited denial of participation matters; training; contract management issues in connection with the administration of marketing and management contracts (M&M Contracts) and closing agent contracts; state and local law closing requirements; vacant property and demolition issues; real estate commission issues; and SAFE Mortgage reviews.

OGC field counsel provide legal advice, guidance, and assistance to Departmental officials, the Department's Enforcement Center and the Department of Justice in connection with all affirmative and defensive litigation by reviewing and analyzing cases to ascertain relevant facts and legal issues involved, legal research and preparation of litigation reports, court pleadings, motions, briefs, legal opinions, letters and memoranda and advice concerning the legal issues involved in a case, prepares interrogatories, requests for admissions, and requests for documents to be served on the other party to the litigation and coordinates the Department's response to discovery propounded on the Departments, and prepares documentary evidence and testimony of witnesses for use in support of dispositive motions and at trial on the merits.

OGC field counsel provide legal services in connection with the Department's procurement matters and procurement-related litigation. Services include: handling all HOC procurements including reviewing Requests for Proposal, closing services contracts and other HOC contracts; reviewing Multifamily Housing purchase orders and contracts; reviewing contracts for the Office of Administration in Headquarters; providing legal advice on procurement and contract matters; and handling bid protests before the Government Accountability Office and the U.S. Court of Federal Claims and contract disputes before the Civilian Board of Contract Appeals and the U.S. Court of Federal Claims.

The Office of Fair Housing's fair lending work is accomplished collaboratively with other offices in HUD and other federal agencies. This work impacts the economy and protects consumers as many members of racial or ethnic minorities, individuals with disabilities, and minority communities were disproportionately affected by lending discrimination, predatory loans, and other predatory housing-related practices. This office regularly provides advice and counsel to the Fair Housing Initiatives Program, which provides nationwide education to protect consumers in the context of housing and lending, and the Fair Housing Assistance Program, which

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includes a network of state and local agencies that educate and protect consumers from discriminatory and predatory practices through outreach, investigations and enforcement.

For fiscal year 2013 the Departmental Enforcement Center (DEC) will be tasked with additional enforcement action in the suspension and debarment arena. The DEC anticipates more IG referrals due to the anticipated heightened monitoring of program participants receiving Recovery Act funds in fiscal years 2010 and 2011. A reduction in the number of participants that HUD will sanction would leave the Department exposed to continue to do business with untrustworthy participants. The debarment function directly correlates to the strength of the nation's housing market, allowing HUD to remove individuals from the program who are deemed not presently responsible to conduct business with HUD.

OGC's Office of Program Enforcement (OPE), which handles much of OGC's affirmative litigation, directs most of its efforts toward strengthening the nation's housing markets and protecting consumers. The OPE accomplishes this largely through legal action intended to deter and/or to punish abuses of HUD's programs. OPE reviews referrals from HUD's Office of Housing for Mortgagee Review Board (MRB) action against mortgagees to determine their legal sufficiency; provides counsel to the MRB at its meetings; and carries out determinations by the MRB that a mortgagee should be withdrawn, suspended, placed on probation, issued a letter of reprimand, or required to pay civil money penalties. When persons and entities that participate or can reasonably be expected to participate in HUD's programs engage in misconduct that demonstrates a lack of present responsibility, the OPE works with the DEC to ensure that those persons and entities are proposed for debarment and, if they pose an immediate threat to the Department or to the public at large, suspended. The OPE then handles all litigation relating to those suspensions and debarments through administrative hearings before HUD's Debarring Official's designee, as well as federal court action, where necessary. HUD debars hundreds of persons and entities every year. In instances of large-scale fraud, the OPE works closely with the Department of Justice to pursue those who defraud HUD under the False Claims Act which, with treble damages and more sizable penalties, also benefits the public and the public treasury. Finally, the OPE brings administrative actions for civil money penalties ("CMPs") against other participants in HUD's single family and multifamily programs for knowing and material violations of HUD's requirements. These actions both punish and inhibit misconduct, thereby improving the nation's housing market and protecting the public.

