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## **I. Overview for Administrative Review and Appeals**

The fight against terrorism is the first and overriding priority of the Department of Justice and the Administration. A key component of this effort is the securing of our Nation's borders and the repair of the immigration system as a whole. More than ever, protecting America requires a multifaceted strategy which must include the effective coordination of investigative, enforcement, legal and adjudicative resources, both within the Department and in concert with other agencies. The application and enforcement of our immigration laws remains a critical element of this national effort.

### **1. Introduction**

On March 1, 2003, the Immigration and Naturalization Service was abolished, its functions transferred to the new Department of Homeland Security (DHS). However, the Attorney General retained significant authority over the interpretation and application of the Nation's immigration laws. As such, the immigration adjudications and litigation functions remained within the Department of Justice.

The Department's adjudication of immigration cases is performed by the Executive Office for Immigration Review (EOIR).

*On behalf of the Attorney General and exercising his delegated authority, the mission of EOIR is to provide the timely and uniform interpretation and application of immigration law, ensuring due process and fair treatment for all parties involved.*

The Administrative Review and Appeals FY 2009 request is \$263,791,000 and 1,439 FTE, and offset by \$4,000,000 to be transferred annually from Immigration Examination Fees at the Department of Homeland Security. The request includes \$261,404,000 and 1,424 FTE for EOIR and \$2,387,000 and 15 FTE for the Office of the Pardon Attorney (OPA).

The EOIR request includes a program increase of \$10,000,000 tied to the Southwest Border Enforcement Initiative in support of mission-critical and top priority information technology initiatives. The initiative forms two key components of EOIR's IT eWorld project, a multi-year, multi-phased effort to upgrade and modernize aging, obsolete IT systems and to transition EOIR from paper to electronic documents for its official records.

The request includes implementation and maintenance of Digital Audio Recording (DAR) in all immigration courts nationwide. This project was directed by the Attorney General as part of his Comprehensive Review of EOIR, completed in 2006.

The balance of the program increase supports the priority Immigration Review Information Exchange System (IRIES), the system through which EOIR will share mission-critical information with its external business partners, most notably the Department of Homeland Security and the DOJ's Civil Division.

The Southwest Border Enforcement Initiative is explained in much greater detail on pages 19 through 22 of this submission. It is important to note that, to date, EOIR has supported the initial development of the critical Southwest Border Enforcement Initiative IT eWorld project and its major components (DAR, IRIES and the Case Access System – a web-based electronic case management system which will consolidate EOIR’s stove-piped legacy databases) through the reallocation of base resources. To minimize the impact on base operations, EOIR has had to implement a multi-year development and phase-in strategy for this critical initiative. By 2009, diverting base resources to IT projects will no longer be possible.

EOIR has 54 immigration courts located nationwide, the Board of Immigration Appeals, which hears appeals of immigration judge decisions and certain decisions of officers of the DHS, and an administrative law judge function, which adjudicates other immigration-related matters.

While due process and independent decision-making remain the bedrock of any judicial or quasi-judicial function, EOIR cannot and does not operate in a vacuum. The volume, nature, and geographic concentration of DOJ/EOIR immigration caseload relates to government-wide immigration enforcement efforts. The coordination with DHS of programmatic increases and resource allocation remains EOIR’s top challenge and is a critical goal for the Administration, the Department of Justice and the DHS.

EOIR has been reviewed under the Program Assessment Rating Tool (PART) process in 2006 for budget year 2008. EOIR received a score of “Moderately Effective.” An improvement plan has been put in place to undertake over the next several years. The first action item from the improvement plan was completed when EOIR reassessed its targets to ensure that they were suitably ambitious. Although most measures were determined to be suitably ambitious, the BIA did shorten the time frame for completion of detained cases to 150 days. The second action item, which concerns the implementation of digital audio recording (DAR), is well underway. During FY 2007, EOIR designed, developed, and piloted the DAR system. The pilot and its assessment will be conducted during FY 2008, with development of the second phase of the project also occurring. The third action item is expanded training for immigration judges and Board legal staff, which began in FY 2007 with the revision of numerous legal references materials. Training will be further implemented in FY 2008. EOIR will be reviewed again in 2011.

The Office of the Pardon Attorney (OPA) receives and reviews all petitions for executive clemency, conducts the necessary investigations and prepares recommendations to the President for action. OPA provides guidance for the conduct of clemency proceedings and the standards for decisions. OPA confers with individual clemency applicants, their representatives, public groups, members of Congress, various federal, state, and local officials and others in connection with the disposition of clemency proceedings.

## **2. Background**

### **Immigration Courts and Coordination with DHS Enforcement Increases**

EOIR’s immigration courts represent the Department’s front-line presence with respect to the application of immigration law. Cases are received on-site, across the Nation, directly from

DHS enforcement personnel. As such, the coordination of resource allocation between DOJ/EOIR and DHS is a critical issue.

The strategies employed by EOIR to respond to this issue are twofold. First, on an on-going basis, EOIR's Office of the Chief Immigration Judge monitors caseload volume, trends and geographic concentration and adjusts resource allocation accordingly. This is done by modifying local dockets, adjusting detail assignments (most immigration judges "circuit ride" on both a regular and ad hoc basis), and permanently reassigning judge and staff positions to higher volume courts. This strategy involves close national and local coordination with DHS immigration enforcement personnel.

EOIR's second strategy involves coordinating workload projections with DHS. Within DHS, Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) include the majority of immigration enforcement programs, which generate immigration court caseload.

ICE includes immigration detention and removal, intelligence, investigations, legal proceedings and criminal alien programs. CBP includes the Border Patrol and inspections programs. Increases to these DHS programs have had and will have an immediate and profound effect upon DOJ/EOIR adjudications. As a key player in the government's immigration initiatives, EOIR's ability to adjudicate increasing caseload in a timely fashion allows the larger system to operate more efficiently, including the effective utilization of increased detention bed spaces and the DHS resources devoted to criminal and non-criminal removal programs.

For years, EOIR's top funding priority has been to attain the ability to adjudicate the record numbers of cases already received as a result of DHS enforcement increases, and to begin to meet the adjudications challenges resulting from DHS increases already funded and those requested by DHS for 2008 and 2009.

To illustrate the unprecedented expansion of DHS enforcement efforts and the critical need to implement IT improvements in order to facilitate inter-agency case processing and data sharing, the following brief recent history of DHS enforcement increases is presented.

DHS received \$500 million in enforcement-related increases through the Emergency Wartime Supplemental Appropriations Act of 2003, additional resources in FY 2004 and FY 2005, over \$600 million through the Wartime Supplemental of 2005, \$1.2 billion through the 2006 Wartime Supplemental, and hundreds of millions more through the regular appropriations process. In addition, DHS received in 2007 unprecedented increases for precisely the enforcement programs which generate EOIR caseload. These increases include:

- 6,700 additional detention beds (this is in addition to 2,300 new beds added during FY 2006).
- 1,360 new positions in ICE alone, including hundreds of special agents to enhance worksite enforcement, fugitive operations and other enforcement programs.
- 2, 500 additional Border Patrol Agents.

In addition to the above, the President's new Secure Border Initiative will expedite the expansion cited above, add an additional 3,500 Border Patrol agents by the end of CY 2008 (bringing the total increase from 2007 through 2008 to 6,000 new agents), and include force multipliers such as technology, infrastructure and thousands of National Guardsmen. For 2009, DHS will continue a multi-year expansion of the Border Patrol, detention facility bedspaces, the Criminal Alien Program and other programs, which, at a minimum, will keep EOIR case receipts at record levels.

### **EOIR and DOJ Strategic Goals**

EOIR has been included in the DOJ Strategic Plan for FY 2007 - FY 2012 under Strategic Goal 3: Ensure the fair and efficient administration of Justice, Objective 3.5: Adjudicate all immigration cases promptly and impartially in accordance with due process.

OPA has been included in the DOJ Strategic Plan for FY 2007 – FY 2012 under Strategic Goal 2: Prevent Crime, Enforce federal Laws and Represent the Rights and Interests of the American People, Objective 2.7: Vigorously enforce and represent the interests of the United States in all matters over which the Department has jurisdiction.

While it is recognized that EOIR's primary mission is not counterterrorism, the immigration enforcement programs of DHS, the source of EOIR's caseload, represent a critical component of counterterrorism initiatives. Further, the Attorney General's authorities with respect to the application and interpretation of immigration laws clearly impact government-wide enforcement strategies. As such, EOIR remains an important function vis-à-vis DHS/DOJ enforcement efforts.

