

Fiscal Year 2014 Budget Estimates
Defense Legal Services Agency (DLSA)



April 2013

(This page intentionally left blank.)

**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2014 Budget Estimates**

Operation and Maintenance, Defense-Wide Summary (\$ in thousands)

Budget Activity (BA) 4: Administration and Service-wide Support

	FY 2012 <u>Actual</u>	Price <u>Change</u>	Program <u>Change</u>	FY 2013 <u>Estimate</u>	Price <u>Change</u>	Program <u>Change</u>	FY 2014 <u>Estimate</u>
DLSA	129,577	1,633	-96,073	35,137	346	-5,550	29,933

* The FY 2012 Estimate column includes \$96,001 thousand of FY 2012 Overseas Contingency Operations (OCO) Appropriations funding (P.L.112-74).

* The FY 2013 Estimate column excludes \$102,322 thousand requested in the FY 2013 Defense-Wide OCO Budget Request.

* The FY 2014 Estimate column excludes the FY 2014 Defense-Wide OCO Budget Request.

I. Description of Operations Financed: The Defense Legal Services Agency (DLSA) provides legal services to the Office of the Secretary of Defense, Department of Defense (DoD) Field Activities, and the Defense Agencies.

The largest component of DLSA, the Defense Office of Hearings and Appeals (DOHA), adjudicates numerous types of cases that arise from all Military Departments and Defense Agencies. The DOHA provides hearings and issues decisions in personnel security clearance cases for contractors performing classified work for all DoD components and 23 other Federal Agencies.

The DOHA conducts personal appearances and issues decisions in security clearance cases for DoD civilian employees and military personnel. The DOHA also conducts hearings and issues decisions in cases involving claims for DoD Dependents' School Activity benefits, and TRICARE payment for medical services. The DOHA's claims function includes review of uniformed service and carrier claims for loss or damage of household goods, and review of waiver applications. The DOHA provides support to the Deputy General Counsel (Legal Counsel) and is the point of contact for selection of third party neutrals in the DOHA alternative dispute resolution processes. The DOHA expects more cases requiring due process to result from the referrals of completed industrial security clearance investigations.

**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2014 Budget Estimates**

I. Description of Operations Financed (cont.)

The DLSA's budget includes all customary expenses required to operate a government activity, including salaries and benefits, travel, rental of office space, rental of equipment, communications, and the cost of supplies and equipment.

Changes from FY 2013 to FY 2014: Price change increases total \$348 thousand to accommodate the FY 2014 1.0% pay raise and general inflation. The net program change is a decrease of \$-5,552 thousand which provides for the following Sub-Activity impacts:

- (1) Compensation and Benefits: Functional transfer of 27 full-time equivalent(FTE)s and \$5,201 thousand from the DLSA to the Washington Headquarters Service (WHS) for a DoD-wide Consolidated Adjudication Facility (CAF) that will promote and enhance greater consistency, standardization and efficiency throughout the adjudicative process. Additionally, the CAF will and eliminate redundant administrative, information technology, and management functions.
- (2) Other Legal Administrative Support Costs: Reductions to contract services, software upgrades/maintenance and licensing fees.
- (3) Other Intra-Governmental Purchases: Reduce the number of off-site litigation activities; reduce support agreements to other agencies such as the Department of Justice; and minimize subscription costs for specialized research library portals.
- (4) Printing and Reproduction: Use electronic media vice printed materials.
- (5) Travel: Identify and utilize alternatives to travel such as teleconferencing and web-conferencing.

II. Force Structure Summary:

N/A

Defense Legal Services Agency
 Operation and Maintenance, Defense-Wide
 Fiscal Year (FY) 2014 Budget Estimates

III. Financial Summary (\$ in thousands)

	FY 2013						FY 2014 Estimate
	FY 2012 Actual	Budget Request	Congressional Action			Current Estimate	
			Amount	Percent	Appropriated		
A. BA Subactivities							
1. DLSA HQ	61,114	9,261				9,261	12,250
2. DOHA	67,662	25,814				25,814	17,558
3. Pentagon Reservation	801	62				62	125
Total	129,577	35,137				35,137	29,933

* The FY 2012 Estimate column includes \$96,001 thousand of FY 2012 Overseas Contingency Operations (OCO) Appropriations funding (P.L.112-74).

* The FY 2013 Estimate column excludes \$102,322 thousand requested in the FY 2013 Defense-Wide OCO Budget Request.

* The FY 2014 Estimate column excludes the FY 2014 Defense-Wide OCO Budget Request.

