# BUDGET JUSTIFICATIONS

The United States
Department of the Interior

and Performance Information
Fiscal Year 2016

# OFFICE OF THE SOLICITOR

NOTICE: These budget justifications are prepared for the Interior, Environment and Related Agencies Appropriations Subcommittees. Approval for release of the justifications prior to their printing in the public record of the Subcommittee hearings may be obtained through the Office of Budget of the Department of the Interior.

# TABLE OF CONTENTS

**OVERVIEW**

Organizational Chart ..... SOL-1
General Statement ..... SOL-2
Legal Services Workload ..... SOL-3
Budget Request Overview ..... SOL-9
Budget at a Glance ..... SOL-10
Summary of Requirements ..... SOL-11
Summary of Changes ..... SOL-12
Justification of Fixed Costs ..... SOL-13
Appropriation Language – Salaries and Expenses ..... SOL-14
Appropriation Language Citation ..... SOL-15

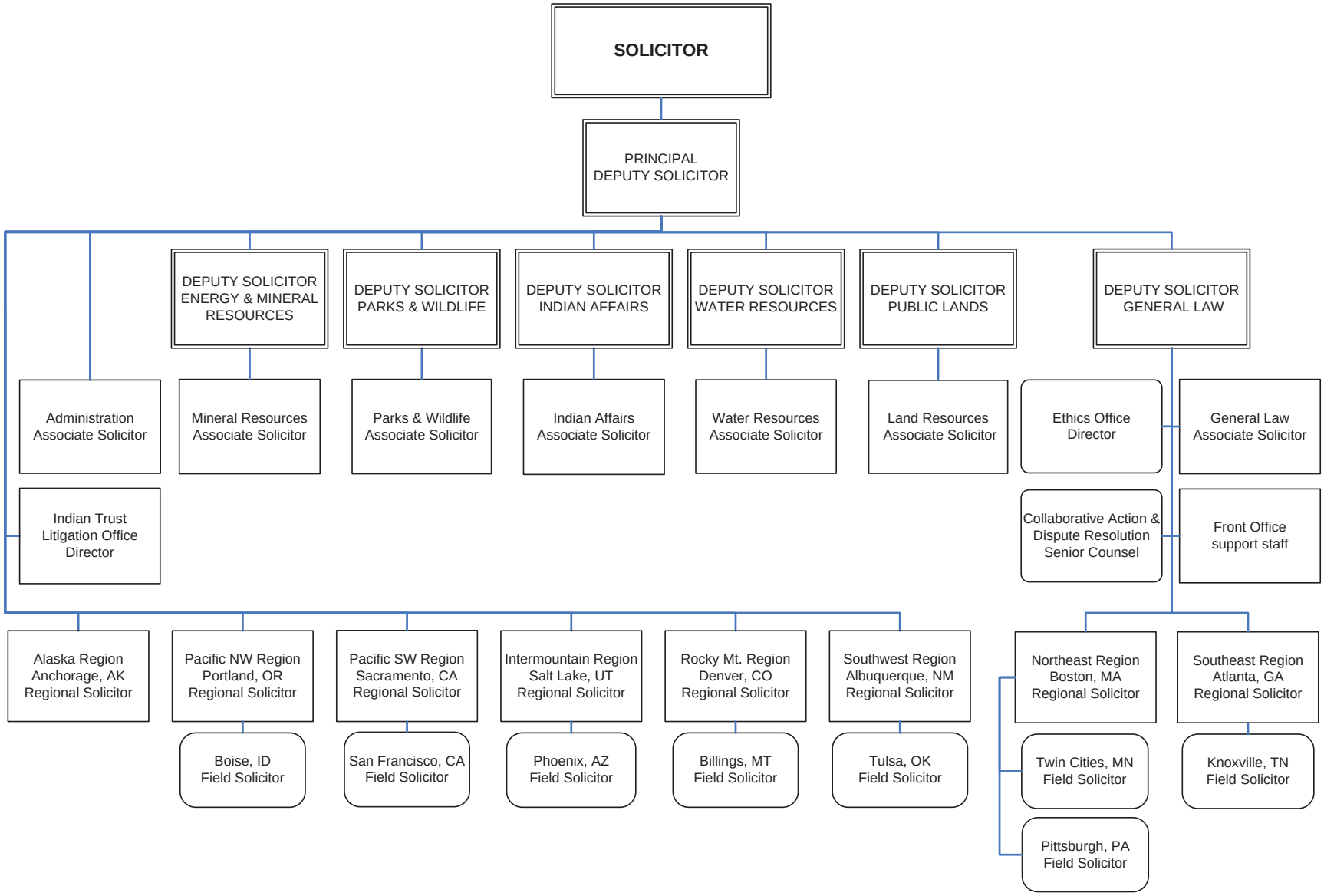
**PROGRAM CHANGES**

General Administration ..... SOL-16
Legal Services ..... SOL-17
Ethics Office ..... SOL-29

**APPENDIX**

Section 403 Compliance ..... SOL-34
Employee Count by Grade Table ..... SOL-36
Program and Financing Schedule ..... SOL-37
Object Classification Schedule ..... SOL-39
Reimbursable Positions Funded by Bureaus Table ..... SOL-40
ESA and EAJA Tables ..... SOL-44

# Department of the Interior
# Office of the Solicitor
## Organizational Chart



# GENERAL STATEMENT

The Office of the Solicitor (SOL, Office) maintains the focal mission of providing quality legal counsel and advice to the Department and inspiring high ethical standards. The Office provides advice, counsel, and legal representation to the Immediate Office of the Secretary, the Assistant Secretaries, and all other bureaus and offices overseen by the Secretary, ensuring that the Department's bureaus carry out their responsibilities in accordance with the law. SOL provides legal representation across the entire spectrum of the Department's broad mission, requiring detailed knowledge of laws relating to a host of natural resource and conservation laws, administrative law, Indian law, as well as contract, tort, personnel and appropriations law. SOL attorneys represent the Department in administrative hearings and work in conjunction with the Department of Justice in representing the Department in judicial proceedings. SOL also provides legal assistance in drafting and reviewing regulations, contracts, memoranda of agreement, decisions, agreements, leases, rights-of-way, title documents, other legal instruments, and legislation. In addition, SOL manages Interior's Ethics Office and resolves Freedom of Information Act (FOIA) Appeals.

The work of the Office impacts every program within the Secretary's jurisdiction. SOL attorneys actively engage in client counseling to ensure sound decision-making, including strategies that may decrease the likelihood of litigation and implement corrective strategies post-litigation. SOL attorneys assist the Secretary, through the Departmental bureaus, in responding to congressional direction in appropriations and substantive legislation, advising the bureaus on legal options for streamlining processes and improving program management, and implementing plans to carry out departmental goals. The Office also assists the bureaus in responding to requests from the Inspector General, the Office of Special Counsel, the Congress, the courts, and the public.

The Office is organized into the Immediate Office of the Solicitor, the Ethics Office, six legal divisions, an administrative division, and sixteen regional and field offices located throughout the United States. The Solicitor is the chief attorney for Interior. The Solicitor is assisted by a Principal Deputy, six Deputy Solicitors, Senior Counselors, an Ethics Director, seven Associate Solicitors, eight Regional Solicitors, and a staff of more than three hundred attorneys and four hundred total employees. About half of the attorneys are assigned to regional and field offices located as far west as Anchorage, Alaska and as far east as Boston, Massachusetts. The other attorneys are assigned to divisions located at headquarters in Washington, D.C.

The Office expects the litigation workload to increase over the next few years as the Department implements new enforcement regulations and land use plans. The Office of the Solicitor's FY 2016 budget request allows for the continuation of existing services with sufficient resources to provide the Secretary and the Department the necessary legal services for the advancement of priority goals and other mission areas. The FY 2016 budget allows the Office to continue to improve management practices and manage the Ethics Office for maximum effectiveness.

## LEGAL SERVICES WORKLOAD

The Office of the Solicitor plays a highly specialized and multi-faceted role in the Department. The Office is unique in the breadth of its expertise in natural resources and Indian law, as well as administrative and employment law. Office personnel develop expertise over decades of practice in highly technical statutory and regulatory schemes. As more fully described below, the Solicitor's Office spends a majority of time on the counseling needed for agency program managers to plan for and reach defensible decisions that are widely scrutinized by an interested and often litigious public. Some of the work the Office performs includes: drafting regulations, reviewing permits, reviewing land use planning documents, advising on all administrative functions, law enforcement, security, preparing Secretarial Orders, and participating in government-to-government relations with Tribes. The Office advises the Secretary and her designees through the bureau component structure. It is the work of the Solicitor's Office that forms the legal foundation for program decisions, risk analysis on a particular course of action, and the development and review of the administrative records and evidence to support the program decision. In litigation, the Department of Justice relies on the expertise of SOL lawyers to prepare the administrative record, find and prepare fact and expert witnesses for testimony, conduct extensive document productions (including privilege reviews), draft legal briefs, develop litigation strategy, and prepare a comprehensive defense of the agency's actions.

The Office expects the litigation workload to increase over the next few years as the Department implements new enforcement regulations and land use plans. Having sufficient attorney resources to handle filed litigation, thwart potential litigation, and to provide timely counseling is critical to ensuring that litigation risks are minimized. Front-end counseling is critical to realizing cost savings by either preventing litigation or narrowing the issues that might be challenged in litigation. The FY 2016 President's Budget staffing level will allow the Office to provide the much needed preventive assistance that is lost to the demands of non-discretionary litigation and FTE reductions required from the reduced funding levels in recent years. The activities of the additional legal resources requested are outlined in the following pages and in the Legal Services Activity beginning on page 17.

## Counseling

The Office's legal counseling services support every facet of the Department's wide ranging mission, as indicated by the breadth of the counseling areas described above. Also outlined in the table below are examples of how the counseling services directly relate to DOI's priority goals. Ensuring these high priority matters receive sufficient and thorough legal counsel is critical to decreasing the likelihood of future litigation.

**Examples of Relationship between SOL Counseling and Department's Priority Goals**

| Bureau | Priority Goal | Outcome | Attorney Counseling Area |
|---|---|---|---|
| BIA | Strengthening Tribal Nations | Empower tribes to self-govern | Ensure Indian Self-Determination Act contracts are legally sufficient |
| | | Taking land in to trust | Ensure land acquisition decisions, including Carcieri analyses, are legally sufficient |
| BLM | Powering Our Future and Responsible Use of Our Resources | Implement actions for solar energy development | Environmental Impact Statement (EIS) legal reviews to prevent, and prepare for, project challenges |
| BOR | Ensuring Healthy Watersheds and Sustainable Secure Water Supplies | Ecosystem restoration in CA Bay-Delta and San Joaquin River | Ensure legal sufficiency of water management decisions, agreements with the state, and various EISs |
| BSEE | Powering Our Future and Responsible Use of Our Resources | Regulate, enforce and respond to Outer Continental Shelf development | Ensure new regulations are legally defensible and advise on the Five Year Plan |
| FWS | Landscape Level Planning | Sage-Grouse conservation | Ensure legal sufficiency of land management plans, their analysis by FWS, and mitigation measures |
| NPS | Celebrating and Enhancing America's Great Outdoors | Gulf Restoration | Negotiating NRDA claims to restore and protect Interior assets |
| NPS | Engaging the Next Generation | Provide work and training opportunities for individuals age 15 to 25 | Ensure legal sufficiency of partnership and cooperative agreements |

Client counseling is essential to reaching sound and defensible program decisions. Office attorneys' advice varies depending on which of DOI's bureaus is seeking decision-making assistance. For example, land use planning and other decisions may require analysis under the National Environmental Policy Act (NEPA) to identify and analyze a variety of alternatives that will eventually form the basis of a final agency decision. Legal counseling from the beginning of a NEPA process is critical to ensuring cost effective management of the process and potentially narrows the issues that might arise as challenges to the bureau's proposed action. Various trusted private sector analyses urge law departments, particularly in-house law departments (such as a government law office) to plan their counseling and risk assessment so as to minimize risk of loss and other costs associated with implementing a program decision. [1] To provide meaningful counseling, adequate staffing is critical. When the SOL attorneys' availability to perform thoughtful and complete counseling to bureaus is eliminated or diminished because of competing

[1] Kiser, Randall, Beyond Right and Wrong: The Power of Effective Decision Making for Attorneys and Clients, 2010.

demands, such as court ordered litigation deadlines, the Department and the Administration are increasing the risk of loss rather than decreasing it. Similarly, in areas such as employment law, regular, effective counseling with management officials leads to better and more defensible personnel decisions, lowers the risks of employee complaints and litigation, and thus saves the agency time and money. Continuing to ensure established Departmental programs receive quality legal services is essential to providing comprehensive and robust legal representation for the Department.

