

FY 2001 Budget Estimate

Defense Legal Services Agency (DLSA)



DEFENSE LEGAL SERVICES AGENCY
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2001 Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities

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 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. DOHA provides hearings and issues decisions in personnel security clearance cases for contractors performing classified work for all DoD components and twenty other Federal Agencies and Departments. In addition, DOHA conducts personal appearances and issues decisions in security clearance cases for DoD civilian employees and military personnel. DOHA also conducts hearings and issues decisions in cases involving claims for DoD Dependents Schools Activity benefits and CHAMPUS payment for medical services. A recently added claims function includes review of uniformed service and carrier claims for loss or damage of household goods and review of waiver applications. DOHA traditionally provides support to the Deputy General Counsel (Legal Counsel). Finally, DOHA functions as the point of contact for selection of third party neutrals in DOHA alternative dispute resolution processes. During FY 2000 and FY 2001, there is an anticipated increase in the number of referrals of completed industrial security clearance cases from the Defense Security Service (DSS), which will subsequently result in more cases requiring review and participation by the DOHA. Current estimates anticipate over 19,300 new cases will be received during FY 2000 and FY 2001. Since DOHA's personnel security missions are essential to national security, budget estimates provide for additional personnel and related costs to adjudicate the cases generated by the DSS elimination of periodic reinvestigation backlogs.

All customary expenses required to operate a government activity are financed, including salaries and benefits, travel, rental of office space, rental of equipment, communications, and the cost of supplies and equipment.

II. Force Structure Summary: Not applicable.

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III. Financial Summary: (\$ in thousands):

| | FY 1999 | FY 2000 | | | FY 2001 |
|---|----------------|----------------|------------------------|------------------------|-----------------|
| | | Budget | Current | FY 2001 | |
| A. <u>Subactivities:</u> | <u>Actuals</u> | <u>Request</u> | <u>Appropriation</u> | <u>Estimate</u> | <u>Estimate</u> |
| 1. DLSA HQ | 1,940 | 2,126 | 2,067 | 2,842 | 2,899 |
| 2. DOHA | <u>7,150</u> | <u>7,357</u> | <u>7,169</u> | <u>8,097</u> | <u>9,697</u> |
| Total | 9,090 | 9,483 | 9,236 | 10,939 | 12,596 |
| | | | | | |
| B. <u>Reconciliation Summary:</u> | | | Change | Change | |
| | | | <u>FY 2000/FY 2000</u> | <u>FY 2000/FY 2001</u> | |
| 1. Baseline Funding | | | 9,483 | 10,939 | |
| a) Congressional Adjustments (Distributed) | | | 0 | 0 | |
| b) Congressional Adjustments (Undistributed) | | | -59 | 0 | |
| c) Congressional Adjustments (General Provision) | | | 0 | 0 | |
| d) Congressional Earmarks | | | | | |
| e) Congressional Earmark Billpayers | | | -188 | | |
| 2. Appropriated Amount (Subtotal) | | | 9,236 | 0 | |
| a) Adjustments to Meet Congressional Intent | | | 0 | 0 | |
| b) Across-the-board Reduction (Rescission) | | | -30 | 0 | |
| c) Approved Reprogrammings/Transfers | | | 482 | 0 | |
| 3. Price Change | | | 411 | 403 | |
| 4. Program Changes | | | 1,438 | 1,254 | |
| 5. Current Estimate | | | 10,939 | 12,596 | |

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C. Reconciliation of Increases and Decreases (\$ in thousands):

| | | | |
|----|--|------|-------|
| 1. | FY 2000 President's Budget Request | | 9,483 |
| 2. | Congressional Adjustment (Distributed) | | |
| | Total Congressional Adjustment (Distributed) | | 0 |
| 3. | Congressional Adjustment (Undistributed) | | |
| | Headquarters and Management | -59 | |
| | Congressional Adjustment (General Provisions) | | |
| | Total Congressional Adjustment (Undistributed) | | -59 |
| 4. | Congressional Earmarks: | | |
| | Congressional Appropriation Earmark Billpayer | -180 | |
| | Congressional Authorization Earmark Billpayer | -8 | |
| | Total Congressional Earmarks | | -188 |
| 5. | FY 2000 Appropriated Amount | | 9,236 |
| 6. | FY 2000 Rescission | | -30 |
| 7. | Functional Transfers - In | | |
| | <u>Other Functional Transfers</u> | | |
| | Automation Support from WHS to DLSA | 427 | |
| | Travel support from OSD to DLSA | 55 | |
| | Total Functional Transfers-In | | 482 |
| 8. | Other Transfers-In (Non-Functional) | | |
| | Total Other Transfers-In | | 0 |

