

Fiscal Year (FY) 2004/FY 2005 Biennial Budget Estimates

Defense Legal Services Agency (DLSA)



February 2003

DEFENSE LEGAL SERVICES AGENCY
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2004/2005 Biennial Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities

APPROPRIATION HIGHLIGHTS

Summary:

Changes from FY 2002 to FY 2003 result from price changes and the filling of vacancies, the addition of the Office of Military Commissions, and increased travel.

Changes from FY 2003 to FY 2004 result from price changes and the filling of vacancies, offset by reductions in support contracts.

Changes from FY 2004 to FY 2005 result from price changes offset, by planned attrition brought about by the dissolution of the OMC.

(\$ in millions)

FY 2002	Price	Program	FY 2003	Price	Program	FY 2004	Price	Program	FY 2005
<u>Actual</u>	<u>Growth</u>	<u>Growth</u>	<u>Estimate</u>	<u>Growth</u>	<u>Growth</u>	<u>Estimate</u>	<u>Growth</u>	<u>Growth</u>	<u>Estimate</u>

Appropriation Summary:

Budget Activity 4

O&M, Defense-wide

Defense Legal Services Agency	14.044	0.431	1.991	16.466	0.326	0.965	17.757	0.585	-2.768	15.544
-------------------------------	--------	-------	-------	--------	-------	-------	--------	-------	--------	--------

Narrative Explanation of Changes:

FY 2002 to FY 2003

The program reflects price increases, the filling of 34 FTE (SECDEF approved augmentation, OMC), and increased travel.

FY 2003 to FY 2004

The program reflects price increases, the filling of 15 FTE (SECDEF approved augmentation, OMC), offset by decreased support contracts.

FY 2004 to FY 2005

The program reflects price increases, offset by the loss of 16 FTE, as well as reductions in contract support and travel.

Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
FY 2004/2005 Biennial Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities
Summary of Increases and Decreases
(Dollars in Thousands)

Appropriation: Operation and Maintenance, Defense-Wide

1. FY 2003 President's Budget Request	14,385
2. Congressional Adjustments (Distributed)	0
3. Congressional Adjustments (Undistributed)	-483
4. Congressional Adjustments (General Provisions)	-289
5. Congressional Earmarks	-2
6. FY 2003 Appropriated Amount	13,611
7. Functional Transfers - In	0
8. Other Transfers - In	0
9. Functional Transfers - Out	-22
10. Other Transfers - Out	0
11. Price Growth	-13
12. Program Increases	2,890
13. Program Decreases	0
14. Revised FY 2003 Estimate	16,466
15. Price Changes	326
16. Transfers - In	0
17. Transfers - Out	0
18. Program Increases	1,593
19. Program Decreases	-628
20. FY 2004 Budget Request	17,757

Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
FY 2004/2005 Biennial Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities
Summary of Increases and Decreases
(Dollars in Thousands)

Appropriation: Operation and Maintenance, Defense-Wide

21. Price Increase	587
22. Program Changes	-2,800
23. FY 2005 Budget Request	15,544

Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
FY 2004/2005 Biennial Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities
Manpower Changes in Full-Time Equivalent End Strength
FY 2002 through FY 2005

	<u>US</u>	<u>Foreign National</u>		<u>Total</u>
	<u>Direct</u>	<u>US</u>	<u>Indirect</u>	
	<u>Hire</u>	<u>Direct</u>	<u>Hire</u>	
		<u>Hire</u>		
1. FY 2002 End Strength	108			108
Office of Military Commissions	25			25
DEPSECDEF approved augmentation	56			56
Underexecution of DOHA corrected	7			7
2. FY 2003 End Strength	194			194
Changes	0			8
3. FY 2004 End Strength	194			194
Office of Military Commissions	-25			-25
DEPSECDEF approved augmentation	-56			-56
3. FY 2005 End Strength	115			115

Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
FY 2004/2005 Biennial Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities
Manpower Changes in Full-Time Equivalent End Strength
FY 2002 through FY 2005

	<u>US</u>	<u>Foreign National</u>		<u>Total</u>
	<u>Direct</u>	<u>US</u>	<u>Indirect</u>	
	<u>Hire</u>	<u>Direct</u>	<u>Hire</u>	
		<u>Hire</u>		
4. Summary: O&M, Defense-Wide				
FY 2002				
O&M Total	108			108
Direct Funded	108			108
FY 2003				
O&M Total	194			194
Direct Funded	194			194
FY 2004				
O&M Total	194			194
Direct Funded	194			194
FY 2005				
O&M Total	115			115
Direct Funded	115			115

