

Testimony
before the
National Commission on Fair Housing
and Equal Opportunity

by

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Introduction

Private fair housing organizations are the backbone of the fair housing enforcement system in the United States. While few in number and largely underfunded, year after year they process more fair housing complaints, educate more consumers, and train more industry providers than any other entity in the nation, including state and federal agencies charged with enforcing the federal Fair Housing Act. For the past five years, private non-profit fair housing organizations have processed 65 percent of the fair housing complaints in the United States, while Fair Housing Assistance Program agencies (state and local fair housing enforcement agencies with laws substantially equivalent to the federal Fair Housing Act) have processed 25 percent and HUD 10 percent of the cases. Keep in mind that many cases filed with HUD and Fair Housing Assistance Program (FHAP) agencies are referrals by private organizations. The percentage of complaints handled by fair housing groups has continued at this high level over the past few years, despite the closure or near closure of more than 25 fair housing organizations.

Fair housing groups are also the only organizations with significant testing programs, and testing plays a critical role in both validating complaints and weeding out cases in which there is no discriminatory conduct. Cases brought by fair housing groups have opened up thousands of housing units to persons in protected classes and resulted in the monitoring of many houses providers. Litigation by fair housing groups since 1990 has resulted in more than \$255 million in damages related to housing discrimination. This figure is only for litigated cases and does not include cases conciliated by fair housing organizations outside of a legal or administrative process or cases resolved through HUD or FHAP agencies.

Private fair housing organizations have been responsible for bringing ground-breaking cases in the areas of mortgage lending, homeowners insurance and sexual harassment in housing. The insurance cases resulted in changes to decades-long discriminatory underwriting and pricing policies and practices by companies throughout the nation. The broad-based standing allowed by the Fair Housing Act has been enhanced by the work of fair housing organizations, and fair housing organizations were among the first to recognize discriminatory practices in the patterns of predatory lending and to forecast the significant negative consequences of improper underwriting and asset-based lending. We are now engaged in efforts to force compliance by housing developers with accessibility standards and remedying the practices of large real estate companies whose agents perpetuate patterns of residential segregation. In addition, NFHA and thirty of its member organizations are documenting the need to force

electronic bulletin boards on the internet to eliminate discriminatory advertising related to housing opportunities. Over the past six months, we have identified more than 1500 blatantly discriminatory ads, with restrictions based on race, gender, religion, and family status. As of today, the National Fair Housing Alliance alone has filed approximately 150 complaints with HUD against craigslist and housing providers who placed discriminatory ads on craigslist.

This commission has heard extensive testimony from other witnesses about the importance of achieving fair housing in this nation and the significant community and societal costs associated with continued patterns of racial and ethnic segregation. What is required is a sea change in our approach to promoting diversity in our neighborhoods and eliminating the costly and devastating patterns of segregation that wreak havoc on families and communities. The work of private fair housing organizations may be the most valuable component of this effort, and the Fair Housing Initiatives Program (FHIP) is critical to the success of their endeavors.

While the initial design of the FHIP program was well—intentioned and functioned fairly effectively in the first few years, the program is significantly flawed in both its structure and its implementation. The structural flaws are compounded by gross mishandling of the program by HUD's Office of Fair Housing and Equal Opportunity, the agency that administers the FHIP program. While my written testimony focuses on several issues in greater depth, today I want to focus on three simple concepts:

1. The FHIP program is grossly underfunded;
2. The FHIP program has structural flaws and is ineptly administered; and
3. The FHIP program, if sufficiently funded and competently administered, could be a model for public-private partnerships that lead to meaningful, comprehensive change in this nation.

The Fair Housing Initiatives Program is Grossly Underfunded

Funding History

In recognition of the importance of the work of fair housing organizations in both counteracting discrimination and promoting diversity in American neighborhoods, Congress passed in 1987 the Fair Housing Initiatives Program, a program designed to provide funding for both enforcement as well as education and outreach activities. The program was funded at \$3 million in 1989 and functioned as a pilot program until it became permanent in 1994. There were about thirty fair housing agencies at the time.

Over the past ten years, however, the number of fair housing agencies has increased significantly and approximately 140 agencies have at some time received FHIP enforcement funds. FHIP has been, not the mainstay, but the primary source of funding for fair housing activities at the local level.

Congress funded FHIP at a high of \$26 million in 1995. However, in subsequent years, funding has been earmarked for research and other projects, which, while important, are inappropriate uses of FHIP funding. The following chart shows the FHIP appropriations since 1994.

