



FY 2025 Congressional Submission

Office of Legal Counsel

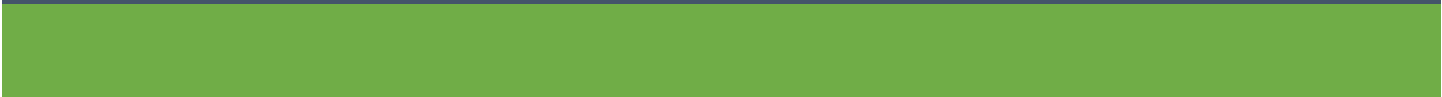


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I. Overview for the Office of Legal Counsel

Introduction

In FY 2025, the Office of Legal Counsel (OLC) requests a total of \$11,489,000, 36 positions (of which 30 are attorneys), and 36 FTEs. At the requested FY 2025 funding level, OLC will be able to continue to fulfill its core function of providing the essential legal advice needed on a broad range of constitutional, statutory, and regulatory issues to enable the Executive Branch to carry out its essential functions in a lawful manner. Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: [Department of Justice | Budget and Performance](#).

Issues, Outcomes, and Strategies

By delegation, OLC exercises the Attorney General's function, with origins in the Judiciary Act of 1789, as legal adviser to the President and agencies of the Executive Branch. OLC provides controlling advice on questions of law that are centrally important to the functioning of the government, including advice that supports the President in fulfilling his constitutional duties to preserve, protect, and defend the Constitution and to "take Care that the Laws be faithfully executed." OLC's mission remains critical as the government confronts great challenges in areas that range from national security, war powers, and immigration to law enforcement, economic stability, and civil and constitutional rights.

OLC is headed by an Assistant Attorney General who is appointed by the President with the advice and consent of the Senate and is assisted in providing legal advice by Deputy Assistant Attorneys General and career attorneys. The Office's advice takes a variety of written and oral forms and is provided in response to requests from the Counsel to the President, the various departments and agencies of the Executive Branch, and offices within the Department, including the offices of the Attorney General and Deputy Attorney General. OLC also resolves intra-Executive Branch legal disputes and drafts opinions signed by the Attorney General.

OLC also reviews for form and legality all proposed Executive Orders and substantive presidential proclamations and memoranda, as well as all proposed Orders of the Attorney General, including regulations. In addition, OLC often reviews important regulations of other executive agencies. OLC has a robust bill comment process that involves reviewing numerous pieces of proposed or pending legislation and other material related to the legislative process. OLC also provides legal advice to the Counsel to the President and Executive Branch agencies concerning their responses to congressional oversight inquiries, which have increased in the last several years.

OLC publishes many of its written opinions on its website and in recent years has endeavored to accelerate the speed with which it does so. OLC opinions can be found at <http://www.usdoj.gov/olc>. OLC makes decisions about publication based upon a presumption in favor of making significant opinions fully and promptly available to the public, as further discussed in "Best Practices for OLC Legal Advice and Written Opinions," found at <https://www.justice.gov/olc/best-practices-olc-legal-advice-and-written-opinions>. Since 1977,

OLC also has periodically published bound volumes of selected opinions. Volumes covering the years 1977 through 2016 have already been issued, and preparations for additional volumes are in progress. In addition, OLC published a volume of opinions from the period 1939 until 1977, the first in a supplemental opinion series the Office intends to issue for opinions not published at the time of original issuance. Work on these publication efforts will continue into FY 2025.

Adequate funding of OLC is imperative to ensure OLC continues its critical functions, summarized above, of providing legal advice to the President, the Attorney General, other components in the Department of Justice, and other executive departments and agencies, to the end of helping to ensure the legality of governmental action and uphold the Rule of Law.

Performance Challenges

OLC's ability to accomplish its mission depends on its having the resources necessary to meet the demands of an externally driven workload. OLC is a small component with minimal discretionary funding. Its workload has increased without corresponding increases in resources, taxing its ability to fulfill its core functions in a timely manner.

