

Fiscal Year 2022 President's Budget

Defense Legal Services Agency



May 2021

**Defense Legal Services Agency
Operation and Maintenance, Defense-Wide
Fiscal Year (FY) 2022 President's Budget**

**Operation and Maintenance, Defense-Wide Summary (\$ in thousands)
Budget Activity (BA) 4: Administration and Service-wide Activities**

	<u>FY 2020 Actuals</u>	<u>Price Change</u>	<u>Program Change</u>	<u>FY 2021 Enacted</u>	<u>Price Change</u>	<u>Program Change</u>	<u>FY 2022 Request</u>
DLSA	204,932	3,955	-20,123	188,763	3,864	36,871	229,498

*FY 2020 includes Division A, Title IX and X of the Consolidated Appropriations Act, 2020 (P.L. 116-93), Division F, Title IV and V from the Further Consolidated Appropriations Act, 2020 (P.L. 116-94) and the Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136).

*FY 2021 includes Division C, Title IX and Division J, Title IV of the Consolidated Appropriations Act, 2021 (P.L. 116-260).

I. Description of Operations Financed:

The Defense Legal Services Agency (DLSA) provides legal advice, services, and support to the Defense Agencies, the Department of Defense Field Activities, and, as assigned, other organizational entities within the DoD. Among other legal services, the DLSA administers the DoD Standards of Conduct Program; supports and assists the Assistant Secretary of Defense for Legislative Affairs in developing the DoD Legislative Program, including drafting legislation and comments; negotiating on behalf of the DoD clients with private entities and other Government agencies; ensuring proper use of Government funds and property; providing opinions and counseling on legal compliance issues; and participating in contractual matters.

The DLSA's mission is unique within the Fourth Estate and, more broadly, the DoD, in administering statutory authorities and implementing regulations in support of the Services and other Federal Agencies.

The largest component of the DLSA, the Defense Office of Hearings and Appeals (DOHA), adjudicates personnel security clearance cases for contractor personnel performing classified work for the DOHA-serviced DoD Components and 30 other Federal Agencies and Departments; conducts personal appearance hearings and issues decisions in security clearance and sensitive national security position cases for the DOHA-serviced DoD civilian employees and military personnel; provides legal reviews, approves statements of reasons, conducts hearings, and issues decisions in cases under the DOHA jurisdiction requiring trustworthiness decisions for contractor performance of sensitive duties; and on behalf of the DoD (the executive agent for the entire federal government's implementation of the National Industrial Security Program), the DOHA implements the administrative due process requirements of Executive Order 10865.

Increased litigation and voluminous documentary discovery involved in litigation and other inquiries combined with Federal Court expectations for electronic discovery capabilities requires the DLSA to acquire electronic discovery technology and ensure enduring administrative and legal support for the effort.

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I. Description of Operations Financed: (Cont.)

The DLSA also has two significant legal efforts related to the continued detention of 40 people at Guantanamo Bay, Cuba – Habeas Corpus (HC) and Military Commissions. Each of the 40 detainees has ongoing legal rights to challenge the lawfulness of their detention through habeas corpus challenges in Federal District Court. The Office of Military Commissions (OMC), established by the Secretary of Defense on March 21, 2002, under the DLSA, handles the trials of enemy combatants pursuant to the Military Commissions Act of 2009. There are currently eight detainees with active charges pending before military commissions, most notably, five alleged 9-11 defendants and the alleged United States Ship (USS) Cole bomber.

Operating support funding for the OMC & HC includes civilian pay and allowance, contract support, interagency reimbursable agreements (e.g., U.S. Marshals Service), reimbursable costs to the DoD components providing support (e.g., document declassification and information security), rent, TDY travel costs, supplies, furniture, training, Information Technology (IT) support, telecommunications, and security.

The FY 2022 request includes funds in support of the Department's continued initiative to shift Enduring costs into the baseline.