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C. Reconciliation of Increases and Decreases (\$ in thousands): (Continued)

| | | |
|--|-------|-------|
| 9. Functional Transfers-Out | | |
| Total Functional Transfers-Out | | 0 |
| 10. Other Functional Transfers-Out | | |
| Total Functional Transfers-Out | | 0 |
| 11. Price Change | | -69 |
| 12. Program Increase | | |
| (a) Civilian Compensation and Benefits to support an increase of 12 FTE for additional workload related to the elimination of periodic reinvestigation backlogs. | 1,252 | |
| (b) Travel costs related to the elimination of periodic reinvestigation backlogs. The DOHA has multiple sites which parties must travel to, for hearings and personal appearances. | 207 | |
| (c) Pentagon Reservation Maintenance Revolving Fund rent rate adjustment for Pentagon renovation related construction contracts. | 270 | |
| (d) Disability Compensation. | 26 | |
| (e) Program increase resulting from price change. | 69 | |
| Total Program Increase | | 1,824 |
| 13. Program Decrease | | |
| (a) Supplies and Materials reduction. | -5 | |
| (b) Other contracts reduction for purchased contracts. | -82 | |
| (c) Voluntary Separation Incentive Pay (VSIP) program discontinued. | -417 | |
| Total Program Decrease | | -504 |

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| C. <u>Reconciliation of Increases and Decreases (\$ in thousands): (Continued)</u> | | |
|---|--|--------|
| 14. | Revised FY 2000 Estimate | 10,939 |
| 15. | Price Growth | 403 |
| 16. | Transfers In | 0 |
| 17. | Transfers Out | 0 |
| 18. | Program Increases | |
| | a. Program Growth in FY 2001 | |
| | (1) Civilian Compensation and Benefits to support an increase of 11 FTE for additional workload related to the elimination of periodic reinvestigation backlogs. | 1,145 |
| | (2) Travel costs related to the elimination of periodic reinvestigation backlogs. The DOHA has multiple sites which parties must travel to, for hearings and personal appearances. | 115 |
| | (3) Other Contract requirements associated with adjudication of reinvestigation backlog cases. | 41 |
| 19. | Total Increases | 1,301 |
| 20. | Program Decreases | |
| | a. Program Decreases in FY 2001 | |
| | (1) Pentagon Reservation Maintenance Revolving Fund rent rate reduction for decrease in Pentagon Renovation related construction contracts. | -23 |
| | (2) Disability Compensation reduction. | -24 |
| 21. | Total Decreases | -47 |
| 22. | FY 2001 Budget Request | 12,596 |

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IV. Performance Criteria and Evaluation Summary:

The Defense Legal Services Agency (DLSA) provides legal services to the staff elements of the Office of the Secretary of Defense and the Defense Agencies. DLSA's activities include providing opinions and counseling on legal compliance issues affecting policy formulation and implementation; participation in developing the Department's legislative program, including drafting legislation and comments; negotiations on behalf of DoD clients with private entities and other Government agencies; ensuring proper use of Government funds and property; adherence to ethical standards; and participation in contractual matters. The Defense Office of Hearings and Appeals (DOHA), the largest component of DLSA, provides hearings and issues decisions in personnel security clearance cases for contractor personnel doing classified work for all DoD components and 20 other Federal Agencies and Departments and conducts personal appearances and issues decisions in security clearance cases for DoD civilian employees and military personnel. DOHA also conducts hearings and issues decisions in cases involving the special education programs of the Department of Defense's overseas and domestic school systems, and CHAMPUS payment for medical services. DOHA also adjudicates various financial claims including, but not limited to, claims related to uniform services members' pay, allowances, travel, transportation, retired pay, and survivor benefits; claims by transportation carriers for amounts collected from them for loss and damage incurred to property incident to shipment at Government expense; claims for proceeds of sale of unclaimed property coming into the custody or control of the Army, Navy, Air Force or Coast Guard; and petitions for waiver of debts owed by employees to the Government. DLSA is evaluated on the basis of the quality and timeliness of its myriad of services; adherence to appropriate standards of professional conduct and Department of Defense ethical 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.

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IV. Performance Criteria and Evaluation Summary (Continued):

Executive Order 10865, as amended by Executive Order 10909, Executive Order 11382 and Executive Order 12829 mandate the due process regulation found in Department of Defense Directive 5220.6. Executive Order 12829, January 6, 1993, established DoD as the executive agent for the entire federal government's implementation of the new National Industrial Security Program (NISP) along with continuing responsibility for implementation of the procedural requirements of Executive Order 10865. Section 203 of Executive Order 12829 continues the process mandated by Executive Order 10865. Finally, Executive Order 12968, signed August 2, 1995 by President Clinton did not affect the program and was specifically designed not to change the full due process given to contractors.

The workload associated with the Industrial Security (ISCR) cases DOHA handles is currently increasing as a result of security reinvestigation backlogs anticipated during FY 2000 and FY 2001.