Congressional Appropriations for FHIP Since 1994¹	
Fiscal Year	FHIP Funding
1994	\$ 21 million
1995	\$ 26 million
1996	\$ 17 million
1997	\$ 15 million
1998	\$ 15 million
1999	\$ 16 million *
2000	\$ 18 million *
2001	\$ 17 million *
2002	\$ 19 million *
2003	\$ 18 million *
2004	\$ 18 million *
2005	\$ 18 million *
2006	\$ 18 million *
2007	\$ 18 million *
2008	\$ 23.6 million +
2009 - proposed	\$ 19 million *

**actual funding level available for general FHIP activities, excluding set-asides
+ actual funding level for FHIP not yet known*

Although the official amount proposed by the Administration for FHIP in FY2009 is \$26 million, it includes \$6.8 million in set-asides, leaving \$19.2 million for FHIP activities – a 15% cut from the final budget for FY08. The primary set-aside is \$6 million for the Housing Discrimination Study of 2010. The Housing Discrimination Study (HDS) is an

¹ FHIP was a pilot program from 1989 to 1993. It was authorized as a program in 1994.

illegitimate use of FHIP funding, as HDS is designed purely as a research mechanism and should be funded through HUD's Office of Policy Development and Research.

The Effect of Insufficient Funding

For the five year period 2003 through 2007, a total of just under \$90 million was allocated for FHIP.

FHIP Funding 2003-2007				
Fiscal Year	FHIP Funding	PEI	EOI	FHOI
2007	\$18,100,000	\$14,000,000	\$4,100,000	\$0
2006	\$18,100,000	\$13,900,000	\$4,200,000	\$0
2005	\$18,040,000	\$13,600,000	\$3,940,000	\$500,000
2004	\$17,600,000	\$11,800,000	\$3,700,000	\$2,100,000
2003	\$17,600,000	\$10,200,000	\$5,300,000	\$2,100,000
Total	\$89,440,000	\$63,500,000	\$21,240,000	\$4,700,000

Source: U.S. Department of Housing and Urban Development

During this five year period, funding ranged from a low of \$17.6 million to a high of \$18.1 million. Based on our experience with our member organizations, NFHA estimates the **average** funding necessary for a fair housing organization is approximately \$440,000 (\$300,000 for enforcement and \$140,000 for education and outreach). The amount allocated over the past five years is barely enough to fund 41 organizations, much less the 100 organizations we expect should be funded through FHIP at the current time. This has meant inconsistent funding from year to year and inadequate funding in almost all circumstances to address the full range of discrimination and levels of segregation throughout our communities. In fact, over the past five years, only 28 organizations have received funding in all five years. Whole states and huge geographic regions of the nation are entirely unserved.

Over the past five years, at least fourteen fair housing organizations nationwide have closed their doors due to lack of funding (see chart below). At least twelve other organizations have had to significantly curtail or eliminate their enforcement activities due to cutbacks, including reduction of staff. All told, **26 fair housing centers, or one quarter of all fair housing centers throughout the country, have closed or are at risk.** In some cases, groups served densely populated and large metropolitan areas; in other cases, groups served an entire state and their closing continues to have a drastic effect on a substantial geographic area. Groups that have closed include the Open Housing

Center in New York City, open for thirty years before it failed, and the Leadership Council for Metropolitan Open Communities, established in 1966 after the fair housing marches in Chicago led by Dr. Martin Luther King, Jr. And, even before these closures, whole states and huge areas of the country were not served by any organization at all.

Closed Fair Housing Organizations	
Organization	Location
Arkansas Fair Housing Council	Arkadelphia, AR
Cuyahoga Plan of Ohio, Inc.	Cleveland, OH
Housing For All	Denver, CO
Housing Opportunities Made Equal at NEWSED Community Development Corporation	Denver, CO
Intermountain Fair Housing Council	Boise, ID
Jackson County Fair Housing Center	Jackson, MS
Kansas City Fair Housing Center	Kansas City, MO
Leadership Council for Metro Open Communities	Chicago, IL
Minnesota Fair Housing Center	Minneapolis/St. Paul, MN
Montana Fair Housing, Inc.	Missoula, MT
North Carolina Fair Housing Center	Durham, NC
Open Housing Center	New York, NY
Tenant's Action Group of Philadelphia, Fair Housing Program	Philadelphia, PA
Wyoming Fair Housing, Inc.	Casper, WY

