

**Defense Legal Services Agency
Overseas Contingency Operations
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 primary lines of effort involving detainees at Guantanamo Bay, Cuba (GTMO): The Office of Military Commissions (OMC) to handle the trials of enemy combatants and Habeas Corpus (HC) to defend against challenges to the lawfulness of detention.

The OMC was established by the Secretary of Defense on March 21, 2002, under the DLSA to handle the trials of enemy combatants who violate the laws of war. Military Commissions is comprised of both military and civilian personnel, who work in four sections: 1) the Office of the Convening Authority, which includes the Office of the Legal Advisor; 2) the Office of the Chief Prosecutor; 3) the Military Commissions Defense Organization (MCDO); and 4) the Trial Judiciary, which includes judges who consider appeals. The Military Commissions Act (MCA) was enacted in response to the Supreme Court requirement for legislation to continue the Military Commissions process. Several major terrorists have been transferred to GTMO whose trials began under the MCA statutory framework in FY 2009. Tribunals are progressing, including the USS Cole bombing case and the 9/11 cases.

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 funds cover temporary duty (TDY) costs for witness interviews, MCDO personnel to meet with their detainee clients, and participation in commission hearings at GTMO.

The funding supports the OMC operations for military and civilians personnel. The majority of personnel work in four sections: (1) The Appointing Authority; (2) The

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I. Description of Operations Financed (cont.)

Prosecution Office; (3) The Defense Office; and the (4) Review Panel. The Appointing Authority, which includes HC is separate and distinct from the tribunal process. In this process, DoD is engaged in Federal litigation regarding detainee challenges to the lawfulness of detention (HC cases) in the Federal District Courts in Washington, DC. Currently 40 detainees have unfettered access to the court and more than a majority with pending litigation. This litigation resulted from the *Boumediene v. Bush* Supreme Court decision, which affirmed the rights of the detainees to have these cases heard.

The litigation effort requires maintaining a staff of attorneys, paralegals, and administrative/support personnel to support habeas litigation, other detainee related and/or ancillary litigation, congressional inquiries, and Freedom of Information Act requests and litigation. These personnel operate 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 information involved in these cases is classified, additional funding is needed for contracts, rental expenses, translation expenses, and security expenses as well as TDY expenses to allow the Intelligence Community to fulfill requirements to declassify vast volumes of documents and information so that it can be presented in court settings.

The operating support funding for OMC and HC includes supplies, rent, furniture, design and construction cost, training, contract support, reimbursement to the U.S. Marshals Service, IT support, telecommunications, and security. Additional funding also

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I. Description of Operations Financed (cont.)

provides support for an interpretation and translation contract and provides for translation and declassification of documents relating to habeas cases.

The Compensation and Benefit program supports the following workforce composition; 130 temporary full-time civilians of the OMC, 79 temporary full-time civilians for OMC operations at GTMO and 110 temporary full-time civilians associated with increased trial support workload.

II. Force Structure Summary:

N/A

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III. Financial Summary (\$ in thousands)

	FY 2019						
	FY 2018 <u>Actuals</u>	Budget <u>Request</u>	<u>Congressional Action</u>			Current <u>Enacted</u>	FY 2020 <u>Estimate</u>
			<u>Amount</u>	<u>Percent</u>	<u>Appropriated</u>		
A. <u>BA Subactivities</u>							
Defense Legal Services Agency - Office of Military Commissions (DLSA - OMC)	103,024	127,023	0	0.0	127,023	127,023	186,874
DOHA	5,970	0	0	n/a	0	0	9,250
Total	108,994	127,023	0	0.0	127,023	127,023	196,124

<u>Summary by Operation</u>	FY 2018 <u>Actuals</u>	FY 2019 <u>Enacted</u>	FY 2020 <u>Estimate</u>
Operation FREEDOM'S SENTINEL (OFS)	\$108,994	\$127,023	\$196,124
Operation Totals	\$108,994	\$127,023	\$196,124

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III. Financial Summary (\$ in thousands)

