

ARKANSAS FAIR HOUSING COMMISSION

Enabling Laws

Act 51 of 2016
A.C.A. §16-123-301 et seq.

History and Organization

The Arkansas Legislature created the Arkansas Fair Housing Commission by Act 1785 of 2001. The Commission acts as a quasi-judicial, regulatory agency that enforces state and federal fair housing and fair lending laws with the authority to hold administrative hearings and litigate cases where discriminatory conduct is found to have occurred.

The mission of the Commission is to receive, investigate, conciliate and/or resolve complaints alleging violations of the Arkansas Fair Housing Act, which prohibits housing discrimination on the basis of race, religion, color, sex, national origin, familial status or disability; to cooperate with and provide technical and other assistance to federal, state, local and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory housing practices; and to establish an education and outreach program to prevent discriminatory housing practices.

The Commission is composed of thirteen members: seven (7) are appointed by the Governor; three (3) are appointed by the President Pro Tempore of the Senate; and three (3) are appointed by the Speaker of the House. Six (6) of the appointees are industry representatives and seven represent various consumer interests. The Governor shall appoint a Commissioner from each of the state's four (4) Congressional Districts.



Agency Commentary

The Arkansas Fair Housing Commission is a quasi-judicial, regulatory enforcement Agency charged with protecting a very basic right of Arkansans - housing. With Act 1785 of 2001, the Arkansas General Assembly declared this right to be one necessary to ensure the health, safety and welfare of Arkansans.

As in previous years, the Commission strives to provide needed services and assistance to citizens of the State of Arkansas and has provided those services within its authorized budget. The Commission budget in previous years and for the upcoming biennial budget period remains the same as it has for the past several years.

The Commission's proposed budget for Total Operating Expenses will remain the same for FY2017-2019 as last fiscal year. The Commission has made two change level requests (appropriation only) - both based on new guidance from DFA's Office of Accounting Administrator implemented during FY2016: (1) to move appropriation only from the Professional Fees and Services Commitment Item to the Operating Expenses Commitment Item in 1NH; and (2) to move appropriation only from the Operating Expense Commitment Item to the Conference and Travel Expense Commitment Item in 53L, the Commission's Education Trust Fund Account which is not funded through General Revenue funds. The Commission also requests special language for use to promote the mission of the Arkansas Fair Housing Commission through educational materials designed to promote the State's commitment to fair housing and fair lending initiatives.

The Arkansas Fair Housing Commission has succeeded in staying within its approved budget each year, even as operating and enforcement expenses continue to increase.

In closing, it is essential that the Arkansas Fair Housing Commission's biennial budget for 2017-2019 remain at its present level to ensure the fiscal integrity of the Commission and to ensure that the Arkansas Fair Housing Commission continues to meet the critical fair housing and fair lending enforcement and education/outreach needs of Arkansans. As the only state agency specifically charged with protecting the civil rights of our citizens, the Commission continues to strive to bring awareness and encourage housing accessibility throughout our state.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS FAIR HOUSING COMMISSION
FOR THE YEAR ENDED JUNE 30, 2013

Findings

Per the Department of Finance and Administration (DFA) Financial Management Guide, invoices will be paid based on the vendor's due date and payment terms. The Agency paid several invoices after the due date, resulting in \$383 paid for interest or carrying charges on late payments.

Per R3-19-4-1601 of the Financial Management Guide, agencies may not employ contract labor longer than six consecutive weeks or 240 hours per calendar quarter. A Staffmark employee worked at the Agency 427.25 hours in the October-December 2012 quarter and 323.05 hours in the April-June 2013 quarter, exceeding the limit by 187.25 hours and 83.05 hours, respectively. For the two quarters combined, the employee worked 270.30 hours more than allowable, for which the Agency paid \$4,055.

The Agency paid \$1,500 to the Arkansas Democratic Black Caucus, which, according to the Executive Director, was for sponsorship of the 2013 King-Kennedy Dinner; however, the Executive Director stated that no Agency personnel attended the Dinner. Despite the advertisement in the souvenir book, the \$1,500 payment appears to be a contribution to the Arkansas Democratic Black Caucus. Op. Att'y Gen. no. 2008-026 states an entity "...may not contribute public funds to a political party."

Recommendations

Comply with the DFA Financial Management Guide regarding timely payments.