The Office will continue to have wide-ranging demands for legal services in FY 2016 in established practice areas, such as the development of the offshore oil and gas five-year plan, continued permitting of conventional and renewable energy projects, administration of tribal and individual Indian resources, statutorily required decision-making under the Endangered Species Act, and a host of other land management and scientific programs. In addition, the Office will face many new and complex demands for legal services as the Department ramps up efforts in programs such as the promotion of tribal self-governance and trust land acquisitions; the Cobell land buy-back program; Bureau of Indian Education reforms; the transformation of the Department's information technology, including the continued development of new tools to provide landscape level understanding of our natural resources; the enhanced engagement of youth in natural resource programs; the development of more efficient permitting systems for natural resource extraction and renewable energy production; and the development of more effective land and water management strategies to adapt to climate change and other stresses on federally administered lands and projects.

## Litigation

The Office's litigation workload is driven by 1) defensive litigation in which SOL attorneys work with the Department of Justice to defend Department actions; 2) affirmative litigation in which SOL attorneys develop referrals and work with the Department of Justice in prosecuting primarily civil legal action to enforce and/or obtain compliance related to environmental, natural resource, and Indian laws overseen by the Department of the Interior; 3) challenges to bureau decisions before administrative boards of appeals, such as the Interior Board of Land Appeals, Interior Board of Indian Appeals, and the Civilian Board of Contract Appeals; and 4) employment disputes such as those filed with the Merit System Protection Board and the Equal Employment Opportunity Commission. Three of the four litigation areas are defensive in nature, which means that SOL has no discretion but to handle the matters. In the course of this work, SOL attorneys work with DOJ at all judicial levels, including state and district courts, appellate courts, and the Supreme Court. The Office internally handles administrative litigation matters.

### Defensive Litigation

The Office has virtually no control over the filing of defensive cases, which make up almost one-third of the workload. These matters are non-discretionary, meaning the Solicitor's Office must participate in preparing for and working with the Department of Justice to defend the cases. Court schedules and deadlines drive the pace of the work and attorney time devoted to these cases.

These defensive suits arise from all aspects of agency decision-making. The suits include challenges to land management decisions, water use and operations, breach of contract claims, tort allegations, alleged breaches of trust in dealing with Indian lands and monies, and personnel and employment related matters. This workload is expected to increase by FY 2016. For example, the Intermountain Region in Salt Lake City, Utah, currently faces a significant workload in addressing litigation under a 19th Century Federal statute known as "R.S. 2477," which recognized "right[s] of way for the construction of highways over public lands, not reserved for public uses." Litigation concerning only 9 roads required ten days of trial after months of preparation that included searching old document collections, extensive witness preparation, and physical inspection of the roads themselves. The State and Counties in Utah have given notice to asserting claims to as many as 18,000 additional R.S. 2477 roads. Assuming only a small percentage of them are actually asserted, we would need to devote at least 4 attorneys full-time to no other work but this in Utah alone. Even settling these claims is time consuming. Recent experience in negotiating settlement of 3 road claims near sensitive lands required almost 2 years to complete.

In the area of water resources conflicts, the Office continues to experience increasing litigation over water rights in almost every western state, with many of these cases focused on protecting water rights on public lands and tribal reservations. The handling of these cases is very resource intensive, involving a multitude of claimants, and years to resolve, either through litigation, or through protracted settlement negotiations. For example, the recent unprecedented drought in California triggered a significant amount of defensive litigation. Agricultural and environmental interests concerned about the operation of the Bureau of Reclamation's Central Valley Project filed requests for several temporary restraining orders (TROs) in the last year challenging Reclamation's water management decisions, and these threats of emergency court action will continue. The SOL prevailed only by devoting hundreds of hours by SOL lawyers preparing witnesses and declarations, reviewing documents and formulating arguments that could be used by DOJ counsel. In addition, the Office provides nearly daily client counseling on how to make legally defensible the water supply decisions that are likely to be immediately challenged in court. The Office anticipates seeing additional lawsuits from water stakeholders into FY 2016 and beyond as the scarcity of water resources continues to evolve as one of the major issues throughout the west.

The Office anticipates increased defensive litigation on the energy permitting decisions made by the Department, especially with respect to renewable energy. The Department has an ambitious program, both onshore and offshore, of permitting renewable energy projects involving solar, wind, and geothermal resources. Currently, the BLM is processing 13 renewable energy projects (11 solar and 2 wind) representing about 3,030 MW, or enough electricity to power over 900,000 homes. The Bureau of Ocean Energy Management is in the initial stages of permitting offshore wind projects along much of the Eastern seaboard. This work is planned to extend well past FY 2016, and virtually each permitting decision requires extensive SOL involvement both before and after the permitting decisions, since a high percentage of the projects are litigated and even those that are not require substantial attorney assistance as the project is implemented.

The Office also expects increased litigation concerning land management planning, especially as it relates to compliance with the Endangered Species Act (ESA). The pending decision regarding the status of the Greater sage-grouse under the ESA is a prime example. The Fish and Wildlife Service must decide by

the end of September 2015 whether the Greater sage-grouse warrants listing under the ESA. The grouse occur in eleven western States and most of its habitat is on Federal (primarily BLM) land. Federal and State land management agency leaders and their fish and wildlife agency counterparts have been working for the past three years to develop plans to conserve the grouse. Federal land management agencies will revise or amend 98 resource management plans as a part of this effort. This significant undertaking has been supported by a team of attorneys from across the Office. Section 122 of the 2015 Consolidated Appropriations Act provides that "[n]one of the funds made available by this or any other Act may be used by the Secretary of the Interior to write or issue pursuant to section 4 of the Endangered Species Act of 1973 . . . (1) a proposed rule for greater sage-grouse." However, FWS is still required by court order to decide whether listing under the ESA is warranted. The Office anticipates significant litigation in multiple forums will be filed when the plans are amended, particularly if the FWS issues a not-warranted decision.

Defensive litigation in the area of Indian water rights is also a priority for which increased staffing is needed. The United States holds reserved water rights of a particular Tribe in trust and is responsible for protecting Indian reserved water rights. The Office has a heavy workload in the field of Indian water rights, with few lawyers who have expertise in this area. Indian water rights attorneys are heavily engaged in water rights litigation on behalf of Indian tribes across the country. These attorneys also play an integral role in complex settlement negotiations. Litigation and negotiations are extremely complex, involve multiple parties, and may last years before a final result is achieved. The Solicitor's Office has seen an increase in requests from Tribes for participation by the Department in water rights litigation or settlement negotiations. Most Tribes in the United States still need to resolve their reserved water rights claims and the Solicitor's Office expects request for Departmental assistance in this area continuing to rise steadily over the next several years.

**Affirmative Litigation**

In affirmative litigation, the Office's goals are straightforward and critically important: ensure that U.S. laws are followed through civil enforcement actions that provide credible deterrents against future violations; ensure that violators of criminal statutes are appropriately punished; collect debts owed to the government; ensure that those responsible for contamination pay for or conduct needed remediation; and obtain money to restore or replace natural resources injured or destroyed by oil spills or releases of hazardous substances into the environment.

In affirmative litigation, the Office has an opportunity to recover damages on behalf of the government, and to use those damages, without further action by Congress, to directly address harm to public resources. In the environmental cleanup area, the Office recovered more than $17 million in FY 2014, and more than $48 million since FY 2010. These funds are returned to the Department's Central Hazardous Materials Fund, and used for cleanups at other sites on Departmental lands. In addition, the SOL has negotiated settlement agreements under which liable parties have performed an estimated $460 million worth of remediation on Departmental lands.

Additionally, not even including the Deepwater Horizon matter,[2] since FY 2010 the Office has recovered over $333 million in settlement funds for natural resource restoration, and the Departments Restoration Fund now has a balance of over $455 million dollars to be used, in partnership with States and Tribes, to restore injured public resources. Moreover, money already expended on restoration from the Department's Fund has resulted in hundreds of thousands of acres of restored and enhanced wetland and upland habitat. The Office has made significant strides in bringing affirmative litigation, but there is still much to do in supporting the Department's trust responsibility to Native American tribal governments, environmental enforcement and cleaning up the lands the Department manages, and ensuring that extractive industries pay their fair share for the privilege of resource extraction that occurs on public lands or offshore. The attorneys who focus in this area each carry a significant caseload of complex and protracted matters, having to manage largely by triage.

## THE PRESIDENT'S MANAGEMENT AGENDA:

The Department of the Interior supports the President's Management Agenda to build a better government, one that delivers continually improving results for the American people and renews their faith in government. The Office of the Solicitor is actively involved in the government-wide effort to bring forward the most promising ideas to improve government effectiveness, efficiency, spur economic growth, and promote people and culture.

In planning for FY 2016 and beyond, the SOL management team led a series of internal dialogues and management assessments to determine how best to operate, including: (1) working with the bureaus to identify and plan for prioritizing legal work to support program priorities; (2) assessing the level of legal services the SOL provides and determining how to deliver them more efficiently; (3) assessing how the SOL might better organize to realize efficiencies; (4) looking at staffing models to identify hiring priority improvements; and (5) examining the ways the Office is funded to determine if improvements can be made. The assessment identified IT savings of about $200,000 in FY 2016 by leveraging the Interior Business Center's Customer Service Center for tier one IT services. The Office plans to use this savings on IT infrastructure and security requirements, as well as other partnerships with the OCIO, to achieve IT management efficiencies. The Office continues to actively review operations to achieve maximum effectiveness and efficiency in delivering legal services.

[2] The government has recovered over $660 million for the Deepwater Horizon Early Restoration Plans.

## FISCAL YEAR 2016 BUDGET REQUEST OVERVIEW

The FY 2016 President's Budget request for the Office of the Solicitor is $69,888,000, $4,088,000 above the Office's FY 2015 Enacted budget. The request includes an increase of $3,977,000 in legal services for twenty additional attorney FTEs and $111,000 for fixed costs increases.

The Office developed a 2016 budget that focuses on supporting the Department of the Interior's efforts to improve the efficiency and effectiveness of Department-wide programs by delivering the highest quality legal services to Interior.

The following table illustrates the 2014 Actual, the 2015 Enacted, and the 2016 Budget Request.

