

# FY 2002 Amended Budget Submission

## Defense Legal Services Agency (DLSA)



June 2001

**DEFENSE LEGAL SERVICES AGENCY**  
**Operation and Maintenance, Defense-Wide**  
**FY 2002 Amended Budget Submission**  
**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. As experienced in FY 2001, it is anticipated that the increasing number of referrals of completed industrial security clearance cases from the Defense Security Service (DSS) will continue in FY 2002, which will subsequently result in more cases requiring review and participation by the DOHA. 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.

DEFENSE LEGAL SERVICES AGENCY  
 Operation and Maintenance, Defense-Wide  
 FY 2002 Amended Budget Submission  
 Budget Activity 4, Administration and Service-wide Activities

II. Financial Summary (O&M: \$ in thousands):

A. Activity Groups:	FY 2000 <u>Actuals</u>	<u>FY 2001</u>			FY 2002 <u>Estimate</u>
		<u>Budget Request</u>	<u>Appropriation</u>	<u>Current Estimate</u>	
1. DLSA HQ	2,094	2,899	2,899	2,801	2,860
2. DOHA	<u>7,706</u>	<u>9,697</u>	<u>9,600</u>	<u>8,619</u>	<u>9,215</u>
Total	9,800	12,596	12,499	11,420	12,075

B. Reconciliation Summary:

	<u>Change FY 2001/2001</u>	<u>Change FY 2001/2002</u>
1. Baseline Funding	12,596	11,420
Congressional Adjustments	-97	0
Subtotal Appropriated Amount	12,499	0
FY 2001 Government-wide Rescission	-27	0
Price Changes	0	451
Program Changes	-1,052	204
Subtotal Baseline Funding	11,420	12,075
Current estimate	11,420	12,075

C. Reconciliation of Increases and Decreases:

1. FY2001 President's Budget Request:	12,596
---------------------------------------	--------

DEFENSE LEGAL SERVICES AGENCY  
 Operation and Maintenance, Defense-Wide  
 FY 2002 Amended Budget Submission  
 Budget Activity 4, Administration and Service-wide Activities

II. Financial Summary (O&M: \$ in thousands) (Con't):

C. <u>Reconciliation of Increases and Decreases (Cont'd):</u>		
2.	Congressional Adjustments (Distributed):	0
3.	Congressional Adjustments (Undistributed):	
	a) Headquarters Personnel Reduction	-93
4.	Congressional Adjustments (General Provisions):	0
	Total Congressional Adjustment (Undistributed)	-93
5.	Congressional Earmarks:	
	a) Congressional Earmarks Billpayer	-4
	Total Congressional Earmarks	-4
5.	FY 2001 Appropriated Amount	12,499
6.	FY 2001 Rescission	-27
7.	Functional Transfers-In	0
8.	Other Transfers-In (Non-Functional)	0
9.	Functional Transfers-Out	0
10.	Other Transfers-Out (Non-Functional)	0
11.	Price Change	0
12.	Program Increase	0
13.	Program Decrease - Underexecution of the FY 2000 Civilian Personnel Program	-1,052
14.	Revised FY 2001 Current Estimate	11,420

DEFENSE LEGAL SERVICES AGENCY  
 Operation and Maintenance, Defense-Wide  
 FY 2002 Amended Budget Submission  
 Budget Activity 4, Administration and Service-wide Activities

**II. Financial Summary (O&M: \$ in thousands) (Con't):**

C. Reconciliation of Increases and Decreases (Cont'd):

15. Price Growth		451
16. Transfers In		0
17. Transfers Out		0
18. Program Increase		
a. Program Growth in FY 2002		
(1) Increase of one (1) FTE restores civilian manpower to authorized level after previous hiring difficulties reduced end strength in previous fiscal years	132	
(2) Travel costs related to the elimination of periodic reinvestigation backlogs. The DOHA has multiple sites to which parties must travel for hearings and personal appearances.	63	
(3) Fact-of-Life increase for Court Reporting Contracts	37	
Total Increases		232
19. Program Decreases		
a. Program Decreases in FY 2002		
(1) Pentagon Reservation Maintenance Revolving Fund rent rate reduction for decrease in Pentagon Renovation related construction contracts.	-28	
Total Decreases		-28
20. FY 2002 Budget Request		12,075

**III. 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

**DEFENSE LEGAL SERVICES AGENCY**  
**Operation and Maintenance, Defense-Wide**  
**FY 2002 Amended Budget Submission**  
**Budget Activity 4, Administration and Service-wide Activities**

**III. Performance Criteria and Evaluation Summary (Con't):**

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.