Defense Legal Services Agency
 Operation and Maintenance, Defense-Wide
 Fiscal Year (FY) 2014 Budget Estimates

III. Financial Summary (\$ in thousands)

B. <u>Reconciliation Summary</u>	Change	Change
	<u>FY 2013/FY 2013</u>	<u>FY 2013/FY 2014</u>
Baseline Funding	35,137	35,137
Congressional Adjustments (Distributed)		
Congressional Adjustments (Undistributed)		
Adjustments to Meet Congressional Intent		
Congressional Adjustments (General Provisions)		
Subtotal Appropriated Amount	35,137	
Fact-of-Life Changes (2013 to 2013 Only)		
Subtotal Baseline Funding	35,137	
Supplemental	102,322	
Reprogrammings		
Price Changes		346
Functional Transfers		-5,201
Program Changes		-349
Current Estimate	137,459	29,933
Less: Wartime Supplemental	-102,322	
Normalized Current Estimate	35,137	

**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2014 Budget Estimates**

III. Financial Summary (\$ in thousands)

	Amount	Totals
C. Reconciliation of Increases and Decreases		
FY 2013 President's Budget Request (Amended, if applicable)		35,137
1. Congressional Adjustments		
a. Distributed Adjustments		
b. Undistributed Adjustments		
c. Adjustments to Meet Congressional Intent		
d. General Provisions		
FY 2013 Appropriated Amount		35,137
2. War-Related and Disaster Supplemental Appropriations		102,322
a. OCO Supplemental Funding		
1) DLSA OCO	102,322	
3. Fact-of-Life Changes		
FY 2013 Baseline Funding		137,459
4. Reprogrammings (Requiring 1415 Actions)		
Revised FY 2013 Estimate		137,459
5. Less: Item 2, War-Related and Disaster Supplemental Appropriations and Item 4, Reprogrammings		-102,322
FY 2013 Normalized Current Estimate		35,137
6. Price Change		346
7. Functional Transfers		-5,201
a. Transfers In		
b. Transfers Out		
1) DoD Consolidated Adjudication Facility (CAF) 27 FTEs transferred from DLSA to the Washington Headquarters Services (WHS) to consolidate adjudication functions in a single office for the entire Department of Defense (DoD). (FY 2013 Baseline \$31,561 thousand; -27 FTEs)	-5,201	
8. Program Increases		118
a. Annualization of New FY 2013 Program		
b. One-Time FY 2014 Increases		

**Defense Legal Services Agency
 Operation and Maintenance, Defense-Wide
 Fiscal Year (FY) 2014 Budget Estimates**

III. Financial Summary (\$ in thousands)

C. Reconciliation of Increases and Decreases	Amount	Totals
c. Program Growth in FY 2014		
1) Pentagon Reservation Maintenance Revolving Fund Increase to Pentagon Reservation Maintenance Revolving Fund reflecting increase to Pentagon Rent for DLSA (FY 2013 Baseline \$62 thousand; 0 FTEs)	60	
2) Changes in Workforce Composition Reflecting changes to workforce composition for the Defense Legal Services Agency (eg., step increases, within-grade increases (WGI), and related personnel actions). (FY 2013 Baseline \$31,561; +0 FTEs)	58	
9. Program Decreases		-467
a. Annualization of FY 2013 Program Decreases		
b. One-Time FY 2013 Increases		
c. Program Decreases in FY 2014		
1) Other Legal Administrative Support Costs Reduces administration costs (supplies and communications) of contract services and eliminates upgrades for application software maintenance and development, and database maintenance (professional support) that is used for tracking treaties with foreign governments; and licensing fees. (FY 2013 Baseline \$1,925 thousand; 0 FTEs)	-256	
2) Other Intra-Governmental Purchases Decreases Non-GSA lending (rents) as a result of efficiencies in reducing the number of off-site litigation activities, and support agreements to assist other governmental agencies (other intra- government purchases), such as the Department of Justice, and minimizing subscription costs for specialized research library portals. (FY 2013	-194	

**Defense Legal Services Agency
 Operation and Maintenance, Defense-Wide
 Fiscal Year (FY) 2014 Budget Estimates**

III. Financial Summary (\$ in thousands)

C. Reconciliation of Increases and Decreases	Amount	Totals
Baseline \$1,463 thousand; 0 FTEs)		
3) Travel	-11	
DLSA will reduce discretionary travel costs by identifying alternatives to traveling such as teleconferencing and web-conferencing. (FY 2013 Baseline \$80 thousand; 0 FTEs)		
4) Printing and Reproduction Services	-6	
DLSA will reduce printing and reproduction services by using electronic media. (FY 2013 Baseline \$46 thousand; 0 FTEs)		
FY 2014 Budget Request		29,933

