

**Fiscal Year 2016 Budget Estimates
Defense Legal Services Agency (DLSA)**



February 2015

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**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2016 Budget Estimates**

Operation and Maintenance, Defense-Wide Summary (\$ in thousands)

Budget Activity (BA) 4: Administration and Service-wide Support

	FY 2014 <u>Actual</u>	Price <u>Change</u>	Program <u>Change</u>	FY 2015 <u>Enacted</u>	Price <u>Change</u>	Program <u>Change</u>	FY 2016 <u>Estimate</u>
DLSA	124,634	1,778	-99,745	26,667	330	-924	26,073

* The FY 2014 Actuals column **includes** \$98 thousand of FY 2014 OCO Appropriations funding (PL 113-76).

* The FY 2015 Estimate column **excludes** \$105 thousand of FY 2015 OCO appropriations funding (PL 113-235).

* The FY 2016 Estimate column **excludes** \$110 thousand of OCO Budget request 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 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.

- The DOHA provides hearings and issues decisions in personnel security clearance cases for contractors performing classified work for all DoD components and 23 other Federal Agencies. The DOHA conducts personal appearances and issues decisions in security clearance cases for DoD civilian employees and military personnel.
- The DOHA also conducts hearings and issues decisions in cases involving claims for DoD Dependents' School Activity benefits, and TRICARE payment for medical services. The DOHA's claims function includes review of uniformed service and carrier claims for loss or damage of household goods, and review of waiver applications.
- The DOHA provides support to the Deputy General Counsel (Legal Counsel) and is the point of contact for selection of third party neutrals in the DOHA alternative dispute resolution processes.
- The DOHA expects cases requiring due process to result from the referrals of completed industrial security clearance investigations. The DLSA's budget includes all customary

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I. Description of Operations Financed (cont.)

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

Changes from FY 2015 to FY 2016: The FY 2016 budget reflects a net decrease of \$-594 thousand (the net of a price change of \$+330 thousand and a program change of \$-924 thousand) attributable to the following areas: compensation and benefits; contractor support; administrative support and other intra-governmental purchases.

II. Force Structure Summary:

N/A

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III. Financial Summary (\$ in thousands)

	FY 2015							FY 2016 Estimate
	FY 2014 Actual	Budget Request	Congressional Action			Current Enacted		
			Amount	Percent	Appropriated			
A. BA Subactivities								
1. DLSA HQ	10,385	2,723	10	0.4	2,733	2,733	2,754	
2. DOHA	114,249	23,638	296	1.3	23,934	23,934	23,319	
3. Pentagon Reservation	0	349	-349	-100.0	0	0	0	
Total	124,634	26,710	-43	-0.2	26,667	26,667	26,073	

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III. Financial Summary (\$ in thousands)

B. <u>Reconciliation Summary</u>	Change	Change
	<u>FY 2015/FY 2015</u>	<u>FY 2015/FY 2016</u>
Baseline Funding	26,710	26,667
Congressional Adjustments (Distributed)		
Congressional Adjustments (Undistributed)		
Adjustments to Meet Congressional Intent		
Congressional Adjustments (General Provisions)	-43	
Subtotal Appropriated Amount	26,667	
Fact-of-Life Changes (2015 to 2015 Only)		
Subtotal Baseline Funding	26,667	
Supplemental	105,000	
Reprogrammings		
Price Changes		330
Functional Transfers		
Program Changes		-924
Current Estimate	131,667	26,073
Less: Wartime Supplemental	-105,000	
Normalized Current Estimate	26,667	

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III. Financial Summary (\$ in thousands)