B. <u>Reconciliation Summary</u>	Change	Change
	<u>FY 2019/FY 2019</u>	<u>FY 2019/FY 2020</u>
OCO Funding	127,023	127,023
Congressional Adjustments (Distributed)		
Congressional Adjustments (Undistributed)		
Adjustments to Meet Congressional Intent		
Congressional Adjustments (General Provisions)		
Carryover		
Subtotal Appropriated Amount	127,023	
Fact-of-Life Changes (2019 to 2019 Only)		
Subtotal OCO Funding	127,023	
Baseline Appropriation		
Reprogrammings		
Price Changes		1,704
Functional Transfers		
Program Changes		67,397
Current Estimate	127,023	196,124
Less: Baseline Appropriation		
Normalized Current Estimate	127,023	

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III. Financial Summary (\$ in thousands)

<u>C. Reconciliation of Increases and Decreases</u>	<u>Amount</u>	<u>Total</u>
FY 2019 President's Budget Request (Amended, if applicable)		127,023
1. Congressional Adjustments		
a. Distributed Adjustments		
b. Undistributed Adjustments		
c. Adjustments to Meet Congressional Intent		
d. General Provisions		
e. Carryover		
FY 2019 Appropriated Amount		127,023
2. Baseline Appropriation		
3. Fact-of-Life Changes		
FY 2019 OCO Funding		127,023
4. Reprogrammings (Requiring 1415 Actions)		
Revised FY 2019 Estimate		127,023
5. Less: Baseline Appropriation		
FY 2019 Normalized Current Estimate		127,023
6. Price Change		1,704
7. Functional Transfers		
8. Program Increases		67,397
a. Annualization of New FY 2019 Program		
b. One-Time FY 2020 Increases		
c. Program Growth in FY 2020		
1) Operating Support	44,561	
The increase reflects the incremental cost for additional support for the Office of Military Commissions emerging requirements as trials proceed to merits (innocence/guilt phase) for both the 9/11 and USS Cole cases. This incremental cost reflects the support needed for the Convening Authority, Office of the Chief Prosecutor (OCP) and Military		

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III. Financial Summary (\$ in thousands)

C. Reconciliation of Increases and Decreases

Amount

Total

Commissions Defense Organization (MCDO). It also consists of three additional trials teams to support additional cases anticipated to be referred to trial, which will require additional lease space, modifications to lease space to meet Sensitive Compartmented Information Facility (SCIF) standards, and to install and maintain IT infrastructure. With multiple trials being conducted simultaneously, additional costs are required for trial participants (judges, prosecution and defense teams, witnesses, court reporters) travel; case/investigation and Intelligence support, contract support for security, IT and communications, translators, and other trial and litigation support functions. In addition, funds growth in the payments for rent, utilities, communications, postal services, equipment, facilities maintenance to meet the requirement of the overall operational objectives of the Office of Military Commissions and the Habeas Corpus Group (HC) which is a distinct from the tribunal process. (FY 2019 Baseline: \$85,191 thousand)

2) Compensation and Benefits

22,589

The increase supports +110 additional Full Time Equivalents (FTE) required to support three additional cases and trial requirements. The Military Commissions Convening Authority approved requests from the Chief Defense Counsel, Chief Prosecutor, Trial Judiciary, and Office of Court Administration to increase attorney, paralegal,

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III. Financial Summary (\$ in thousands)

C. <u>Reconciliation of Increases and Decreases</u>	<u>Amount</u>	<u>Total</u>
investigator, information security officers, court reporter, and administrator support due to workload increases related to progression in the trial process. The increase also supports additional litigation teams and litigation support personnel for the three cases with charges sworn. In addition, funding is required to support the Security Classification/ Declassification Review Team due to increased discovery volume, public posting time requirements, and support requirements for multiple trials being conducted in order to review and appropriately treat documents containing classified information for use in litigation. (FY 2019 Baseline: \$41,832 thousand)		
3) Compensation and Benefits - One Additional Compensable Day The number of compensable days changes from 261 in FY 2019 to 262 in FY 2020. (FY 2019 Baseline: \$41,832 thousand)	247	
9. Program Decreases		
a. Annualization of FY 2019 Program Decreases		
b. One-Time FY 2019 Increases		
c. Program Decreases in FY 2020		
FY 2020 Budget Request		196,124