### **3. Full Program Costs**

EOIR's submission includes specific performance measures, including those identified in the Departmental Performance Plan and Report. The measures include performance targets related to criminal alien, detained alien and asylum caseloads. EOIR will continue to strive to meet the targets. All costing methodologies, including modular costs, are reflected in the attached financial exhibits.

### **4. Performance Challenges**

EOIR's challenges are of an internal and external nature. Externally, budget proposals generally reflect collaboration with DHS to best address workload projections or, in the case of IT projects, to establish systems which facilitate interagency effectiveness. EOIR receives virtually all workload in the form of cases brought by DHS challenging the legal status and seeking the removal of aliens. The importance of effectively planning and coordinating with DHS, as their enforcement increases cannot be overstated.

Perhaps the greatest challenge to the BIA's mission of providing timely guidance and interpretation of the immigration laws has been its increasing caseload. Over the past decade, BIA's annual caseload has increased nearly every year, peaking at 43,000 cases received in FY 2004. Although the caseload was lower in FY 2007 than in recent years, the projected receipt level of over 35,000 appeals is an extremely large volume for any appellate body.

The immigration court's caseload increases resulting from DHS' heightened enforcement efforts will remain the key challenge for EOIR. EOIR's courts continue to receive hundreds of thousands of matters for adjudication. Immigration court caseload continues to be maintained at very high levels, and the complexity of the caseload seems to be increasing. It is anticipated that the current and planned expansion of DHS enforcement efforts, e.g., detention bedspaces, criminal alien programs and border enforcement, will increase immigration court case receipts well into the future.

## II. Summary of Program Changes

Item Name	Description				Page
		Pos.	FTE	Dollars (\$000)	
Strategic Goal 3.5	Southwest Border Enforcement Initiative			\$10,000	19

The Administrative Review Appeals requests \$263,791,000 and 1,439 FTE for FY 2009, and offset by \$4,000,000 to be transferred annually from Immigration Examination Fees at the Department of Homeland Security.

The EOIR request includes a program increase of \$10,000,000 in support of the Southwest Border Enforcement Initiative mission-critical and top priority information technology. The initiative forms two key components of EOIR's IT eWorld project, a multi-year, multi-phased effort to upgrade and modernize aging, obsolete IT systems and to transition EOIR from paper to electronic documents for its official records.

The request includes funding for the implementation and maintenance of Digital Audio Recording (DAR) in all immigration courts nationwide. This project was directed by the Attorney General as part of his Comprehensive Review of EOIR, completed in 2006.

The balance of the program increase supports the priority Immigration Review Information Exchange System (IRIES), the system through which EOIR will share mission-critical information with its external business partners, most notably the Department of Homeland Security and the DOJ's Civil Division.

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

#### **Appropriations Language\***

For expenses necessary for the administration of pardon and clemency petitions and immigration-related activities, [\$232,649,000], \$263,791,000, of which, \$4,000,000 shall be derived by transfer from the Executive Office for Immigration Review fees deposited in the “Immigration Examinations Fee” account.

[Provided, that \$3,760,000 shall be expended on the Executive Office for Immigration Review’s Legal Orientation Programs]. [For an additional amount for “Administrative Review and Appeals”, \$8,000,000 shall be for border security and immigration enforcement along the Southwest Border: Provided, that the amount provided by this paragraph is designated as described in section 5 (in the matter preceding division A of this consolidated Act.)]  
(Department of Justice Appropriations Act, 2008)

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

No substantive changes.



#### IV. Decision Unit Justification

##### A. Executive Office for Immigration Review (EOIR)

<b>EOIR TOTAL</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2007 Enacted	1,386	1,364	226,813
2008 Enacted	1,386	1,424	238,320
Adjustments to Base and Technical Adjustments	0	0	13,084
2009 Current Services	1,386	1,424	251,404
2009 Program Increases	0	0	10,000
2009 Request	1,386	1,424	261,404
<b>Total Change 2008-2009</b>	<b>0</b>	<b>0</b>	<b>23,084</b>

<b>EOIR—Information Technology Breakout (of Decision Unit Total)</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2007 Enacted	22	22	25,582
2008 Enacted	23	23	23,902
Adjustments to Base and Technical Adjustments	0	0	0
2009 Current Services	23	23	23,902
2009 Program Increases	0	0	10,000
2009 Request	23	23	33,902
<b>Total Change 2008-2009</b>	<b>0</b>	<b>0</b>	<b>10,000</b>

##### 1. Program Description

The EOIR is comprised of the Office of the Director and three adjudicative components.

Board of Immigration Appeals – Under the direction of the Chairman, the BIA hears appeals of decisions of immigration judges and certain decisions of officers of the DHS in a wide variety of proceedings in which the Government of the United States is one party and the other party is an alien, a citizen, or a transportation carrier. The BIA is directed to exercise its independent judgment in hearing appeals for the Attorney General, and provides a nationally uniform application of the immigration laws, both in terms of the interpretation of the law and the exercise of the significant discretion vested in the Attorney General. The majority of cases before the BIA involve appeals from orders of EOIR’s immigration judges entered in immigration proceedings.

Appeals of decisions of DHS officers, reviewed by the BIA, involve principally appeals from familial visa petition denials and decisions involving administrative fines on transportation carriers. The BIA also renders decisions on applications by organizations that have requested permission to practice before the BIA, the immigration judges, and DHS, and renders decisions on individual applications by employees of such organizations.

The BIA mission requires that national policies, as reflected in immigration laws, be identified, considered, and integrated into its decision process. The BIA plays the major role in interpreting the immigration laws of this country, an area of law the courts have characterized as uniquely complex. Processing an increasing caseload has been a challenging task in a time of almost constant major legislative action in the immigration field. The BIA has provided the principal

interpretation of the Immigration Reform Control Act of 1986 (IRCA), the Immigration Amendments of 1988, the Anti-Drug Abuse Act of 1988; the Immigration Act of 1990 (IMMACT 90); the Anti-terrorism and Effective Death Penalty Act of 1996 (AEDPA); the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA); and the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA); the Legal Immigration Family Equity Act of 2000 (LIFE); and the LIFE Act Amendments of 2000. These laws have represented the most fundamental restructuring of the Immigration and Nationality Act since its enactment in 1952, and have presented a myriad of new issues of statutory construction. The BIA has issued interpretive decisions and has then reinterpreted the Act as the laws have been redrafted.

Office of the Chief Immigration Judge – The Chief Immigration Judge provides overall program direction, articulates policy, and establishes priorities for the immigration judges located in 54 courts throughout the United States. Generally, immigration judges may order aliens removed or grant relief such as cancellation of removal, suspension of deportation, adjustment of status, asylum or waivers of removability. If the immigration judges decide that removability has not been established, they may terminate the proceedings. Bond redetermination hearings are held when an alien in custody seeks release on his or her own recognizance, or a reduction in the amount of bond.

With respect to criminal alien adjudications, the Institutional Hearing Program (IHP) provides the framework for hearings to determine the immigration status of aliens convicted of offenses who are incarcerated in federal, state and local prisons across the United States. EOIR's IHP is part of the larger Institutional Removal Program, now operated by the DHS. This program is a central component of a variety of initiatives designed to expedite the removal of criminal aliens and involves close coordination with DHS, the Bureau of Prisons and state and local corrections authorities.

Office of the Chief Administrative Hearing Officer – The Office of the Chief Administrative Hearing Officer (OCAHO) employs Administrative Law Judges (ALJs) appointed pursuant to 5 U.S.C. 3105 to adjudicate cases arising under Sections 274A, 274B and 274C of the Immigration and Naturalization Act (INA). Section 274A provides for sanctions against employers or entities who: (1) knowingly hire, recruit, or refer for a fee, or continue to employ unauthorized aliens; (2) fail to comply with the employment verification system; or (3) require the execution of an indemnity bond to protect themselves from potential liability for unlawful employment practices. Section 274 B prohibits employment discrimination based on national origin or citizenship status and provides for civil penalties and various remedies. Section 274C provides civil penalties for immigration-related document fraud. Adjudicative proceedings are initiated by complaints filed with the OCAHO and subsequently assigned to ALJs by the Chief Administrative Hearing Officer (CAHO). Complaints are filed by the DHS in section 274A and Section 274C cases and by the Office of Special Counsel (OSC) for Immigration Related Unfair Employment Practices in section 274B cases, or by the aggrieved party if OSC declines to file a complaint.

The CAHO may conduct administrative review and, unless the case is certified to the Attorney General, take the final agency action with respect to cases decided by ALJs under Sections 274A and 274C. The CAHO also certifies ALJs who hear Section 274B cases having received the training in employment discrimination matters as required by statute.