	Amount	Totals
C. Reconciliation of Increases and Decreases		
FY 2015 President's Budget Request (Amended, if applicable)		26,710
1. Congressional Adjustments		-43
a. Distributed Adjustments		
b. Undistributed Adjustments		
c. Adjustments to Meet Congressional Intent		
d. General Provisions		
1) Section 8035 (Indian Lands)	-43	
FY 2015 Appropriated Amount		26,667
2. War-Related and Disaster Supplemental Appropriations		105,000
a. OCO Supplemental Funding		
1) OCO	105,000	
3. Fact-of-Life Changes		
FY 2015 Baseline Funding		131,667
4. Reprogrammings (Requiring 1415 Actions)		
Revised FY 2015 Estimate		131,667
5. Less: Item 2, War-Related and Disaster Supplemental Appropriations and Item 4, Reprogrammings		-105,000
FY 2015 Normalized Current Estimate		26,667
6. Price Change		330
7. Functional Transfers		
8. Program Increases		96
a. Annualization of New FY 2015 Program		
b. One-Time FY 2016 Increases		
1) One Additional Compensable Day - One additional compensable day is added for FY 2016. The number of paid work days changes from 261 in FY 2015 to 262 in FY 2016	96	
c. Program Growth in FY 2016		
9. Program Decreases		-1,020
a. Annualization of FY 2015 Program Decreases		
b. One-Time FY 2015 Increases		

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III. Financial Summary (\$ in thousands)

C. Reconciliation of Increases and Decreases	Amount	Totals
c. Program Decreases in FY 2016		
1) Work Force Compensation	-688	
The Defense Legal Services Agency reduced its FTEs by 4. A strategic efficiency reduction in management headquarters funding and staffing for better alignment and to provide support to a smaller military force. (FY 2015 Baseline: \$25,508 thousand; +140 FTEs)		
2) Supplies and Materials	-125	
Reduces supplies and material of legal administration costs; Reduced subscription for specialized research library portals. (FY 2015 Baseline: \$407 thousand)		
3) Other Intra-Governmental purchases	-119	
Reduce the number of off-site litigation activities and support agreements to assist other governmental agencies.		
4) Communication and Other services	-88	
Reduces administration costs of contract services and utilities. Eliminates database maintenance that is used for tracking treaties with foreign governments; licensing fees; and Postal services.		
FY 2016 Budget Request		26,073

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IV. Performance Criteria and Evaluation Summary:

The DLSA provides legal services to the staff elements of the Office of the OSD and the Defense Agencies. The DLSA's activities 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 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 Defense Office of Hearings and Appeals (DOHA): The 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 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

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IV. Performance Criteria and Evaluation Summary:

(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. The 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.

The DLSA is evaluated on the basis of the quality and timeliness of its myriad of 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.

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:

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 implementation of the procedural requirements of Executive Order 10865.

The DOHA implements these administrative due process requirements for the Department. The due process workload associated with the Industrial Security Clearance Review (ISCR) cases DOHA handles is relatively constant, but can vary. Due to processing issues at the DoD CAF, the ISCR caseload at DOHA more than doubled in FY 14 and is projected to more than double again in FY 2015.

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 handle cases involving employees of Defense contractors and of other 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. The 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.

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). The DoD settles claims involving uniformed

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IV. Performance Criteria and Evaluation Summary:

service members' pay, allowances, travel, transportation, retired pay, and survivor benefits. 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 a recent 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 and upon request advises non-DoD agencies on waiver applications by their civilian employees. In FY 2014, DOHA handled an unprecedentedly high number of waiver cases due to a large class of waiver cases received.

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<u>V. Personnel Summary</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	Change FY 2014/ FY 2015	Change FY 2015/ FY 2016
<u>Active Military End Strength (E/S) (Total)</u>	<u>206</u>	<u>198</u>	<u>198</u>	-8	0
Officer	114	106	106	-8	0
Enlisted	92	92	92	0	0
<u>Civilian End Strength (Total)</u>	<u>224</u>	<u>144</u>	<u>136</u>	-80	-8
U.S. Direct Hire	224	144	136	-80	-8
Total Direct Hire	224	144	136	-80	-8
<u>Civilian FTEs (Total)</u>	<u>220</u>	<u>140</u>	<u>136</u>	-80	-4
U.S. Direct Hire	220	140	136	-80	-4
Total Direct Hire	220	140	136	-80	-4
Average Annual Civilian Salary (\$ in thousands)	172.6	182.2	184.8	9.6	2.6

