

DEFENSE LEGAL SERVICES AGENCY (DLSA)

FY 2009 Supplemental Request Operation and Maintenance, Defense-Wide Budget Activity 04, Administrative and Service-Wide Activities

Detail by Subactivity Group

I. Description of Operations Financed: Two separate efforts involve detainees at Guantanamo Bay (GTMO).

Office of Military Commissions (OMC): The Secretary of Defense established the Office of Military Commissions (OMC) on March 21, 2002, under the Defense Legal Service Agency (DLSA) to deal with the trials of enemy combatants who violate the laws of war. The OMC works in four areas as the appointing authority (similar to a convening authority), which includes the Office of the Legal Advisor, the prosecution office, the defense office, and the Review Panel (Judges who consider appeals). The Military Commissions Act (MCA) was enacted in response to the Supreme Court requirement for legislation to continue the OMC process. Several major terrorists have been transferred to GTMO. Trials in some of these cases were in progress under the MCA statutory framework in highly publicized events that were expected to occur in FY 2009. Several cases referred for trial are in various stages of collateral constitutional litigation. Although the President recently ordered a halt to the conduct of all Military Commissions trial proceedings pending further review of all matters related to detainees held at GTMO, preparations, discovery, etc., pertinent to possible trials in the future still continue, consistent with Secretary of Defense direction. This includes the need for funding for staffing and travel. Although military commissions are currently halted, there has been no final determination regarding the possible prosecution of certain GTMO detainees. Thus, it is necessary that these preparatory activities continue. Even upon the closure of GTMO as directed by the President, it is likely that trials of detainees in appropriate forums will be conducted.

Habeas Corpus Group (HC): The Department is engaged in Federal litigation regarding detainees. Over 200 detainees have filed Habeas Corpus cases in the Federal District Courts in Washington, DC. In the Boumediene Supreme Court decision, the US Supreme Court affirmed the rights of the detainees to have these cases heard. The District Courts have established a rigorous trial schedule. The Federal District Court ordered that habeas petitioners' counsel have space and facilities set aside for their use, including security guards (24/7), equipment, IT support, rental costs, and translation services. The litigation effort requires 85 attorneys and 25 paralegal, administrative/support personnel who work in rented space in the NCR. These DLSA temporary employees also incur IT, courier, security, language translation services, office equipment, temporary duty, and rental expenses.

<u>FY 2008 Enacted</u>	<u>FY 2009 Request</u>	<u>FY 2009 Bridge</u>	<u>FY 2009 Remaining</u>
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Most of the materials considered in this litigation are classified. The Intelligence Community is required to declassify vast volumes of documents and information so that it may be presented in court settings. This entails contract, lease, translation, and security expenses. The habeas litigation continues as long as the detainees remain in U.S. custody, no matter the detention venue.

Impact if not funded: The OMC will be unable to bring cases to trial and completion. The U.S. Government will be unable to respond in defending over 200 habeas cases as ordered by the US Supreme Court.

II. Force Structure Summary: N/A

III. Financial Summary (\$ in Thousands):

CBS No.	CBS Title				
1.0	Personnel	6,600	13,100	7,000	6,100
2.0	Personnel Support	1,945	2,000	2,000	0
3.0	Operating Support	44,156	107,426	30,900	76,526
	SAG Totals	52,701	122,526	39,900	82,626

1.	1.2 Civilian Personnel	6,600	13,100	7,000	6,100
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Narrative Justification: **OMC:** Personnel costs for Guantanamo Bay, Cuba operations fund 60 temporary full-time-equivalent civilian positions. **HC:** Personnel costs include 85 attorneys and 25 paralegal, administrative/support personnel.

2.	2.1 Temporary Duty/Additional Duty	1,945	2,000	2,000	0
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Narrative Justification: **OMC:** Personnel support costs for Guantanamo Bay, Cuba operations fund support for 195 military personnel and 60 temporary full-time-equivalent civilian positions. **OMC and HC:** Personnel travel to Guantanamo Bay, Cuba operations and a satellite office to meet with their detainee clients and to participate in commission hearings.

	<u>FY 2008 Enacted</u>	<u>FY 2009 Request</u>	<u>FY 2009 Bridge</u>	<u>FY 2009 Remaining</u>
3. 3.0 Operating Support Costs	44,156	107,426	30,900	76,526

Narrative Justification: **OMC and HC:** Funds supplies, rent, furniture, design and construction, training, contract support, reimbursement to U.S. Marshall's Service, IT, telecom, and security. **OMC:** Funding also provides for an interpretation and translation contract. **HC:** Funding also provides for the translation and declassification of documents relating to habeas cases.

Funding Totals	52,701	122,526	39,900	82,626
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