

DEFENSE LEGAL SERVICES AGENCY (DLSA)
Overseas Contingency Operations: Operation Enduring Freedom (OEF)/Operation Iraqi Freedom/New Dawn (OIF/OND)
Operation and Maintenance, Defense-Wide
Budget Activity 04 Administrative and Service Wide Activities

I. Description of Operations Financed: The Defense Legal Service Agency (DLSA) maintains two separate efforts involving detainees at Guantanamo Bay, Cuba (GTMO).

Office of Military Commissions (OMC) was established by the Secretary of Defense on March 21, 2002, under the Defense Legal Service Agency (DLSA) to handle the trials of enemy combatants who violate the laws of war. The commission is comprised of both military and civilian personnel, who work in four sections: 1) the appointing authority (similar to a convening authority), which includes the Office of the Legal Advisor; 2) the prosecution office; 3) the defense office; and, 4) 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 whose trials began under the MCA statutory framework in FY 2009. Tribunals are in progress, including a number of cases referred for trial or in various stages of collateral constitutional litigation.

The process was placed on hold by Executive Order on January 22, 2009. Since that time, the prosecution has requested continuances in each pending case. The administration is still considering whether OMC should continue tribunals, whether jurisdiction should be transferred to the Department of Justice (DOJ), or whether alternative dispositions should be considered. Closing the physical facilities at GTMO will not end the necessity to deal with the detainees, and decisions must be made to address the appropriate forum to prosecute detainees. DLSA will either resume prosecutions or will be expected to contribute to a joint Department of Defense (DoD)/DOJ effort. There are no other logical prosecutorial entities available to take on these responsibilities. Funding requirements are expected to continue unabated.

The OMC incurs normal government activity operating expenses, including salaries and benefits, travel, rental of office space and equipment, communications, and the cost of supplies and equipment. Continued supplemental funding is essential for OMC to accomplish its mission.

The Habeas Corpus Group (HC) is separate and distinct from the tribunal process. In this process, DoD 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 et. al. v Bush*, President of the United States 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 which requires two types of

funding. First, the litigation effort requires the hiring of 85 attorneys and 25 paralegal/administrative/support personnel. These personnel will be housed in rental space in the National Capital Region (NCR) which has stringent security requirements. Ancillary requirements for these DLSA temporary employees include information technology (IT) support; courier, security and translation services; office equipment; and rental expenses. Second, the Federal District Court ordered that habeas petitioners' counsel have space and facilities set aside for their use which includes 24/7 security guards, equipment, IT support, rental expenses, and translation services. Given that most of the materials considered in these litigations are classified, additional funding is needed for contracts, rental expenses, translation expenses, and security expenses as well as temporary duty travel expenses to allow the Intelligence Community (IC) to fulfill requirements to declassify vast volumes of documents and information in order that it may be presented in court settings.

II. Financial Summary (\$ in Thousand) by Cost Breakdown Structure (CBS):

<u>CBS No.</u>	<u>CBS Title</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Total</u>	<u>Delta FY11/12</u>	<u>FY 2012 Total</u>
1.0	Personnel	\$16,803	\$20,242	(\$4,550)	\$15,692
2.0	Personnel Support	\$3,046	\$3,324	\$66	\$3,390
3.0	Operating Support	<u>\$67,732</u>	<u>\$96,903</u>	<u>(\$13,663)</u>	<u>\$83,240</u>
	Totals	\$87,581	\$120,469	(\$18,147)	\$102,322

A. Subactivity Group

<u>CBS No.</u>	<u>CBS Title</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Total</u>	<u>Delta FY11/12</u>	<u>FY 2012 Total</u>
1.2	OMC Civilian Personnel	\$15,759	\$8,097	(\$1,820)	\$6,277
1.2	HC Civilian Personnel	<u>\$1,044</u>	<u>\$12,145</u>	<u>(\$2,730)</u>	<u>\$9,415</u>
1.2	Civilian Personnel Total	\$16,803	\$20,242	(\$4,550)	\$15,692

III. Description of Operations Financed by Operation and CBS:

Narrative Justification:

OMC: Funding is used to support 195 military personnel and 60 temporary full-time civilians at GTMO. The majority of personnel work in four sections: the appointing authority which includes the Office of the Legal Advisor, the prosecution office, the defense office, and the Review Panel (judges who consider appeals).

HC: Personnel support costs for HC include 85 attorneys and 25 other personnel.

Impact if not funded: DLSA will be unable to provide legal services for the continuation of prosecutions and the holding of detainees.

Explanation of change between FY 2011 and FY 2012: FY 2012 request is lower than FY 2011 due to projected change to support the OMC and HC initiatives.