**TOTAL 2016 BUDGET REQUEST**
*(Dollars in Thousands)*

| Budget Authority | 2014 Actual | 2015 Enacted | 2016 President's Budget |
|---|---|---|---|
| **Appropriation Total** | 65,800 | 65,800 | 69,888 |
| | | | |
| **FTE Direct** | 314 | 328 | 348 |
| **FTE Reimbursable** | 68 | 69 | 69 |
| **FTE Allocation** | 19 | 20 | 20 |
| **FTE Total** | 401 | 417 | 437 |

## Budget at a Glance
(Dollars in Thousands)

| | 2014 Actual | 2015 Enacted | Fixed Costs | Program Changes | 2016 President's Budget |
|---|---|---|---|---|---|
| **Appropriation: Salaries & Expenses** | | | | | |
| **Legal Services** | **59,658** | **59,091** | **99** | **3,977** | **63,167** |
| Attorney FTE Increase | | | | **[+3,977]** | |
| **General Administration** | **4,647** | **4,971** | **11** | **0** | **4,982** |
| **Ethics Office** | **1,495** | **1,738** | **1** | **0** | **1,739** |
| **TOTAL, SOL** | **65,800** | **65,800** | **111** | **3,977** | **69,888** |

## Summary of Requirements

*(Dollars in Thousands)*

| | 2014 Actual | 2015 Enacted | | | | | 2016 President's Budget | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Program Changes (+/-) | | | | Change from PY | |
| | Amount | Total *FTE* | Amount | Fixed Costs & Related | *FTE* | Amount | *FTE* | Amount | *FTE* | Amount |
| **Salaries & Expenses** | | | | | | | | | | |
| Legal Services | 59,658 | 296 | 59,091 | +99 | +20 | +3,977 | 316 | 63,167 | +20 | 4,076 |
| General Administration | 4,647 | 24 | 4,971 | +11 | +0 | +0 | 24 | 4,982 | +0 | 11 |
| Ethics | 1,495 | 8 | 1,738 | +1 | +0 | +0 | 8 | 1,739 | +0 | 1 |
| **TOTAL, SOL** | **65,800** | **328** | **65,800** | **+111** | **+20** | **+3,977** | **348** | **69,888** | **+20** | **4,088** |

## Summary of Changes
(Dollars in Thousands)

**Appropriation: Salaries and Expenses**

| | FTE | Amount | FTE | Amount |
|---|---|---|---|---|
| **FY 2015 Enacted** | | | **328** | **65,800** |
| **Fixed Costs and related changes:** | | | | |
| Change in Pay Days | 0 | + 194 | | |
| Calendar Year 2015 & 2016 Pay Raise | 0 | + 613 | | |
| Employer Contribution to FERS | 0 | + 20 | | |
| Departmental Working Capital Fund | 0 | - 265 | | |
| Departmental Working Capital Fund ITT | 0 | - 4 | | |
| Worker's Compensation Payments | 0 | - 507 | | |
| Unemployment Compensation Payments | 0 | + 1 | | |
| GSA Rental Payments | 0 | + 59 | | |
| **Program changes:** | | | | |
| Attorney FTE Increase | + 20 | + 3,977 | | |
| Total program changes | | | + 20 | + 4,088 |
| **FY 2016 President's Budget Request** | | | **348** | **69,888** |

# Office of the Solicitor

## Justification of Fixed Costs and Internal Realignments

*(Dollars In Thousands)*

| Fixed Cost Changes and Projections | 2015 Total or Change | 2015 to 2016 Change |
|---|---|---|
| Change in Number of Paid Days | 0 | +194 |
| This column reflects changes in pay associated with the change in the number of paid days between FY 2015 and FY 2016. | | |
| Pay Raise | +495 | +613 |
| The change reflects the salary impact of programmed pay raise increases. | | |
| Seasonal Federal Health Benefit Increase | 0 | 0 |
| The change reflects changes in the fixed cost portion of the Seasonal Health Benefits Model. | | |
| Employer Contribution to FERS | 3,832 | +20 |
| The change reflects the directed increase of 0.5% in employer's contribution to the Federal Employee Retirement System. | | |
| Departmental Working Capital Fund | 3,474 | -265 |
| The change reflects expected changes in the charges for centrally billed Department services and other services through the Working Capital Fund. These charges are detailed in the Budget Justification for Department Management. | | |
| Departmental Working Capital Fund ITT | 28 | -4 |
| The change reflects expected changes in the charges for centrally billed Department services through the Working Capital Fund. | | |
| Worker's Compensation Payments | 796 | -507 |
| The adjustment is for changes in the costs of compensating injured employees and dependents of employees who suffer accidental deaths while on duty. Costs for FY 2016 will reimburse the Department of Labor, Federal Employees Compensation Fund, pursuant to 5 U.S.C. 8147(b) as amended by Public Law 94-273. | | |
| Unemployment Compensation Payments | 22 | +1 |
| The adjustment is for projected changes in the costs of unemployment compensation claims to be paid to the Department of Labor, Federal Employees Compensation Account, in the Unemployment Trust Fund, pursuant to Public Law 96-499. | | |
| Rental Payments | 8,180 | +59 |
| The adjustment is for changes in the costs payable to General Services Administration (GSA) and others resulting from changes in rates for office and non-office space as estimated by GSA, as well as the rental costs of other currently occupied space. These costs include building security; in the case of GSA space, these are paid to Department of Homeland Security (DHS). Costs of mandatory office relocations, i.e. relocations in cases where due to external events there is no alternative but to vacate the currently occupied space, are also included. | | |
| O&M Increases from Moves out of GSA-Space into Bureau Space | 0 | 0 |
| In accordance with space maximization efforts across the Federal Government, this adjustment captures the associated increase to baseline operations and maintenance requirements resulting from movement out of GSA or direct-leased (commercial) space and into Bureau-owned space. While the GSA portion of fixed costs will go down as a result of these moves, Bureaus often encounter an increase to baseline O&M costs not otherwise captured in fixed costs. This category of funding properly adjusts the baseline fixed cost amount to maintain steady-state funding for these requirements. | | |

# APPROPRIATION LANGUAGE

## SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, [$65,800,000] $69,888,000.
*(Department of the Interior, Environment, and Related Agencies Appropriations Act, 2015.)*

# APPROPRIATION LANGUAGE CITATION

**Appropriation: <u>Salaries and Expenses</u>**

For necessary expenses of the Office of the Solicitor.

43 U.S.C. § 1455

43 U.S.C. § 1455 provides that, on and after June 26, 1946, the legal work of the Department of the Interior shall be performed under the supervision and direction of the Solicitor of the Department of the Interior, who shall be appointed by the President with the advice and consent of the Senate.

# GENERAL ADMINISTRATION ACTIVITY

**Activity: General Administration**
(Dollars in Thousands)

| | 2014 Actual | 2015 Enacted | 2016 | | | Change from 2015 (+/-) |
|---|---|---|---|---|---|---|
| | | | Fixed Costs & Related Changes (+/-) | Program Changes (+/-) | Budget Request | |
| **General Administration** | 4,647 | 4,971 | +11 | 0 | 4,982 | +11 |
| ***FTE*** | 23 | *24* | *0* | *0* | *24* | *0* |

The 2016 budget request for General Administration is $4,982,000 and 24 FTE.

## GENERAL ADMINISTRATION PROGRAM OVERVIEW:

**Division of Administration:** Under the direction of an Associate Solicitor, the Division of Administration is responsible for providing and coordinating all management and administrative services needed by the Office. Responsibilities in the Division of Administration include: organizational, strategic, and performance planning; program evaluation; budget and accounting; human resources management; employee development and training; space and property management; procurement services; IT planning and services; and records management.

# LEGAL SERVICES ACTIVITY

**Activity: Legal Services**
(Dollars in Thousands)

| | 2014 Actual | 2015 Enacted | 2016 | | | Change from 2015 (+/-) |
|---|---|---|---|---|---|---|
| | | | Fixed Costs & Related Changes (+/-) | Program Changes (+/-) | Budget Request | |
| **Legal Services** | 59,658 | 59,091 | +99 | +3,977 | 63,167 | +4,076 |
| ***FTE*** | 283 | *296* | *0* | *+20* | *316* | *+20* |

**Summary of 2016 Program Changes for Legal Services**

| Request Component | ($000) | FTE |
|---|---|---|
| Program Changes: | | |
| • Attorney FTE Increase | +3,977 | +20 |
| **TOTAL Program Changes** | **+3,977** | **+20** |

The 2016 budget request for Legal Services is $63,167,000 and 316 FTE, an increase of $4,076,000 and +20 FTEs from the 2015 enacted level.

**Attorney FTE Increase (+$3,977,000/ +20 FTE)** – The budget request includes a program increase of $3,977,000 for 20 FTE above the FY 2015 enacted level. This program increase will allow the Office to deliver more comprehensive and timely legal services.

The Office expects the litigation workload to increase over the next few years as the Department implements new enforcement regulations and land use plans. As mentioned earlier, having sufficient attorney resources to handle filed litigation, thwart potential litigation, and to provide timely counseling is critical to ensuring that litigation risks are minimized. With proactive counseling, decision-makers are provided the opportunity to weigh litigation risks and damages to program management by pursuing one decision over another. Front-end counseling is critical to realizing cost savings by either preventing litigation or narrowing the issues that might be challenged in litigation. The FY 2016 President's Budget staffing level will allow the Office to provide the much needed preventive assistance that is lost to the demands of non-discretionary litigation and FTE reductions required from the reduced funding levels in recent years.

The Office's ability to provide early and continuous legal counsel in new priority areas to ensure that developing programs are grounded in established legal principles and precedents is absolutely vital. The Office has to be nimble in its ability to answer requests for advice that may arise in emergency, crisis, or even routine situations, and often these circumstances lead to long-lasting impacts on Office

workload. For example, during the government shutdown at the beginning of FY 2014, attorneys expert in general and administrative law were making sequester determinations, providing advice on appropriations and the correct usage of certain financial accounts. These attorneys were also in close contact with the Secretary's Office and the White House Counsel's Office to ensure consistency of advice across numerous executive agencies. At the same time, still other lawyers were coordinating with the Department of Justice to ensure that when courts were not granting trial schedule continuances during the shutdown, determinations needed to be made as to which lawyers should be called back to work to ensure court deadlines were properly managed. The shutdown continued for only two and a half weeks, but the impacts have had lasting effects, such as answering States' claims for reimbursement for money spent to keep National Parks open.

Another example of difficult and nimble legal work the Office performs in response to external factors occurred when SOL lawyers conducted individual legal analyses for 94 mandatory budget accounts to determine whether sequestered amounts in the accounts could be paid out in the year after sequestration. Our lawyers worked closely with the Office of Management and Budget and with Interior's Office of Budget in documenting its determinations. These 94 accounts had sequestered amounts totaling $252.3 million, of which SOL lawyers determined $193.8 million could be paid out in the year after sequestration. Interior had the largest number of mandatory accounts of all the cabinet Departments and its efforts became the model for other agencies.

Although these examples could be construed as unique because the work SOL lawyers provided related to unusual conditions, the Department is often faced with unusual conditions to which legal services must quickly and accurately be brought to bear. These examples therefore illustrate the need for SOL attorneys to nimbly provide necessary advice to support management decisions and further demonstrates the great extent to which senior agency officials rely on the Office.