Agency Response:

Due to limited personnel... and the need to segregate duties as required by fiscal guidelines, some late payments were made. Additionally, some of the noted late payments were due to DFA's Office of Accounting procedures that were outside the Agency's control. The Agency is classified as Service Bureau (a smaller state agency lacking the fiscal and personnel resources of larger agencies). The Agency will continue to work to ensure adequate staffing and has implemented control measures to reduce the exposure to late payment processing.

Review and comply with the DFA Financial Management Guide regarding contract labor.

Agency Response:

As per regulations, the Agency utilized contract staff to assist with duties due to limited personnel. During the course of the fiscal year, the amount paid for contract labor exceeded the allowable expenses for such services by \$4,055. The Agency identified and mitigated this oversight in May of 2013 by implementing a method to track future contract expenditures. Notably, the Agency provided the auditor with documentation from the Arkansas Department of Finance and Accounting (DFA) Accounting Director, Paul Louthian, and a ratification letter from the Arkansas Office of State Procurement (OSP) Director, Jane Benton, in which the Agency was deemed to have not acted fraudulently or in bad faith. The Agency will limit future use of contract labor to an allowable amount.

Agency review and comply with Governor's Policy Directive No. 9, Arkansas Office of Personnel Management policy 70.12 and Op. Att'y Gen. no. 2008-026 limiting the active support of a political party.

Agency Response:

The Agency did not actively support any political party by placing a fair housing advertisement in the King-Kennedy souvenir book to raise awareness of and federal laws prohibiting the unlawful treatment of statutorily protected persons.

Per statute, the Agency is charged with statewide education and outreach activities designed to eradicate fair housing/fair lending violations. As the assassination of Dr. King was the impetus for passage of the Fair Housing Act, placing an advertisement about the Fair Housing Act in this souvenir book presented a unique opportunity to advertise to this

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AUDIT OF :
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FOR THE YEAR ENDED JUNE 30, 2013

Findings

Recommendations

statutorily protected group (African Americans).

The Arkansas Fair Housing Act prohibits discrimination in housing and real-estate related transactions on the basis of race, color, national origin, sex, disability, religion and familial status. Ark. Code Ann. §§ 16-123-201 et. seq.

Ark. Code Ann. § 16-123-301, recognizes: (1) That the right to seek housing underlies the general public's ability to secure health, safety, and welfare; and (2) Seeks with this subchapter to protect the public's access to [fair] housing.

To accomplish that mission, Ark. Code Ann. § 16-123-346 authorizes the Agency Director to, "establish a statewide education and outreach program through contracts with local governments or their agencies, public or private nonprofit organizations or institutions, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices."

Additionally, that program shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products, including:

- (1)Public service announcements, both audio and video;
- (2)Television, radio, and print advertisements;
- (3)Posters; and
- (4)Pamphlets and brochures.

The Agency works diligently to target outreach to both the populous as a whole and to each of the protected classes as they are the most vulnerable to housing and lending discrimination as identified by statute.

As part of its statutory obligation, the Agency routinely advertises with a number of organizations, groups and entities at numerous events targeted to the statutorily protected classes, including the African American community, the Latino community, disability groups and others.

The Black Caucus approached the Agency regarding fair housing advertising for the King-

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 ARKANSAS FAIR HOUSING COMMISSION
 FOR THE YEAR ENDED JUNE 30, 2013

Findings

Recommendations

Kennedy Dinner, an annual event at which advertising directly reaches the more than 4,000 attendees each year and indirectly reaches a much larger percentage of the nearly 450,000 African Americans residing within the state. [Advertising] at the King-Kennedy Dinner was an economical way to reach the African American community for a minimal amount of advertising dollars.

The Agency will not purchase future fair housing/fair lending advertisements at any Black Caucus events.

State Contracts Over \$50,000 Awarded To Minority Owned Businesses Fiscal Year 2016

None

Employment Summary

	Male	Female	Total	%
White Employees	1	1	2	33 %
Black Employees	1	3	4	67 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			4	67 %
Total Employees			6	100 %

Publications

A.C.A. 25-1-201 et seq.