**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2014 Budget Estimates**

IV. Performance Criteria and Evaluation Summary:

The DLSA provides legal services to the staff elements of the Office of the Secretary of Defense and the Defense Agencies. The DLSA's activities include providing opinions and counseling on legal compliance issues affecting policy formulation and implementation; participating in developing the Department's legislative program, including drafting legislation and comments; negotiating on behalf of DoD clients with private entities and other Government agencies; ensuring proper use of Government funds and property; adhering to ethical standards; and participating in contractual matters.

The Defense Office of Hearings and Appeals (DOHA): The DOHA provides administrative procedures involving fair and impartial decision making, including, but not limited to: (1) performing legal reviews and approvals of statements of reasons, conducting hearings, and issuing Administrative Judge and appellate decisions in personnel security clearance cases for contractor personnel doing classified work for DOHA-serviced DoD Components and 23 other Federal Agencies and Departments; (2) conducting personal appearance hearings and issuing decisions in security clearance and sensitive national security position cases for DOHA-serviced DoD civilian employees and military personnel serviced by DOHA; (3) performing legal reviews and approvals of statements of reasons, conducting hearings, and issuing decisions in cases under DOHA jurisdiction requiring trustworthiness decisions for contractor performance of sensitive duties; (4) conducting hearings and issuing decisions in cases involving disputes over the provision of special educational services by the DoD Education Activity or the provision of early intervention or related services by the other DoD Components; (5) conducting hearings and issuing decisions in cases involving TRICARE payment for medical services; (6) issuing appeal decisions for claims involving uniformed service member (within and outside of the DoD) pay and allowances, unused leave, transportation, travel, retired pay, survivor's benefits, and other financial claims; (7) issuing initial and appeal decisions granting or denying waivers of collection of overpayments made to, or on behalf of, uniformed service members

**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2014 Budget Estimates**

IV. Performance Criteria and Evaluation Summary:

(within and outside of the DoD) and employees within the DoD; (8) coordinating and monitoring policies and procedures pertaining to DoD alternative dispute resolution (ADR) activities and conflict management within the DoD; and serving as a source of training and obtaining and providing third-party neutrals for ADR; (9) performing such further missions as may be assigned to the DOHA, including, but not limited to, the conduct of hearings and issuance of decisions for revocation of DoD credentials to non-cleared contractors pursuant to Homeland Security Presidential Directive 12 (HSPD-12); and (10) providing legal advice and services for assigned organizations, as deemed necessary and appropriate, through DOHA Department Counsel.

The DOHA has several elements: a Director, a Deputy Director, an Appeal Board, Administrative Judges, Department Counsel, Security Specialists, the Claims Division including the Claims Appeals Board, and Support Staff. The Base Realignment and Closure (BRAC) led to reorganization of DOHA's personnel security adjudicators and other employees to Fort Meade, Maryland and Arlington, Virginia as well as the closure of multiple DOHA field offices. A subsequent reorganization resulted in the transfer of DOHA's personnel security adjudicators from DOHA to a newly-created consolidated DoD Central Adjudication Facility (CAF). The DOHA Director, Deputy Director, Appeal Board, Administrative Judges, Department Counsel, the Claims Division, and Support Staff work in OGC office space in Arlington, Virginia.

The Woodland Hills, California, Columbus, Ohio, and Boston, Massachusetts offices of DOHA have all been closed in compliance with BRAC. DOHA Administrative Judges and Department Counsel formerly assigned to these offices now use remote telework to meet mission requirements for hearings and to save travel costs.

The DLSA is evaluated on the basis of the quality and timeliness of its myriad of

**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2014 Budget Estimates**

IV. Performance Criteria and Evaluation Summary:

services; adherence to appropriate standards of professional conduct and DoD ethical and adjudicative standards; the professional independence, impartiality and competence exhibited by its attorneys; and its overall responsiveness to the needs of its clients.

Industrial Security Clearance Review (ISCR) Program: The due process hearings and appeals of the Industrial Security Program are DOHA's central mission, implementing Department of Defense Directive 5220.6. The Industrial Security Program was created as a result of the Supreme Court's decision in *Greene v. McElroy*, 360 US 474, 79 S. Ct. 1400, 3 L. Ed.2d 1377 (1959). In response to the *Greene* decision, President Eisenhower signed Executive Order 10865 on February 20, 1960. Executive Order 10865 requires a hearing in which contractor employees be given the opportunity to appear before the decision-maker to confront and cross-examine witnesses and attempt to rebut the Government's case.

