**Congressional Submission**

**FOREIGN CLAIMS SETTLEMENT COMMISSION**

**U.S. Department of Justice**

**FY 2014 PERFORMANCE BUDGET**

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**I. Overview of the Foreign Claims Settlement Commission**

**1. Introduction**

The Foreign Claims Settlement Commission (FCSC) is a small, independent, quasi-judicial agency organized for administrative purposes within the Department of Justice that has a high profile and important mission in FY 2014: distribute to U.S. victims of international terrorism monies paid to the United States by foreign governments. Currently, the FCSC is in the latter stages of a historically large program to award compensation to U.S. victims of Libyan terrorism in which the Congress has taken an unprecedented interest. Additionally, the Commission is preparing to conduct another claims program to distribute compensation to U.S. victims of Iraqi actions during the Saddam Hussein era (Iraq has already paid to the United States approximately $400 million to satisfy these claims). Depending on the movement of events internationally, other, similar programs can be anticipated. The work of adjudicating claims and awarding compensation is necessarily labor-intensive, requiring legal and factual research on the part of Commission staff, and adjudicatory work by the members of the Commission. The vast majority of its budget is necessary for personnel costs (notwithstanding the fact that the FCSC’s budget request does not include a request for additional positions); the bulk of the remainder is for fixed costs including rent and guard service. 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 this Internet address: http://www.justice.gov/02organizations/bpp.htm.

The operating expenses of the Commission ultimately are borne only partially, if at all, by the taxpayer. In virtually all instances, the legislation authorizing the adjudication of claims has provided for deduction of 5% of the funds obtained from foreign governments for payment of the Commission's awards. This amount is deposited to the credit of miscellaneous receipts in the United States Treasury to defray administrative expenses. The Commission understands that approximately $20 million has been so deposited into the Treasury from the funds obtained under the Libya Claims Program alone.

The Commission is prepared to provide any further information about the background of the Commission, its existing programs, Congressional interest in these programs, and the basis to support this budget request.

To date, the Commission has administered and completed 45 international and war-related claims programs involving claims against 18 countries: Yugoslavia, Panama, Bulgaria, Hungary, Romania, Italy, the former Soviet Union, the former Czechoslovakia, Poland, Cuba, China, the former German Democratic Republic, Vietnam, Ethiopia, Egypt, Iran, Albania, and the Federal Republic of Germany.

The Commission consists of a Chairman and two part‑time Commissioners, who are appointed by the President and confirmed by the Senate, as well as legal and non-legal secretariat staff. The Chairman and the part‑time Commissioners receive compensation at the Executive Level V rate of pay for performance of official business of the Commission.

2. Issues, Outcomes, and Strategies

In FY 2014, the Commission plans to conclude its administration of the Libya Claims Program. This program resulted from the President’s Executive Order 13477 dated October 31, 2008, implementing the U.S.-Libya Claims Settlement Agreement of August 14, 2008, as well as the Libyan Claims Resolution Act (LCRA), passed by Congress and signed into law on August 4, 2008. Pursuant to this Agreement and the LCRA, the government of Libya paid $1.5 billion to the United States in order to provide immediate and fair compensation to U.S. nationals with terrorism-related claims against Libya. This program was referred to the Commission by the Department of State Legal Adviser’s referral letters of December 11, 2008 and January 15, 2009 pursuant to 22 U.S.C. § 1623 (a)(1)(C). As of the date of the preparation of this document, the Commission anticipates that the State Department may refer another category of claims to the Commission under this program.

On June 21, 2011, the Department of State issued a press release announcing a settlement with the Government of Iraq in the amount of $400 million to provide compensation for American nationals who were prisoners of war, hostages, or human shields during the first Gulf War, and for U.S. servicemen who were injured in the 1987 attack on the USS Stark. On November 14, 2012, pursuant to its authority under 22 U.S.C. § 1623 (a)(1)(C), the Department of State referred a category of claims within the scope of the Iraq Claims Settlement Agreement to the Commission for adjudication and certification. Further, the Commission anticipates the receipt of an additional referral from the Department of State under the Iraq Claims Settlement Agreement for adjudication by the Commission during FY 2014.