The 2016 request for 20 FTEs above the FY 2015 enacted level will enable the Office to provide more of the needed counseling and advisory services in specialized areas such as:

- Significant legal opinion issuance (e.g., authority for payment /non-payment of solid waste fees; closing of NPS units during hurricane events, etc.) and NEPA and ESA compliance and document review
- BIE school special education due process violations (which have resulted in unnecessary hearings and failures in providing services owed to Indian children)
- Participation in state administrative water right permit proceedings to protect federal lands and facilities
- Response to petitions for remission of goods seized for violations of CITES, the ESA, or the Lacy Act
- Biological opinions, Habitat Conservation Plans, mitigation banking documents, MOU legal reviews for the Fish & Wildlife Service
- Fee-to-trust title opinions, Self-Determination, and the Tribal Land Buy Back program legal opinions
- Carcieri opinions related to tribes going through the process of having land taken into trust
- Tribal code, PL 93-638 contracting, and tribal ordinance reviews
- Indian allotments affected by the Oklahoma Corporation Commission rules and orders

- Agreement and permit negotiations and document reviews between DOI (primarily NPS & FWS) and nonfederal parties
- Legal assistance for trespasses and encroachments on trust lands
- Legal review of voluminous documents released by DOI agencies under FOIA
- Indian water rights settlements
- R.S. 2477 and Title V rights-of-way matters
- ESA listing/delisting determinations, MBTA, and National Wildlife Refuge matters
- E-discovery, rulemaking, debt collection, privacy, acquisitions, and intellectual property support to various bureaus
- Personnel/employment training and counsel to Department and bureau managers.

In addition to these specific areas of law and types of matters, these attorneys would also support Secretarial Priorities and other bureau priorities, such as conventional and renewable energy development, including improved management of Federal oil and gas resources; development of landscape level mitigation; Information Technology Transformation; civil enforcement of natural resource and pollution-control laws; climate change adaptation; refocused implementation of the Endangered Species Act; land-into-trust and other programs to strengthen Tribal Nations; agreements with third parties to Engage the Next Generation; and other projects identified by the Secretary to meet her objectives of Ensuring Healthy Watersheds and Sustainable, Secure Water Supplies; and Building Landscape-Level Understanding of Our Resources. Prioritizing and managing programmatic legal assistance must be done adaptively based on the demands of litigation and other court or tribunal mandated requirements. The additional attorney FTEs will help ensure the Office provides quality legal counsel advice to the Secretary and the Department, pursues worthy affirmative litigation, and lessens the requirement to manage workload by triage.

## LEGAL SERVICES PROGRAM OVERVIEW

The responsibility of the Legal Services program is to effectively manage the legal work to support the top priorities of the Secretary and the bureaus. Among these legal services are representation in litigation, both administrative and judicial; preparation of legal opinions; legal review of legislation, regulations, contracts, and other documents; and informal legal counsel to clients on a continual basis in a wide variety of circumstances.

The Office of the Solicitor consists of a headquarters organization in Washington, D.C., and regional and field offices in 16 locations throughout the United States. The Solicitor is the chief attorney for Interior and the principal legal adviser to the Secretary. The Solicitor directs the Office's professional staff and is responsible for the legal work provided to Interior.

The Washington, D.C. office is organized into the Immediate Office of the Solicitor, which includes six Deputy Solicitors with subject matter oversight, the Ethics Office, six major legal divisions, and an administrative division as detailed below. Each legal division is headed by an Associate Solicitor who is directly responsible to the Solicitor and respective Deputy Solicitor. Attorneys under the supervision of Associate Solicitors render legal services for Interior's programs. The field organization of the Solicitor's Office is divided into eight regions, as detailed below. Each region is headed by a Regional Solicitor who is directly responsible to the Solicitor and Principal Deputy Solicitor.

### HEADQUARTERS

Immediate Office of the Solicitor

Ethics Office

Division of Parks and Wildlife

Division of General Law

Division of Indian Affairs

Division of Land Resources

Division of Water Resources

Division of Mineral Resources

Division of Administration

| REGION | REGIONAL OFFICES | FIELD OFFICES |
|---|---|---|
| Alaska | Anchorage, Alaska | ---- |
| Southeast | Atlanta, Georgia | Knoxville, Tennessee |
| Northeast | Boston, Massachusetts | Pittsburgh, Pennsylvania<br>Twin Cities, Minnesota |
| Intermountain | Salt Lake City, Utah | Phoenix, Arizona |
| Rocky Mountain | Denver, Colorado | Billings, Montana |
| Pacific Northwest | Portland, Oregon | Boise, Idaho |
| Pacific Southwest | Sacramento, California | San Francisco, California |
| Southwest | Albuquerque, New Mexico | Tulsa, Oklahoma |

**PROGRAM AND ORGANIZATION DESCRIPTIONS**

The majority of the Office's resources are devoted to the defense of a wide range of litigation against the United States, both administrative and judicial, and to other "nuts-and-bolts" legal services, ensuring that Interior's agencies carry out their responsibilities in accordance with the law. In most judicial litigation, SOL attorneys actively assist or are co-counsel with attorneys from DOJ. In some judicial litigation and all administrative litigation, Office attorneys represent Interior without assistance from DOJ.

The Office also provides everyday legal service assistance in drafting and reviewing legislation, proposed and final regulations, contracts, memoranda of agreement, decisions, agreements, leases, rights-of-way, title documents, and other legal instruments, as well as providing both written and oral legal advice on a constant flow of legal questions. Some of these questions arise from such generic statutes as the Administrative Procedure Act, Freedom of Information Act, Privacy Act, Federal Advisory Committee Act (FACA), Federal Tort Claims Act, Civil Service Reform Act, the Civil Rights Acts, and the Rehabilitation Act, while other questions arise from the many specific statutes applicable to Interior's program areas in which the Office's attorneys and paralegals have developed significant expertise.

In addition to this essential baseline of legal work, the Office engages in a significant number of special legal projects, providing critical legal support for Interior's key initiatives. The legal staff assists the bureaus in responding to congressional direction in appropriations and substantive legislation. The Office advises the bureaus on legal options for streamlining processes and improving program management and implementing plans to carry out departmental goals. Finally, the Office assists the bureaus in responding to Inspector General, congressional, judicial, and public FOIA requests, as well as subpoenas for documents.

In addition to the Immediate Office of the Secretary and the offices of the Assistant Secretaries, client-representatives include the following bureaus and offices within Interior:

Bureau of Indian Affairs (BIA)
Bureau of Indian Education (BIE)
Bureau of Land Management (BLM)
Bureau of Reclamation (BOR)
Fish and Wildlife Service (FWS)
Bureau of Ocean Energy Management (BOEM)
Bureau of Safety and Environmental Enforcement (BSEE)
National Park Service (NPS)
National Resource Damage Assessment and Restoration Program (NRDAR)
Office of Surface Mining Reclamation and Enforcement (OSM)
United States Geological Survey (USGS)
Policy, Management and Budget (PMB)
Office of Aviation Services (OAS)
Office of Chief Information Officer (OCIO)
Office of Civil Rights (OCR)
Office of Collaborative Action and Dispute Resolution (CADR)
Office of Environmental Policy and Compliance (OEPC)
Office of Historical Trust Accounting (OHTA)
Office of Indian Trust Transition (OITT)
Office of Insular Affairs (OIA)
Office of the Special Trustee (OST)
Indian Arts and Crafts Board (IACB)
Federal Subsistence Board (FSB)
Exxon Valdez Trustee Council
Secretary's Indian Water Rights Office (SIWRO)

Client-representative specific narratives are omitted for those bureaus and offices where the legal services provided are predominantly generic, that is, relating to personnel, procurement, FOIA, and other statutes of general applicability to all bureaus and offices.

## ORGANIZATIONAL DESCRIPTIONS

The **Immediate Office of the Solicitor** includes the Solicitor, Principal Deputy Solicitor, six Deputy Solicitors, Special Assistants, Senior Counselors, and supporting secretarial staff. The Immediate Office is responsible for managing and directing all the legal work in the Office.

The **Division of General Law** is responsible for legal matters related to procurement, patents, and tort claims; insular areas; equal employment opportunity, labor law, and other personnel matters; and administrative and other general legal issues, including legislative and appropriations issues not assigned to another division. In addition, the Division provides legal assistance and counsel to the Assistant

Secretary - Policy, Management and Budget and to the Endangered Species Committee. The Division also manages the Department's FOIA and Privacy Act (PA) appeals program. The Division has an Associate Solicitor, three branches, each headed by an Assistant Solicitor, and one office headed by a branch chief.

(1) The Branch of Personnel Litigation and Civil Rights has responsibility for defensive employment litigation before the Merit Systems Protection Board, Equal Employment Opportunity Commission, Federal Labor Relations Authority, and in assisting the Department of Justice in employment cases in Federal court. The litigation practice involves, among other things, Chapters 43 and 75 of Title 5 of the U.S. Code, Title VII of the Equal Employment Opportunity Act, Rehabilitation Act, Age Discrimination in Employment Act, Veteran's Employment Opportunity Act, Uniformed Services Employment and Reemployment Rights Act, Veterans Employment Opportunities Act, Whistleblower Protection Act, the Family Medical Leave Act, and the Fair Labor Standards Act. A substantial portion of the practice of the Branch is devoted to providing counseling and review on employment matters to the Office of the Secretary and the Bureau Offices located in Washington, D.C., providing legal engagement in personnel policy and Title VI policy matters, and ensuring consistency in legal services throughout the Office of the Solicitor.

(2) The Branch of Acquisitions and Intellectual Property has responsibility for: legal matters related to Interior acquisition and procurement functions including all related litigation; use of revolving and franchise funds; interagency agreements, grants and cooperative agreements; claims based on the Federal Tort Claims Act, the Military Personnel and Civilian Employees Claims Act; patents, copyrights, trademarks, rights in data, and other forms of intellectual property; legal support of fast-track contracting and assistance under the American Recovery and Reinvestment Act; claims relating to agreements; and contracts under the Indian Self Governance and Self Determination Acts. A portion of the practice of the Branch is devoted to providing early legal engagement, counseling and review for diverse clients; while ensuring consistency in general legal services throughout the Office of the Solicitor.

(3) The Branch of General Legal Services has responsibility for legal matters and litigation related to budget, financial management, legal ethics, FOIA, records management, electronic data management, partnerships, the FACA, the PA, rulemaking, and other administrative law matters, internal delegations of authority, departmental law enforcement policies, insular areas, and all other related and general matters not specifically the responsibility of any other branch or division. A portion of the practice of the Branch is devoted to providing early legal engagement, counseling and review for diverse clients; while ensuring consistency in general legal services throughout the Office of the Solicitor.

(4) The Freedom of Information Act and Privacy Act Appeals Office has responsibility for FOIA and PA appeals and coordinates and manages the Department's FOIA and PA appeals program. The Office is headed by the Departmental FOIA/PA Appeals Officer who has authority to directly issue appeal decisions for matters involving procedural issues not requiring legal review. An example of the type of such an appeal would be one alleging that a bureau did not conduct an adequate search of its files.

The **Division of Indian Affairs** is responsible for legal matters related to the programs and activities of the Bureau of Indian Affairs and the Bureau of Indian Education. In addition, the Division provides legal assistance and counsel to the Assistant Secretary - Indian Affairs. The Division has an Associate Solicitor and three branches, each headed by an Assistant Solicitor.

(1) The Branch of Trust Responsibility has responsibility for advising the Secretary in the Secretary's capacity as trustee over lands and minerals owned by Indian Tribes and individual Indians. The Branch is responsible for legal matters related to the acquisition and management of lands held in trust for the benefit of Indian Tribes and individual Indians; the management of the trust assets, including probate, and the use, leasing, sale, and conservation of trust assets such as forest and range lands; breach of trust and land claim litigation; environmental issues arising in connection with trust lands, and the protection and preservation of tribal cultural resources.