The DoD is the executive agent for the entire federal government's implementation of the National Industrial Security Program (NISP) along with continuing responsibility for implementation of the procedural requirements of Executive Order 10865.

The DOHA implements these personal appearances for the Department. The due process workload associated with the Industrial Security (ISCR) cases and Personal Appearance (PA) cases DOHA handles is currently increasing because of past security clearance investigation backlogs. While the number of cases requiring due process is likely to increase, the number of cases received for initial adjudication is harder to predict, given unresolved policy variables as to the distribution of initial adjudications between the DOHA and the Defense Industrial Security Clearance Office (DISCO) of the Defense Security Service (DSS). Therefore, the Department uses a three year historical average as the measurement for budgeting ISCR and PA cases.

**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2014 Budget Estimates**

IV. Performance Criteria and Evaluation Summary:

Personal Appearance (PA) Program: Executive Order 12968 mandates that the "opportunity to appear personally" shall be part of security clearance due process for all military and civilian clearance applicants. The DoD Regulation 5200.2-R provides for "personal appearances" by military and civilian clearance applicants, which are handled by the same DOHA Administrative Judges who handle cases involving employees of Defense contractors and of other contractors.

This decision was made in part due to the collective experience of DOHA Administrative Judges in convening industrial security clearance hearings and the logic of centralizing security clearance due process proceedings generally in the Department. The DOHA is the only DoD entity with experience providing a clearance applicant with the opportunity to appear personally as a regular part of due process.

The workload associated with the personal appearance cases DOHA handles is currently increasing because of security clearance reinvestigation backlogs being worked.

Claims Appeals Board: The Claims Appeals Board has ultimate settlement authority over many different types of claims and related matters. This authority is relatively new within the Department of Defense (DoD). The DoD settles claims involving uniformed service members' pay, allowances, travel, transportation, retired pay, and survivor benefits. Additionally, the DoD settles claims by transportation carriers involving amounts collected from them for loss or damage incurred to property incident to shipments at government expense.

The Department's responsibilities in these areas are not restricted to DoD. The DoD also

**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2014 Budget Estimates**

IV. Performance Criteria and Evaluation Summary:

has the statutory responsibility for settling the accounts of deceased DoD service members. As a result of a recent Office of Management and Budget (OMB) Determination Order, the Secretary of Defense was given the OMB Director's general claims settlement authority over most activities within DoD, and the bulk of the waiver authority within the Federal government; that is, the Secretary now exercises the former authority of the Comptroller General to consider applications by service members and DoD employees to waive overpayment debts exceeding \$1,500 and upon request advises non-DoD agencies on waiver applications by their civilian employees.

For FY 2013 and 2014, the DOHA Claims Division workload is expected to increase in the coming years due to a steady increase in waiver cases. In FY 2012, the DOHA was informed of several substantial groups of overpayments which will require consideration for waiver by DOHA adjudicators and possibly reconsideration by the DOHA Claims Appeal Board. In addition to this growing workload, the DOHA has an additional unique responsibility. At the request of a Service Secretary, the Director of DOHA may waive, on behalf of the Secretary of Defense, the time limitations imposed by 31 U.S.C. Section 3702 for claims involving a uniformed service member's pay, allowances, or survivor benefits, so long as the claim does not exceed \$25,000.

Workload	<u>FY 2012</u> <u>Actuals</u>	<u>FY 2013</u> <u>Estimates</u>	<u>FY 2014</u> <u>Estimates</u>
Due Process Cases	2,008	2,008	2,008
Claims and Waiver Cases Reviewed	741	776	811
Mediations/ADR Consultations	99	129	168

**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2014 Budget Estimates**

V. <u>Personnel Summary</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	Change FY 2012/ FY 2013	Change FY 2013/ FY 2014
<u>Active Military End Strength (E/S) (Total)</u>	<u>158</u>	<u>206</u>	<u>206</u>	<u>48</u>	<u>0</u>
Officer	79	114	114	35	0
Enlisted	79	92	92	13	0
<u>Civilian End Strength (Total)</u>	<u>279</u>	<u>175</u>	<u>148</u>	<u>-104</u>	<u>-27</u>
U.S. Direct Hire	279	175	148	-104	-27
Total Direct Hire	279	175	148	-104	-27
<u>Civilian FTEs (Total)</u>	<u>335</u>	<u>175</u>	<u>148</u>	<u>-160</u>	<u>-27</u>
U.S. Direct Hire	335	175	148	-160	-27
Total Direct Hire	335	175	148	-160	-27
Average Annual Civilian Salary (\$ in thousands)	129.0	180.3	180.4	51.3	.1
 <u>Contractor FTEs (Total)</u>	 <u>11</u>	 <u>11</u>	 <u>11</u>	 <u>0</u>	 <u>0</u>

*Note: FY 2012 Civilian End Strength and Civilian FTEs reflect both Base and OCO resources as reflected in the OP-8 exhibit.