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution	Unbound Black & White Copies Produced During the Last Two Years	Cost of Unbound Copies Produced During the Last Two Years
		Governor	General Assembly				
None	N/A	N	N	0	N/A	0	0.00

Department Appropriation Summary

Historical Data

Agency Request and Executive Recommendation

Appropriation	2015-2016		2016-2017		2016-2017		2017-2018					2018-2019						
	Actual	Pos	Budget	Pos	Authorized	Pos	Base Level	Pos	Agency	Pos	Executive	Pos	Base Level	Pos	Agency	Pos	Executive	Pos
1NH State Operations	696,423	12	1,392,974	13	1,431,561	13	1,395,926	13	1,395,926	13	1,351,313	12	1,395,926	13	1,395,926	13	1,351,313	12
53L Education-Trust	88,353	0	170,000	0	170,000	0	170,000	0	170,000	0	170,000	0	170,000	0	170,000	0	170,000	0
Total	784,776	12	1,562,974	13	1,601,561	13	1,565,926	13	1,565,926	13	1,521,313	12	1,565,926	13	1,565,926	13	1,521,313	12

Funding Sources		%		%		%		%		%		%		%		%		%
Fund Balance	4000005	1,397,409	49.9	2,017,358	60.6		1,763,455	57.7	1,763,455	57.7	1,763,455	57.7	1,492,139	53.5	1,492,139	53.5	1,536,752	54.3
General Revenue	4000010	274,212	9.8	286,026	8.6		271,565	8.9	271,565	8.9	271,565	8.9	271,565	9.7	271,565	9.7	271,565	9.6
Federal Revenue	4000020	1,009,024	36.0	949,223	28.5		949,223	31.0	949,223	31.0	949,223	31.0	949,223	34.1	949,223	34.1	949,223	33.5
Trust Fund	4000050	121,489	4.3	73,822	2.2		73,822	2.4	73,822	2.4	73,822	2.4	73,822	2.6	73,822	2.6	73,822	2.6
Total Funds		2,802,134	100.0	3,326,429	100.0		3,058,065	100.0	3,058,065	100.0	3,058,065	100.0	2,786,749	100.0	2,786,749	100.0	2,831,362	100.0
Excess Appropriation/(Funding)		(2,017,358)		(1,763,455)			(1,492,139)		(1,492,139)		(1,536,752)		(1,220,823)		(1,220,823)		(1,310,049)	
Grand Total		784,776		1,562,974			1,565,926		1,565,926		1,521,313		1,565,926		1,565,926		1,521,313	

Agency Position Usage Report

FY2014 - 2015						FY2015 - 2016						FY2016 - 2017					
Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused
	Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total	
12	8	3	11	1	33.33 %	13	5	7	12	1	61.54 %	13	5	8	13	0	61.54 %

Analysis of Budget Request

Appropriation: 1NH - State Operations

Funding Sources: HUA - Miscellaneous Agencies Fund

The Arkansas Fair Housing Commission (AFHC) was created by Act 1785 of 2001 to investigate housing discrimination complaints and punish violators, in cooperation with the State Attorney General. Funding for the AFHC is derived from federal reimbursements by Fair Housing Assistance Program Funds and general revenue.

Base Level Regular Salaries and Personal Services Matching include the continuation of the previously authorized 2017 Salaries and Career Service Payments for eligible employees. Personal Services Matching includes the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$420 per month. Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Merit Pay Increases. The Base Level request for Regular Salaries includes board member stipend payments.

The Base Level request is for appropriation of \$1,395,926 each year of the 2017-2019 Biennium.

The Agency is requesting a reallocation of \$1,991 each year from Professional Fees to Operating Expenses to more accurately reflect expenditures.

Subsequent to Agency's initial Budget Request, the Office of Personnel Management and Agency personnel evaluated the Agency's position usage and ongoing staffing needs. The Executive Recommendation reflects the reduction of one (1) Grants Analyst C117 position based on the personnel evaluation in addition to providing for the Agency Request.

Appropriation Summary

Appropriation: 1NH - State Operations
Funding Sources: HUA - Miscellaneous Agencies Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			2017-2018			2018-2019		
		2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	393,384	535,303	551,392	535,303	535,303	503,054	535,303	535,303	503,054
#Positions		12	13	13	13	13	12	13	13	12
Extra Help	5010001	3,018	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000
#Extra Help		1	2	2	2	2	2	2	2	2
Personal Services Matching	5010003	160,763	185,304	207,802	188,256	188,256	175,892	188,256	188,256	175,892
Operating Expenses	5020002	124,165	389,470	389,470	389,470	391,461	391,461	389,470	391,461	391,461
Conference & Travel Expenses	5050009	13,944	108,000	108,000	108,000	108,000	108,000	108,000	108,000	108,000
Professional Fees	5060010	250	133,998	133,998	133,998	132,007	132,007	133,998	132,007	132,007
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Public Education	5900046	899	899	899	899	899	899	899	899	899
Total		696,423	1,392,974	1,431,561	1,395,926	1,395,926	1,351,313	1,395,926	1,395,926	1,351,313
Funding Sources										
Fund Balance	4000005	1,123,602	1,710,415		1,552,690	1,552,690	1,552,690	1,377,552	1,377,552	1,422,165
General Revenue	4000010	274,212	286,026		271,565	271,565	271,565	271,565	271,565	271,565
Federal Revenue	4000020	1,009,024	949,223		949,223	949,223	949,223	949,223	949,223	949,223
Total Funding		2,406,838	2,945,664		2,773,478	2,773,478	2,773,478	2,598,340	2,598,340	2,642,953
Excess Appropriation/(Funding)		(1,710,415)	(1,552,690)		(1,377,552)	(1,377,552)	(1,422,165)	(1,202,414)	(1,202,414)	(1,291,640)
Grand Total		696,423	1,392,974		1,395,926	1,395,926	1,351,313	1,395,926	1,395,926	1,351,313