(2) The Branch of Tribal Government and Alaska has responsibility for legal matters related to BIA tribal governmental programs and activities. In addition, the Branch is responsible for tribal status, treaty rights, reservation boundary, zoning, and taxation disputes; issues concerning Federal, State, and tribal jurisdiction; tribal courts and law enforcement and implementation of the Indian Civil Rights Act.

(3) The Branch of General Indian Legal Activities has responsibility for legal matters related to BIA and BIE programs and activities other than those assigned to other branches. These matters include gaming, self-determination and self-governance, education, roads, social services, and economic development.

The **Division of Land Resources** is responsible for legal matters related to the programs and activities of BLM, other than legal matters concerning mineral programs. The Division is also responsible for asserting, on behalf of all of Interior's bureaus, affirmative claims seeking reimbursement under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for costs incurred by those bureaus in remediating contamination on bureau lands. The Division also defends the bureaus in contribution actions asserted against them under CERCLA and other laws. In addition, the Division provides legal assistance and counsel to the Assistant Secretary - Land and Minerals Management; and, with respect to matters concerning operation of the Department's Central Hazardous Materials Fund, the Assistant Secretary - Policy, Management and Budget. The Division has an Associate Solicitor and two branches, each headed by an Assistant Solicitor.

(1) The Branch of Public Lands has responsibility for legal matters related to BLM land management functions, including land acquisitions, disposals, surveys, boundaries, withdrawals, classification, rights-of-way, trespass, land titles, land use planning, grazing, forest management, wildland fire issues, law enforcement, and wilderness.

(2) The Branch of Environmental Compliance Response has responsibility for legal matters related to cost-recovery and cost-avoidance involving cases funded from Interior's Central Hazardous Materials Fund. The Branch also has responsibility for legal assistance and counsel with respect to issues of environmental compliance that arise under numerous state and federal laws at Interior's facilities, as well as environmental liabilities that arise during real property transactions. The Branch also works closely with U.S. Environmental Protection Agency and other agencies in promoting the redevelopment of Brownfield sites; encouraging the cleanup of mixed ownership sites (private and public lands); and facilitating the remediation of formerly used defense sites. The Branch also coordinates its response activities with Interior's Natural Resources Damage Assessment and Restoration Program.

The **Division of Water Resources** is responsible for water rights legal matters for BOR, BLM, NPS, FWS, BIA, and the USGS. In addition, the Division provides legal assistance and counsel to the Assistant Secretary – Water and Science and the Secretary's Indian Water Rights Office. The Division has an Associate Solicitor and two branches, each headed by an Assistant Solicitor.

(1) The Branch of Water Rights Administration and Adjudication has responsibility for legal matters related to water rights by all Bureaus within the Department other than the water rights asserted on behalf of Tribes and Individual Indians. The branch will provide legal advice on aspects of Reclamation law including contracting for water delivery; repayment, and operation and maintenance; hydropower development; water research and technology; water policy and water rights. The Branch will assert, adjudicate, and defend all Bureau, state law-based and federal reserved water rights. The Branch will help Bureaus resolve issues concerning large river basins such as the Colorado River and the Central Valley Project in California, as well as matters related to interstate compacts.

(2) The Branch of Indian Water Rights has responsibility for legal matters related to BIA programs and activities with respect to water rights held in trust by the United States for Indian Tribes and allottees, including adjudications and Congressional settlements of Indian water rights; license applications before the Federal Energy Regulatory Commission and hydroelectric power projects that affect Indian reservations and resources; and the operation and maintenance of BIA irrigation projects. The Branch also provides legal support to the SIWRO.

The **Division of Mineral Resources** is responsible for legal matters related to the programs and activities of BOEM; BSEE; OSM; USGS, other than those related to its Biological Research Division; and BLM's mineral programs. The Division is also responsible for legal services pertaining to programs and activities of the Department related to the Law of the Sea and international law affecting marine minerals,

pollution, and related matters. The Division provides legal assistance and counsel to the Assistant Secretary - Land and Minerals Management and the Assistant Secretary - Water and Science.

(1) The Branch of Offshore Resources provides legal services to BOEM and BSEE. It is responsible for legal matters related to Outer Continental Shelf mineral and energy leasing and the regulation of operations on such leases; establishing financial terms in leases and the grant of relief therefrom, and the requirement of bonds for the performance of lease obligations; oil spill response planning and oil spill financial responsibility for offshore facilities; and international issues relating to OCS mineral extraction, including establishment of maritime boundaries.

(2) The Branch of Onshore Minerals provides legal services to the minerals programs of BLM and USGS. It is responsible for legal matters related to hardrock and fluid mineral disposition, development and extraction, environmental regulation and protection, and reclamation and remediation.

(3) The Branch of Surface Mining provides legal services to the OSM. It is responsible for legal matters related to OSM programs and activities, including regulatory programs, enforcement and collections, and abandoned mine land reclamation.

The **Division of Parks and Wildlife** is responsible for legal matters related to the programs and activities of NPS, FWS, and the Biological Research Division of the USGS. In addition, the Division provides legal assistance and counsel to the Assistant Secretary - Fish, Wildlife and Parks and the Assistant Secretary – Water and Science. The Division has an Associate Solicitor and three branches, each headed by an Assistant Solicitor.

(1) The Branch of National Parks has responsibility for legal matters related to NPS's programs and activities and for legal matters related to the programs and activities of NPS's National Capital Region and the United States Park Police**.**

(2) The Branch of Fish and Wildlife has responsibility for legal issues related to the programs, activities, and policies of Interior and FWS concerning conservation, the preservation of migratory birds, fish, other kinds of endangered species, game and marine mammals, and their habitats throughout the United States, its possessions and territorial waters; the protection, management, and use of natural and cultural resources within the National Wildlife Refuge System; and interaction and liaison between Interior and other Federal and state agencies, foreign countries and international organizations.

(3) The Branch of Environmental Restoration has responsibility for the resolution of legal problems which involve the programs, activities, and policies of Interior and its various agencies, when related to natural resource restoration.

The **Indian Trust Litigation Office** (ITLO) within the Immediate Office of the Solicitor, Washington, DC, provides legal counsel and defends litigation filed in federal courts throughout the country against the Department by individual Indians and Indian tribes that implicates the Secretary's trust duties with respect to trust fund accounting, trust fund management, and management of non-monetary natural resource trust assets. ITLO has primary responsibility for matters filed in the United States Court of Federal Claims seeking money damages under 28 U.S.C. § 1505 for alleged breaches of fiduciary trust.

**Regions and Field Offices.** To the extent practicable, legal services are provided based on bureau regional boundaries, rather than SOL regional boundaries. Because regional boundaries vary from bureau to bureau, the actual areas served by the Solicitor's Regional and Field Offices overlap to a considerable extent, with the result that more than one Regional or Field Solicitor's Office may handle legal matters for different bureaus within a single state. In addition, Regional and Field offices are responsible for legal matters arising in Interior's offices within their jurisdiction, including all elements of the Office of the Secretary, the Assistant Secretary – Policy, Management, and Budget, and organizations affiliated with Interior.

A. The **Alaska Region** is responsible for legal matters involving all bureaus except OSM and BOR in Alaska. The Regional Office is located in Anchorage, Alaska.

B. The **Northeast Region** is responsible for legal matters involving all bureaus except BIA in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; legal matters involving all bureaus except NPS in Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin; and legal matters involving specific bureaus in Iowa (BIA, FWS, and USGS), Kentucky (OSM), Missouri (FWS), Nebraska (BIA), North Dakota (BIA), South Dakota (BIA), and Tennessee (OSM). The Regional Office is located in Newton Corner, Massachusetts, and Field Offices are located in Fort Snelling, Minnesota, and Pittsburgh, Pennsylvania.

C. The **Pacific Northwest Region** is responsible for legal matters involving all bureaus in Idaho, Oregon, and Washington; and legal matters involving the BIA in southern Alaska (Metlakatla) and northwestern Montana (Flathead Indian Reservation). The Region also handles legal matters for the Pacific Northwest Region of BOR extending into northwestern Montana, and for Region I of the FWS, it handles legal matters in Hawaii and the Pacific Islands. The Regional Office is located in Portland, Oregon, and a Field Office is located in Boise, Idaho.

D. The **Pacific Southwest Region** is responsible for legal matters involving all bureaus in California and Nevada; and legal matters involving specific bureaus in Alaska (OSM and USGS), Hawaii (NPS and USGS), Idaho (OSM), Oregon-Klamath Basin (BOR), Pacific Islands (NPS and USGS), and Washington (OSM and USGS). The Regional Office is located in Sacramento, California, and a Field Office is located in San Francisco, California.

E. The **Intermountain Region** is responsible for legal matters involving all bureaus except FWS and OSM in Utah; legal matters involving all bureaus except FWS, NPS, and OSM in Arizona; legal

matters for BOR in Nevada and California (BOR Lower Colorado Region) and Colorado, New Mexico, and Texas (BOR Upper Colorado Region); legal matters for BIA in Nevada (BIA Eastern Nevada Field Office and Western Nevada Agency) and New Mexico (BIA Navajo Regional Office shared with the Southwest Region); and legal matters for BLM in Nevada (shared with the Pacific Southwest Region). The Regional Office is located in Salt Lake City, Utah, and a Field Office is located in Phoenix, Arizona.

F. The **Rocky Mountain Region** is responsible for legal matters involving the BLM National Operations Center (NOC) nationwide and all legal matters involving the BLM in Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming; all legal matters involving the BOR Denver Office and the BOR Great Plains Region (located east of the Continental Divide in Colorado, Wyoming, and Montana, and in Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, Texas); all legal matters involving FWS Region IX in Colorado and FWS Region VI (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming); legal matters involving the Office of Natural Resources Revenue (ONRR) and legal matters involving BOEM and BSEE in Colorado; legal matters involving the Interior Business Center (IBC) in Colorado; legal matters involving the NPS Denver Service Center, NPS WASO in Colorado, the NPS Midwest Region in Arkansas, Iowa, Indiana, Illinois, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, NPS concessions contract matters for the Midwest and Intermountain Regions; and all other legal matters involving the NPS Intermountain Region in Colorado, Montana (with the exception of Big Hole Battlefield—Nez Perce), and Wyoming; all legal matters involving the BIA in Montana (with the exception of the Flathead Indian Reservation) and Wyoming; all legal matters involving the Central Region of the USGS; and all legal matters coordinated through OSM Western Region. The Regional Office is located in Lakewood, Colorado and a Field Office is located in Billings, Montana.

G. The **Southeast Region** is responsible for legal matters involving all bureaus in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and the Virgin Islands; legal matters involving all bureaus except BOEM and BSEE in Louisiana; legal matters for specific bureaus in Arkansas (FWS and OSM), Connecticut (BIA), Illinois (OSM), Indiana (OSM), Iowa (OSM), Kansas (OSM), Maine (BIA), Massachusetts (BIA), Missouri (OSM), New York (BIA), Oklahoma (OSM), Rhode Island (BIA), Texas (OSM), and Virginia (BIA, BLM, and OSM); and legal matters for specific NPS programs in select states in the Region. The Regional Office is located in Atlanta, Georgia, and a Field Office is located in Knoxville, Tennessee.