The \$90 million allocated for FHIP over the past five years is a pittance when compared to other numbers we find in today's headlines: United for a Fair Economy estimates the total loss of wealth for people of color to be between \$164 billion and \$213 billion for subprime loans taken out during the past eight years.² The Center for Responsible Lending projects that, nationally, foreclosures on subprime home loans originated in 2005 and 2006 will result in the following: almost 41 million neighboring homes will experience devaluation because of their proximity to foreclosed homes, and the total decline in housing values and tax base from nearby foreclosures could be \$202 billion.³ The government has pledged up to \$100 billion each in backing for Fannie Mae and Freddie Mac. And these costs don't even begin to measure the effect on city services, school funding, jobs, health care and other community functions dependent upon the economic vitality of neighborhoods.

² "Foreclosed: State of the Dream 2008," United for a Fair Economy, 2008.

³ "Subprime Spillover," Center for Responsible Lending, 2008.

Put another way, over the past five years, private fair housing efforts (including enforcement and education) are averaging only \$22.50 for each one of the conservative estimate of four million instances of discrimination per year. And the four million is truly conservative as the research on which it is based (the HDS 2000) significantly undercounted discrimination because, among other things, it measured only one part of the housing transaction process, didn't include all protected classes (particularly persons with disabilities who file the largest percentage of complaints), and failed to include discrimination over the telephone (a very important consideration as most housing and housing-related transactions today begin with a telephone call).

Clearly, the United States must re-assess its priorities and provide sufficient funding for fair housing enforcement and education programs through the nation. Unfortunately, however, funding levels alone are not the only problems with the FHIP program.

The FHIP Program has Structural Flaws and is Ineptly Administered

Mismanagement Issues

HUD's poor track record in the management of the FHIP program merits serious attention. Rather than working to establish comprehensive, full-service organizations that could address all types of discrimination, develop systemic cases and effectively promote inclusive communities, HUD's inconsistent funding methods and over-burdensome application process have led to a patchwork of funding from year to year, with only a few organizations truly representing what a full service fair housing organization could be. In addition, the funding process is over-focused on numbers of tests completed and persons educated than on the development of cases and changing of behavior. There is no emphasis on development of systemic cases which would lead to more broad scale change and only occasional attention to cutting edge issues, such as the emergence of discriminatory subprime lending practices—the very practices which have led to the current economic crisis in the U.S.

There are many management problems in past years with regard to FHIP. There have been delays in the publication of Notices of Funding Availability (NOFA), delays in the announcement of funding awards, and further delays in negotiation of contracts that have caused eligible organizations to lose funding, staff, and other resources because they do not have consistent funding. Delays caused by the NOFA process have also caused budget carryovers and occasioned criticism from Congress because funding is not always obligated as quickly as it could be. A 2001 report by the National Council on

Disability recommended that FHIP be revitalized in light of significant operational flaws that adversely affect enforcement.⁴

FHIP applicants also cite concerns with the process by which FHIP applications are evaluated since similar applications sometimes receive vastly different scores. The evaluation process has often been described as a “lottery,” (including by the person at HUD responsible for FHIP), with no consistent measures from year to year for members of the technical evaluation panels.

Administrative Inconsistencies in the Funding Mechanism

Part of the overall FHIP problem is related to insufficient funding levels. Part is related to HUD’s inconsistent system of funding organizations and its continued practice of funding new, and often unqualified, organizations at the expense of existing and experienced fair housing organizations. Substantial education and outreach funding is provided to organizations without fair housing knowledge or experience. These are often one time grants that do little to promote fair housing, particularly as the organizations are unequipped to deal with any enforcement matters that may arise. In addition, many of these groups are forced to contact qualified fair housing organizations to obtain the necessary information to even fulfill the requirements of the grant agreement. There is no ongoing system to ensure that private fair housing enforcement activities are provided without interruption in communities, and no assurance that even the best groups will receive funding from one year to the next.