The FY 2022 Direct War and Enduring Costs accounted for in the base budget are as follows:

- Direct War costs accounted for in the Base Budget: \$83,957.0 thousand: Direct War costs are those combat or direct combat support costs that will not continue to be expended once combat operations end at major contingency locations.
- Enduring costs accounted for in the Base Budget: \$110,804 thousand: Enduring Requirements are enduring in theater and in CONUS costs that will likely remain after combat operations cease.

II. Force Structure Summary:

Not Applicable.

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III. Financial Summary (\$ in Thousands)

	FY 2020 <u>Actuals</u>	Budget <u>Request</u>	FY 2021			Current <u>Enacted</u>	FY 2022 <u>Request</u>
			<u>Congressional Action</u>				
			<u>Amount</u>	<u>Percent</u>	<u>Appropriated</u>		
<u>A. BA Subactivities</u>							
Defense Legal Services Agency, HQ (DLSA HQ)	\$15,381	\$16,452	\$-247	-1.50%	\$16,205	\$16,205	\$18,242
Defense Office of Hearings and Appeals (DOHA)	\$22,782	\$30,580	\$0	0.00%	\$30,580	\$30,580	\$26,118
HABEAS Corpus (HC)	\$35,627	\$35,312	\$0	N/A	\$35,312	\$35,312	\$54,814
Office of Military Commission (OMC)	<u>\$131,142</u>	<u>\$111,666</u>	<u>\$-5,000</u>	<u>-4.48%</u>	<u>\$106,666</u>	<u>\$106,666</u>	<u>\$130,324</u>
Total	\$204,932	\$194,010	\$-5,247	-2.70%	\$188,763	\$188,763	\$229,498

*FY 2020 includes Division A, Title IX and X of the Consolidated Appropriations Act, 2020 (P.L. 116-93), Division F, Title IV and V from the Further Consolidated Appropriations Act, 2020 (P.L. 116-94) and the Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136).

*FY 2021 includes Division C, Title IX and Division J, Title IV of the Consolidated Appropriations Act, 2021 (P.L. 116-260).

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III. Financial Summary (\$ in Thousands): (Cont.)

<u>B. Reconciliation Summary</u>	<u>Change FY 2021/FY 2021</u>	<u>Change FY 2021/FY 2022</u>
BASELINE FUNDING	\$194,010	\$188,763
Congressional Adjustments (Distributed)	-5,000	
Congressional Adjustments (Undistributed)	-247	
Adjustments to Meet Congressional Intent	0	
Congressional Adjustments (General Provisions)	0	
SUBTOTAL APPROPRIATED AMOUNT	188,763	
Fact-of-Life Changes (2021 to 2021 Only)	0	
SUBTOTAL BASELINE FUNDING	188,763	
Supplemental	0	
Reprogrammings	0	
Price Changes		3,864
Functional Transfers		0
Program Changes		36,871
CURRENT ESTIMATE	188,763	229,498
Less: Wartime Supplemental	0	
NORMALIZED CURRENT ESTIMATE	\$188,763	\$229,498

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III. Financial Summary (\$ in Thousands): (Cont.)

FY 2021 President's Budget Request (Amended, if applicable)	\$194,010
1. Congressional Adjustments	\$-5,247
a) Distributed Adjustments.....	\$-5,000
1) Program decrease unaccounted for.....	\$-5,000
b) Undistributed Adjustments	\$-247
1) Undistributed Adjustments - Excess to Need - Non NIP	\$-247
c) Adjustments to Meet Congressional Intent.....	\$0
d) General Provisions	\$0
FY 2021 Appropriated Amount	\$188,763
2. War-Related and Disaster Supplemental Appropriations	\$0
a) OCO Supplemental Funding	\$0
3. Fact-of-Life Changes.....	\$0
a) Functional Transfers.....	\$0
b) Technical Adjustments	\$0
c) Emergent Requirements.....	\$0
FY 2021 Baseline Funding	\$188,763

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III. Financial Summary (\$ in Thousands): (Cont.)