The Commission will also continue to have authority under the International Claims Settlement Act of 1949, as amended, and the 1995 United States-Albanian claims settlement agreement, to make awards in any additional claims against Albania that are filed. In addition, when appropriate, the Commission will continue to reopen and reconsider claims it had previously denied, taking into account the modification of the Albanian claims settlement agreement effected in 2006.

Additionally, the Commission will research and respond to requests for information concerning properties expropriated by the Castro regime in Cuba, in support of the Department of State’s continuing implementation of Title IV of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (the "Helms‑Burton Act"). The Commission continues to maintain and update a computerized database of some 13,000 records containing specific information on all of the claims adjudicated in its Cuban Claims Program. This database enables the Commission to respond more quickly and accurately to requests for information from the State Department and the general public.

Under the War Claims Act of 1948, as amended, the Commission will continue to have authority to award compensation to any previously uncompensated American servicemen held as prisoners of war in Southeast Asia during the Vietnam conflict, or their survivors, for inadequate rations and inhumane treatment while in captivity.

In addition, the Commission will continue to furnish information contained in its records pertaining to the 45 completed international and war related claims programs it has conducted, as requested by claimants, their heirs, attorneys, researchers, and other members of the public. It will also provide to other U.S. agencies technical advice on their policy determinations, participate in preliminary planning and evaluation of pending claims legislation, and coordinate with Congressional committees considering legislation for adjudication of additional types of claims.

3. Challenges

External Challenges

The Commission’s external challenges include the necessity of being continuously prepared for a workload dictated almost exclusively by changing international events, current and future claims programs enacted by Congress or referred to the Commission by the Department of State, and by the number of claims filed. This may require expansion of its staffing to meet the requirements of new programs. Its external challenges also include the need to notify and assist U.S. nationals in a timely fashion in filing and documenting their claims, to familiarize them with the claims process, and to respond efficiently to all inquiries by the public, Congress, and other federal agencies about current and past programs.

Internal Challenges

The internal challenges the Commission faces include maintaining and focusing the skills, expertise, and experience of its staff to assist U.S. nationals with claims against foreign governments as well as to provide technical assistance in this area to the Department of State and other federal agencies upon request, while at the same time continuing its claims records modernization effort by improving and updating the information in its databases and on its website. The Commission intends also to concentrate efforts on increasing its transparency, by increasing the availability of its decisions and records to the public, particularly through electronic media.

**4. Performance Challenges**

The Commission is an independent agency. Its budget is fully integrated with its own priorities and corresponds to the Department’s Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law.

**III. Appropriations Language and Analysis of Appropriations Language**

**Appropriations Language**

The 2014 budget estimates include proposed changes in the appropriation language listed below. New language is italicized and underlined, and language proposed for deletion is bracketed.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission,

including services as authorized by section 3109 of title 5, United States Code, [$2,012,000] *$2,218,000.*

**Analysis of Appropriations Language**

*No substantive changes are proposed.*

**IV. Program Activity Justification**

**A. *Foreign Claims***

|  |  |  |  |
| --- | --- | --- | --- |
| Foreign Claims | Direct Pos. | Estimate FTE | Amount |
| 2012 Enacted | 11 | 9 | $2,000 |
| 2013 Continuing Resolution with 0.612% Increase | 11 | 9 | $2,012 |
| Base and Technical Adjustments | 0 | 0 | $206 |
| 2014 Current Services | 11 | 9 | $2,218 |
| 2014 Request | 11 | 9 | $2,218 |
| Total Change 2012-2014 | 0 | 0 | $218 |

1. Program Description

The Commission has a single Decision Unit, and its mission is to protect the property rights of U.S. citizens abroad and to promote the international rule of law through adjudication of claims brought by United States citizens against foreign governments.