**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2014 Budget Estimates**

VI. OP 32 Line Items as Applicable (Dollars in thousands):

<u>OP 32 Line</u>	<u>FY 2012</u> <u>Actual</u>	<u>Change</u> <u>FY 2012/FY 2013</u>		<u>FY 2013</u> <u>Estimate</u>	<u>Change</u> <u>FY 2013/FY 2014</u>		<u>FY 2014</u> <u>Estimate</u>
		<u>Price</u>	<u>Program</u>		<u>Price</u>	<u>Program</u>	
101 Exec, Gen'l & Spec Scheds	43,167	104	-11,710	31,561	276	-5,143	26,694
103 Wage Board	41	0	-41	0	0	0	0
106 Benefit to Fmr Employees	14	0	-14	0	0	0	0
199 Total Civ Compensation	43,222	104	-11,765	31,561	276	-5,143	26,694
308 Travel of Persons	2,283	45	-2,248	80	2	-11	71
399 Total Travel	2,283	45	-2,248	80	2	-11	71
417 Local Purch Supplies & Mat	120	2	-122	0	0	0	0
499 Total Supplies & Materials	120	2	-122	0	0	0	0
672 PRMRF Purchases	801	-85	-654	62	3	60	125
699 Total DWCF Purchases	801	-85	-654	62	3	60	125
771 Commercial Transport	20	0	-20	0	0	0	0
799 Total Transportation	20	0	-20	0	0	0	0
912 Rental Payments to GSA (SLUC)	6,176	123	-6,299	0	0	0	0
913 Purchased Utilities (Non-Fund)	284	6	-290	0	0	0	0
914 Purchased Communications (Non-Fund)	806	16	-750	72	1	-9	64
915 Rents (Non-GSA)	13	0	954	967	18	-128	857
917 Postal Services (U.S.P.S)	35	1	-36	0	0	0	0
920 Supplies & Materials (Non-Fund)	1,702	34	-1,651	85	2	-12	75
921 Printing & Reproduction	0	0	46	46	1	-6	41
922 Equipment Maintenance By Contract	47,575	952	-48,527	0	0	0	0
923 Facilities Sust, Rest, & Mod by Contract	783	16	-799	0	0	0	0
925 Equipment Purchases (Non-Fund)	401	8	-409	0	0	0	0
932 Mgt Prof Support Svcs	14,926	299	-13,457	1,768	34	-235	1,567
934 Engineering & Tech Svcs	9	0	-9	0	0	0	0
951 Other Costs (Special Personal Svc Pay)	4,800	0	-4,800	0	0	0	0
957 Other Costs (Land and Structures)	48	1	-49	0	0	0	0

**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2014 Budget Estimates**

<u>OP 32 Line</u>	FY 2012 <u>Actual</u>	Change <u>FY 2012/FY 2013</u>		FY 2013 <u>Estimate</u>	Change <u>FY 2013/FY 2014</u>		FY 2014 <u>Estimate</u>
		<u>Price</u>	<u>Program</u>		<u>Price</u>	<u>Program</u>	
958 Other Costs (Investments and Loans)	76	0	-76	0	0	0	0
960 Other Costs (Interest and Dividends)	5	0	-5	0	0	0	0
987 Other Intra-Govt Purch	5,117	103	-4,724	496	9	-66	439
989 Other Services	375	8	-383	0	0	0	0
999 Total Other Purchases	83,131	1,567	-81,264	3,434	65	-456	3,043
Total	129,577	1,633	-96,073	35,137	346	-5,550	29,933

* The FY 2012 Estimate column includes \$96,001 thousand of FY 2012 Overseas Contingency Operations (OCO) Appropriations funding (P.L.112-74).

* The FY 2013 Estimate column excludes \$102,322 thousand requested in the FY 2013 Defense-Wide OCO Budget Request.

* The FY 2014 Estimate column excludes the FY 2014 Defense-Wide OCO Budget Request.