

**Congressional Submission**

**FOREIGN CLAIMS SETTLEMENT COMMISSION**

**U.S. Department of Justice**

**FY 2019 PERFORMANCE BUDGET**



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# **I. Overview for the Foreign Claims Settlement Commission**

## **1. Introduction**

To support its mission, the Foreign Claims Settlement Commission (Commission) requests a total of \$2.4 million, 11 permanent positions, and 11 full-time equivalents (FTE).

The Commission 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 2019: distribute to U.S. victims of international terrorism monies paid to the United States by foreign governments and to continue to adjudicate claims of individuals for harms suffered during World War II. Currently, the Commission is adjudicating the claims of U.S. victims of Iraqi actions during the Saddam Hussein era; referred to the Commission by the Department of State by letter dated October 7, 2014 (Iraq has already paid to the United States approximately \$400 million to satisfy these claims). Further, the Commission has begun its work under the Guam World War II Loyalty Recognition Act, Title XVII, Pub. L. No. 114-328, 130 Stat. 2000, 2641-2647 (2016), to adjudicate the claims of residents of Guam who were mistreated during the Japanese occupation of Guam during World War II. Based on the projected number of claims in both the Iraqi and Guam programs and the complexity of issues associated with these claims, adjudication of claims in those programs will continue through FY 2019. In addition, depending on the movement of events internationally, other, similar programs can be anticipated.

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. 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 majority of the Commission's budget is necessary for personnel costs. The bulk of the remainder is for fixed costs, including rent and guard service. While the operating expenses of the Commission are appropriated from taxpayer funds, in virtually all instances, the legislation authorizing the adjudication of claims has provided for deduction of 5% of the funds obtained from foreign governments in settlement of the claims adjudicated by the Commission. This amount is deposited to the credit of miscellaneous receipts in the United States Treasury to defray administrative expenses.

To date, the Commission has administered and completed 48 international and war-related claims programs involving claims against 20 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, the Federal Republic of Germany, Libya, and Iraq.

The Commission is prepared to provide any further information about the background of the Commission, its existing programs, and congressional interest in these programs.

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: <http://www.justice.gov/02organizations/bpp.htm>

## **2. Issues, Outcomes, and Strategies**

In FY 2019, the Commission plans to continue its administration of the Iraq Claims 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. The Commission has thus far completed its adjudication of claims referred by the Department of State Legal Adviser's referral letter of November 14, 2012 pursuant to 22 U.S.C. § 1623 (a)(1)(C) and is now adjudicating claims under the State Department's letter of referral dated October 7, 2014.

In FY 2019, the Commission also plans to continue its administration of the Guam Claims Program. The Guam World War II Loyalty Recognition Act, Title XVII, Pub. L. No. 114-328, 130 Stat. 2000, 2641-2647 (2016) (the "Guam Loyalty Recognition Act" or "Act") was signed into law on December 23, 2016. The Act authorizes the Commission to adjudicate claims and determine the eligibility of individuals for payments under the Act, in recognition of harms suffered by residents of Guam as a result of the occupation of Guam by Imperial Japanese military forces during World War II.

Furthermore, the Commission will 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.

Moreover, under the War Claims Act of 1948, as amended, the Commission will also 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 48 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 with filing and documenting their claims; familiarize them with the claims process; and respond efficiently to all inquiries by the public, Congress, and other federal agencies about current and past programs.

#### Internal Challenges

The Commission's internal challenges include maintaining and focusing the skills, expertise, and experience of its staff to assist claimants 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. At the same time, the Commission must continue its claims records modernization effort by improving and updating the information in its databases and on its website. The Commission intends to also concentrate efforts on increasing its transparency, by increasing the availability of its decisions and records to the public, particularly through electronic media.

## **II. Summary of Program Changes**

#### No Program Changes

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

#### **Appropriations Language**

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, \$2,409,000.*

#### ***Analysis of Appropriations Language***

No substantive changes are proposed.

## IV. Program Activity Justification

### A. Foreign Claims

<i>Foreign Claims</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2017 Enacted	11	9	\$2,374
2018 Continuing Resolution	11	11	\$2,358
Adjustments to Base and Technical Adjustments	0	0	\$51
2019 Current Services	11	11	\$2,409
2019 Program Increases	0	0	\$0
2019 Program Offsets	0	0	\$0
2019 Request	11	11	\$2,409
<b>Total Change 2018-2019</b>	<b>0</b>	<b>0</b>	<b>\$51</b>

#### 1. Program Description

The Commission has a single Decision Unit, and its mission is to protect the 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:

- Issue well-reasoned and timely decisions in all claims against foreign governments adjudicated by the Commission.
- Provide notice to U.S. citizens of opportunities to enforce their rights against foreign governments under the Commission's authority and provide timely guidance and assistance in pursuing their claims.
- Certify all awards to the Department of Treasury in a timely and accurate fashion to ensure prompt payment within the statutory guidelines set forth in the Commission's authorizing statutes.
- Ensure that the decisions of the Commission are widely available and accessible to, *inter alia*, researchers, international legal scholars, and government officials.
- Ensure readiness to administer, upon enactment of authorizing legislation or referral to the Commission by the Secretary of State, future programs for claims against foreign governments; and to advise Congress and other agencies concerning policy determinations relating to the settlement of international claims as well as potential future claims programs.
- Upon request, assist the Department of State in negotiations for the settlement of claims against foreign governments.

## 2. Performance and Resources Tables

Performance Materials will be provided at a later date.

### 3. Performance, Resources, and Strategies

Performance Materials will be provided at a later date.

## **VII. EXHIBITS**