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IV. Performance Criteria:

N/A

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<u>V. Personnel Summary</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>Change FY 2018/ FY 2019</u>	<u>Change FY 2019/ FY 2020</u>
<u>Civilian End Strength (Total)</u>	<u>149</u>	<u>209</u>	<u>319</u>	<u>60</u>	<u>110</u>
U.S. Direct Hire	149	209	319	60	110
Total Direct Hire	149	209	319	60	110
<u>Civilian FTEs (Total)</u>	<u>149</u>	<u>209</u>	<u>319</u>	<u>60</u>	<u>110</u>
U.S. Direct Hire	149	209	319	60	110
Total Direct Hire	149	209	319	60	110
Average Annual Civilian Salary (\$ in thousands)	137.8	200.2	202.7	62.4	2.5

Personnel Summary Explanations:

The FY 2020 Civilian End Strength and Civilian FTEs reflect OCO requirements for civilian personnel to support the Military Commissions Convening Authority approved requests from the Chief Defense Counsel, Chief Prosecutor, Trial Judiciary, and Office of Court Administration. Increase also supports additional litigation team and litigation support personnel for three cases with charges sworn and an increase to the Security Classification/Declassification Review Team.

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

<u>OP 32 Line</u>	<u>FY 2018</u> <u>Actuals</u>	<u>Change</u> <u>FY 2018/FY 2019</u>		<u>FY 2019</u> <u>Enacted</u>	<u>Change</u> <u>FY 2019/FY 2020</u>		<u>FY 2020</u> <u>Estimate</u>
		<u>Price</u>	<u>Program</u>		<u>Price</u>	<u>Program</u>	
101 Exec, Gen'l & Spec Scheds	20,539	105	21,188	41,832	0	22,836	64,668
199 Total Civ Compensation	20,539	105	21,188	41,832	0	22,836	64,668
308 Travel of Persons	1,673	30	583	2,286	46	1,992	4,324
399 Total Travel	1,673	30	583	2,286	46	1,992	4,324
771 Commercial Transport	27	0	-27	0	0	0	0
799 Total Transportation	27	0	-27	0	0	0	0
912 Rental Payments to GSA (SLUC)	4,245	76	-4,175	146	3	3	152
913 Purchased Utilities (Non-Fund)	180	3	-67	116	2	92	210
914 Purchased Communications (Non-Fund)	282	5	434	721	14	623	1,358
915 Rents (Non-GSA)	13,046	235	-2,076	11,205	224	4,922	16,351
920 Supplies & Materials (Non-Fund)	1,053	19	-288	784	16	587	1,387
922 Equipment Maintenance By Contract	195	4	4,339	4,538	91	89	4,718
923 Facilities Sust, Rest, & Mod by Contract	97	2	2,612	2,711	54	2,243	5,008
925 Equipment Purchases (Non-Fund)	122	2	-124	0	0	0	0
932 Mgt Prof Support Svcs	30,562	550	14,481	45,593	912	21,180	67,685
934 Engineering & Tech Svcs	397	7	6,871	7,275	146	6,463	13,884
959 Other Costs (Insurance Claims/Indmnties)	0	0	22	22	0	0	22
960 Other Costs (Interest and Dividends)	2	0	-2	0	0	0	0
985 Research & Development, Contracts	170	0	-170	0	0	0	0
987 Other Intra-Govt Purch	2,707	49	-907	1,849	37	275	2,161
989 Other Services	31,970	575	-25,986	6,559	131	5,967	12,657
990 IT Contract Support Services	1,727	31	-372	1,386	28	125	1,539
999 Total Other Purchases	86,755	1,558	-5,408	82,905	1,658	42,569	127,132

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		Change			Change		
	FY 2018	<u>FY 2018/FY 2019</u>		FY 2019	<u>FY 2019/FY 2020</u>		FY 2020
<u>OP 32 Line</u>	<u>Actuals</u>	<u>Price</u>	<u>Program</u>	<u>Enacted</u>	<u>Price</u>	<u>Program</u>	<u>Estimate</u>
Total	108,994	1,693	16,336	127,023	1,704	67,397	196,124