

**Fiscal Year 2018 President's Budget
Defense Legal Services Agency (DLSA)**



May 2017

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**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2018 President's Budget**

**Operation and Maintenance, Defense-Wide Summary (\$ in thousands)
Budget Activity (BA) 4: Administration and Service-wide Support**

	FY 2016 <u>Actual</u>	Price <u>Change</u>	Program <u>Change</u>	FY 2017 <u>Estimate</u>	Price <u>Change</u>	Program <u>Change</u>	FY 2018 <u>Estimate</u>
DLSA	133,598	2,350	-110,964	24,984	489	-1,266	24,207

* The FY 2016 Actual column includes \$106,057.0 thousand of FY 2016 Overseas Contingency Operations (OCO) Appropriations Funding (PL 114-113).

* The FY 2017 Estimate column excludes \$111,986.0 thousand of FY 2017 OCO Appropriations Funding.

* The FY 2018 Estimate column excludes \$115,000.0 thousand of FY 2018 OCO Appropriations funding.

I. Description of Operations Financed: The Defense Legal Services Agency (DLSA) provides legal services to the Office of the Secretary of Defense (OSD), Department of Defense (DoD) Field Activities, and Defense Agencies. The largest component of DLSA, the Defense Office of Hearings and Appeals (DOHA), adjudicates cases that arise across all Military Departments and Defense Agencies.

DOHA Functions Include:

- Conducts hearings and issues decisions in personnel security clearance cases for contractors performing classified work for DOHA-serviced Department of Defense (DoD) components and 23 other Federal Agencies. The DOHA conducts personal appearances hearings and issues decisions in security clearance and sensitive national security position cases for DOHA-serviced DoD civilian employees and military personnel serviced by DOHA.
- Conducts hearings and issues 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. In addition, the DOHA

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I. Description of Operations Financed (cont.)

conducts hearings and issues decisions in cases involving TRICARE payment for medical services.

- Issues 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. The DOHA issues initial and appeal decisions granting or denying waivers of collection of overpayments made to, or on behalf of, uniformed service members (within and outside of the DoD) and employees within the DoD.

- Coordinates and monitors policies and procedures pertaining to DoD alternative dispute resolution (ADR) activities and conflict management within the DoD; and serves as a source of training, obtaining and providing third-party neutrals for ADR. The DOHA conducts hearings and issuance of decisions for revocation of DoD credentials to non-cleared contractors pursuant to Homeland Security Presidential Directive 12 (HSPD-12).

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

Changes from FY 2017 to FY 2018: The FY 2018 budget reflects a net decrease of \$-777 thousand (price change of \$+489 thousand and a program change of \$-1,266 thousand) attributable to the following areas: compensation and benefits; contractor support;

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I. Description of Operations Financed (cont.)

administrative support, other intra-governmental purchases, and the functional transfer of the Joint Information Technology Service Provider-Pentagon (JSP) from DLSA to the Defense Information System Agency (DISA).

II. Force Structure Summary:

N/A

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III. Financial Summary (\$ in thousands)

	FY 2017							FY 2018 <u>Estimate</u>
	FY 2016 <u>Actual</u>	Budget <u>Request</u>	Congressional Action			Current <u>Estimate</u>		
			<u>Amount</u>	<u>Percent</u>	<u>Appropriated</u>			
A. BA Subactivities								
DLSA HQ	132,902	9,374	0	0.0	0	9,374	8,652	
DOHA	696	15,610	0	0.0	0	15,610	15,555	
Total	133,598	24,984	0	0.0	0	24,984	24,207	

* The FY 2016 Actual column includes \$106,057.0 thousand of FY 2016 Overseas Contingency Operations (OCO) Appropriations Funding (PL 114-113).

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III. Financial Summary (\$ in thousands)

<u>B. Reconciliation Summary</u>	<u>Change</u> <u>FY 2017/FY 2017</u>	<u>Change</u> <u>FY 2017/FY 2018</u>
Baseline Funding	24,984	24,984
Congressional Adjustments (Distributed)		
Congressional Adjustments (Undistributed)		
Adjustments to Meet Congressional Intent		
Congressional Adjustments (General Provisions)		
Subtotal Appropriated Amount	24,984	
Fact-of-Life Changes (2017 to 2017 Only)		
Subtotal Baseline Funding	24,984	
Supplemental		
Reprogrammings		
Price Changes		489
Functional Transfers		-172
Program Changes		-1,094
Current Estimate	24,984	24,207
Less: Wartime Supplemental		
Normalized Current Estimate	24,984	

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III. Financial Summary (\$ in thousands)