4. Reprogrammings (Requiring 1415 Actions).....	\$0
a) Increases	\$0
b) Decreases	\$0
Revised FY 2021 Estimate.....	\$188,763
5. Less: Item 2, War-Related and Disaster Supplemental Appropriation and Item 4, Reprogrammings	\$0
a) Less: OCO Supplemental Funding.....	\$0
FY 2021 Normalized Current Estimate	\$188,763
6. Price Change	\$3,864
7. Functional Transfers	\$0
a) Transfers In	\$0
b) Transfers Out.....	\$0
8. Program Increases.....	\$62,120
a) Annualization of New FY 2021 Program	\$0
b) One-Time FY 2022 Increases	\$0
c) Program Growth in FY 2022.....	\$62,120
1) Compensation and Benefits	\$488
Increase reflects an adjustment to the Federal Employee Retirement System (FERS) Agency Contribution Rate Assumption from 17.3 percent in FY 2021 to 18.4 percent in FY 2022.	

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III. Financial Summary (\$ in Thousands): (Cont.)

(FY 2021 Baseline: \$74,702 thousand; 325 FTEs)

2) Compensation and Benefits - Performance Awards Increase \$417
Increase reflects an adjustment for performance awards spending, which was revised from 1.5 percent to 2.5 percent.

(FY 2021 Baseline: \$74,702 thousand; 325 FTEs)

3) Military Justice Review Panel (MJRP)..... \$3,626
Increase of 13 Full Time Equivalent (FTE) and associated funding for the MJRP to conduct independent periodic reviews and assessments of the operations of the Uniform Code of Military Justice (UCMJ), per Section 5521 of the National Defense Authorization Act (NDAA) for FY 2017.
(FY 2021 Baseline: \$0 thousand; 0 FTEs; +13 FTEs)

4) Direct War and Enduring program changes accounted for in the Base Budget \$57,589
Direct War costs are those combat or direct combat support costs that will not continue to be expended once combat operations end at major contingency locations. Enduring Requirements are enduring in theater and in CONUS costs that will likely remain after combat operations cease, and have previously been funded in OCO. Detailed justifications for Direct War and Enduring program changes are provided in the Operations and Maintenance, Defense-wide, Volume 1 Part 2 Book.
(FY 2021 Baseline: \$100,531 thousand)

9. Program Decreases\$-25,249

a) Annualization of FY 2021 Program Decreases\$0

b) One-Time FY 2021 Increases\$0

c) Program Decreases in FY 2022 \$-25,249

1) Compensation and Benefits - Office of Military Commissions (OMC) Full Time Equivalent (FTE) Reduction \$-7,984

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III. Financial Summary (\$ in Thousands): (Cont.)

Reduces funding to better align civilian pay with FTE requirements associated with the OMC based on historical and projected execution.

(FY 2021 Baseline: \$74,702 thousand; 325 FTEs)

2) Direct War and Enduring program changes accounted for in the Base Budget \$-17,265

Direct War costs are those combat or direct combat support costs that will not continue to be expended once combat operations end at major contingency locations. Enduring Requirements are enduring in theater and in CONUS costs that will likely remain after combat operations cease, and have previously been funded in OCO. Detailed justifications for Direct War and Enduring program changes are provided in the Operations and Maintenance, Defense-wide, Volume 1 Part 2 Book.

(FY 2021 Baseline: \$50,842 thousand; 188 FTEs; -18 FTEs)

FY 2022 Budget Request.....\$229,498

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IV. Performance Criteria and Evaluation Summary:

The DLSA is evaluated on the basis of the quality of its many services; adherence to appropriate standards of professional conduct and the 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.

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V. Personnel Summary:

	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>Change FY 2020/ FY 2021</u>	<u>Change FY 2021/ FY 2022</u>
Active Military End Strength (E/S) (Total)	160	197	205	37	8
Officer	82	109	114	27	5
Enlisted	78	88	91	10	3
Civilian End Strength (Total)	299	325	320	26	-5
U.S. Direct Hire	299	325	320	26	-5
Total Direct Hire	299	325	320	26	-5
Active Military Average Strength (A/S) (Total)	160	197	205	37	8
Officer	82	109	114	27	5
Enlisted	78	88	91	10	3
Civilian FTEs (Total)	299	325	320	26	-5
U.S. Direct Hire	299	325	320	26	-5
Total Direct Hire	299	325	320	26	-5
Average Annual Civilian Salary (\$ in thousands)	185.1	229.9	207.7	44.8	-22.1

Personnel Summary Explanations:

No significant manpower changes to report.