**PERFORMANCE AND RESOURCES TABLE**

**Decision Unit: Executive Office for Immigration Review**

**DOJ Strategic Goal/Objective 3.5 Adjudicate all immigration cases promptly and impartially in accordance with due process**

WORKLOAD/ RESOURCES		Final Target		Actual		Changes		Requested (Total)			
		FY 2007		FY 2007		FY 2008 Enacted		Current Services Adjustments and FY 2009 Program Changes		FY 2009 Request	
<b>Workload: Immigration Court Matters Received</b>		381,500		332,000		419,000		0		419,000	
<b>Appeals Received at BIA</b>		47,200		36,400		55,200		0		55,200	
<b>Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)</b>		<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>
		1,274	235,801	1,274	235,801	1,424	238,320	0	23,084	1,424	261,404
TYPE/ STRATEGIC OBJECTIVE	PERFORMANCE	FY 2007		FY 2007		2008 Requirements		Current Services Adjustments and FY 2009 Program Changes		FY 2009 Request	
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
<b>Program Activity</b>	3.5 Adjudicate Immigration Cases	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>
		1,274	235,801	1,274	235,801	1,424	238,320	0	23,084	1,424	261,404
<b>Performance Measure</b>	<b>Immigration Courts</b>										
	Total Matters Completed	364,500		327,300		389,500		0		389,500	
	Total Proceedings Completed	310,500		272,000		335,500		0		335,500	
	Expedited Asylum Completions	47,000		21,200		47,000		0		47,000	
	IHP Completions	7,900		6,000		7,900		0		7,900	
	Detained Completions w/out Apps.	70,000		87,400		70,000		0		70,000	
	Total immigration court priority cases completed	124,900		114,600		124,900		0		124,900	
Backlog of pending court cases filed prior to FY04	10,070		5,000		0		0		0		
<b>Performance Measure</b>	<b>Board of Immigration Appeals</b>										
	Total Appeals Completed	48,300		35,400		52,300		0		52,300	
	Detained Completions	4,000		3,200		4,000		0		4,000	
	Total Appeal priority cases completed	4,000		3,200		4,000		0		4,000	

<b>Efficiency Measure</b>	The measures above also serve as EOIR's efficiency measures					
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<b>OUTCOME</b>	<b>Immigration Courts</b>					
	% Exp Asylum Cases within Time Goal	90%	90%	90%		90%
	% IHP Cases within Time Goal	90%	86%	90%		90%
	% Detained Cases within Time Goal	90%	89%	90%		90%
	% Immigration Court priority cases	90%	89%	90%		90%
	% Backlog reduction	50%	43%	50%		50%
	<b>Board of Immigration Appeals</b>					
	% Detained Cases Adjudicated within Time Goal	90%	97%	90%		90%
	% Appeal priority cases completed	90%	97%	90%		90%

\* Performance decreased in FY 2007, in large part due to the number of vacant immigration judge positions. With regard to the Institutional Hearing Program cases, the Department of Homeland Security often did not file the Notice to Appear in a timely manner, causing EOIR to be unable to ensure that its judges could be present in the various detained locations to conduct hearings prior to the alien's earliest possible release date. Within the detained without applications for relief category, there was a 33 percent increase in receipts of this case type in FY 2007. This large increase in caseload, coupled with the number of immigration judge vacancies nationwide, caused EOIR to miss this goal by one percent.

Performance Report and Performance Plan Targets		FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007		FY 2008	FY 2009
		Actual	Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Performance Measures	Total Matters Completed	259,584	273,926	296,494	301,203	352,000	365,851	364,500	327,300	389,500	389,500
	Total Proceedings Completed	218,282	228,412	250,763	258,946	314,000	323,000	310,500	272,000	335,500	335,500
	Expedited Asylum Completions	31,019	39,438	50,017	47,078	43,000	27,000	47,000	21,200	47,000	47,000
	IHP Completions	11,107	9,637	7,696	7,835	9,000	5,600	7,900	6,000	7,900	7,900
	Detained Completions without Applications	48,085	50,312	58,734	58,849	59,000	64,000	70,000	87,400	70,000	70,000
	Total immigration court priority cases completed	90,211	99,387	116,447	113,762	111,000	96,600	124,900	114,600	124,900	124,900
Performance Measures	Total Appeals Completed	31,801	47,327	48,060	48,711	46,300	41,400	48,300	35,400	52,300	52,300
	Detained Completions*	N/A	N/A	3,694	4,089	3,425	3,000	4,000	3,200	4,000	4,000
Efficiency Measures	The measures above also serve as EOIR's efficiency measures										
**OUTCOME Measures	% Expedited Asylum Cases within Time Goal	91%	91%	91%	89%	92%	95%	90%	90%	90%	90%
	% IHP Cases w/in Time Goal	89%	84%	86%	88%	89%	92%	90%	86%	90%	90%
	% Detained w/out Applications w/in Time Goal	83%	84%	88%	88%	91%	92%	90%	89%	90%	90%
	% Immigration Court priority cases completed	N/A	N/A	89%	89%	91%	93%	90%	89%	90%	90%
	% Backlog reduction	N/A	N/A	N/A	59%	58%	68%	50%	43%	50%	N/A
**OUTCOME Measures	% Detained Appeals Adjudicated within Time Goal	N/A	N/A	81%	91%	92%	97%	90%	97%	90%	90%
	% Appeals priority cases completed	N/A	N/A	81%	91%	92%	97%	90%	97%	90%	90%

N/A = Data unavailable. The performance measures and outcome measures for which data are unavailable are new measures implemented in FY 2004.

\*Completion figures (in the Performance Measures rows) are not targets, but rather projected completions for fiscal years 2007 – 2009. EOIR's targets are the percentages shown in the OUTCOME Measures row.

\*\*Denotes inclusion in the DOJ Performance and Accountability Report

## B. Office of the Pardon Attorney (OPA)

<b>OPA TOTAL</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2007 Enacted	15	15	2,329
2008 Enacted	15	15	2,329
Adjustments to Base and Technical Adjustments	0	0	58
2009 Current Services	15	15	2,387
2009 Program Increases	0	0	0
2009 Request	15	15	2,387
<b>Total Change 2008-2009</b>	<b>0</b>	<b>0</b>	<b>58</b>

### 1. Program Description

The Office of the Pardon Attorney (OPA) receives and reviews all petitions for executive clemency, conducts the necessary investigations and prepares recommendations to the President for action. OPA provides guidance for the conduct of clemency proceedings and the standards for decisions. OPA confers with individual clemency applicants, their representatives, public groups, members of Congress, various federal, state, and local officials and others in connection with the disposition of clemency proceedings.

OPA participates in training and other conferences that are related to the field of criminal justice corrections, and clemency, and maintains a network of contacts required of OPA with Department officials, the counsel of the President, and other government officials. OPA's staff currently includes six attorneys, three paralegals, and six office support positions.

OPA is requesting a total of 15 permanent positions, 15 FTE, and \$2,387,000 in its salaries and expenses appropriation. This request represents an increase of \$58,000 over the FY 2008 enacted appropriation of \$2,329,000.

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: Office of the Pardon Attorney											
DOJ Strategic Goal/Objective: Goal 2.7 Vigorous enforcement and represent the interests of the United States in all matters which the Department has jurisdiction											
WORKLOAD/ RESOURCES		Final Target		Actual				Changes		Requested (Total)	
		FY 2007		FY 2007		FY 2008 Enacted		Current Services Adjustments and FY 2009 Program Changes		FY 2009 Request	
Petitions received/pending		2,275		2,163		2,700				2,700	
Correspondence received		5,400		5,400		5,700				5,700	
Total Costs and FTE		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		12	2,198	12	2,198	15	2,329	0	58	15	2,387
TYPE/ STRATEGIC OBJECTIVE	PERFORMANCE	FY 2007		FY 2007		FY 2008 Enacted		Current Services Adjustments and FY 2009 Program Changes		FY 2009 Request	
Program Activity	Clemency Petitions Processed	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		10	2,128	10	2,128	12	2,209	0	46	12	2,255
Performance Measure	# of clemency petitions processed by OPA	1,100		1,079		1,100				1,100	
Program Activity	Correspondence Processed	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		2	70	2	70	3	120	0	12	3	132
Performance Measure	Number of pieces of correspondence processed	5,400		5,400		5,700				5,700	
OUTCOME	Petitions Pending at OPA	1,000		1,080		1,100				1,100	

Data Definition, Validation, Verification, and Limitations: OPA's mission critical case and correspondence tracking system is updated daily and used extensively by the Pardon Attorney and staff to track the status of clemency petitions and correspondence. The data reflected under the "Actual Performance Measure" column is derived from this tracking system and cross-referenced with internal reports to ensure a high degree of accuracy.