<u>C. Reconciliation of Increases and Decreases</u>	<u>Amount</u>	<u>Totals</u>
FY 2017 President's Budget Request (Amended, if applicable)		24,984
1. Congressional Adjustments		
a. Distributed Adjustments		
b. Undistributed Adjustments		
c. Adjustments to Meet Congressional Intent		
d. General Provisions		
FY 2017 Appropriated Amount		24,984
2. War-Related and Disaster Supplemental Appropriations		
a. OCO Supplemental Funding		
1) OCO Supplemental		
OCO Supplemental (FY 2017 Baseline: \$0 thousand; +0 FTEs)		
3. Fact-of-Life Changes		
FY 2017 Baseline Funding		24,984
4. Reprogrammings (Requiring 1415 Actions)		
Revised FY 2017 Estimate		24,984
5. Less: Item 2, War-Related and Disaster Supplemental Appropriations and Item 4, Reprogrammings		
FY 2017 Normalized Current Estimate		24,984
6. Price Change		489
7. Functional Transfers		-172
a. Transfers In		
b. Transfers Out		
1) Joint Service Provider (JSP) Transition to DISA	-172	
The decrease in funding results from the functional transfer of resources as the Defense Information System Agency (DISA) assumes operational control of the Joint Information Technology Service Provider - Pentagon (JSP) in accordance with Deputy Secretary of		

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III. Financial Summary (\$ in thousands)

C. <u>Reconciliation of Increases and Decreases</u>	<u>Amount</u>	<u>Totals</u>
Defense Directive Memorandum, Consolidation of Pentagon Information Technology Operations, 1 May 2015.		
8. Program Increases		288
a. Annualization of New FY 2017 Program		
b. One-Time FY 2018 Increases		
c. Program Growth in FY 2018		
1) Purchased Utilities, Communications, and Postal	177	
The increase in funding supports utilities, postal services and communication requirements needed to support the mission. Increase also support the transition to a new facility while maintaining and supporting current working spaces until a phased move is completed in early FY 2019. (FY 2017 Baseline: \$236 thousand; +0 FTEs)		
2) Other Intra-Governmental Purchases	88	
The increase in funding supports additional off-site litigation activities which satisfies support agreements to assist other governmental agencies. Specifically, reimburses the Department of Justice (DOJ) for attorneys detailed to provide prosecutorial assistance associated with the Military Commissions hearings. (FY 2017 Baseline: \$154 thousand; +0 FTEs)		
3) Supplies and Materials	23	
The increases supports additional supplies and materials for legal administration. The additional requirement for more supplies and materials results from the increase volume and frequency of Military Commissions hearings that will be conducted in FY		

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C. <u>Reconciliation of Increases and Decreases</u>	<u>Amount</u>	<u>Totals</u>
2018. (FY 2017 Baseline: \$75 thousand; +0 FTEs)		
9. Program Decreases		-1,382
a. Annualization of FY 2017 Program Decreases		
b. One-Time FY 2017 Increases		
c. Program Decreases in FY 2018		
1) Major Headquarters Activities (MHA)	-741	
The decrease reflects streamlining of major headquarters activities as part of the Department of Defense reform agenda. Eliminates 4 FTEs and associated resources to maintain civilian staff at approved levels. (FY 2017 Baseline: \$9,374 thousand; -4 FTEs)		
2) Workforce Reshaping and Reprice of Compensation and Benefits	-626	
The decrease in funding is a result of delayering and strategic grade reshaping actions to restructure the organization to execute mission critical functions while eliminating same-grade reporting. Delayering actions resulted in the reduction of 2 FTEs across the organization. (FY 2017 Baseline: \$24,345 thousand; -2 FTEs)		
3) Other Costs, Services, and Travel	-12	
As part of the DoD reform agenda the decrease reflects a reduction in other costs, services and travel expenses resulting from the increased use of electronic means of communications, such as VTC capabilities. (FY 2017 Baseline: \$174 thousand; +0 FTEs)		
4) Service Requirements Review Board (SRRB)	-3	

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C. Reconciliation of Increases and Decreases

As part of the Department of Defense reform agenda, savings were identified during the SRRB process. Savings reflect a reduction in travel. (FY 2017 Baseline: \$0 thousand; +0 FTEs)

Amount

Totals

FY 2018 Budget Request

24,207

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IV. Performance Criteria and Evaluation Summary:

The DLSA provides legal services to the staff elements of the OSD and Defense Agencies. Services 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 the 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 DLSA is evaluated on the basis of the quality of its many 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.

The Defense Office of Hearings and Appeals (DOHA): 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

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IV. Performance Criteria and Evaluation Summary:

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 (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. 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.

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

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IV. Performance Criteria and Evaluation Summary:

implementation of the procedural requirements of Executive Order 10865. DOHA implements these established administrative due process requirements for the Department.

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 provide the established administrative due process in cases involving employees of Defense contractors and NISP 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. DOHA is the only DoD entity with experience providing a clearance applicant with the opportunity to appear personally under the Department's established administrative due process requirements.

Uncleared Contractor CAC Eligibility Process: The due process hearings and appeals for uncleared contractors whose jobs require them to be eligible to hold a Common Access Card (CAC) pursuant to Homeland Security Presidential Directive 12 (HSPD-12) are provided by DOHA under Department of Defense Instruction 5200.46 (2014) using the established administrative procedures found in DoD Directive 5220.6. DOHA implements these established administrative due process requirements for the Department.