Between fiscal years 2003 and 2007, HUD awarded a total of \$89,440,000 in FHIP funding to 206 groups. A mere 28 out of 206 groups received consistent funding during this period. That’s only 13% of groups that were enabled to efficiently carry on the goals and mission of furthering fair housing in their communities. HUD has actually designed FHIP funding mechanisms to allow it to pass over higher ranked proposals in order to provide funding for geographic diversity or to pass over higher ranked proposals from organizations funded in past years to make awards to lower ranked proposals from organizations that have not been funded, thus deliberately incorporating inconsistent funding into the system. Additionally, HUD has not even followed its own criteria or rules for making exceptions when awarding grants and granting exceptions.⁵ When funding for fair housing groups is interrupted for even one year, there are negative consequences for staffing, training and program activities, all

⁴ *Reconstructing Fair Housing*, National Council on Disability (November 6, 2001).

⁵ See report by the Office of the Inspector General, Audit Memorandum 00-AO-174-0801, <http://www.hud.gov/offices/oig/reports/internal/ig0c0801.pdf>

which take additional money to restore – money that is diverted from investigating housing discrimination and educating the community.

Organizations that Received FHIP Funding in <i>all</i> Years 2003-2007	
Alabama	Fair Housing Center of Northern Alabama Fair Housing Agency of Alabama Central Alabama Fair Housing Center
California	Bay Area Legal Aid Project Sentinel California Rural Legal Assistance, Inc. Fair Housing of Marin
Florida	Jacksonville Area Legal Aid, Inc.
Illinois	Chicago Lawyers' Committee for Civil Rights South Suburban Housing Center HOPE Fair Housing Center
Kentucky	Lexington Fair Housing Council
Massachusetts	Fair Housing Center of Greater Boston Housing Discrimination Project
Nebraska	Family Housing Advisory Services, Inc.
Nevada	Silver State Fair Housing Council
New Jersey	NJ Citizen Action
New York	Long Island Housing Services
Ohio	Housing Opportunities Made Equal of Cincinnati Housing Research and Advocacy Center
Oregon	Legal Aid Services of Oregon
Pennsylvania	Fair Housing Council of Montgomery County Housing Partnership of Greater Pittsburgh Fair Housing Council of Suburban Philadelphia
Texas	Austin Tenants Council
Vermont	Champlain Valley Office of Economic Opportunity
Washington	Fair Housing Center of South Puget Sound
Wisconsin	Metropolitan Milwaukee Fair Housing Council

It should be noted that during this period, 51 groups received EOI funding only once, for a total of \$4,170,000. To be sure, it is difficult to assess the value in awarding education grants to groups that do not focus on fair housing, but HUD's inconsistent

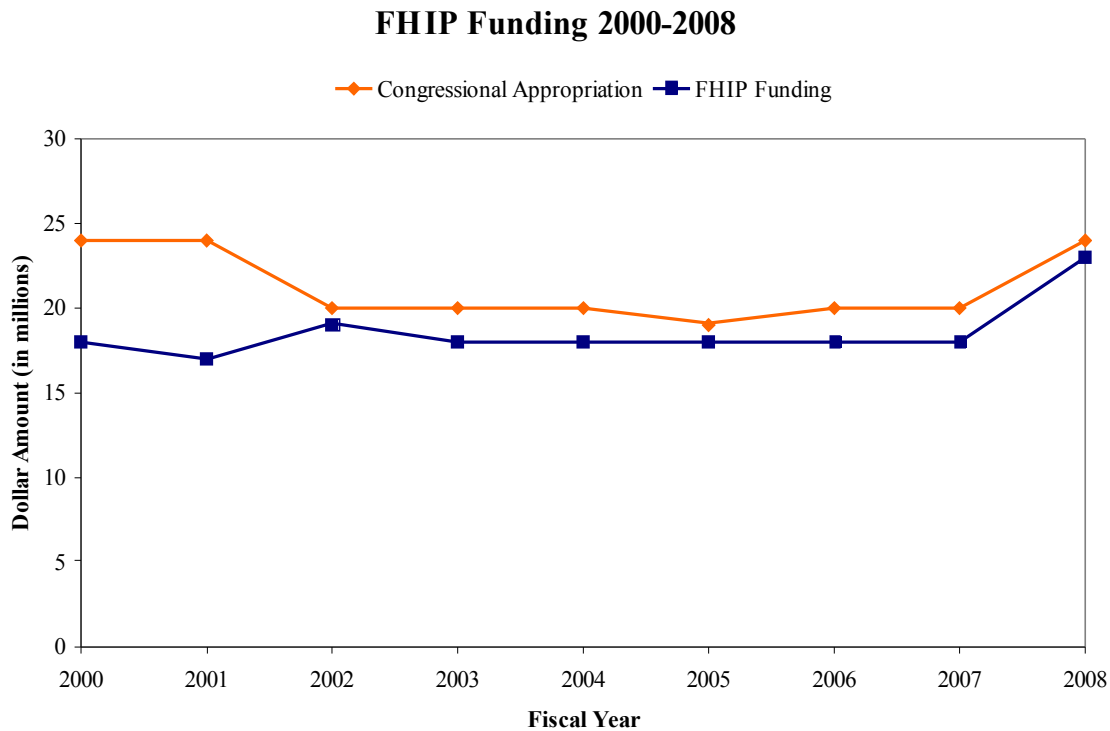
and cumbersome funding process only exacerbates efforts to provide fair housing education. Following is a list of groups that received EOI grants from fiscal years 2003 to 2006; this list does not include first time recipients of EOI funding in FY2007, as funding announcements for 2008 have not been made.