H. The **Southwest Region** is responsible for legal matters involving all bureaus in New Mexico, Oklahoma, Texas, and on the Navajo Reservation; and legal matters involving specific bureaus in Arizona (FWS, and OSM), Colorado (BIA), Illinois (OSM), Kansas (BIA, BLM, BOEM, and BSEE), Louisiana (BOEM and BSEE), and Missouri (BIA). The Southwest Region also is responsible for legal matters involving the BIA's Office of Law Enforcement and the Office of Facilities Management and Construction, the BIE, and the Office of the Principal Deputy Special Trustee. The Regional Office is located in Albuquerque, New Mexico, with a unit in Santa Fe, New Mexico, and a Field Office located in Tulsa, Oklahoma.

# ETHICS OFFICE ACTIVITY

**Activity: Ethics Office**
(Dollars in Thousands)

| | 2014 Actual | 2015 Enacted | 2016 | | | Change from 2015 (+/-) |
|---|---|---|---|---|---|---|
| | | | Fixed Costs & Related Changes (+/-) | Program Changes (+/-) | Budget Request | |
| **Ethics Office** | 1,495 | 1,738 | +1 | 0 | 1,739 | +1 |
| ***FTE*** | 8 | *8* | *0* | *0* | *8* | *0* |

The 2016 budget request for the Ethics Office is $1,739,000 and 8 FTE.

## PROGRAM OVERVIEW

The Departmental Ethics Office (DEO) is responsible for overseeing Interior's statutorily mandated ethics program, and derives its authority directly from the Secretary, who by regulation, is the head of the agency's ethics program. The DEO is responsible for implementing the laws, executive orders, regulations and departmental policies concerning conflicts of interest and employee responsibilities and conduct (5 C.F.R. § 2638.201-202). The DEO is unique within the Office, as it has programmatic responsibilities, as well as the rendering of legal advice.

The DEO is headed by a Director, who is also the Designated Agency Ethics Official (DAEO). The DAEO is delegated the responsibility to manage and coordinate Interior's Ethics program (5 C.F.R. § 2638.202-203). The DEO also ensures the implementation of and compliance with the Ethics in Government Act of 1989, other statutes with ethics provisions, Executive Order 12674: *Principles of Ethical Conduct for Government Officers and Employees*, government-wide ethics regulations, and Interior's supplemental ethics regulations and policies governing employee conduct.

The DEO develops departmental ethics policy and strives to provide every Interior employee the proper counseling and technical assistance to help them with the ethics and conduct issues they may face as entrusted public servants. The Office seeks to integrate leadership and ethical concepts into everyday decision making in order to foster and maintain high ethical standards for Interior employees and to ensure that employees incorporate an awareness of the ethics rules and regulations into their day-to-day management practices.

The DEO provides direct services to all employees: within the Immediate Office of the Secretary, under the Assistant Secretary for Policy, Management and Budget, employees within the SOL as well as all political employees. Along with this program requirement, the DEO is responsible for providing oversight and technical assistance to Interior's eight bureaus to ensure that each of the bureaus' ethics programs are in compliance with all applicable ethics laws, executive orders, and regulations (5 C.F.R. § 2638.202).

The DEO performs a number of tasks required by law or regulation. Additionally, the DEO provides other, broader assistance in a variety of Interior initiatives to ensure that attention is paid to whether a particular course of action is prudent and in concert with ethics laws and regulations at large. Comprehensive attention to both types of responsibilities is critical to maintaining a robust ethics program throughout Interior.

At the request of the Secretary of the Interior and with the support and direction of the Solicitor, the Director of DEO reviewed the Office of Government Ethics (OGE) Ethics Program Model Practices to determine what practices Interior already utilized and to determine which additional model practices Interior could or should implement. Of the eighty Ethics Program Model Practices, Interior was already utilizing sixty, although some enhancements and improvements are needed.

Based on this review, the Director developed a strategic action plan on how to implement the remaining twenty Ethics Program Model Practices. While incorporating new Model Practices into Interior's ethics program and enhancing other practices it is essential to continue the technical competence of the ethics program. In addition to that initial action plan, and in implementing the Secretary's Secretarial Order directing the enhancement of the Department's Ethics Program, the Director has updated the action plan and continues to develop new initiatives to foster a stronger ethical climate with partners, industry and other non-federal entities. Some of the Model Practices that have been incorporated include:

- The DEO has increased its liaison efforts with the OGE and has served as a member of the OGE Leadership initiative focus group. Additionally, the DEO is a member of the Ethics Resource Center and the Ethics Compliance Officers Association.
- The DEO, as part of its efforts to increase training initiatives, is a member of the Interagency Ethics Council task force on training. The DAEO and Alternate Agency Ethics Official and other ethics officials from the DEO presented ethics sessions at the Solicitor's Management Conference, at politicals' meetings, and several other conferences. The DEO will focus on several training initiatives based on the Departmental Ethics Training Plan including:

    - Personal appearances by Senior Leaders at training;
    - Preparing effective decision making modules for training to enhance the ethics culture;
    - Asking managers to discuss ethics related issues with their staff at staff meetings and other work settings;
    - Identifying trends of ethics violations and publicizing consequences from ethical lapses;
    - Use media accounts to showcase what happens to those who violate the laws;
    - Focusing on training the 14 guiding principles of ethics;
    - Soliciting feedback on training from employees; and
    - Training ethics officials, branching out their training into effective decision making and an ethical culture.

The DEO was trained in program reviews and conducted an assessment of the BIA ethics program, similar to an OGE program review. The results of this assessment assisted in determining additional processes and systems to be implemented and incorporated into the BIA ethics program. There will continue to be assessments of the bureau ethics programs by the DEO. Bureaus Ethics Counselors will also receive program review training to properly execute their oversight role.

To improve the financial disclosure process, the DEO procured and is in the process of implementing an electronic system of employee filing and DEO review. The DEO is participating in multi-agency initiatives overseen by the Office of Government Ethics, such as the Ethics Counselor Certification Program and the Benchmarking Project to develop ethics program assessment tools. The DEO is reviewing DOI supplemental ethics regulations to determine appropriate revisions to further assure the highest level of ethical culture at DOI.

***REQUIRED FUNCTIONS***

- Oversight and Technical Assistance to Bureaus: Not only is the DEO responsible for performing ethics functions for a broad spectrum of employees, it is also responsible for ensuring that Interior's bureaus are properly administering their ethics programs. The regulations require that the DAEO administer a program for periodic evaluation of the ethics program and its components. Currently, the DEO meets this responsibility by convening monthly meetings with the bureaus' headquarters ethics contacts to ensure consistency in the management of the program. Additionally, the DEO has utilized contract services to perform program reviews of the bureaus. The DEO provides, live workshop training on topics important to the consistent management of the bureaus' ethics programs. The DEO will conduct a program review as part of the oversight responsibility of the office.

- Presidential Appointments: The DEO plays a critical role in the clearance process of nominees to Presidentially Appointed-Senate Confirmed (PAS) positions. The DEO reviews financial documents, consults with the nominees, and recommends and drafts appropriate recusals or authorizations to allow the nominees to perform their duties without actual or apparent conflicts of interest. Key in this process is the coordination with the White House Counsel's Office, and the OGE. Additionally, the DEO works with Interior's Office of Congressional and Legislative Affairs to prepare nominees for their committee hearings and assists in the drafting of responses to any questions committee members may have. In a Presidential transition year, additional time is spent coordinating and ensuring compliance with the financial disclosure requirements for all political appointees, training these employees, and providing individual counseling on a range of ethics topics essential to the appropriate performance of their official duties.

- Financial Disclosure: The DEO is responsible for ensuring that the public and confidential financial disclosure reporting requirements are met. Both levels of financial disclosure require the administration of tracking systems for the collection,

review, and certification of the forms in accordance with the time frames set out by regulation (5 C.F.R.§ 2634.601-607; § 2634.901-909). Additionally, any remedial action required as a result of review and certification of these forms must be administered by the DEO or respective bureau ethics program. Such remedial actions include divestiture, recusals, or authorization, all of which require a determination in accordance with criminal statutes and administrative regulations. Department-wide, there are approximately 13,000 filers of financial disclosure forms. All forms require technical as well as more stringent financial conflict of interest review and certification. The DEO is responsible for certifying all financial disclosure forms of employees in the Immediate Office of the Secretary, under the Assistant Secretary for Policy, Management and Budget, employees in the Office of the Solicitor and all Interior political employees. PAS employees' financial disclosure forms are certified by the DAEO and forwarded to OGE for final certification.

- Training: The DEO is responsible for providing new employee ethics training as well as annual training for all filers of the confidential and public financial disclosures. All report filers are required to receive annual training. The administration of the ethics training program is in accordance with 5 C.F.R. § 2638.701-708. The DEO is responsible for providing guidance and training for all bureau ethics counselors to ensure consistency in the advice and counseling provided to employees.

- Counseling: As required by 5 C.F.R. § 2638.203, the DEO is responsible for maintaining a system for counseling employees on all ethics matters, including interpretations of the criminal financial conflict of interest statutes, the post-employment statute, as well as all standards of conduct regulations (both government-wide and agency-specific). Such systems must include adequate documentation of questions raised and advice rendered to provide employees with advice, but also for purposes of audit and evaluation by the OGE, or in support of an investigation of alleged violations by the Office of Inspector General. The DEO is responsible for providing guidance and counseling to ethics counselors and general employees on any changes to the ethics rules and regulations.

- Liaison Role: The DAEO is required to be Interior's liaison with the OGE for all matters relating to the management of the ethics program (5 C.F.R. § 2638.203(b)). The DAEO and ethics staff performs this role with the White House Counsel's Office, as well as with the Office of Special Counsel.

***NECESSARY FUNCTIONS***

There are a number of necessary functions performed by the DEO to meet its responsibilities and to ensure a robust and proactive ethics program, which includes prevention, education, identification of violations, and coordination of enforcement actions. Among these necessary functions are:

- Act as liaison and technical advisor to the Office of Inspector General (OIG).

- Compile Department-wide annual reports to be submitted to the OGE.

- Participate in the work of the Deputy Chief Human Capital Officer workgroup, to ensure that Interior's human resources responsibilities include attention to ethics, i.e., working to include ethics management performance standards in supervisors and ethics counselors' position descriptions.

- Serve on several Department-wide initiatives, such as donations of gifts policy; appropriate identification of ethics considerations for volunteers and special government employees; and the Agency Emergency Preparedness Team.

- Work with the Division of General Law on the Federal Advisory Committee Act issues that raise ethics questions, such as the proper designation of members as either representatives or special government employees, and ensuring the administration of financial disclosure requirements for those designated as special government employees.

- Ensure an adequate system for responding to FOIA requests as well as requests for documents or other technical assistance from Congressional Committees.

## SECTION 403 COMPLIANCE

Public Law 113-235, the 2015 Consolidated and Further Continuing Appropriations Act requires disclosure of program assessments used to support Government-wide, departmental, or agency initiatives or general operations.

> *SEC. 403. The amount and basis of estimated overhead charges, deductions, reserves or holdbacks, including working capital fund and cost pool charges, from programs, projects, activities, and subactivities to support government-wide, departmental, agency, or bureau administrative functions or headquarters, regional or central operations shall be presented in annual budget justifications and subject to approval by the Committees on Appropriations of the House of Representatives and the Senate. Changes to such estimates shall be presented to the Committee on Appropriations for approval.*

The administrative costs for this Office will be displayed in two components – **External Administrative Costs**, and **Bureau Billing for Client Support** for reimbursable attorney positions funded by clients.