Sunken Craft Process: The Department of the Navy may issue notices of violation and assess penalties against anyone that violates permitting requirements or otherwise disturbs, injures, or damages protected sunken military craft, to include certain

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IV. Performance Criteria and Evaluation Summary:

government and foreign craft. Pursuant to the due process standards associated with this statutory authority and implementing regulations at 32 CFR Part 767, DOHA provides impartial Administrative Hearings before DOHA Administrative Judges, final written decisions and Department Counsel to represent the Government.

Claims Appeals Board: The Claims Appeals Board has ultimate settlement authority over many different types of claims and related matters. The DoD settles claims involving uniformed service members' pay, allowances, travel, transportation, retired pay, and survivor benefits. For some of these claims, DOHA has been delegated the authority of the Secretary of Defense to waive the statute of limitations for amounts up to \$25,000. 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 has the statutory responsibility for settling the accounts of deceased DoD service members. As a result of an 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 for civilians and \$10,000 for military members and upon request advises non-DoD agencies on waiver applications by their civilian employees.

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<u>V. Personnel Summary</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>Change FY 2016/ FY 2017</u>	<u>Change FY 2017/ FY 2018</u>
<u>Active Military End Strength (E/S) (Total)</u>	<u>205</u>	<u>205</u>	<u>205</u>	<u>0</u>	<u>0</u>
Officer	114	114	114	0	0
Enlisted	91	91	91	0	0
<u>Civilian End Strength (Total)</u>	<u>285</u>	<u>131</u>	<u>125</u>	<u>-154</u>	<u>-6</u>
U.S. Direct Hire	285	131	125	-154	-6
Total Direct Hire	285	131	125	-154	-6
<u>Civilian FTEs (Total)</u>	<u>285</u>	<u>131</u>	<u>125</u>	<u>-154</u>	<u>-6</u>
U.S. Direct Hire	285	131	125	-154	-6
Total Direct Hire	285	131	125	-154	-6
Average Annual Civilian Salary (\$ in thousands)	147.8	185.8	186.1	38.0	.3

FY 2016 reflects both Base and OCO FTEs. The FY 2018 Compensation and Benefits program decreased by 6 FTEs resulting from organizational delayering, strategic grade shaping, and the streamlining of management headquarters, as part of the Department of Defense reform agenda that eliminates civilian positions and resources to maintain staffing at approved levels.

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

<u>OP 32 Line</u>	<u>FY 2016</u>	<u>Change</u>		<u>FY 2017</u>	<u>Change</u>		<u>FY 2018</u>
		<u>FY 2016/FY 2017</u>			<u>FY 2017/FY 2018</u>		
	<u>Actual</u>	<u>Price</u>	<u>Program</u>	<u>Estimate</u>	<u>Price</u>	<u>Program</u>	<u>Estimate</u>
101 Exec, Gen'l & Spec Scheds	42,117	794	-18,566	24,345	476	-1,556	23,265
199 Total Civ Compensation	42,117	794	-18,566	24,345	476	-1,556	23,265
308 Travel of Persons	2,401	45	-2,359	87	2	-2	87
399 Total Travel	2,401	45	-2,359	87	2	-2	87
417 Local Purch Supplies & Mat	0	0	27	27	1	17	45
499 Total Supplies & Materials	0	0	27	27	1	17	45
771 Commercial Transport	0	0	60	60	1	-13	48
799 Total Transportation	0	0	60	60	1	-13	48
912 Rental Payments to GSA (SLUC)	132	3	-135	0	0	0	0
913 Purchased Utilities (Non-Fund)	317	6	-303	20	0	10	30
914 Purchased Communications (Non-Fund)	916	17	-737	196	4	147	347
915 Rents (Non-GSA)	10,131	192	-10,323	0	0	0	0
917 Postal Services (U.S.P.S)	-55	-1	76	20	0	20	40
920 Supplies & Materials (Non-Fund)	1,141	22	-1,088	75	2	23	100
922 Equipment Maintenance By Contract	5,393	103	-5,496	0	0	0	0
923 Facilities Sust, Rest, & Mod by Contract	2,454	47	-2,501	0	0	0	0
932 Mgt Prof Support Svcs	44,785	851	-45,636	0	0	0	0
934 Engineering & Tech Svcs	6,579	125	-6,704	0	0	0	0
951 Other Costs (Special Personal Svc Pay)	9,556	0	-9,556	0	0	0	0
959 Other Costs (Insurance Claims/Indmnties)	20	0	-20	0	0	0	0
960 Other Costs (Interest and Dividends)	5	0	5	10	0	15	25
987 Other Intra-Govt Purch	1,750	33	-1,708	75	2	58	135
989 Other Services	5,956	113	-6,000	69	1	15	85
999 Total Other Purchases	89,080	1,511	-90,126	465	9	288	762
Total	133,598	2,350	-110,964	24,984	489	-1,266	24,207

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