Organizations that Received FHIP Education Funding in <i>One Year</i> 2003-2007	
California	Consumer Credit Counseling of Kern County Consumer Credit Counseling of Central Valley Asian Pacific American Legal Center of CA
Delaware	Delaware Developmental Disabilities Council
District of Columbia	Howard University
Florida	Mid-Florida Housing Partnership, Inc. Boley Centers for Behavioral Healthcare
Georgia	City of Savannah Peaceful Sanctuary Christian Church
Illinois	Latinos United Chicago Homeowners Progress Center for Independent Living Statewide Independent Living Council of Illinois
Indiana	ACORN Indiana Civil Rights Commission
Kansas	Unban League of Wichita
Maryland	Harford County
Massachusetts	Pro-Home, Inc. City of Newton
Michigan	Phoenix Housing and Counseling Non-Profit, Inc. Community Action Agency
Missouri	Missouri Tax Justice Research Project
New Jersey	Community Health Law Project New Jersey Department of Community Affairs
New Mexico	Protection and Advocacy System
New York	The Buffalo Urban League Bronx Independent Living Services, Inc. HELP Social Service Corporation New York Agency for Community Affairs United Spinal Association
North Carolina	Housing Rights Center of Wake County, Inc. Elizabeth City State University Mainstreaming Consultants, Inc.
Pennsylvania	Community Impact Legal Services Three Rivers Center for Independent Living, Inc.

Puerto Rico	Ceiba Housing and Economic Development Corp.
Rhode Island	Housing Network of Rhode Island Rhode Island Housing and Mortgage Finance Corp.
Tennessee	City of Chattanooga City of Memphis Metropolitan Development and Housing Agency
Texas	Accessible Communities, Inc. Tarrant County City of San Antonio Texas Workforce Commission
Utah	Ogden City Corporation
Vermont	Vermont Center for Independent Living
Virginia	Total Action Against Poverty in Roanoke Virginia Office for Protection and Advocacy
Washington	Kitsap County Consolidated Housing Authority

Misallocation of FHIP Funds

The small amount of FHIP appropriation is not even always used for the programs it is supposed to support. The chart below illustrates the discrepancy between the amount of money Congress has appropriated for FHIP and the amount of money that has gone towards FHIP activities, such as education and enforcement by qualified fair housing groups. For example, FHIP money has been used for a number of years to fund the Accessibility FIRST program. FIRST was designed to provide no-cost technical assistance to the housing industry, which is not a FHIP objective. HUD redirected FHIP funding to the FIRST program in order to educate and fund housing providers. While we certainly endorse the concept of improving the accessibility of housing for persons with disabilities, we believe that industry training on the subject twenty years after the requirements became law is the wrong focus for the FHIP funds. Instead, HUD should have encouraged the industry to fund a program since there are so many violations and then HUD should have implemented a large scale, systemic enforcement program to force compliance by housing developers, architects, contractors, and local governments who approved improperly designed plans.



In addition to inappropriately redirecting FHIP funds to an industry training program, HUD also failed in 2005 and 2006 to fund a national fair housing media campaign to educate consumers, despite language in FHIP's authorizing statute requiring the Secretary to sustain a national fair housing education effort. Section 561 of the Housing and Community Act of 1987 states,

The Secretary, through contracts with one or more qualified fair housing enforcement organizations, other fair housing enforcement organizations and other nonprofit organizations representing groups of persons protected under Title VIII of the Civil Rights Act of 1968, shall establish a national education and outreach program. The national program shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products, including (a) public service announcements, both audio and video; (2) television, radio and print advertisements; (3) posters; and (4) pamphlets and brochures (42 USC 3616(d)).