**PERFORMANCE MEASURE TABLE**

Decision Unit: Office of the Pardon Attorney

Performance Report and Performance Plan Targets		FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007		FY 2008	FY 2009
		Actual	Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Performance Measures	Number of Clemency Petitions Processed at OPA	1,092	1,431	1,293	1,123	1,217	1,046	1,100	1,079	1,100	1,100
Performance Measures	Pieces of Correspondence Processed	8,838	7,000	5,600	5,250	5,250	5,250	5,400	5,400	5,700	5,700
OUTCOME Measures	Petitions Pending at OPA						904	1,000	1,080	1,100	1,100

N/A = Data unavailable

\* Denotes inclusion in the DOJ Annual Performance Plan

## **2. Performance, Resources, and Strategies**

Resources from EOIR contribute to the achievement of the Department's Strategic Goal 3: Ensure the fair and efficient administration of justice. Within this Goal, EOIR's resources specifically address the Department's Strategic Objective 3.5: Adjudicate all immigration cases promptly and impartially in accordance with due process.

In addition, owing to the unique relationships between EOIR adjudications programs and DHS immigration enforcement programs, resources from EOIR contribute to Strategic Goal 1: Prevent Terrorism and Promote the Nation's Security.

Resources from OPA contribute to the achievement of the Department's Strategic Goal 2: Prevent Crime, Enforce Federal Laws and Represent the Rights and Interests of the American People. Within this Goal, OPA's resources specifically address the Department's Strategic Objective 2.7: Vigorously enforce and represent the interests of the United States in all matters over which the Department has jurisdiction.

### **a. Performance Plan and Report for Outcomes**

As illustrated in the preceding Performance Measure Table, the performance outcome measure for EOIR is the percentage of high priority cases completed within established time frames. The FY 2009 targets for the four case types are 90% within the established time frames.

For the immigration courts, EOIR chose three priority case types as performance measures, and set the following goals:

- 90% of expedited asylum cases completed within 180 days
- 90% of Institutional Hearing Program (criminal alien cases) completed before release from incarceration
- 90% of detained cases without applications for relief completed within 30 days

In FY 2007, the immigration courts met its target with regard to expedited asylum, but narrowly missed its other two targets due to a large number of immigration judge vacancies and an increase in the detained caseload. These three performance measures will be continued in FY 2009.

The performance measure for the Board of Immigration Appeals (BIA) is:

- 90% of detained appeals adjudicated within 150 days

In FY 2007, the BIA exceeded this target by 7% and expects to exceed it again in FY 2008. This performance measure will continue in FY 2009.

EOIR's adjudication functions are part of the government's larger immigration and border control programs. As such, EOIR's ability to adjudicate cases in a timely fashion allows the larger system to operate more efficiently, including the efficient utilization of DHS detention bed spaces. The guarantee of fairness and due process remains a cornerstone of our judicial system.

EOIR's role in the provision of relief in meritorious cases, and in the denial of relief in others helps assure the integrity of the overall process.

In summary, the FY 2009 target is to complete 90% of EOIR's priority adjudications with established timeframes.

#### b. Strategies to Accomplish Outcomes

Case adjudication is the performance indicator for EOIR. Performance measures (the number of cases completed) have been established for several high priority case types. The outcome measure for this indicator is the percentage of high priority cases that are completed within established time frames.

EOIR has established case completion goals for the various types of cases that the immigration courts adjudicate, and will continue to reallocate existing resources to the adjudication of priority cases. This includes the adjustment of court dockets to increase the number of calendars devoted to detained cases and expedited asylum cases, and increasing the frequency of immigration judge details to federal, state and local correctional facilities as needed to adjudicate Institutional Hearing Program cases.

Finally, EOIR is moving ahead with its plans to transition from paper to electronic records. When fully implemented, this initiative will improve efficiency throughout the adjudication process, and a higher percentage of EOIR's cases will be adjudicated within target time frames. For example, data from electronically filed documents will be automatically uploaded to EOIR's database, thus decreasing data entry time; electronic Records of Proceedings (ROPs) will be available for simultaneous access by staff who need to use them, eliminating the time spent waiting for files; and digitally recorded hearings can be made available to transcribers instantly rather than mailing audio tapes back and forth.

#### c. Results of Program Assessment Rating Tool (PART) Reviews

EOIR was reviewed under the Program Assessment Rating Tool (PART) process in 2006 for budget year 2008. EOIR received a score of "Moderately Effective." An improvement plan has been put in place to undertake over the next several years. The first action item from the improvement plan was completed when EOIR reassessed its targets to ensure that they were suitably ambitious. Although most measures were determined to be suitably ambitious, the BIA did shorten the time frame for completion of detained cases to 150 days. The second action item, which concerns the implementation of digital audio recording (DAR), is well underway. During FY 2007, EOIR designed, developed, and piloted the DAR system. The implementation of DAR will occur during FY 2008, with development of the second phase of the project also occurring. The third action item is expanded training for immigration judges and Board legal staff, which began in FY 2007 with the revision of numerous legal references materials. Training will be further implemented in FY 2008. EOIR will be reviewed again in 2011.

## V. Program Increases by Item

**Item Name:** Southwest Border Enforcement Initiative

Budget Decision Unit(s): Executive Office for Immigration Review  
Strategic Goal(s) & Objective(s): 3.5 Adjudicate all immigration cases promptly and impartially in accordance with due process

Organizational Program: EOIR IT eWorld

Component Ranking of Item: 1

Program Increase: Positions 0 Agt/Atty 0 FTE 0 Dollars \$10,000,000

### Description of Item

**EOIR's request includes an enhancement of \$10,000,000.** This request ties to the Department of Justice Strategic Plan, the President's Management Agenda, and Attorney General directives related specifically to the Southwest Border Enforcement Initiative. This request seeks to continue development of EOIR's IT eWorld project, which will enhance the efficiency of case adjudication, thereby ensuring due process while at the same time enabling the Department of Homeland Security (DHS) to remove aliens from the United States in a timely manner. With the establishment of the DHS Secure Border Initiative, and the Department of Justice's emphasis on timely adjudications while ensuring due process, the various components of the IT eWorld project will assist both Departments in achieving their goals of processing civil immigration cases and removing aliens who have no avenues for relief.

The IT eWorld project is a multi-year, multi-phased project that is transitioning EOIR from paper to electronic documents for its official records. During FY 2005 – FY 2007, EOIR designed and began developing three major information technology projects.

- (1) The Case Access System for EOIR (CASE) is a web-based electronic case management system that consolidated EOIR's stove-piped legacy databases. This system is the foundation for all subsequent phases of the IT eWorld project.
- (2) The digital audio recording (DAR) system will revolutionize how immigration proceedings are recorded and transcribed. Similar to CASE, the DAR system is a required building block for future phases of the IT eWorld project.
- (3) The Immigration Review Information Exchange System (IRIES) is being designed for collaboration with other federal entities to ensure that agencies are sharing data in the most efficient manner possible.

To date, EOIR has received no additional funds for these projects; rather, all IT eWorld-related projects have been funded out of base appropriations. Although EOIR was able to deploy the initial phase of the CASE project using base funding, the final configuration of CASE and the full deployment of DAR and IRIES cannot be supported from base funding. A program increase is required to complete these mission-critical projects.

As EOIR's IT eWorld implementation progresses, other government agencies, attorneys, parties to immigration cases, and interested persons will be able to submit materials to EOIR's adjudication components and to view EOIR public adjudication records via CASE, the web-based case management system. At the conclusion of IT eWorld, all paper filings will be processed in electronic form and immigration judges, Board Members, and staff will use the electronic records in their work. All orders, notices, and decisions will be entered and maintained in electronic form.

EOIR's FY 2009 request supports two projects that will lay the groundwork for complete implementation of the IT eWorld Southwest Border Enforcement Initiative: DAR and IRIES.

- 1) Digital Audio Recording (DAR): As noted above, the reallocation of base resources in support of the IT eWorld projects will no longer be possible by 2009. EOIR will implement DAR over two years, 2008 and 2009.
  - a) As part of the Attorney General's Comprehensive Review of EOIR, he directed EOIR to design and implement a digital recording system. EOIR currently uses antiquated analog recording equipment to create the official transcripts of immigration hearings. In addition to being a time-consuming process with poor quality of the tape recordings, it should be noted that the manufacturer of these analog recorders ceased production more than a year ago. While substantially improving audio quality, digital recording technology reduces inaccuracies and eliminates inaudible and indiscernible passages, as well as solves the problem of missing or damaged tapes. This will save adjudication time, as it will eliminate the need for judges to repeat a hearing because too many portions of the tape are inaudible.

