



FY 2025 Congressional Submission

Office of the Solicitor General

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I. Overview for the Office of the Solicitor General

Introduction

In FY 2025, the Office of the Solicitor General (OSG) requests a total of \$15,138,000 and 55 positions, including 23 attorney positions, and 55 FTE to meet its mission.

Mission/Background

The mission of OSG is to conduct all litigation on behalf of the United States and its agencies in the Supreme Court of the United States, to approve decisions to appeal and to seek further review in cases involving the United States in the lower federal courts, and to supervise the government's litigation in the federal appellate courts.

OSG was created by the Statutory Authorization Act of June 22, 1870, which states: "There shall be in the Department of Justice an officer learned in the law, to assist the Attorney General in the performance of his duties to be called the Solicitor General." As provided in 28 C.F.R. 0.20-0.21, the general functions of the Office are as follows: (1) conducting or assigning and supervising all Supreme Court cases, including appeals, petitions for and briefs in opposition to certiorari, merits briefs, and oral arguments; (2) determining whether, and to what extent, appeals will be taken by the government to all appellate courts (including petitions for rehearing en banc and petitions to such courts for the issuance of extraordinary writs); (3) determining whether an amicus curiae brief will be filed by the government, or whether the government will intervene, in any appellate court, or in any trial court in which the constitutionality of an Act of Congress is challenged; and (4) assisting the Attorney General, the Deputy Attorney General, and the Associate Attorney General in the development of broad Department policy.

OSG is headed by the Solicitor General, who is appointed by the President and confirmed by the Senate. OSG's staff includes 23 attorney positions. The attorneys prepare Supreme Court briefs, appeal recommendations, and other related legal materials and present oral arguments. The 32 support staffers assist the attorneys in the performance of those functions, including by conducting research, reviewing briefs, tracking dockets and deadlines, overseeing filings, and completing various administrative tasks.

Challenges

OSG's overall mission will remain the same in FY 2025. The Office's docket, which mirrors the docket of the Supreme Court and the federal courts of appeals, covers a range of issues that are critical to our legal system and to our Nation's security and economy. Litigating those issues on behalf of the United States requires careful attention and coordination within the government, as well as a sophisticated assessment of how to interpret and apply relevant constitutional provisions, statutes, and precedents to most effectively advance the interests of the United States consistent with applicable law.

In recent years, constitutional, criminal, and administrative law cases have been at the heart of the Supreme Court's caseload. For example, with respect to constitutional cases, the Supreme Court will decide in its current term whether the Consumer Financial Protection Bureau's statutory funding mechanism is consistent with the Appropriations Clause. With respect to administrative law cases, the Supreme Court has granted certiorari to consider whether to

overrule or clarify *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, which requires courts to defer to agencies' reasonable interpretations of the statutes they administer. Cases like these require substantial time and resources to solicit and coordinate the views of all interested agencies and components of the government; to research the relevant legal questions, which often require substantial historical inquiries; to develop arguments that most effectively advance the interests of the United States; and to present those arguments as persuasively as possible in written briefs and oral arguments before the Court.

The Solicitor General likewise defends the implementation of government programs and congressional enactments. Although the Supreme Court's precise docket in FY 2025 is impossible to predict, during the Court's recent terms OSG defended a variety of statutes and agency initiatives.

The Solicitor General also routinely participates in cases that present important questions of federal statutory interpretation. Experience suggests that in FY 2025, OSG will continue to be involved in cases implicating an array of federal statutes, such as the Voting Rights Act, the Civil Rights Act of 1964 and other antidiscrimination laws, the Patent Act, the Copyright Act, the Employee Retirement Income Security Act, the Securities Act and the Securities Exchange Act, the Dodd-Frank Act, the National Bank Act, the Fair Labor Standards Act, the Labor Management Relations Act, the Immigration and Nationality Act, the Bankruptcy Code, and federal firearms laws. In preparation for these cases, OSG attorneys engage in extensive coordination and consultation with the agencies that Congress has directed to implement these statutes.

In addition, the Supreme Court typically hears several federal criminal cases each term and considers hundreds of petitions for writs of certiorari seeking review of federal criminal convictions. OSG handles all of those matters, and also participates as amicus curiae in state criminal cases in the Supreme Court that present issues of importance to the United States.