Change Level by Appropriation

Appropriation: 1NH - State Operations
Funding Sources: HUA - Miscellaneous Agencies Fund

Agency Request

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	1,395,926	13	1,395,926	100.0	1,395,926	13	1,395,926	100.0
C04	Reallocation	0	0	1,395,926	100.0	0	0	1,395,926	100.0

Executive Recommendation

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	1,395,926	13	1,395,926	100.0	1,395,926	13	1,395,926	100.0
C04	Reallocation	0	0	1,395,926	100.0	0	0	1,395,926	100.0
C13	Not Recommended	(12,364)	0	1,383,562	99.1	(12,364)	0	1,383,562	99.1
C19	Executive Changes	(32,249)	(1)	1,351,313	96.8	(32,249)	(1)	1,351,313	96.8

Justification

C04	Reallocation from Professional Fees to Operating Expenses to more accurately reflect expenditures.
C19	Subsequent to Agency's initial Budget Request, the Office of Personnel Management and Agency personnel evaluated the Agency's position usage and ongoing staffing needs. The Executive Recommendation reflects position reductions based on the personnel evaluation.

Analysis of Budget Request

Appropriation: 53L - Education-Trust

Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

The Education - Trust Program was established by Act 1201 of 2007 and provides for fair housing education of the public and the operational expenses of the commission, as set out in A.C.A. §§16-123-301 through 16-123-348. Funding is derived from administrative or civil penalties levied and collected pursuant to §16-123-301.

The Base Level request is for appropriation of \$170,000 each year of the 2017-2019 Biennium.

The Agency is requesting a reallocation of \$55,000 each year from Operating Expenses to Conference & Travel Expenses to host an annual conference which provides fair housing education to the public.

The Executive Recommendation provides for the Agency Request.

Appropriation Summary

Appropriation: 53L - Education-Trust

Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	2017-2018			2018-2019		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Operating Expenses	5020002	47,042	170,000	170,000	170,000	115,000	115,000	170,000	115,000	115,000
Conference & Travel Expenses	5050009	41,311	0	0	0	55,000	55,000	0	55,000	55,000
Professional Fees	5060010	0	0	0	0	0	0	0	0	0
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Total		88,353	170,000	170,000	170,000	170,000	170,000	170,000	170,000	170,000
Funding Sources										
Fund Balance	4000005	273,807	306,943		210,765	210,765	210,765	114,587	114,587	114,587
Trust Fund	4000050	121,489	73,822		73,822	73,822	73,822	73,822	73,822	73,822
Total Funding		395,296	380,765		284,587	284,587	284,587	188,409	188,409	188,409
Excess Appropriation/(Funding)		(306,943)	(210,765)		(114,587)	(114,587)	(114,587)	(18,409)	(18,409)	(18,409)
Grand Total		88,353	170,000		170,000	170,000	170,000	170,000	170,000	170,000

FY16 Actual Expenditures in Conference & Travel Expenses were authorized through a Budget Classification Transfer.

Change Level by Appropriation

Appropriation: 53L - Education-Trust
Funding Sources: TFH - Arkansas Fair Housing Commission Trust Fund

Agency Request

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	170,000	0	170,000	100.0	170,000	0	170,000	100.0
C04	Reallocation	0	0	170,000	100.0	0	0	170,000	100.0

Executive Recommendation

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	170,000	0	170,000	100.0	170,000	0	170,000	100.0
C04	Reallocation	0	0	170,000	100.0	0	0	170,000	100.0

Justification

C04	Reallocation from Operating Expenses to Conference & Travel Expenses to host an annual conference which provides fair housing education to the public.
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