OGC's Office of Legislation and Regulations (OLR) continues to support FHA's efforts to reform and strengthen FHA's mortgage insurance functions and responsibilities and ensure that FHA remains a viable source of mortgage credit for first-time and middle and low-income borrowers. OLR will offer support, through regulatory initiatives, to continue to encourage lenders to refinance homeowners who are currently underwater, and to rehabilitate houses and neighborhoods with abandoned homes. The Office of Finance and Administrative Law (OFAL) performs several legal support functions that support the Department's efforts to strengthen the housing market. This office provides legal support to the Government National Mortgage Association (GNMA), which has a significant role in making private capital available through the secondary mortgage market to finance home purchases. OFAL provides a broad range of legal services to GNMA, including advice on implementation of GNMA programs and development of new products, litigation support, drafting of legal opinions, drafting of transaction documents, reviewing proposed legislation and Departmental issuances for legal impact on GNMA programs, and monitoring of monthly MBS transactions. In addition, OFAL

provides legal guidance and representation on Department contracts that support the Office of Housing in its efforts to manage and market FHA's single family and multifamily inventory. This includes assisting in the drafting of statements of work, legal guidance in the review of offeror proposals, and representing the Department in bid protest and contract claims litigation.

OGC's Office of Insured Housing (OIH) provides legal advice on numerous FHA initiatives such as the joint HUD/Treasury initiative to provide FHA-insured financing for borrowers with loans in amounts that exceed current value of their houses, implementation of recent program revisions (e.g., reduced seller concessions, improved credit policy standards, revised Mortgage Insurance Premium structure), all of which assist FHA in maintaining the financial soundness of the Mutual Mortgage Insurance Fund (MMIF). In addition, OIH provides very timely support for legislative initiatives such as the pending FHA Reform Act. This legal support is essential for FHA's continued support for recovery of the single family mortgage market in the USA.

The Office of Assisted Housing and Community Development (OAHCD) provides legal advice to CPD on the Neighborhood Stabilization Program under which HUD provides grants to governments and nonprofits to buy foreclosed properties and stabilize neighborhoods by developing the property and selling or renting the housing to low-income families. Homebuyers must have homebuyer counseling before buying a house. OAHCD also provides legal advice for the section 184 program to assist Indian families to buy housing. In addition, OAHCD provides legal advice to CPD on the HOME Investment Partnership Program under which State and local government grantees develop homeownership housing.

OGC's Office of Litigation (OOL) vigorously defends challenges to HUD statutes, regulations, enforcement and policy implementation. Our ability to dismiss the majority of litigation on motions to dismiss for summary judgment similarly assists HUD in achieving its goals. As an example, the OOL quickly defeated a challenge to HUD's HECM program, thus preserving the financial stability of this actuarially based program.

OGC requests the following budget for fiscal year 2013:

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	FY 2010 Actual	FY 2011 Actual	FY 2012 Enacted	FY 2013 Request	Increase/Decrease compared to 2012
Personal Services	\$87,940,489	\$88,273,820	\$88,760,000	\$90,102,000	\$1,342,000
Non-Personal Services:					
Travel	1,000,995	929,142	1,000,000	1,004,000	4,000
Transp. Of Things	20,823	11,319	-	-	-
Printing	1,749,800	910,000	1,006,000	1,009,000	3,000
Other Services	2,476,302	2,606,550	1,285,000	1,518,000	233,000
Supplies	435,881	389,569	440,000	331,000	(109,000)
Furniture	2,850	-	-	-	-
Claims & Indemnities	759,145	936,441	1,509,000	1,138,000	(371,000)
Subtotal Non-Personal Services	\$6,445,795	\$5,783,021	\$5,240,000	\$5,000,000	(\$240,000)
Total	\$94,386,284	\$94,056,841	\$94,000,000	\$95,102,000	\$1,102,000
FTE	642.4	636.3	628.2	629.0	0.8

OGC is requesting 629 FTE's for fiscal year 2013 and \$95.102 million; this is an increase from fiscal year 2012 of 0.8 FTE and a total reduction in non-personnel services of \$240 thousand. HUD anticipates that amounts for budget object classes (BOCs) 2200 (Transportation of Things) and 3100 (Furniture and Equipment) will be minimal in certain offices. Should expenses arise related to those BOCs, they will be absorbed within the budget for non-personnel expenses.

Travel: Travel funding is used to pay travel costs related to litigation, hearings, depositions, mortgage closings, site visits, management travel, Quality Management Reviews, making presentations at legal conferences, and training.