Personal Appearance (PA) Program

Executive Order 12968, which President Clinton signed on August 2, 1995, mandated that the "opportunity to appear personally" be part of security clearance due process for all military and civilian clearance applicants. 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 the 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 as a regular part of due process.

The workload associated with the personal appearance cases DOHA handles is currently increasing as a result of security reinvestigation backlogs anticipated during FY 2000 and FY 2001.

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IV. Performance Criteria and Evaluation Summary (Continued):

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), and resulted from legislation in 1995 and 1996 which transferred claim settlement responsibility from the Comptroller General to, among others, the Secretary of Defense. The Board is a streamlined reconstitution of the portion of the GAO/OGC division which considered uniformed service and carrier claims. Under Title 31, United States Code, Section 3702, the Secretary of Defense now settles claims involving uniformed service members' pay, allowances, travel, transportation, retired pay, and survivor benefits. Additionally, he settles claims by transportation carriers involving amounts collected from them for loss or damage incurred to property incident to shipments at government expense. The Secretary's responsibilities in these areas are not restricted to DoD. The Secretary also 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 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; i.e., 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 on-DoD agencies on waiver applications by their civilian employees.

Claims appeals board workload is expected to increase. For example, the number of carrier claims regarding loss and damage increased dramatically during the last year that such claims were considered at GAO, and they continue to increase. Changes to GAO's statutory authority to relieve certifying, dispersing and other accountable officers of financial liability may result in added responsibilities.

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| <u>Workload:</u> | <u>FY 1999 Actual</u> | <u>FY 2000 Estimate</u> | <u>FY 2001 Estimate</u> |
|---------------------------------------|---------------------------|-----------------------------|-----------------------------|
| Cases Reviewed (ISCR & PA) | 13,429 | 21,150 | 25,875 |
| Hearing cases (ISCR/PA/TRICARE/DODEA) | 745 | 1,069 | 1,192 |
| Claims cases Reviewed | 1,472 | 1,575 | 1,625 |
| Mediations | 20 | 25 | 30 |

| V. <u>Personnel Summary:</u> | <u>FY 1999</u> | <u>FY 2000</u> | <u>FY 2001</u> | <u>Change FY 2000/FY 2001</u> |
|--|----------------|----------------|----------------|-----------------------------------|
| <u>Active Military End Strength(E/S)</u> | | | | |
| Officer | 2 | 2 | 2 | 0 |
| Enlisted | 5 | 9 | 9 | 0 |
| Total | 7 | 11 | 11 | 0 |
| <u>Civilian End Strength (Total)</u> | | | | |
| U.S. Direct Hire | 75 | 104 | 108 | 4 |
| <u>Active Military End Strength(A/S)</u> | | | | |
| Officer | 2 | 2 | 2 | 0 |
| Enlisted | 5 | 9 | 9 | 0 |
| Total | 7 | 11 | 11 | 0 |
| <u>Civilian FTEs (Total)</u> | | | | |
| U.S. Direct Hire | 80 | 92 | 103 | 11 |

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IV. OP 32 Line Items as Applicable (\$ in thousands):

| | Change from FY 1999 to FY 2000 | | | Change from FY 2000 to FY 2001 | | | FY 2001 Estimate |
|---------------------------------|-----------------------------------|-----------------|-------------------|-----------------------------------|-----------------|-------------------|---------------------|
| | FY 1999 Actual | Price Growth | Program Growth | FY 2000 Estimate | Price Growth | Program Growth | |
| Exec & General Schedules Comp. | 7,560 | 400 | 1,252 | 9,212 | 379 | 1,145 | 10,736 |
| Vol. Separation Incentive Pay | 417 | 0 | -417 | 0 | 0 | 0 | 0 |
| Disability Compensation | 0 | 0 | 26 | 26 | 0 | -24 | 2 |
| Travel of Persons | 167 | 2 | 262 | 431 | 6 | 115 | 552 |
| PRMRF Purchases | 59 | -1 | 270 | 328 | 5 | -23 | 310 |
| Rent GSA (SLUC) | 449 | 5 | 0 | 454 | 7 | 0 | 461 |
| Purchased Comm. (Non-Fund) | 50 | 1 | 0 | 51 | 0 | 0 | 51 |
| Supplies & Materials (Non-Fund) | 28 | 0 | -5 | 23 | 0 | 0 | 23 |
| Equipment Maint. by Contract | 5 | 0 | 0 | 5 | 0 | 0 | 5 |
| Equipment Purchases (Non-Fund) | 15 | 0 | 0 | 15 | 0 | 0 | 15 |
| Other Contracts | 336 | 4 | 50 | 390 | 6 | 41 | 437 |
| Other Costs | 4 | 0 | 0 | 4 | 0 | 0 | 4 |
| TOTAL | 9,090 | 411 | 1,438 | 10,939 | 403 | 1,254 | 12,596 |