The FY 2014 Civilian End Strength and Civilian FTEs reflect both Base and OCO resources. The FY 2016 Compensation and Benefits program nets a decrease of \$-728 thousand and a reduction of 4 direct funding Full Time Equivalent (FTEs). A strategic efficiency reduction in management headquarters funding and staffing for better alignment and to provide support to a smaller military force.

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

<u>OP 32 Line</u>	<u>FY 2014</u>	<u>Change</u>		<u>FY 2015</u>	<u>Change</u>		<u>FY 2016</u>
		<u>FY 2014/FY 2015</u>			<u>FY 2015/FY 2016</u>		
	<u>Actual</u>	<u>Price</u>	<u>Program</u>	<u>Enacted</u>	<u>Price</u>	<u>Program</u>	<u>Estimate</u>
101 Exec, Gen'l & Spec Scheds	37,974	380	-12,846	25,508	312	-688	25,132
199 Total Civ Compensation	37,974	380	-12,846	25,508	312	-688	25,132
308 Travel of Persons	2,979	53	-2,949	83	1	-1	83
399 Total Travel	2,979	53	-2,949	83	1	-1	83
417 Local Purch Supplies & Mat	0	0	20	20	0	-8	12
499 Total Supplies & Materials	0	0	20	20	0	-8	12
771 Commercial Transport	1	0	-1	0	0	0	0
799 Total Transportation	1	0	-1	0	0	0	0
912 Rental Payments to GSA (SLUC)	7,709	139	-7,848	0	0	0	0
913 Purchased Utilities (Non-Fund)	248	4	-237	15	0	-5	10
914 Purchased Communications (Non-Fund)	1,274	23	-1,115	182	3	-20	165
915 Rents (Non-GSA)	619	11	-630	0	0	0	0
917 Postal Services (U.S.P.S)	17	0	0	17	0	-2	15
920 Supplies & Materials (Non-Fund)	1,357	24	-974	407	7	-116	298
921 Printing & Reproduction	1	0	-1	0	0	0	0
922 Equipment Maintenance By Contract	24,733	445	-25,178	0	0	0	0
923 Facilities Sust, Rest, & Mod by Contract	11,623	209	-11,832	0	0	0	0
925 Equipment Purchases (Non-Fund)	20	0	-20	0	0	0	0
932 Mgt Prof Support Svcs	7,266	131	-7,397	0	0	0	0
933 Studies, Analysis & Eval	1,976	36	-2,012	0	0	0	0
934 Engineering & Tech Svcs	100	2	-102	0	0	0	0
951 Other Costs (Special Personal Svc Pay)	8,915	0	-8,915	0	0	0	0
957 Other Costs (Land and Structures)	2,189	39	-2,228	0	0	0	0
959 Other Costs (Insurance Claims/Indmnties)	542	10	-552	0	0	0	0
960 Other Costs (Interest and Dividends)	5	0	5	10	0	-7	3

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<u>OP 32 Line</u>	FY 2014	Change		FY 2015	Change		FY 2016
	<u>Actual</u>	<u>FY 2014/FY 2015</u>		<u>Enacted</u>	<u>FY 2015/FY 2016</u>		<u>Estimate</u>
		<u>Price</u>	<u>Program</u>		<u>Price</u>	<u>Program</u>	
987 Other Intra-Govt Purch	516	10	-166	360	6	-71	295
989 Other Services	14,570	262	-14,767	65	1	-6	60
999 Total Other Purchases	83,680	1,345	-83,969	1,056	17	-227	846
Total	124,634	1,778	-99,745	26,667	330	-924	26,073

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