When respondents file appeals with the BIA, the recorded hearing will be electronically sent to transcribers in lieu of physically delivering analog tapes by courier, thereby drastically reducing the time required to receive and transfer recordings for transcription as well as reducing vulnerabilities for lost or damaged recordings. In addition, EOIR oversight and management staff will be able to access recordings of hearings within minutes of the proceeding's completion, providing new avenues for EOIR management to oversee and review immigration judges' conduct in the courtroom. Access to digital audio recordings directly by DOJ Civil Division litigators, the Department of Homeland Security, and alien attorneys/representatives will greatly enhance resolution of issues in cases in which tapes are not routinely transcribed, or in which issues regarding the sufficiency of the record have emerged. In FY 2006 and 2007, EOIR absorbed the costs for the DAR project in its base appropriation. However, with the hiring of immigration judges and rising information technology costs, EOIR can no longer absorb the DAR development costs. Without the funds to continue the development and implementation of DAR, more than half of the immigration courts will continue to be dependent on analog tape recorders that cannot be repaired or replaced.

- b) Although DAR will provide cost avoidance in terms of transcribers not being able to complete a transcription due to poor audio quality as well as courier costs, the DAR project will include recurring annual O&M costs. Without the necessary license renewals, equipment upgrades, and other associated maintenance costs, EOIR's dependence on obsolete technology would be prolonged. In addition, change of venue

requests will require that all court sites sustain an analog tape capability until the digital recording capability is fully implemented.

2) Immigration Review Information Exchange System (IRIES):

- a) The President's Management Agenda encourages the use of information technology to open communications between agencies and with the public. IRIES will serve as the conduit through which EOIR will share mission-critical information with its external business partners in the federal government. This project will enable EOIR to provide timely documents and information to law enforcement agencies. EOIR has signed a Memorandum of Understanding and is already working with the Immigration and Customs Enforcement (ICE) division of DHS to exchange information more efficiently and effectively, which will enable ICE to deport criminal aliens and others who have violated immigration laws. The advent of this capability will eliminate various manual processes and enhance the accuracy of information vital to both agencies.

IRIES will also allow for closer integration of EOIR and Civil Division systems for purposes of federal immigration litigation. Current issues of cross jurisdiction, federal court frustration, and untimely and ineffective litigation strategies will be eliminated or greatly alleviated by allowing EOIR data to populate Civil Division databases through IRIES. In addition, certified administrative records will be delivered electronically through IRIES, dramatically reducing security vulnerabilities, shipping and handling timeframes, and occurrences of lost or damaged records. The federal courts of appeals have already requested electronic delivery of records, as have some in the private immigration bar. With its current technology, EOIR cannot meet these requests. Coordinating documentation and information exchanges between the various federal immigration litigation stakeholders in this manner will minimize the current frustrations, inconsistent results, and susceptibility to abuse inherent in this area. Without the funds to continue the development and implementation of IRIES, EOIR will be vulnerable to security threats and questionable data integrity that come from the transfer of paper records and multiple data entries.

- b) Similar to the DAR project, IRIES will provide various cost avoidances, but it will also include development, modernization, and enhancement costs for several out-years. Without the necessary upgrades and maintenance, the IRIES system will not be stable. As more federal and state partners request access, document management business processes will require accommodation and the maintenance costs will inevitably grow.

Justification

EOIR will require the resources requested to continue the progress it has made on the Southwest Border Enforcement Initiative IT eWorld project as well as to implement the Attorney General's directive of updating its recording systems and other technologies. In addition, EOIR strives to meet both federal and agency goals. By enabling EOIR to share information with DHS, the DOJ Civil Division, and the federal courts, the IRIES portion of the eWorld project addresses the DOJ IT Strategic Goal 1, Information Sharing and Collaboration, which in turn supports the President's Management Agenda. Finally, the DAR portion of the project will allow for more accurate recordings of court proceedings, as well as the elimination of the need to transfer tapes between locations. These advances directly address DOJ IT Strategic Goal 2, Enabling

Federated Solutions, by enhancing national security operations and judicial support operations (E-Gov), as well as by improving detention operations.

Impact on Performance (Relationship of Increase to Strategic Goals)

Critical to the success of various DOJ and DHS initiatives will be the ability of EOIR to process immigration judge and appellate caseload within the time frames established by EOIR and the Department. Objective 3.5 of the Department's Strategic Plan is to adjudicate all immigration cases promptly and impartially in accordance with due process. The implementation of a DAR system will assist EOIR in accomplishing this objective, as cases that are appealed will be transcribed more accurately and will be sent more quickly to the appropriate parties. In addition, this program increase will meet the objective under goal 2 that concerns the fair and efficient processing of civil immigration cases. The IRIES portion of this program increase will allow EOIR to exchange information with the Civil Division, which is responsible for representing the government in civil immigration cases. Currently, EOIR spends a great deal of time and money to certify cases for the Civil Division, and both the DAR and IRIES projects will alleviate these expenses.

## Funding

### Base Funding

FY 2007 Enacted (w/resc./supps)				FY 2008 Enacted				FY 2009 Current Services			
Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)
1386	456	1364	226,813	1386	456	1424	238,320	1386	456	1424	251,404

### Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit	Quantity	FY 2009 Request (\$000)	FY 2010 Net Annualization (Change from 2009) (\$000)
Total Non-Personnel			10,000	

### Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)
Current Services	1386	456	1424	152,872	98,532	251,404
Increases					10,000	10,000
Grand Total	1386	456	1424	152,872	108,532	261,404



## VI. E-Government Initiatives

The Justice Department is fully committed to the President’s Management Agenda (PMA) and the E-Government initiatives that are integral to achieving the objectives of the PMA. The E-Government initiatives serve citizens, business, and federal employees by delivering high quality services more efficiently at a lower price. The Department is in varying stages of implementing E-Government solutions and services including initiatives focused on integrating government wide transactions, processes, standards adoption, and consolidation of administrative systems that are necessary tools for agency administration, but are not core to DOJ’s mission. To ensure that DOJ obtains value from the various initiatives, the Department actively participates in the governance bodies that direct the initiatives and we communicate regularly with the other federal agencies that are serving as the “Managing Partners” to ensure that the initiatives meet the needs of the Department and its customers. The Department believes that working with other agencies to implement common or consolidated solutions will help DOJ to reduce the funding requirements for administrative and public-facing systems, thereby allowing DOJ to focus more of its scarce resources on higher priority, mission related needs. DOJ’s modest contributions to the Administration’s E-Government projects will facilitate achievement of this objective.

### A. Funding and Costs

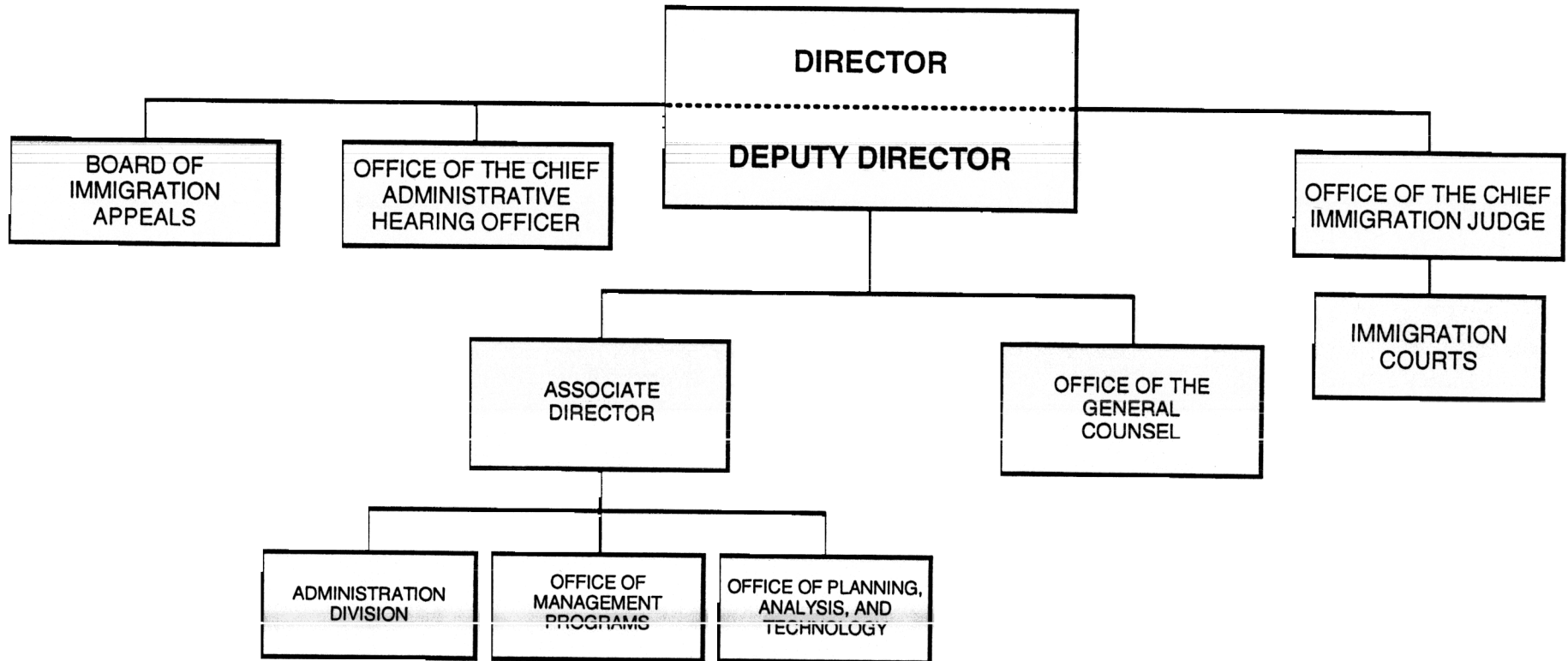
The Department of Justice participates in the following E-Government initiatives and Lines of Business:

Business Gateway	E-Travel	Integrated Acquisition Environment	Case Management LoB
Disaster Assistance Improvement Plan	Federal Asset Sales	IAE - Loans & Grants - Dunn & Bradstreet	Geospatial LoB
Disaster Assist. Improvement Plan - Capacity Surge	Geospatial One-Stop	Financial Mgmt. Consolidated LoB	Budget Formulation and Execution LoB
E-Authentication	GovBenefits.gov	Human Resources LoB	IT Infrastructure LoB
E-Rulemaking	Grants.gov	Grants Management LoB	

The Department of Justice E-Government expenses – i.e. DOJ’s share of e-Gov initiatives managed by other federal agencies – are paid for from the Department’s Working Capital Fund. These costs, along with other internal E-Government related expenses (oversight and administrative expenses such as salaries, rent, etc.) are reimbursed by the components to the WCF. The Executive Office for Immigration Review (EOIR) reimbursement amount is based on the anticipated or realized benefits from an e-Government initiative. EOIR’s E-Government reimbursement to the WCF is \$124,000 for FY2008. The anticipated EOIR e-Government reimbursement to WCF is \$130,000 for FY2009.

## **EXHIBITS**

# EXECUTIVE OFFICE FOR IMMIGRATION REVIEW



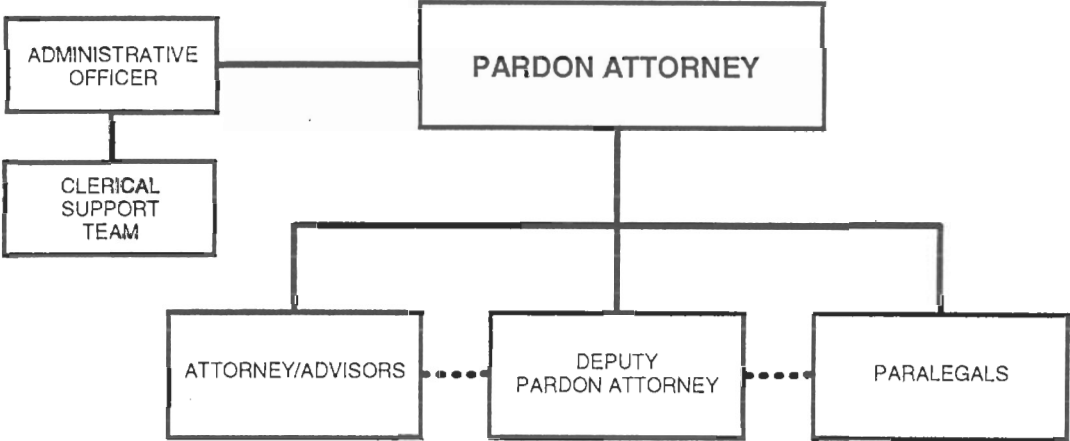
Approved by:



JOHN ASHCROFT  
Attorney General

Date: November 19, 2004

# OFFICE OF THE PARDON ATTORNEY



Approved by:  Date: May 15, 2001  
JOHN D. ASHCROFT  
Attorney General

**B: Summary of Requirements**

**Summary of Requirements**  
 Administrative Review and Appeals  
 Salaries and Expenses  
 (Dollars in Thousands)

	FY 2009 Request		
	Perm. Pos.	FTE	Amount
<b>2007 Enacted (with Rescissions, direct only)</b>	1,401	1,379	229,142
<b>2008 Enacted</b>	1,281	1,319	232,649
2008 Emergency Funding	120	120	8,000
<b>Total 2008 Enacted</b>	<b>1,401</b>	<b>1,439</b>	<b>240,649</b>
Technical Adjustment			
DHS Immigration Examination Fee to EOIR			(4,000)
Transfers			
DHS Immigration Examination Fee to EOIR			4,000
Adjustments to Base			
Increases:			
2009 pay raise (2.9%)			3,169
2008 pay raise annualization (3.5%)			1,202
Annualization of 2007 positions (dollars)			2,050
Retirement			129
Health Insurance Premiums			416
Employee Compensation Fund			90
GSA Rent - rate increase			1,342
DHS Security Charges			14
Base Program Cost Adjustment			5,225
Postage			40
Printing and reproduction			7
JUTNET			3
Subtotal Increases	0	0	13,687
Decreases:			
Change in Compensable Days			(545)
Non-recrurals [list all]			
Subtotal Decreases	0	0	(545)
Total Adjustments to Base	0	0	13,142
Total Adjustments to Base and Technical Adjustments	0	0	13,142
<b>2009 Current Services</b>	<b>1,401</b>	<b>1,439</b>	<b>253,791</b>
Program Changes			
Increases			
Southwest Border Enforcement Initiative			
- Digital Audio Recording System			8,300
- Immigration Review Information Exchange System			1,700
Subtotal Increases	0	0	10,000
Total Program Changes	0	0	10,000
<b>2009 Total Request</b>	<b>1,401</b>	<b>1,439</b>	<b>\$263,791</b>
2008 - 2009 Total Change	0	0	23,142

**Summary of Requirements**  
**Administrative Review and Appeals**  
**Salaries and Expenses**  
(Dollars in Thousands)

	FY 2007 Appropriation Enacted			FY 2008 Enacted			FY 2009 Adjustments to Base and Technical Adjustments			FY 2009 Current Services			FY 2009 Increases			FY 2009 Offsets			FY 2009 Request		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
<b>Estimates by budget activity</b>																					
Executive Office for Immigration Review	1,386	1,364	226,813	1,386	1,424	238,320	0	0	13,084	1,386	1,424	251,404	0	0	10,000	0	0	0	1,386	1,424	261,404
Office of the Pardon Attorney	15	15	2,329	15	15	2,329	0	0	58	15	15	2,387	0	0	0	0	0	0	15	15	2,387
<b>Total</b>	<b>1,401</b>	<b>1,379</b>	<b>\$229,142</b>	<b>1,401</b>	<b>1,439</b>	<b>\$240,649</b>	<b>0</b>	<b>0</b>	<b>\$13,142</b>	<b>1,401</b>	<b>1,439</b>	<b>\$253,791</b>	<b>0</b>	<b>0</b>	<b>\$10,000</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>1,401</b>	<b>1,439</b>	<b>\$263,791</b>
Reimbursable FTE										0											0
Total FTE		1,379			1,439			0		1,439				0			0				1,439
Other FTE:																					
LEAP																					
Overtime																					
Total Comp. FTE		1,379			1,439			0		1,439				0			0				1,439

**C: Program Increases/Offsets By Decision Unit**

**FY 2009 Program Increases/Offsets By Decision Unit**

Administrative Review and Appeals

(Dollars in Thousands)

Program Increases	Location of Description by Decision Unit	Decision Unit 1				Total Increases
		Pos.	Agt./Atty.	FTE	Amount	
Southwest Border Enforcement Initiative						
- Digital Audio Recording System	EOIR	0	0	0	8,300	8,300
- Immigration Review Information Exchange System	EOIR	0	0	0	1,700	1,700
<b>Total Program Increases</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>\$10,000</b>	<b>\$10,000</b>