**External Administrative Costs** – the following table illustrates external administrative costs paid to Interior and other agencies to support Department-wide activities such as IT security, architecture, and capital planning; training through DOI University; telecommunications; finance and accounting services; building security; mail room; and enterprise licenses.

| External Administrative Costs (Dollars in Thousands) | | | |
|---|---|---|---|
| | **FY 2014 Actual** | **FY 2015 Estimate** | **FY 2016 Estimate** |
| **Interior's Working Capital Fund** | | | |
| **Centralized Billings** | 3,890.0 | 3,474.0 | 3,205.0 |
| **Direct Billings** | 1,016.1 | 1,040.3 | 1,072.4 |
| **Total** | 4,906.1 | 4,514.3 | 4,277.4 |

➢ **Bureau Billing for Client Support -** A number of client bureaus and offices within Interior have requested assistance beyond the level of services this Office is generally able to provide. The client generally has identified a special project needing legal services of limited duration but some urgency. In these instances, the Office typically hires one or more attorneys on term appointments for the duration of the project, and the Office enters into a reimbursable support agreement with the client to cover the cost.

The table below illustrates the indirect overhead costs for reimbursable attorney positions funded by clients. The indirect overhead costs reflects a pro rata portion of operating costs which includes space,

telecommunications, postage, courier services, supplies, printing, copying, computer equipment, law books, IT services, automated legal research services, and external administrative costs.

| Bureau Billing for Client Support (Dollars in Thousands) | | | |
|---|---|---|---|
| | **FY 2014 Actual** | **FY 2015 Estimate** | **FY 2016 Estimate** |
| **Attorney salaries and benefits** | 13,363.8 | 14,489.7 | 14,489.7 |
| **Reimbursable attorney overhead** | 2,567.9 | 2,991.3 | 2,991.3 |
| **Total** | 15,931.7 | 17,481.0 | 17,481.0 |

In addition to reimbursements for staff positions and some related expenses, client bureaus continue to fund a portion of the Office's travel. Consistent with the understanding developed with the Appropriations Committees, travel related to litigation and other core Office functions is paid out of the SOL appropriation, but clients fund some travel for our attorneys to provide client training, attend meetings, and for other matters not involving core Office functions.

# OFFICE OF THE SOLICITOR
## EMPLOYEE COUNT BY GRADE

| | FY 2014 Actual | FY 2015 Estimate | FY 2016 Estimate |
|---|---|---|---|
| Executive Level IV | 1 | 1 | 1 |
| SES | 16 | 20 | 20 |
| **Subtotal** | **17** | **21** | **21** |
| | | | |
| GS-15 | 94 | 98 | 98 |
| GS-14 | 197 | 210 | 225 |
| GS-13 | 24 | 30 | 35 |
| GS-12 | 14 | 17 | 18 |
| GS-11 | 20 | 18 | 18 |
| GS-10 | 1 | 1 | 1 |
| GS-9 | 7 | 7 | 7 |
| GS-8 | 8 | 11 | 11 |
| GS-7 | 14 | 16 | 16 |
| GS-6 | 3 | 2 | 2 |
| GS-4 | 1 | 1 | 1 |
| **Subtotal** | **383** | **411** | **432** |
| | | | |
| **Total employment (actual & estimates)** | **400** | **432** | **453** |

# OFFICE OF THE SOLICITOR
## PROGRAM AND FINANCING
**(Dollars in Millions)**

| Identification Code 14-0107-0 | | 2014 Actual | 2015 Estimate | 2016 Estimate |
|---|---|---|---|---|
| **Obligations by program activity:** | | | | |
| 0001 | Direct program | 65 | 66 | 70 |
| 0801 | Reimbursable program activity | 13 | 19 | 19 |
| 0900 | Total new obligations | 78 | 85 | 89 |
| **Budgetary resources:** | | | | |
| | Budget authority: | | | |
| | Appropriations, discretionary: | | | |
| 1100 | Appropriation | 66 | 66 | 70 |
| 1160 | Appropriation, discretionary (total) | 66 | 66 | 70 |
| | Spending authority from offsetting collections, discretionary: | | | |
| 1700 | Collected | 12 | 19 | 19 |
| 1701 | Change in uncollected payments, Federal Sources | 1 | ..... | ..... |
| 1750 | Spending auth from offsetting collections, disc (total) | 13 | 19 | 19 |
| 1900 | Budget Authority (total) | 79 | 85 | 89 |
| 1930 | Total budgetary resources available | 79 | 85 | 89 |
| 1940 | Unobligated balance expiring | -1 | ..... | ..... |
| **Change in obligated balances:** | | | | |
| | Obligated balance, start of year (net): | | | |
| 3000 | Unpaid obligations, brought forward, Oct 1 (gross) | 5 | 7 | 7 |
| 3010 | Obligations incurred, unexpired accounts | 78 | 85 | 89 |
| 3011 | Obligations incurred, expired accounts | 1 | ..... | ..... |
| 3020 | Outlays (gross) | -77 | -85 | -88 |
| 3050 | Unpaid Obligations, end of year | 7 | 7 | 8 |
| 3060 | Uncollected pymts, Fed sources, brought forward, Oct 1 | -2 | -1 | -1 |
| 3070 | Change in uncollected pymts, Fed sources, unexpired | -1 | ..... | ..... |
| 3071 | Change in uncollected pymts, Fed sources, expired | 2 | ..... | ..... |
| 3090 | Uncollected pymts, Fed sources, end of year | -1 | -1 | -1 |
| | Memorandum (non-add) entries: | | | |
| 3100 | Obligated balance, start of year | 3 | 6 | 6 |
| 3200 | Obligated balance, end of year | 6 | 6 | 7 |
| **Budget authority and outlays, net:** | | | | |
| | Discretionary: | | | |
| 4000 | Budget authority, gross | 79 | 85 | 89 |
| | Outlays, gross: | | | |
| 4010 | Outlays from new discretionary authority | 71 | 80 | 83 |
| 4011 | Outlays from discretionary balances | 6 | 5 | 5 |
| 4020 | Outlays, gross (total) | 77 | 85 | 88 |

# OFFICE OF THE SOLICITOR
## PROGRAM AND FINANCING
**(Dollars in Millions)**

| Identification Code 14-0107-0 | | 2014 Actual | 2015 Estimate | 2016 Estimate |
|---|---|---|---|---|
| | Offsets against gross budget authority and outlays: | | | |
| | Offsetting collections (collected) from: | | | |
| 4030 | Federal sources | -15 | -19 | -19 |
| | Additional offsets against gross budget authority only: | | | |
| 4050 | Change in uncollected pymts, Fed sources, unexpired | -1 | ..... | ..... |
| 4052 | Offsetting collections credited to expired accounts | 3 | ..... | ..... |
| 4060 | Additional offsets against budget authority only (total) | 2 | ..... | ..... |
| 4070 | Budget authority, net (discretionary) | 66 | 66 | 70 |
| 4080 | Outlays, net (discretionary) | 62 | 66 | 69 |
| 4180 | Budget authority, net (total) | 66 | 66 | 70 |
| 4190 | Outlays net (total) | 62 | 66 | 69 |

# OFFICE OF THE SOLICITOR
## OBJECT CLASSIFICATION
**(Dollars in Millions)**

| Identification Code 14-0107-0 | 2014 Actual | 2015 Estimate | 2016 Estimate |
|---|---|---|---|
| Direct obligations | | | |
| 1111 Personnel compensation: Full-time permanent | 38 | 39 | 42 |
| 1121 Civilian personnel benefits | 11 | 11 | 12 |
| 1210 Travel and transportation of persons | 1 | 1 | 1 |
| 1231 Rental payments to GSA | 3 | 3 | 3 |
| 1252 Other services from non-Federal sources | 2 | 2 | 2 |
| 1253 Other goods and services from Federal sources | 9 | 10 | 10 |
| 1253 Other goods and services from Federal sources | 1 | ……. | ……. |
| 1990 Subtotal, obligations, Direct obligations | 65 | 66 | 70 |
| Reimbursable obligations | | | |
| 2111 Personnel compensation: Full-time permanent | 8 | 9 | 9 |
| 2121 Civilian personnel benefits | 2 | 2 | 2 |
| 2253 Other goods and services from Federal sources | 3 | 2 | 2 |
| 2990 Subtotal, obligations, Reimbursable obligations | 13 | 13 | 13 |
| Allocation Account - reimbursable: | | | |
| 4111 Personnel compensation: Full-time permanent | ……. | 2 | 2 |
| 4121 Civilian personnel benefits | ……. | 1 | 1 |
| 4252 Other services from non-Federal sources | ……. | 2 | 2 |
| 4253 Other goods and services from Federal sources | ……. | 1 | 1 |
| 3990 Subtotal, obligations, Allocation Account - direct | 0 | 6 | 6 |
| 9999 Total new obligations | 78 | 85 | 89 |

# OFFICE OF THE SOLICITOR
## REIMBURSABLE POSITIONS
### (Dollars in Thousands)

| | FY 2013 | FY 2014 | FY 2015 |
|---|---|---|---|
| **Bureau of Indian Affairs** | | | |
| Legal support, BIA OJS matters | 168 | 281 | 226 |
| Legal support, trust services | 199 | 198 | 262 |
| Legal support, probate and AIPRA issues | 42 | 118 | 123 |
| Legal support, BIE priority matters | 207 | 213 | 219 |
| Legal support, trust and general Indian matters | 123 | 169 | 102 |
| Legal support, BIA Navajo Region | 128 | 181 | 185 |
| Legal support, BIA CADR issues | 0 | 97 | 99 |
| Legal support, related to legislation, policy, and operations | 0 | 8 | 79 |
| Legal support, related to trust land, Tribal relations, fee-to-trust activities, and other BIA activities | 0 | 0 | 90 |
| Subtotal | 867 | 1,265 | 1,385 |
| **Bureau of Land Management** | | | |
| Legal support, renewable energy, other special assignments on behalf of BLM | 261 | 179 | 327 |
| Legal support, NEPA relating to the EPAct of 2005 | 152 | 166 | 167 |
| Legal support, natural resources in Idaho | 374 | 374 | 375 |
| Legal support, mining, rights-of-way, NEPA, CERCLA, FLPMA, NHPA, grazing, forest fire cost recovery, title issues, and recreational use of public lands | 75 | 0 | 0 |
| Legal support, all issues related to land and mineral resources | 445 | 508 | 531 |
| Legal support, public land, environmental oil & gas, and energy law | 124 | 132 | 125 |
| Legal support, land use planning; work related to FLPMA and BLM's regulations implementing FLPMA, NEPA, ESA, NHPA, and other statutes, regulations, and policies | 181 | 185 | 191 |
| Legal support, related to renewable energy | 386 | 397 | 498 |
| Legal support, SNPLMA, other special assignments on behalf of BLM | 166 | 194 | 201 |
| Legal support, special assignments on behalf of BLM | 211 | 0 | 115 |
| Legal support, Utah RS 2477 issues | 70 | 98 | 200 |
| Legal support, resources, personnel, and wildlife | 70 | 0 | 0 |
| Legal support, natural resources and minerals in New Mexico | 75 | 0 | 0 |
| Subtotal | 2,590 | 2,233 | 2,730 |