Finally, OSG regularly handles cases affecting foreign affairs, including cases under the Foreign Sovereign Immunities Act, the Alien Tort Statute, and the Torture Victims Protection Act. These cases can have important consequences for the conduct of foreign affairs and typically require close consultation with the Department of State and other interested agencies.

Full Program Costs

OSG has only one program—Federal Appellate Activity. Its program costs consist almost entirely of operational costs, such as salaries and benefits, printing, General Services Administration rent, and reimbursable agreements with other Department of Justice components.

Performance Challenges

OSG does not initiate any programs or have control over the number of Supreme Court cases it is required to handle or the number of requests for appeal, amicus, or intervention authorizations it receives. Instead, OSG is required to handle all Supreme Court cases in which the United States has an interest, as well as requests for authorization to appeal, intervene, or file an amicus brief in cases in the lower federal courts. For most cases filed in the Supreme Court in which the United States is a party, a petition is filed by an adverse party and the United States responds in

some way, either by filing a brief or, after reviewing the case, waiving its right to do so. Additionally, the Supreme Court regularly requests the Solicitor General to express the views of the United States on whether the Court should grant certiorari in cases in which the United States is not a party. When the Supreme Court grants a case in which the United States is not already a party, the Solicitor General determines whether it is in the interests of the United States to file an amicus curiae brief.

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. Federal Appellate Activity

<i>Federal Appellate Activity</i>	Perm. Pos.	FTE	Amount (\$000)
2023 Enacted	55	55	\$14,460
2024 Annualized Continuing Resolution	55	55	14,460
Adjustments to Base and Technical Adjustments	0	0	678
2025 Current Services	55	55	15,138
2025 Program Increases	0	0	0
2025 Program Offsets	0	0	0
2025 Request	55	55	15,138
Total Change 2024-2025	0	0	678

1. Program Description

The major functions of the Office of the Solicitor General are conducting government litigation in the U.S. Supreme Court, supervising government litigation in the federal courts of appeals, and approving intervention by the United States to defend the constitutionality of Acts of Congress.

OSG does not initiate programs or determine the number of appeal and amicus authorization requests it handles. OSG’s Supreme Court filings, including its amicus briefs, often involve important constitutional or federal statutory questions that will fundamentally affect the enforcement of federal law or the administration of major federal programs. Examples in recent terms include cases presenting significant issues of criminal procedure (affecting the government’s ability to succeed in prosecutions), as well as important issues under the civil rights laws (such as the Voting Rights Act and the Civil Rights Act of 1964), environmental laws (such as the Clean Air Act), and many others.

The following table provides a fiscal year snapshot of matters pending at the beginning of the term of the Supreme Court, additional matters received, completed appellate determinations, certiorari determinations, miscellaneous recommendations, and oral arguments before the Supreme Court.

<i>FY</i>	<i>Supreme Court Term</i>	<i>Matters Pending</i>	<i>Addl. Matters Received</i>	<i>Appellate Determinations</i>	<i>Certiorari Determinations</i>	<i>Miscellaneous Recommendation Determinations</i>	<i>Oral Arguments</i>
19	2018	484	3042	680	662	444	54
20	2019	378	2556	761	529	519	51
21	2020	632	2479	622	575	610	51
22	2021	594	2696	514	561	771	50
23	2022	627	2309	477	470	632	52

The determinations and recommendations fields in the chart above do not directly correspond with the Office’s workload measurement tables. The workload measurement tables track the workload by case whereas the figures above track the workload by determination. Often, the Office of the Solicitor General will receive a request for authorization that includes more than one potential outcome. For example, the Solicitor General may receive a request for authorization for rehearing en banc, or, in the alternative, for a petition for a writ of certiorari. In that case, the Solicitor General may make two determinations: (1) no rehearing and (2) no certiorari. The workload measurement tables reflect that as a single request. The table above provides a separate accounting for each determination. Additionally, the miscellaneous recommendations field includes requests for authorization of settlement, for stays, and for mandamus, while the figures on the performance measurement tables do not include such requests.

The oral argument field reflects the number of oral arguments the Office presented to the Supreme Court as a party or amicus curiae; it does not reflect the total number of underlying cases for each of those arguments.

2. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE												
Decision Unit: Federal Appellate Activity												
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
			55	14,460	55	14,460	55	14,460	0	678	55	15,138
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2023		FY 2023		FY 2024		Current Services Adjustments and FY 2025 Program Changes		FY 2025 Request	
Program Activity			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
	Upholding the Rule of Law		55	14,460	55	14,460	55	14,460	0	678	55	15,138
APG Measure:	1.2	N/A										
KPI: Output	1.1.1	N/A										
Performance Measure:	1.2	Cases in which the Solicitor General Participated	3,300		3,402		3,300				3,300	
Performance Measure:	1.2	Requests to which the Solicitor General Responded	1,400		2,591		1,400				1,400	
* Denotes inclusion in the DOJ Quarterly Status Report and DOJ Annual Performance Plan. * This table is required.												

A. Definitions of Terms or Explanations for Indicators:

Footnote 1: Because the work of the Office is primarily governed by the Supreme Court’s schedule, the Office tracks its workload by Supreme Court Term. Fiscal years roughly correspond to Supreme Court Terms, which run from July of the Term year through June of the next year. Reference to fiscal years in this document will reflect information for the applicable Supreme Court Term. Accordingly, FY 2024 corresponds with the 2023 Supreme Court Term FY 2023 corresponds with the 202 Supreme Court Term, and so on. The Office of the Solicitor General handles Supreme Court matters on an ongoing basis. As a result, some matters will overlap from one fiscal year to the next, and they are included in the data for the term in which they most appropriately fit.

Footnote 2: Includes requests for authorizations as well as recommendations against appeal, intervention, or participation amicus curiae. This category does not include miscellaneous requests, such as requests for authorization of settlement, for stays, for mandamus, etc.

B. Data Validation and Verification.

The Office of the Solicitor General handles all aspects of the law—not just civil matters. The Office uses the Automated Docket System (ADS) to track the matters handled by its attorneys. Data are keyed by the Case Management staff. For Supreme Court matters, all data are verified by the Supervisor or her Assistant and checked against Supreme Court Records. The Case Management System Supervisor executes daily statistical reports to ensure accurate tracking of both Supreme Court matters and requests for authorization to appeal, intervene, or participate as amicus curiae. Additionally, once a week the Case Management System Supervisor distributes reports on all Office matters to each attorney in the Office. The attorneys then review the reports to ensure accurate tracking of the matters for which they are responsible.

PERFORMANCE MEASURE TABLE						
Decision Unit: Federal Appellate Activity						
Strategic Objective	Performance Measures		FY 2023	FY 2023	FY 2024	FY 2025
			Target	Actual	Target	Target
	Key Performance Indicator	1.1.1				
1.2	Performance Measure	Cases in which the Solicitor General Participated	3,300	3,402	3,300	3,300
1.2	Performance Measure	Requests to which the Solicitor General Responded	1,400	2,591	1,400	1,400

3. Performance, Resources, and Strategies

a. Performance Plan and Report for Outcomes

OSG does not initiate any programs or have control over the number of Supreme Court cases it is required to handle or the number of requests for appeal, amicus, or intervention authorizations it receives. In the vast majority of cases filed in the Supreme Court in which the United States is a party, a petition is filed by an adverse party and the United States is obliged to respond. Additionally, the Office does not control the number of cases in which the Supreme Court formally requests the Solicitor General to express the views of the United States. The number of cases in which the Solicitor General petitions the Supreme Court for review, acquiesces in a petition for a writ of certiorari filed by an adverse party, or participates as an intervenor or as amicus curiae is governed exclusively by the Solicitor General's determination that it is in the best interests of the United States to do so. Thus, the Solicitor General participates in 100 percent of the cases in which the United States is required to participate, as well as 100 percent of the cases in which the Solicitor General has determined that the interests of the United States require participation.

b. Strategies to Accomplish Outcomes

OSG aligns its priorities to ensure that it is able to handle all matters before the Supreme Court in which the United States has an interest, as well as all other matters that are presented to the Solicitor General. It is critical OSG is provided adequate funding to accomplish effective outcomes.

V. Program Increases by Item:

Not Applicable

VI. Program Offsets by Item:

Not Applicable.

VII. Exhibits

Attached.