When HUD did include the national fair housing multi-media program in the 2007 FHIP application, it violated the statute again by not following the statutory language for eligible applicants. NFHA filed a complaint with HUD's Inspector General (IG) in November 2007 to stop the grant award. The IG just released its finding that HUD did not follow the FHIP requirements for the 2007 FHIP NOFA.

There have also been wide discrepancies between the amount of money appropriated for FHIP and the amount of money that is actually apportioned by HUD through funding notices. For example, in 2006, although HUD received \$19.8 million for FHIP through congressional appropriations, the FY06 NOFA allocated only \$18.1 million, leaving \$1.7 million unaccounted for. At a time when funding for fair housing is barely sufficient to address widespread discrimination in the sales, rental, lending and insurance markets, the inexplicable depletion of FHIP funding amounts to further fiscal pressure on fair housing groups and a general erosion of fair housing efforts.

The Tortuous FHIP Application Process

The FHIP application process itself is a major obstacle to achieving the fair housing objectives of both HUD and private fair housing organizations. This problem is multi-faceted: (i) the application requires an agency to streamline its Statement of Work (SOW) with the mandatory “logic” model provided, but the logic model does not capture all the activities and deliverables in the SOW; (ii) exposure to legal challenges is increased when applicants are forced to estimate activities and services on the logic model (number of cases filed; awards received from cases; attorney fees received; complaints litigated; witnesses interviewed); and (iii) the application rating process appears irrational and creates artificial competition among qualified fair housing groups that have consistently received “excellent” ratings and/or 100 scores on proposals. For example, a NFHA member in Ohio reported that the GTR told him that the NOFA requirement of Energy Star had no bearing on his fair housing activities and the GTR would not be monitoring that activity, whereas another member in California reported that her organization was not funded because it did not respond to the Energy Star requirement. There is also no long term planning for fair housing – the NOFA categories change from year to year and sometimes reflect “new” initiatives that are underfunded, such as the response to Hurricane Katrina funded at \$50,000 per grant or the response to predatory lending – a one time grant!

While some of these problems are small technicalities and internal inconsistencies, others are highly significant as they represent the larger problem at the Office of Fair Housing at HUD which is a failure to understand how a fair housing agency does and/or should function, that it is forced to divert resources from fair housing education and enforcement to meaningless and burdensome administrative tasks, and that fair housing organizations are placed in a tenuous position where they must over-obligate themselves to completing tests rather than responding to complaints and developing more meaningful investigations.

The Vision of the FHIP Program as a Model of Public-Private Partnerships

The entire FHIP program must be envisioned as a comprehensive approach to creating and maintaining effective full service fair housing organizations in every part of the United States. It should be a partnership between HUD and private groups that addresses housing discrimination in all its forms and promotes inclusive communities. It should address the fundamental needs of local organizations while demanding thoughtful, creative actions to address long-entrenched patterns of segregation as well as new forms of discrimination in the housing, lending and insurance marketplace. This vision has been shared with HUD FHEO staff since 1997 in writing, meetings and at conferences.

The FHIP program is being approached as a competitive grant program and not as a critical element in a coherent national plan to enforce the fair housing laws. So long as this is the case, neither HUD nor the recipients of FHIP dollars will be able to maximize their enforcement efforts. Other goals may be met, such as ensuring that a greater number of entities are able to participate in the program (although not necessarily qualified to do so) or educating potential applicants about fair housing generally, but the ability of FHIP dollars to increase enforcement will be severely limited. While these other goals may well have value, if we truly wish to make change in our neighborhoods and achieve the goals of the Fair Housing Act, the program will have to be structured to provide a reliable uninterrupted stream of funds for those organizations doing enforcement.

This would result in substantial improvement in the effectiveness of the use of FHIP funds for enforcement. Among the more significant advantages of such a system over the current competitive grant system are the following:

- ❖ **Funds would be spent on consistent enforcement by experienced personnel, rather than coping with staff turnover.** HUD's enforcement dollars are now spent repeatedly for hiring and training personnel rather than paying that staff to undertake investigations. Under the existing system, most fair housing enforcement organizations have no reliable funding stream and are therefore forced into a repeating cycle of hiring, training and laying off of staff, depending on whether or not they have received FHIP funding. This is the most ineffective way imaginable of building a cadre of experienced, expert enforcement personnel. In addition, ongoing investigations are disrupted and/or discontinued. It makes it literally

impossible for a fair housing organization to increase the number of complaints it can handle and essentially eliminates the possibility of developing systemic investigations. And, it is the systemic investigations that challenge institutionalized housing discrimination and can have the broadest impact, nationally, on promoting fair housing. It also takes at least a year for an investigator to become knowledgeable about rental and sales investigations, legal history and proper testing methodologies, so the idea of replacing staff every 18 to 24 months is nonsensical.