DEFENSE LEGAL SERVICES AGENCY
Operation and Maintenance, Defense-Wide
FY 2004/2005 Biennial 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). DOHA functions as the point of contact for selection of third party neutrals in DOHA alternative dispute resolution processes. As experienced in FY 2002, it is anticipated that the increasing number of referrals of completed industrial security clearance cases from the Defense Security Service (DSS) will continue through FY 2005, 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. Pursuant to the Secretary of Defense's issuance of Military Commission Order Number 1 on March 21, 2002, the Office of Military Commissions was established under DLSA to facilitate preparation for and trial of cases before military commissions.

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 2004/2005 Biennial Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities

II. Financial Summary (O&M, Defense-wide: \$ in thousands):

	FY 2002	FY 2003			FY 2004	FY 2005
		Budget	Current			
A. Activity Groups:	<u>Actuals</u>	<u>Request</u>	<u>Appropriation</u>	<u>Estimate</u>	<u>Estimate</u>	<u>Estimate</u>
1. DLSA HQ	3,350	3,434	3,434	3,434	3,550	3,637
2. DOHA	<u>10,694</u>	<u>10,951</u>	<u>10,951</u>	<u>13,032</u>	<u>14,207</u>	<u>11,907</u>
Total	14,044	14,385	14,385	16,466	17,757	15,544

B. Reconciliation Summary:

	Change	Change	Change
	<u>FY 2003/2003</u>	<u>FY 2003/2004</u>	<u>FY 2004/2005</u>
1. Baseline Funding	14,385	16,466	17,757
Cong. Adjustments (Undist.)	-483	0	0
Cong. Adjustments (Gen. Prov.)	-289	0	0
Cong. Earmarks	-2	0	0
Subtotal Appropriated Amount	13,611	0	0
Price Changes	-13	326	587
Program Changes	2,868	965	-2,800
Subtotal Baseline Funding	16,466	17,757	15,544
Current estimate	16,466	17,757	15,544

C. Reconciliation of Increases and Decreases:

1. FY 2003 President's Budget Request: 14,385

DEFENSE LEGAL SERVICES AGENCY
Operation and Maintenance, Defense-Wide
FY 2004/2005 Biennial Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities

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

2. Congressional Adjustments (Distributed):		0
3. Congressional Adjustments (Undistributed):		
a. FECA Surcharge Reduction	-14	
b. Proprate Unobligated Balance	-24	
c. CSRS/FEHB Accruals	-445	
Total Congressional Adjustments (Undistributed)		-483
4. Congressional Adjustments (General Provisions):		
a. Section 8100 - Mgmt. Efficiencies	-187	
b. Section 8103 - Gov't. Purchase Card	-6	
c. Section 8109 - Reduce IT Cost Growth	-18	
d. Section 8135 - Revised Econ. Assumptions	-78	
Total Congressional Adjustments (General Provisions)		-289
5. Congressional Earmarks:		
a. Section 8044 - Indian Lands	-2	
Total Congressional Earmarks		-2
6. FY 2003 Appropriated Amount		13,611
7. Functional Transfers-In		0
8. Other Transfers-In (Non-Functional)		0

DEFENSE LEGAL SERVICES AGENCY
Operation and Maintenance, Defense-Wide
FY 2004/2005 Biennial Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities

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

9. Functional Transfers-Out		0
10. Other Transfers-Out (Non-Functional)		-22
a. This program decrease funds a portion of emergent fact-of-life requirements for: Government-wide E-Gov initiatives, growing adjudication backlog of security clearances, the Defense Travel System, the DoD Rewards Program and other emergent requirements.		
11. Price Change		-13
12. Program Increase		
a. Civilian personnel augmentation	2,877	
b. Increased travel funded through inflation savings	13	
Total Program Increase		2,890
13. Program Decrease		0
14. Revised FY 2003 Current Estimate		16,466
15. Price Growth		326
16. Transfers In		0
17. Transfers Out		0

DEFENSE LEGAL SERVICES AGENCY
Operation and Maintenance, Defense-Wide
FY 2004/2005 Biennial Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities

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

18. Program Increases		0
a. Additional paid day in FY 2004	54	
b. Civilian personnel salaries	1,374	
c. Travel to support increased workload	34	
d. PRMRF rent	131	
Total Program Increases		1,593
19. Program Decreases		
a. Reduction in supplies	-98	
b. Reduction in support contracts	-530	
Total Program Decrease		-628
20. FY 2004 Budget Request		17,757
21. Price Increase		587
22. Program Changes		-2,800
23. FY 2005 Budget Request		15,544

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 program, including drafting legislation and comments; negotiations on behalf of DoD clients

DEFENSE LEGAL SERVICES AGENCY
Operation and Maintenance, Defense-Wide
FY 2004/2005 Biennial Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities

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

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.

DEFENSE LEGAL SERVICES AGENCY
Operation and Maintenance, Defense-Wide
FY 2004/2005 Biennial Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities

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

Executive Order 10865, as amended by Executive Order 10909, Executive Order 11382 and Executive Order 12829, mandates 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 personal appearance cases DOHA handles is currently increasing as a result of security reinvestigation backlogs anticipated during FY 2003 and FY 2004.

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.

DEFENSE LEGAL SERVICES AGENCY
Operation and Maintenance, Defense-Wide
FY 2004/2005 Biennial Budget Estimates
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; 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.

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, disbursing and other accountable officers of financial liability may result in added responsibilities.

DEFENSE LEGAL SERVICES AGENCY
Operation and Maintenance, Defense-Wide
FY 2004/2005 Biennial Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities

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

<u>Workload:</u>	<u>FY 2002</u> <u>Actual</u>	<u>FY 2003</u> <u>Estimate</u>	<u>FY 2004</u> <u>Estimate</u>	<u>FY 2005</u> <u>Estimate</u>
Cases Reviewed (ISCR & PA)	21,150	30,875	34,305	36,841
Hearing cases (ISCR/PA/TRICARE/DODEA)	1,069	1,500	1,666	1,822
Claims cases Reviewed	1,575	1,625	1,805	2,053
Mediations	25	30	33	36

IV. Personnel Summary:

	<u>FY 2002</u>	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>Change</u> <u>FY2003/FY 2004</u>	<u>Change</u> <u>FY 2004/2005</u>
<u>Active Military End Strength (E/S) (Total)</u>						
Officer	1	39	39	39	0	0
Enlisted	7	10	10	10	0	0
Total	8	49	49	49	0	0
<u>Civilian End Strength (Total)</u>						
U.S. Direct Hire	108	194	194	194	0	0
<u>Active Military Average Strength (A/S) (Total)</u>						
Officer	1	39	39	39	0	0
Enlisted	7	10	10	10	0	0
Total	8	49	49	49	0	0
<u>Civilian FTEs (Total)</u>						
U.S. Direct Hire	101	135	160	134	25	-26

DEFENSE LEGAL SERVICES AGENCY
Operation and Maintenance, Defense-Wide
FY 2004/2005 Biennial Budget Estimates
Budget Activity 4: Administration and Service-Wide Activities

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

	Change FY 2002/FY 2003			Change FY 2003/FY 2004			Change FY2004/2005			FY 2005 Estimate
	FY 2002 Actual	Price Growth	Program Growth	FY 2003 Estimate	Price Growth	Program Growth	FY 2004 Estimate	Price Growth	Program Growth	
101 Exec, Gen & Spec Schedules	10,720	381	2,671	13,772	319	1,428	15,519	472	-1,536	14,455
308 Travel of Persons	334	4	42	380	6	34	420	7	-277	150
672 PRMRF Purchases	255	3	-48	210	-31	131	310	84	-78	316
912 SLUC (GSA Leases)	641	7	3	651	10	0	661	11	-160	512
914 Purchased Comm.	71	1	-17	55	1	0	56	1	-1	56
920 Supplies & Materials	198	2	10	210	3	-98	115	2	-96	21
921 Printing/Reproduction	0	0	10	10	0	0	10	0	0	10
922 Equipment (Non-fund)	6	0	17	23	0	0	23	0	0	23
989 Contract Studies	1,818	20	-684	1,154	17	-529	642	10	-652	0
999 Other Costs	<u>1</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>1</u>
9999 Total	14,044	418	2,004	16,466	326	965	17,757	587	-2,800	15,544