D: Resources by DOJ Strategic Goal and Strategic Objective

**Resources by Department of Justice Strategic Goal/Objective  
Administrative Review and Appeals**  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2007 Appropriation Enacted		FY 2008 Enacted		FY 2009 Current Services		2009				FY 2009 Request	
	Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	Increases		Offsets		Direct, Reimb. Other FTE	Direct Amount \$000s
							Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s		
<b>Goal 1: Prevent Terrorism and Promote the Nation's Security</b> 1.1 Prevent, disrupt, and defeat terrorist operations before they occur  1.2 Strengthen partnerships to prevent, deter, and respond to terrorist incidents 1.3 Prosecute those who have committed, or intend to commit, terrorist acts in the United States 1.4 Combat espionage against the United States <b>Subtotal, Goal 1</b>												
	0	0	0	0	0	0	0	0	0	0	0	0
<b>Goal 2: Prevent Crime, Enforce Federal Laws and Represent the Rights and Interests of the American People</b> 2.1 Strengthen partnerships for safer communities and enhance the Nation's capacity to prevent, solve, and control crime 2.2 Reduce the threat, incidence, and prevalence of violent crime 2.3 Prevent, suppress, and intervene in crimes against children 2.4 Reduce the threat, trafficking, use, and related violence of illegal drugs 2.5 Combat public and corporate corruption, fraud, economic crime, and cybercrime 2.6 Uphold the civil and Constitutional rights of all Americans 2.7 Vigorously enforce and represent the interests of the United States in all matters over which the Department has jurisdiction 2.8 Protect the integrity and ensure the effective operation of the Nation's bankruptcy system <b>Subtotal, Goal 2</b>	15	2,329	15	2,329	15	2,387	0	0	0	0	15	2,387
	15	2,329	15	2,329	15	2,387	0	0	0	0	15	2,387
<b>Goal 3: Ensure the Fair and Efficient Administration of Justice</b>  3.1 Protect judges, witnesses, and other participants in federal proceedings, and ensure the appearance of criminal defendants for judicial proceedings or confinement 3.2 Ensure the apprehension of fugitives from justice 3.3 Provide for the safe, secure, and humane confinement of detained persons awaiting trial and/or sentencing, and those in the custody of the Federal Prison System  3.4 Provide services and programs to facilitate inmates' successful reintegration into society, consistent with community expectations and standards 3.5 Adjudicate all immigration cases promptly and impartially in accordance with due process 3.6 Promote and strengthen innovative strategies in the administration of State and local justice systems 3.7 Uphold the rights and improve services to America's crime victims <b>Subtotal, Goal 3</b>	1,364	226,813	1,424	238,320	1,424	251,404	0	10,000	0	0	1,424	261,404
	1,364	226,813	1,424	238,320	1,424	251,404	0	10,000	0	0	1,424	261,404
<b>GRAND TOTAL</b>	1,379	\$229,142	1,439	\$240,649	1,439	\$253,791	0	\$10,000	0	\$0	1,439	\$263,791



## E. Justification for Base Adjustments

### Justification for Base Adjustments Administrative Review and Appeals

#### Increases

2009 pay raise. This request provides for a proposed 2.9 percent pay raise to be effective in January of 2009 (This percentage is likely to change as the budget formulation process progresses.) This increase includes locality pay adjustments as well as the general pay raise. The amount requested, \$3,169,000 represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$ 2,258,000 for pay and \$911,000 for benefits).

Annualization of 2008 pay raise. This pay annualization represents first quarter amounts (October through December) of the 2008 pay increase of 3.5 percent included in the 2008 President's Budget. The amount requested, \$1,202,000 represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$ 856,000 for pay and \$346,000 for benefits).

Annualization of additional positions approved in 2007. This provides for the annualization of 60 additional positions appropriated in 2007 President's budget. Annualization of new positions extends to 3 years to provide for entry level funding in the first year with a 2-year progression to the journeyman level. For 2007 increases, this request includes an increase of \$2,050,000. for full-year payroll costs associated with these additional positions.

	2007 Increases (\$000)	Annualization Required for 2009 (\$000)	2008 Increases (\$000)	Annualization Required for 2009 (\$000)
Annual salary rate of 60 new positions	7,016	1,589		
Less lapse (50 %)	3,508	0		
Net Compensation	3,508	1,589	0	0
Associated employee benefits	1,016	461		
Travel	85			
Transportation of Things	107			
Communications/Utilities	296			
Printing/Reproduction	5			
Other Contractual Services:				
25.2 Other Services	1,103			
25.3 Purchase of Goods and Services from Government Accts.	341			
25.4 Operation and Maintenance of Facilities				
25.6 Medical Care	2			
25.7 Operation and Maintenance of Equipment	421			
Supplies and Materials	104			
Equipment	975			
Land and Structure	794			
<b>TOTAL COSTS SUBJECT TO ANNUALIZATION</b>	<b>8,757</b>	<b>2,050</b>	<b>0</b>	<b>0</b>

Retirement. Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 1.3 percent per year. The requested increase of \$129,000 is necessary to meet our increased retirement obligations as a result of this conversion.

Employees Compensation Fund: The \$90,000 increase reflects payments to the Department of Labor for injury benefits paid in the past year under the Federal Employee Compensation Act. This estimate is based on the first quarter of prior year billing and current year estimates.

Health Insurance: Effective January 2007, this component's contribution to Federal employees' health insurance premiums increase by 6.3 percent. Applied against the 2008 estimate of \$8,583,000, the additional amount required is \$416,000.

General Services Administration (GSA) Rent. GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$1,342,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective in FY 2009 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied. Rate increases have been formulated based on GSA rent billing data.

DHS Security Charges. The Department of Homeland Security (DHS) will continue to charge Basic Security and Building Specific Security. The requested increase of \$14,000 is required to meet our commitment to DHS. The costs associated with DHS security were derived through the use of an automated system, which uses the latest space inventory data. Rate increases expected in FY 2009 for Building Specific Security have been formulated based on DHS billing data. The increased rate for Basic Security costs for use in the FY 2009 budget process was provided by DHS.

Base Program Cost Adjustment: This adjustment provides for base program costs of \$5,225,000 to enable the Executive Office for Immigration Review to maintain mission critical operations for which funds have been previously appropriated at anticipated FY 2009 levels. It will fund items such as personnel costs for previously authorized positions, operational travel and supplies, and information technology maintenance costs. These costs cannot be deferred without severe negative impact on mission-critical base operations.

Postage: Effective May 14, 2007, the Postage Service implemented a rate increase of 5.1 percent. This percentage was applied to the 2008 estimate of \$777,000 to arrive at an increase of \$40,000.

Government Printing Office (GPO): GOP provides an estimate rate increase of 4%. This percentage was applied to the FY 2008 estimate of \$285,000 to arrive at an increase of \$7,000.

JUTNet: The Justice United Telecommunications Network (JUTNet) is a new system that will provide a more reliable, secure, and economic connectivity among the many local office automation networks deployed throughout the Department, as well as a trusted environment for information sharing with other government agencies and remote users, field agents, and traveling staff personnel. JUTNet will utilize uniform security, updated encryption protocols, and eliminate network inefficiencies existing with the current systems. Funding of \$3,000 is required for this account.

Decreases

Changes in Compensable Days: The decrease costs of one compensable day in FY 2009 compared to FY 2008 is calculated by dividing the FY 2008 estimated personnel compensation \$388,000 and applicable benefits \$157,000 by 261 compensable days. The cost decrease of one compensable day is \$545,000.

**F: Crosswalk of 2007 Availability**

**Crosswalk of 2007 Availability**  
 Administrative Review and Appeals  
 Salaries and Expenses  
 (Dollars in Thousands)

Decision Unit	FY 2007 Enacted			Rescissions			Supplementals			Reprogrammings / Transfers			Carryover/ Recoveries			FY 2007 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Executive Office for Immigration Review	1,386	1,364	226,813	0	0	0	0	0	0	0	0	0	0	0	9,024	1,386	1,364	235,837
Office of the Pardon Attorney	15	15	2,329	0	0	0	0	0	0	0	0	0	0	0	0	15	15	2,329
<b>TOTAL</b>	<b>1,401</b>	<b>1,379</b>	<b>\$229,142</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>\$9,024</b>	<b>1,401</b>	<b>1,379</b>	<b>\$238,166</b>
Reimbursable FTE																		0
Total FTE		1,379			0			0			0			0				1,379
Other FTE																		
LEAP																		0
Overtime																		0
Total Compensable FTE		1,379			0			0			0			0				1,379

Carryover/Recoveries. Funds were carried over in the amount of \$9,000,000 in FY 2006 from the Wartime Supplemental. Other carryovers include \$1,616.96 from Counterterrorism and \$4,038.96 from VCR

G: Crosswalk of 2008 Availability

Crosswalk of 2008 Availability  
 Administrative Review and Appeals  
 Salaries and Expenses  
 (Dollars in Thousands)