- ❖ **The return on HUD's investment on the creation of new groups would be enhanced.** HUD's three year investment of resources in the creation of each new fair housing group is wasted if the group does not receive funding in subsequent years. Since 1995, HUD has supported the creation of at least ten new fair housing groups under the tutelage of a qualified fair housing center. Without a continued funding stream, however, these new non-profit agencies must either severely restrict their activities or disband. This eliminates the capacity for education and enforcement for which HUD has invested millions of dollars. The only effective use of this money is if those groups receive ongoing funding, assuming they meet certain standards. Training of new groups must be comprehensive and conducted by qualified, experienced staff on a full time basis.
- ❖ **The staff of FHEO would be free to ensure quality among the recipients of funding.** The office of Fair Housing and Equal Opportunity is forced to devote an enormous amount of staff time to the preparation of NOFAs and the review of applications. This is time that could far better be spent in monitoring contracts, ensuring the quality of work and contributing to innovations in the field. This would also afford FHEO staff the time to learn about how private fair housing centers function and the differences between large, medium, and small cities and rural programs, so they do not try to make enforcement programs a "one size fits all" model.
- ❖ **HUD would be able to rely on performance rather than grant-writing ability in the selection of organizations to be funded.** Consistent funding avoids funding of groups that are capable of good grant writing, but which do not necessarily have the knowledge or ability to investigate properly. This is not only a waste of HUD money but poses the potential for the creation of bad case law.
- ❖ **Enforcement organizations would be able to spend time on enforcement**

rather than on preparing time-consuming grant applications. The current NOFA process is excessively time intensive. Both time and staff energy are better spent in planning and executing enforcement strategies instead of preparing grant applications for different initiatives.

HUD should develop criteria for certifying eligible fair housing organizations. Those criteria should include, at a minimum, a requirement that the certified organizations serve members of all protected classes, have the capacity to litigate, demonstrate court accepted testing capabilities and have a history of bringing and winning meritorious claims.

Since systemic cases can have a state, regional or nationwide impact and require much more time and experience, HUD should develop a formula for supporting systemic investigations. This formula, at a minimum, should include costs for developing and implementing testing methodology, analysis of results, development of experts and supporting evidence as well as costs for litigation including discovery and expert witness fees.

In the past, HUD has funded multiple organizations (some fair housing enforcement agencies and other community based groups with no enforcement experience) to conduct the same activities within the same service area. Service areas should be defined which do not overlap, and HUD enforcement staff should be consulted about the quality of the investigations conducted by the organizations initially seeking certification.

The Recommended Short Term Funding Level

In the short term, the funding level for the Fair Housing Initiatives Program should be at **\$52 million**. This funding level is a *starting point* only. As new organizations are created in unserved areas and as training, systemic investigation units and special focus program issues are developed and expanded, funding should be increased. Ideally, we envision a FHIP program that funds a thousand or more agencies and provides coverage to the entire nation, similar to the Community Development Block Grant (CDBG) program. We equate this with CDBG because Congress requires all CDBG recipients to affirmatively further fair housing.

With \$52 million in funding, qualified fair housing organizations could receive both Enforcement funding (PEI-Private Enforcement Initiative) and Education funding (EOI-Education and Outreach Initiative), and additional agencies could be funded. Funding could also be available for creation of new fair housing organizations, a national media/education campaign, special systemic investigations, training, and vital hurricane and other disaster-related activities..

\$30 million	Enforcement = \$300,000 for 100 groups
\$14 million	Education & Outreach = \$140,000 for 100 groups
\$ 3 million	Creation of two new fair housing groups
\$ 2.5 million	National Media Campaign with multi-purpose focus
\$ 2.5 million	Training, Systemic investigations; Hurricane and other disaster-related fair housing activities, etc.