External Challenges: OLC generally does not initiate programs, nor does it have control over the volume of its work. The work results from requests for legal advice from the Counsel to the President, the general counsels of other Executive Branch departments and agencies, and the Attorney General and other Department of Justice officials, as well as from the need to review pending legislation and documents to be issued by the President and the Attorney General. Some of those requests remain relatively constant, while others increase in times of crises and emergencies, such as related to war, terrorism, climate change, the economy, and public health. The lack of control over this externally driven workload remains a constant challenge to OLC's ability to fulfill its mission and is inherent in all aspects of the Office's work.

Internal Challenges: Because it is a relatively small component, OLC has little flexibility in responding to unexpected surges in workload, such as those created by the broad range of matters that require legal advice to the President, the Attorney General, other components in the Department of Justice, and other Executive Branch departments and agencies. It is critical that OLC is adequately funded to provide the human and technological resources necessary to meet workload challenges related to its core mission.

II. Summary of Program Changes:

No program changes are requested.

III. Appropriations Language and Analysis of Appropriations Language

General Legal Activities (GLA) language is displayed in the GLA rollup budget submission.

IV. Program Activity Justification

A. Office of Legal Counsel

	Perm. Pos.	FTE	Amount (\$000)
2023 Enacted	36	36	\$10,986
2024 Annualized Continuing Resolution	36	36	10,986
Adjustments to Base and Technical Adjustments	0	0	503
2025 Current Services	36	36	11,489
2025 Program Increases	0	0	0
2025 Program Offsets	0	0	0
2025 Request	36	36	11,489
Total Change 2024-2025	0	0	503

1. Program Description

OLC will continue its principal duty of assisting the Attorney General and, by delegation, fulfilling his role as legal adviser to the President and Executive Branch agencies as described more fully above in Part I (Overview for the Office of Legal Counsel). A significant portion of OLC's resources are devoted to providing legal advice to the Counsel to the President and Executive Branch agencies on a broad range of vital matters, including related to national security. OLC also serves as arbiter of legal disputes within the Executive Branch and provides legal assistance to other components of the Department of Justice, including related to litigation. OLC reviews for form and legality all Executive Orders and substantive proclamations and memoranda to be issued by the President, as well as all proposed Orders of the Attorney General, including regulations. OLC's role in the Department's legislative work is substantial and includes extensive review of pending legislation. OLC also provides legal advice to the Counsel to the President and Executive Branch agencies concerning their responses to congressional oversight inquiries, which have increased in the last several years.

2. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE												
Decision Unit:												
RESOURCES (\$ in thousands)			Target		Actual		Target		Changes		Requested (Total)	
			FY 2023		FY 2023		FY 2024		Current Services Adjustments and FY 2025 Program Changes		FY 2025 Request	
Total Costs and FTE (Reimbursable: FTE are included, but costs are bracketed and not included in totals)			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			36	10,986	36	10,986	36	10,986	0	503	36	11,489
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2023		FY 2023		FY 2024		Current Services Adjustments and FY 2025 Program Changes		FY 2025 Request	
Program Activity	Upholding the Rule of Law		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			36	10,986	36	10,986	36	10,986	0	503	36	11,489
APG Measure:	1.2	N/A										
KPI: Output	1.1.1	N/A										

Performance metrics for OLC were discontinued as of FY 2024.

3. Performance, Resources, and Strategies

OLC has issued opinions or otherwise rendered legal advice touching on virtually every aspect of the Department's overall work and mission.

a. Performance Plan and Report for Outcomes

Because of the nature of its mission and workload (that is, providing legal advice to help ensure the legality of Executive Branch Action), OLC is not included for review in the Department's Performance and Accountability Report (PAR). This budget submission is part of the Department's Performance Plan, reporting targets through FY 2025. However, OLC does not have measures in the PAR.

b. Strategies to Accomplish Outcomes

OLC has had to realign its priorities in terms of workload and assignments in order to meet the variety of new challenges, while still endeavoring to meet its ongoing workload demands to the greatest extent possible with existing resources.

V. Program Increases by Item:

No program increases are requested.

VI. Program Offsets by Item:

N/A

VII. EXHIBITS

Attached.