# OFFICE OF THE SOLICITOR
## REIMBURSABLE POSITIONS
### (Dollars in Thousands)

| | FY 2013 | FY 2014 | FY 2015 |
|---|---|---|---|
| **Bureau of Ocean Energy Management** | | | |
| Legal support, relating to offshore minerals | 582 | 532 | 551 |
| Legal support, offshore minerals and renewable energy issues | 344 | 291 | 389 |
| Legal support, relating to offshore renewable energy issues | 169 | 174 | 165 |
| Legal support, relating to Alaska issues | 133 | 185 | 140 |
| Subtotal | 1,228 | 1,182 | 1,245 |
| **Bureau of Reclamation** | | | |
| Legal Support, Central Utah Project – Title II construction and Title III mitigation programs | 178 | 184 | 186 |
| Legal support, water rights | 95 | 76 | 180 |
| Legal support, land management, contract reviews, water issues, ESA, NEPA, BBDCP, and San Joaquin River Settlement | 47 | 224 | 228 |
| Legal support, water contracts, water rights issues, Klamath project issues, NEPA, and NHPA | 151 | 158 | 163 |
| Legal support, water and Klamath project issues | 75 | 100 | 254 |
| Legal support, Lower Colorado Region to include Colorado River management and regulations, drafting and review of water contracts, water accounting issues, Indian water settlements | 204 | 242 | 245 |
| Legal support, Bay Delta Conservation Plan (BDCP), Central Valley Project Improvement Act implementation, ESA, NEPA, CVP operations, San Joaquin River Restoration Program | 196 | 211 | 218 |
| Legal support, Boulder Canyon Project Act | 167 | 50 | 161 |
| Legal support, water rights, water quality, and contracts for the CVP, non-CVP projects in California and others in Nevada | 216 | 215 | 218 |
| Legal support, Great Plains Region water service contracts, land title, NEPA, Indian water rights settlements, and general water rights | 155 | 172 | 171 |
| Legal support, stream adjudication and water rights issues | 152 | 150 | 151 |
| Legal support, Yakima water projects | 125 | 193 | 17 |
| Legal support, general law, realty, and EEO/MSPB | 79 | 161 | 171 |
| Legal support, realty, land management, cultural resources, NEPA, ESA, CWA, and Washington BOR projects | 0 | 91 | 92 |
| Legal support, including procurement, employment law, agreements, and any and all other legal support as necessary | 537 | 88 | 265 |
| Legal support, New Mexico water project and operations | 0 | 38 | 167 |
| Legal support, Federal Columbia River Power System, federal power issues, and irrigation diversion rate settings | 0 | 0 | 85 |
| Subtotal | 2,377 | 2,353 | 2,972 |

# OFFICE OF THE SOLICITOR
## REIMBURSABLE POSITIONS
### (Dollars in Thousands)

| | FY 2013 | FY 2014 | FY 2015 |
|---|---|---|---|
| **Bureau of Safety and Environmental Enforcement** | | | |
| Legal support, relating to the regulation of offshore mineral operations and enforcement of BSEE and DOI regulations | 1,133 | 1,134 | 1,050 |
| Legal support, project management relating to document discovery for Deepwater Horizon | 32 | 0 | - |
| Subtotal | 1,165 | 1,134 | 1,050 |
| **Fish and Wildlife Service** | | | |
| Legal support, FOIA, refuge management, and land acquisition matters | 80 | 0 | - |
| Legal support, high priority refuge and ESA issues | 184 | 188 | 189 |
| Legal support, Region 4 legal matters | 43 | 43 | 47 |
| Legal support, high priority realty issues | 51 | 53 | 55 |
| Subtotal | 358 | 284 | 291 |
| **Interior Business Center** | | | |
| Legal support, IBC contractual & acquisition services | 792 | 675 | 705 |
| Legal support, including procurement, employment law, agreements, and any and all other legal support as necessary | 79 | 233 | 100 |
| Subtotal | 871 | 908 | 805 |
| **National Park Service** | | | |
| Legal support, water rights issues | 167 | 0 | - |
| Legal support, civil service law, EEO, labor law, and tort law issues | 188 | 106 | 99 |
| Legal support, FOIA, partnership agreements, cultural and natural resources | 98 | 201 | 206 |
| Legal support, Everglades restoration | 231 | 232 | 238 |
| Legal support, including procurement, employment law, agreements, and any and all other legal support as necessary | 373 | 485 | 504 |
| Legal support, concessions and leasing | 216 | 221 | 218 |
| Legal support, southeast region legal matters | 141 | 149 | 141 |
| Legal support, related to Organic Act, NEPA, and FOIA | 176 | 183 | 215 |
| Legal support, Elwha River Ecosystem and Fisheries | 58 | 106 | 42 |
| Legal support, related to wildlife issues | 0 | 17 | 27 |
| Subtotal | 1,648 | 1,700 | 1,690 |

# OFFICE OF THE SOLICITOR
## REIMBURSABLE POSITIONS
### (Dollars in Thousands)

| | FY 2013 | FY 2014 | FY 2015 |
|---|---|---|---|
| **Office of the Special Trustee for American Indians** | | | |
| Legal support, Office of Special Trustee for American Indians | 163 | 123 | 161 |
| Legal support, trust policy and procedure projects | 233 | 135 | 165 |
| Legal support, Office of Special Trustee for American Indians | 1,986 | 1,689 | 1,929 |
| Subtotal | 2,382 | 1,947 | 2,255 |
| **Office of Surface Mining Reclamation and Enforcement** | | | |
| Legal support, OSM issues | 202 | 207 | 210 |
| Subtotal | 202 | 207 | 210 |
| **Other Offices and Programs** | | | |
| Legal support, ONRR ethics program administration | 152 | 130 | 121 |
| Legal support, ONRR royalty matters | 191 | 194 | 198 |
| Legal support, ONRR related matters | 242 | 277 | 289 |
| Legal support, Land Buy-Back Program for Tribal nations | 0 | 29 | 162 |
| Legal support, DOJ assignment | 137 | 146 | 99 |
| Legal support, Inter-American Foundation legal issues | 0 | 10 | 10 |
| Legal support, Commission of Fine Arts legal issues | 0 | 8 | 5 |
| Legal support, NIGC legal issues | 0 | 0 | 5 |
| Legal support, ASIA CADR issues | 102 | 0 | 0 |
| Legal support, PMB budget issues | 55 | 0 | 0 |
| Legal support, FOIA Appeals | 217 | 189 | 198 |
| Legal support, WCF issues | 182 | 165 | 171 |
| Legal support, WCF issues reflecting cross-cutting matters arising from all DOI bureaus | 176 | 171 | 198 |
| Legal support, NRDAR | 689 | 245 | 200 |
| Legal support, HAZMAT compliance | 941 | 1,155 | 1,192 |
| Subtotal | 3,084 | 2,719 | 2,848 |
| **TOTAL REIMBURSEMENTS** | **16,772** | **15,932** | **17,481** |

## FY 2014 Endangered Species Act (ESA) Payments - Department of the Interior

| Case | Judicial District | Court # | Attorney Fees | Payee | Payment date |
|---|---|---|---|---|---|
| Defenders of Wildlife, et al. v. Dirk Kempthorne, et. Al | Florida, Middle | 07-2332 | $305,215.57 | Glitzenstein, Eric | 8/22/13 |
| | | 08-237 | $305,215.57 | Glitzenstein, Eric | 8/22/13 |
| Carpenters Industrial Council, et al. v. Dirk Kempthorne | District of Columbia | 08-1409 | $91,716.00 | Rutzick, Mark C. | 2/26/14 |
| Center for Biological Diversity, et al. v. United States Bureau of Land Management | California, Central | 96-2631 | $10,000.00 | Belenky, Lisa T. | 9/24/14 |
| Defenders of Wildlife v. United States Department of the Interior et al. | District of Columbia | 09-153 | $35,000.00 | Cummings, Brendan R | 2/26/14 |
| Alliance for the Wild Rockies , et al. v. Faye Krueger et al. | Montana | 12-150 | $422.75 | Smith, Rebecca K. | 3/14/14 |
| Alliance for the Wild Rockies , et al. v. Faye Krueger et al. | Montana | 12-150 | $72,234.55 | Smith, Rebecca K. | 8/26/14 |
| Pacific Legal Foundation v. Ken Salazar, et al. | California, East | 13-594 | $6,670.00 | Francois, Anthony | 11/15/13 |
| New Mexico Cattle Growers' Ass'n, et al. v. Sally Jewell, et al. | New Mexico | 13-506 | $3,835.00 | Himebaugh, Daniel | 2/26/14 |
| Center for Biological Diversity v. Sally Jewell, et al. | District of Columbia | 13-975 | $4,770.00 | Atwood, Amy R | 3/7/14 |
| Xerces Society for Invertebrate Conservation v. Sally Jewell, et al. | Oregon | 13-1000 | $7,548.00 | Winter, Christopher G | 3/10/14 |
| Native Ecosystems Council v. Faye Krueger et al. | Montana | 13-108 | $8,000.00 | Meyer, John | |
| Friends of the Wild Swan, et al. v. Robyn Thorson et al. | Oregon | 14-536 | $13,288.83 | Tuholske, Jack R. | 6/5/13 |
| Environmental Protection Information Center v. Stafford Lehr et al. | D. Idaho | 12-197 | $158,423.68 | Duggan, Sharon E. | 9/9/14 |
| Total ESA Payments | | | $1,022,339.95 | | |

## FY 2014 Equal Access to Justice Act (EAJA) Payments - Department of the Interior

| Case Name | Bur | Judge | Type | Amount | Hourly Rates | Venue | Citation | Payment Date | Payee/Plaintiff's Attorney |
|---|---|---|---|---|---|---|---|---|---|
| Duwamish Tribe | AS-IA | Circuit Mediator Goelz | Court Settlement | $144,000.00 | $195-$505 | 9th Circuit | D.C. No. 2:08-cv-00717-JCC | 5/19/14 | K&L Gates |
| Cascadia Wildlands (North Fork Overlook) | BLM | Ann Aiken | Court Decision | $76,077.05 | $200-$350 | D. Or. | 12-cv-00095 AA | 6/12/14 | Western Environmental Law Center (Pete Frost/Nick Cady) |
| Center for Biological Diversity and Sierra Club | BLM | Hon. Paul Grewal | Agency Settlement | $250,000.00 | $350-$600 | N.D. Cal. | C 11-06174 PSG | 8/21/14 | Cummings, Hobstetter, Uhlemann |
| Montana Wilderness Association | BLM | Hon. Fisher, Could and Paez, Circuit Judges | Court Settlement | $130,000.00 | $240-$375 | 9th Circuit | 11-35818 | 7/17/14 | Western Environmental Law Center |
| ONDA v. Freeborn (Louse Canyon) | BLM | Michael Mossman | Court Settlement | $305,000.00 | $100-$365 | D. Or. | No. 3:06-cv-01311-MO | 12/31/13 | Oregon Natural Desert Association |
| The Wilderness Society | BLM | Hon. Fisher, Could and Paez, Circuit Judges | Court Settlement | $130,000.00 | $172-$260 | 9th Circuit | 11-35821 | 7/17/14 | Earthjustice |
| Western Watershed Project | BLM | Hon. Fisher, Could and Paez, Circuit Judges | Court Settlement | $131,750.00 | $300-$430 | 9th Circuit | 11-35705 | 9/4/14 | Western Watersheds Project |
| Center for Biological Diversity, Defenders of Wildlife | FWS | Hon. Emmet Sulllivan | Agency Settlement | $90,000.00 | $225-$410 | D.D.C. | 08-764 | 12/4/13 | Center for Biological Diversity: Cummings, Defenders of Wildlife: Rylander. |
| Center for Biological Diversity | NPS | Hon. Sherri Polster Campbell | Agency Settlement | $60,000.00 | $250-$510 | M.D. Fla | Civ. No. 13-364 | 9/23/14 | Meyer & Glitzenstein |
| Total | | | | **$1,316,827.05** | | | | | |