<u>CBS No.</u>	<u>CBS Title</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Total</u>	<u>Delta FY11/12</u>	<u>FY 2012 Total</u>
2.0	OMC Temp Duty/Addt'l Duty	\$2,276	\$1,330	\$26	\$1,356
2.0	HC Temp Duty/Addt'l Duty	<u>\$770</u>	<u>\$1,994</u>	<u>\$40</u>	<u>\$2,034</u>
2.0	Temp Duty/Addt'l Duty Total	\$3,046	\$3,324	\$66	\$3,390

Narrative Justification:

OMC: Funding provides personnel support costs in support of GTMO operations. These funds cover temporary duty (TDY) costs for the OMC personnel to meet with their detainee clients and to participate in commission hearings. Travel is required to GTMO and a satellite office.

HC: TDY costs cover HC personnel. These people travel to the same locations as OMC personnel above.

Impact if not funded: DLSA will be unable to provide legal services for the continuation of prosecutions and the holding of detainees.

Explanation of change between FY 2011 and FY 2012: FY 2012 request is higher than FY 2011 due to projected change to support the OMC and HC initiatives.

<u>CBS No.</u>	<u>CBS Title</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Total</u>	<u>Delta FY11/12</u>	<u>FY 2012 Total</u>
3.0	OMC Operating Support Cost	\$37,925	\$43,257	(\$6,099)	\$37,158
3.0	HC Operating Support Cost	\$29,807	\$53,646	(\$7,564)	\$46,082
3.0	Operating Support Cost	\$67,732	\$96,903	(\$13,663)	\$83,240

Narrative Justification:

OMC: These costs include supplies, rent, furniture, design and construction cost, training, contract support, reimbursement to the U.S. Marshals Service, Information Technology (IT) support, telecommunications, and security. Funding also provides for an interpretation and translation contract.

HC: These costs include supplies, rent, furniture, design and construction, training, contract support, IT support, telecommunications, and security. Funding also provides for translation and declassification of documents relating to habeas cases.

Impact if not funded: DLSA will be unable to provide legal services for the continuation of prosecutions and the holding of detainees.

Explanation of change between FY 2011 and FY 2012: FY 2012 request is lower than FY 2011 due to projected change to support the OMC and HC initiatives.

	<u>FY 2010 Actual</u>	<u>FY 2011 Total</u>	<u>Delta</u>	<u>FY 2012 Total</u>
Total	\$87,581	\$120,469	(\$18,147)	\$102,322

Price and Program Changes, OP-32:

		FY 2010	Change		FY 2011	Change		FY 2012
		<u>Actuals</u>	<u>Price</u>	<u>Program</u>	<u>Request</u>	<u>Price</u>	<u>Program</u>	<u>Estimate</u>
101	Exec, Gen & Spec Schedules	16,803	84	3,355	20,242	0	-4,550	15,692
199	Total Civilian Personnel Compensation	16,803	84	3,355	20,242	0	-4,550	15,692
<u>TRAVEL</u>								
308	Travel of Persons	3,046	43	235	3,324	50	16	3,390
399	Total Travel	3,046	43	235	3,324	50	16	3,390
<u>OTHER PURCHASES</u>								
672	Pentagon Reservation Maintenance Revolving Fund	1,219	-272	-947	0	0	0	0
699	Total Purchases	1,219	-272	-947	0	0	0	0
912	Rental Payments to GSA Leases (SLUC)	2,569	36	-2,605	0	0	0	0
913	Purchased Utilities (Non-DBOF)	31	0	-31	0	0	0	0
914	Purchased Communications	168	2	-170	0	0	0	0
915	Rents (Non GSA)	42	1	985	1,028	15	-160	883
917	Postal Services	0	0	40	40	0	-6	34
920	Supplies & Materials (Non-SF)	1,158	16	-814	360	5	-56	309
921	Printing and Reproduction	11	0	-11	0	0	0	0
922	Equipment Maintenance by Contract	114	2	-116	0	0	0	0
923	Facility Maintenance by Contract	286	4	-290	0	0	0	0
925	Equipment Purchase by Contract	6	0	-6	0	0	0	0
932	Management & Professional Support Services	46,273	648	4,553	51,474	772	-8,021	44,225
934	Engineering & Technical Services	6,297	88	20,137	26,522	398	-4,133	22,787
960	Interest & dividends	29	0	-29	0	0	0	0
987	Other Intra-governmental Purchases	1,213	17	14,193	15,423	231	-2,419	13,235
989	Other Contracts	8,316	116	-6,376	2,056	31	-320	1,767
999	Total Other Purchases	66,513	930	29,460	96,903	1,452	-15,115	83,240
9999	Total	87,581	785	32,103	120,469	1,503	-19,650	102,322

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