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

	FY 2020 Program	Change from FY 2020 to FY 2021		FY 2021 Program	Change from FY 2021 to FY 2022		FY 2022 Program
		Price Growth	Program Growth		Price Growth	Program Growth	
101 EXEC, GEN'L & SPEC SCHEDULES	55,342	852	18,508	74,702	1,696	-9,922	66,476
0199 TOTAL CIVILIAN PERSONNEL COMPENSATION	55,342	852	18,508	74,702	1,696	-9,922	66,476
308 TRAVEL OF PERSONS	1,729	35	1,922	3,686	70	-899	2,857
0399 TOTAL TRAVEL	1,729	35	1,922	3,686	70	-899	2,857
671 DISA DISN SUBSCRIPTION SERVICES (DSS)	3,908	188	-4,096	0	0	2,472	2,472
0699 TOTAL OTHER FUND PURCHASES	3,908	188	-4,096	0	0	2,472	2,472
771 COMMERCIAL TRANSPORT	5	0	291	296	6	-233	69
0799 TOTAL TRANSPORTATION	5	0	291	296	6	-233	69
912 RENTAL PAYMENTS TO GSA (SLUC)	132	3	67	202	4	-51	155
913 PURCHASED UTILITIES (NON-FUND)	1,019	20	-515	524	10	146	680
914 PURCHASED COMMUNICATIONS (NON-FUND)	658	13	3,089	3,760	71	-2,088	1,743
915 RENTS (NON-GSA)	9,495	190	5,774	15,459	294	-62	15,691
917 POSTAL SERVICES (U.S.P.S)	15	0	240	255	5	-189	71
920 SUPPLIES & MATERIALS (NON-FUND)	1,246	25	790	2,061	39	-258	1,842
922 EQUIPMENT MAINTENANCE BY CONTRACT	39	1	7,543	7,583	144	-2,906	4,821
923 FACILITIES SUST, REST, & MOD BY CONTRACT	3,507	70	788	4,365	83	60	4,508
925 EQUIPMENT PURCHASES (NON-FUND)	32	1	-33	0	0	20	20
932 MGT PROF SUPPORT SVCS	20,166	403	28,861	49,430	939	2,000	52,369
934 ENGINEERING & TECH SVCS	318	6	9,465	9,789	186	-2,055	7,920
951 OTHER COSTS (SPECIAL PERSONAL SVC PAY)	1	0	-1	0	0	0	0
957 OTHER COSTS (LAND AND STRUCTURES)	12,050	241	-12,291	0	0	0	0
959 OTHER COSTS (INSURANCE CLAIMS/INDMNTIES)	0	0	47	47	1	-26	22
960 OTHER COSTS (INTEREST AND DIVIDENDS)	2	0	53	55	1		56
986 MEDICAL CARE CONTRACTS	21	1	-22	0	0	0	0
987 OTHER INTRA-GOVT PURCH	425	9	2,979	3,412	65	-913	2,564

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

	FY 2020 <u>Program</u>	<u>Change from FY 2020 to FY 2021</u>		FY 2021 <u>Program</u>	<u>Change from FY 2021 to FY 2022</u>		FY 2022 <u>Program</u>
		<u>Price Growth</u>	<u>Program Growth</u>		<u>Price Growth</u>	<u>Program Growth</u>	
989 OTHER SERVICES	85,480	1,710	-76,035	11,155	212	46,479	57,846
990 IT CONTRACT SUPPORT SERVICES	9,342	187	-7,547	1,982	38	5,296	7,316
0999 TOTAL OTHER PURCHASES	143,948	2,880	-36,748	110,079	2,092	45,453	157,624
9999 GRAND TOTAL	204,932	3,955	-20,123	188,763	3,864	36,871	229,498

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