Executive Order 10865, as amended by Executive Order 10909, Executive Order 11382 and

**DEFENSE LEGAL SERVICES AGENCY**  
**Operation and Maintenance, Defense-Wide**  
**FY 2002 Amended Budget Submission**  
**Budget Activity 4, Administration and Service-wide Activities**

**III. Performance Criteria and Evaluation Summary (Con't):**

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.

DEFENSE LEGAL SERVICES AGENCY  
Operation and Maintenance, Defense-Wide  
FY 2002 Amended Budget Submission  
Budget Activity 4, Administration and Service-wide Activities

**III. Performance Criteria and Evaluation Summary (Con't):**

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 non-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.



DEFENSE LEGAL SERVICES AGENCY  
 Operation and Maintenance, Defense-Wide  
 FY 2002 Amended Budget Submission  
 Budget Activity 4, Administration and Service-wide Activities

III. Performance Criteria and Evaluation Summary (Con't):

<u>Workload:</u>	<u>FY 2000 Actual</u>	<u>FY 2001 Estimate</u>	<u>FY 2002 Estimate</u>
Cases Reviewed (ISCR & PA)	21,150	30,875	34,305
Hearing cases (ISCR/PA/TRICARE/DODEA)	1,069	1,500	1,666
Claims cases Reviewed	1,575	1,625	1,805
Mediations	25	30	33

IV. Personnel Summary:

	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2002</u>	<u>Change FY 2001/FY 2002</u>
<u>Active Military End Strength (E/S) (Total)</u>				
Officer	2	2	2	0
Enlisted	6	9	7	-2
Total	8	11	9	-2
<u>Civilian End Strength (Total)</u>				
U.S. Direct Hire	83	93	94	1
<u>Active Military Average Strength (A/S) (Total)</u>				
Officer	2	2	2	0
Enlisted	6	9	7	-2
Total	8	11	9	-2
<u>Civilian FTEs (Total)</u>				
U.S. Direct Hire	80	93	94	-1

DEFENSE LEGAL SERVICES AGENCY  
 Operation and Maintenance, Defense-Wide  
 FY 2002 Amended Budget Submission  
 Budget Activity 4, Administration and Service-wide Activities

V. OP 32 Line Items as Applicable (Dollars in Thousands):

	Change from FY2000 to FY2001			Change from FY2001 to FY2002			FY 2002 Estimate
	FY 2000 Actuals	Price Growth	Program Growth	FY 2001 Estimate	Price Growth	Program Growth	
<u>CIVILIAN PERSONNEL COMPENSATION</u>							
Exec, Gen & Spec Schedules	8,073	295	1,381	9,749	401	133	10,283
Disability Compensation	26	0	-24	2	0	-1	1
Travel of Persons	431	6	-251	186	3	63	252
PRMRF Purchases	332	5	-27	310	28	-28	310
Rental Payment to GSA	455	7	-1	461	7	0	468
Purchased Communications	51	1	3	55	1	0	56
Supplies & Materials	23	0	-3	20	1	0	21
Printing/Reproduction	9	0	0	9	0	0	9
Equipment Maintenance	5	0	0	5	0	0	5
Other Contracts	391	6	222	619	10	37	666
Other Costs	<u>4</u>	<u>0</u>	<u>0</u>	<u>4</u>	<u>0</u>	<u>0</u>	<u>4</u>
Total	9,800	320	1,300	11,420	451	204	12,075