Grants have typically ranged from \$22,000 to \$275,000 for education and enforcement programs. And although FHIP funds the creation of one to two new fair housing organizations per year, with grants of \$1 million each over three years, it has not done so for the past few years. With \$52 million in funding, 100 organizations could receive both types of funding simultaneously. It should be noted that the original FHIP program allowed fair housing centers to receive both education and enforcement grants, recognizing that in order to generate complaints, consumers must be educated about their rights and the remedies available to them under the Fair Housing Act. It also allows agencies to work with other community based organizations and the housing industry. HUD also allowed a group that did not receive an education grant to use up to 20 percent of its enforcement grant for education and outreach. In the mid 1990s, however, the program was changed so that organizations could not receive both types of funding, and education activities were limited to 5 percent of an enforcement grant.

A New FHIP Model

It would be expected that HUD and fair housing groups would work together to develop the criteria for receipt of performance-based funding and that specific steps would be taken to establish performance criteria for continued receipt of funds. It is also clear that not all fair housing organizations currently function effectively, and HUD must work to provide training to and capacity building of groups as they make the transition and to maintain an ongoing training and professional development program as part as the initiative. However, the training must be provided through HUD by qualified, successful fair housing organizations. HUD staff have never worked at a

private fair housing agency and do not have the requisite qualifications or expertise to provide this training.

A revised FHIP program might include these components:

- ❖ Determination of eligibility based on statutory requirements, services provided, systemic enforcement conducted, and other requirements;
- ❖ Documentation of current 501(c)(3) status, mission, and organizational capacity;
- ❖ Delineation of appropriate service areas to avoid overlap and promote maximum coverage of communities;
- ❖ Completion of minimal performance standards to an appropriate level of performance. This means, at a minimum, groups will be able to effectively perform counseling for potential complainants, conduct testing for enforcement purposes directly and not by contract, conduct individual and systemic case investigations, provide education for the public and housing industry, promote the benefits of diversity in their communities and work with other organizations and policy-makers to effect change, make timely and appropriate referrals to HUD/FHAP/Administrative enforcement agencies, conduct litigation activities, and conduct other related activities;
- ❖ Maintenance of appropriate fiscal management standards and operations;
- ❖ Participation in training, professional development and capacity building opportunities;
- ❖ Subjection to quality assurance reviews, application of performance improvement plans, and funding suspension or termination for poor performance; and
- ❖ Participation in internet-based remote monitoring for performance and grant continuation purposes and other grant management operations, including meeting minimum outcome standards.

The FHIP program should also fund a national media campaign, in the amount of \$2.5 million each year, for two purposes: (1) the education of consumers about how to recognize and report housing discrimination and the development and dissemination of high quality materials that can be utilized on the local level (noting that all consumer education materials are available to the public and the industry.); and (2) the promotion of inclusive communities and an understanding of the benefits of neighborhood diversity. The program should fund a comprehensive, multi-faceted campaign over several years rather than individual yearly non-coordinated efforts. Additionally, FHIP recipients should be required to utilize the education materials so that the government is sending the same fair housing message across America.

Once the program is established to function properly, funding should be provided for the creation of new fair housing organizations in unserved communities with adequate training and capacity building built into the process for several years. Additional funding should be allocated each year to the PEI and EOI components to incorporate the existence of the new organizations.

The FHIP program should incorporate a regional or national systemic investigation component in addition to the systemic work done on the local level. There should be coordinated effort to work on systemic issues related to large housing providers, a regional or national specific issue, and identification of new forms of discrimination. For example, in the early 1990s, HUD provided \$1 million for an 8-city mortgage lending investigation and \$.5 million for a 10 city insurance investigation. Needs related to special circumstances, such as in the case of natural disasters like hurricanes, should be addressed as well.

Finally, the program should provide the highest quality training, professional development, and capacity building opportunities and develop cooperative relationships between private fair housing organizations, HUD, FHAP agencies, the Department of Justice, the private bar, and representatives of the housing, lending, and insurance industries.

We could, literally, change the world as we know it with a relatively inexpensive appropriation of funds and reconstruction of the Fair Housing Initiatives Program. We could address significantly more cases of discrimination, address systemic forms of discrimination, bring about real diversity in our communities, mitigate the extensive costs associated with continued segregation, build wealth for families and communities, improve our schools, and provide a bedrock for our economy. At \$52 million a year in the short term, that's a small price to pay compared to the enormous benefits that will accrue to our entire nation. The costs we have paid and continue to pay are gargantuan in comparison.

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