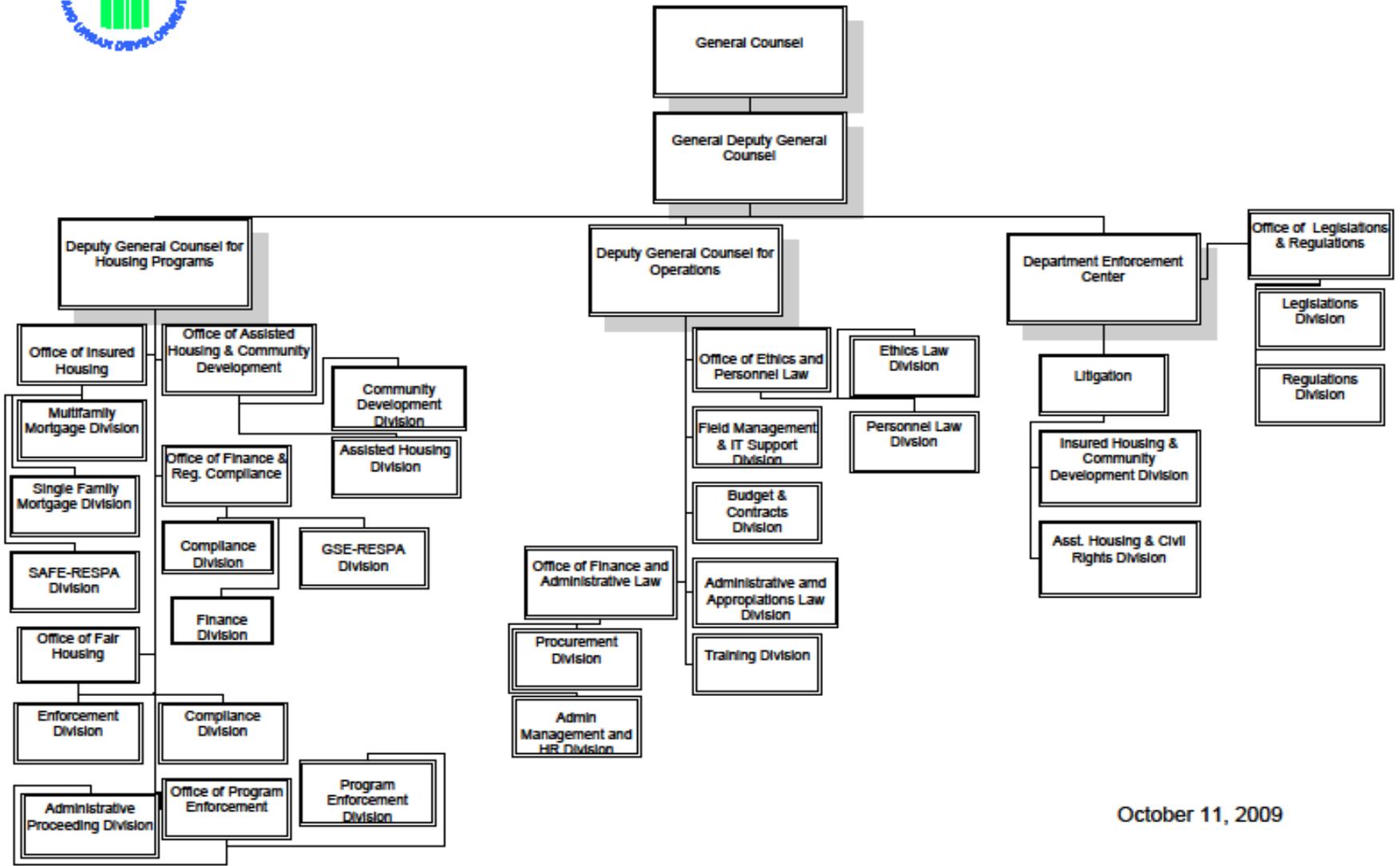
Printing: Funding provided for costs of all printing in the *Federal Register* for the Department. The Administrative Procedures Act requires all rules to be published in the *Federal Register*. Therefore, printing in the *Federal Register* is required by law and is not discretionary.

Other Services: The majority of this funding is used to pay the costs of OGC's contracts for on-line legal research services and continuing education and professional training for staff.

Supplies: This is a decrease of \$109,000 from the amount identified for fiscal year 2012. The majority of this funding is used to purchase legal research publications.

Claims and Indemnifications: This funding is used to pay attorney fees required by legal judgments against the Department and settlement agreements entered into by the Department.

Office of General Counsel



October 11, 2009