The Commission currently pursues the following organizational goals:

* To adjudicate claims and award compensation for terrorism-related claims against Iraq pursuant to the U.S.-Iraq Claims Settlement Agreement.
* To adjudicate any newly-referred claims and award compensation for terrorism-related claims against Libya pursuant to the U.S.-Libya Claims Settlement Agreement and the Libyan Claims Resolution Act.
* To adjudicate claims and award compensation to previously uncompensated U.S. claimants for property losses in Albania.
* To research and respond to requests for information concerning decisions in the Commission’s first and second Cuban Claims Programs in aid of the Department of State’s continuing implementation of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (the “Helms-Burton Act”).
* To be prepared to adjudicate upon enactment of authorizing legislation, or referral to the Commission by the Secretary of State a future program relating to Guam.
* Upon request, to assist the Department of State in negotiations for the settlement of claims against foreign governments.
* To award compensation to any previously uncompensated American POWs held in Southeast Asia during the Vietnam conflict, or their survivors, for inadequate rations and inhumane treatment while in captivity.
* To advise Congress and other agencies concerning potential future claims programs and to analyze and comment on pending legislation.
* To advise other agencies on policy determinations relating to the settlement of international claims.
* To assist the Department of the Treasury in making distributions on awards certified by the Commission.
* To provide executive departments and private attorneys with legal precedents issued by the Commission.
* To provide general information concerning past programs and to respond to requests about specific decisions the Commission has made on claims.
* To respond to FOIA requests from the public regarding claims programs.
* To maintain and continuously update a comprehensive database of pending and active claims programs to ensure it is accurate and useful to the public and other U.S. agencies.
* To maintain a Commission website that explains claims programs, with downloadable claims program instructions and claim forms as well as statistical and other information on past programs.

1. Performance and Resource Tables

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3. Performance, Resources, and Strategies

The Commission is an independent agency. Its budget is fully integrated with its own priorities and corresponds best to the Department’s Strategic Goal 2: Protect the Rights of the American People, and Enforce Federal Law.

1. Performance Plan and Report for Outcomes

The Commission’s activities are not included in the Department of Justice’s performance plans or reports. However, in addition to its principal function of adjudicating claims of United States nationals against foreign governments, the Commission provides continuing informational services to claimants (and, where applicable, their legal successors) with regard to the 45 completed international and war claims programs it has concluded. It also provides advice to other Federal agencies on their policy determinations, preliminary planning, and evaluation of proposed legislation intended to authorize adjudication of claims of new categories of claimants, and liaison with congressional committees considering such legislation.

1. Strategies to Accomplish Outcomes

In FY 2014, the Commission plans to conclude its administration of the Libya Claims Program which resulted from the President’s Executive Order 13477 which implements the U.S.-Libya Claims Settlement Agreement and the Libyan Claims Resolution Act (LCRA).

Additionally in FY 2014, the Commission anticipates that it will continue to adjudicate categories of claims referred to it by the Department of State within the scope of the Claims Settlement Agreement Between the Government of the United States of America and the Government of the Republic of Iraq, signed on September 2, 2010, including claims for compensation for American nationals who were prisoners of war, hostages, or human shields during the first Gulf War, and for U.S. servicemen who were injured in the 1987 attack on the USS Stark.

Under the International Claims Settlement Act of l949, as amended, and the 1995 U.S.-Albanian

Claims settlement agreement and the 2006 modification of that agreement, the Commission will

continue to have authority to make awards in any additional claims against Albania that may be filed.

The Commission will also research and respond to requests for information concerning properties expropriated by the Castro regime in Cuba, in support of the Department of State’s

Continuing implementation of Title IV of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of l996 (the “Helms-Burton Act”). In addition, the Commission will continue to engage in preliminary planning for a possible future program relating to Guam. The Commission will also provide, upon request, technical assistance to the Department of State in conducting government-to-government claims settlement

negotiations.

Under the War Claims Act of 1948, as amended, the Commission will continue to have authority to award compensation to any previously uncompensated American servicemen held as prisoners of war in Southeast Asia during the Vietnam conflict, or their survivors, for inadequate rations and inhumane treatment while in captivity.

**VII. EXHIBITS**