Decision Unit	FY 2008 Enacted			Rescissions			Supplementals			Reprogrammings / Transfers			Carryover/ Recoveries			FY 2008 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Executive Office for Immigration Review	1,386	1,424	238,320	0	0	0	0	0	0	0	0	0	0	0	0	1,386	1,424	238,320
Office of the Pardon Attorney	15	15	2,329	0	0	0	0	0	0	0	0	0	0	0	0	15	15	2,329
<b>TOTAL</b>	<b>1,401</b>	<b>1,439</b>	<b>240,649</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,401</b>	<b>1,439</b>	<b>\$240,649</b>
Reimbursable FTE																		0
Total FTE		1,439			0			0			0			0				1,439
Other FTE																		
LEAP																		0
Overtime																		0
Total Compensable FTE		1,439			0			0			0			0				1,439

**H: Summary of Reimbursable Resources**

**Summary of Reimbursable Resources**

Administrative Review and Appeals

Salaries and Expenses

(Dollars in Thousands)

Collections by Source	FY 2007 Enacted			FY 2008 Planned			FY 2009 Request			Increase/Decrease		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Executive Office for Immigration Review	0	0	2,000	0	0	3,915	0	0	0	0	0	(3,915)
<b>Budgetary Resources:</b>	<b>0</b>	<b>0</b>	<b>\$2,000</b>	<b>0</b>	<b>0</b>	<b>\$3,915</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>(\$3,915)</b>

**I: Detail of Permanent Positions by Category**

**Detail of Permanent Positions by Category**  
 Administrative Review and Appeals  
 Salaries and Expenses

Category	FY 2007 Enacted		FY 2008 Enacted		ATBs	FY 2009 Request				
	Total Authorized	Total Reimbursable	Total Authorized	Total Reimbursable		Program Increases	Program Decreases	Total Pr. Changes	Total Authorized	Total Reimbursable
Intelligence Series (132)								0	0	
Personnel Management (200-299)	16		16					0	16	
Clerical and Office Services (300-399)	329		329					0	329	
Accounting and Budget (500-599)	6		6					0	6	
Attorneys (905)	462		462					0	462	
Paralegals / Other Law (900-998)	425		425					0	425	
Information & Arts (1000-1099)	129		129					0	129	
Business & Industry (1100-1199)	4		4					0	4	
Library (1400-1499)								0	0	
Equipment/Facilities Services (1600-1699)								0	0	
Miscellaneous Inspectors Series (1802)								0	0	
Criminal Investigative Series (1811)								0	0	
Supply Services (2000-2099)								0	0	
Motor Vehicle Operations (5703)								0	0	
Information Technology Mgmt (2210)	23		23					0	23	
Security Specialists (080)	7		7					0	7	
Miscellaneous Operations (010-099)								0	0	
<b>Total</b>	<b>1,401</b>	<b>0</b>	<b>1,401</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,401</b>	<b>0</b>
Headquarters (Washington, D.C.)	485		485					0	485	
U.S. Field	916		916					0	916	
Foreign Field								0	0	
<b>Total</b>	<b>1,401</b>	<b>0</b>	<b>1,401</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,401</b>	<b>0</b>



# J: Financial Analysis of Program Changes

**Financial Analysis of Program Changes**  
 Administrative Review and Appeals  
 Salaries and Expenses  
 (Dollars in Thousands)

Grades:	Executive Office for Immigration Review (EOIR)						Office of the Pardon Attorney						Program Changes	
	Inc. 1		Inc. 2		Offset		Inc. 1		Inc. 2		Offset		Pos.	Amount
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
SES													0	0
GS-15													0	0
GS-14													0	0
GS-13													0	0
GS-12													0	0
GS-11													0	0
GS-10													0	0
GS-9													0	0
GS-8													0	0
GS-7													0	0
GS-5													0	0
Total positions & annual amount	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Lapse (-)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other personnel compensation													0	0
Total FTE & personnel compensation	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Personnel benefits													0	0
Travel and transportation of persons													0	0
Transportation of things													0	0
GSA rent													0	0
Communication, rents, and utilities													0	0
Printing													0	0
Advisory and assistance services													0	0
Other services													0	0
Purchases of goods & services from Government accounts													0	0
Research and development contracts													0	0
Operation and maintenance of equipment													0	0
Supplies and materials													0	0
Equipment		10,000											0	10,000
<b>Total, 2009 program changes requested</b>	<b>0</b>	<b>\$10,000</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$10,000</b>

**K: Summary of Requirements by Grade**

**Summary of Requirements by Grade**  
 Administrative Review and Appeals  
 Salaries and Expenses

Grades and Salary Ranges	FY 2007 Enacted		FY 2008 Enacted		FY 2009 Request		Increase/Decrease	
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
SES, \$111,676 - \$168,000	9		9		9		0	
AL-3, \$158,500	1		1		1		0	
SL, \$158,500	14		14		14		0	
IJ 1-4, \$104,300 - 158,500	244		244		244		0	
GS-15, \$110,363 - 143,471	157		157		157		0	
GS-14, \$93,822 - 121,967	64		64		64		0	
GS-13, \$79,397 - 103,220	93		93		93		0	
GS-12, \$66,767 - 86,801	145		145		145		0	
GS-11, \$55,706 - 72,421	62		62		62		0	
GS-10, 50,703 - 65,912	31		31		31		0	
GS-9, \$46,041 - 59,852	74		74		74		0	
GS-8, 41,686 - 54,194	236		236		236		0	
GS-7, \$37,640 - 48,933	46		46		46		0	
GS-6, \$33,872 - 44,032	50		50		50		0	
GS-5, \$30,386 - 39,501	48		48		48		0	
GS-4, \$27,159 - 35,303	20		20		20		0	
GS-3, \$24,194 - 31,451	5		5		5		0	
GS-2, \$22,174 - 27,901	7		7		7		0	
GS-1, \$18,575 - 23,238	2		2		2		0	
Ungraded	93		93		93		0	
<b>Total, appropriated positions</b>	<b>1,401</b>		<b>1,401</b>		<b>1,401</b>		<b>0</b>	
<b>Average SES Salary</b>		<b>160,500.00</b>		<b>\$165,476</b>		<b>\$169,116</b>		
<b>Average GS Salary</b>		<b>72,536.00</b>		<b>\$74,785</b>		<b>\$76,430</b>		
<b>Average GS Grade</b>								

## L: Summary of Requirements by Object Class

### Summary of Requirements by Object Class

Administrative Review and Appeals

Salaries and Expenses

(Dollars in Thousands)

Object Classes	FY 2007 Actuals		FY 2008 Enacted		FY 2009 Request		Increase/Decrease	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
11.1 Direct FTE & personnel compensation	1,280	101,975	1,340	107,750	1,340	113,626	0	5,876
11.3 Other than full-time permanent	99	7,409	99	7,427	99	7,427	0	0
11.5 Total, Other personnel compensation	0	1,001	0	1,014	0	1,014	0	0
<i>Overtime</i>	0	139	0	100	0	100	0	0
<i>Other Compensation</i>	0	862	0	871	0	871	0	0
11.8 Special personal services payments	0	(2)	0	0	0	0	0	0
Total	1,379	110,383	1,439	116,191	1,439	122,067	0	5,876
Other Object Classes:								
12.0 Personnel benefits		28,993		30,170		30,805		635
13.0 Unemployment Compensation		21		62		62		0
21.0 Travel and transportation of persons		3,601		1,943		1,943		0
22.0 Transportation of things		1,003		898		898		0
23.1 GSA rent		25,334		25,866		27,208		1,342
23.2 Moving/Lease Expirations/Contract Parking		159		73		73		0
23.3 Comm., util., & other misc. charges		5,868		5,779		5,822		43
24.0 Printing and reproduction		169		169		176		7
25.1 Advisory and assistance services		5,522		5,627		5,627		0
25.2 Other services		24,566		30,819		36,058		5,239
25.3 Purchases of goods & services from Government accounts (Antennas, DHS Sec. Etc..)		3,973		3,973		3,973		0
25.4 Operation and maintenance of facilities		3,520		3,520		3,520		0
25.5 Research and development contracts		0		0		0		0
25.6 Medical Care		149		123		123		0
25.7 Operation and maintenance of equipment		16,559		12,198		12,198		0
26.0 Supplies and materials		2,482		2,343		2,343		0
31.0 Equipment		5,828		688		10,688		10,000
32.0 Land and Structure		0		187		187		0
42.0 Litigation Expenses		0		20		20		0
<b>Total obligations</b>		<b>\$238,130</b>		<b>\$240,649</b>		<b>\$263,791</b>		<b>\$23,142</b>
Unobligated balance, start of year		9,006		9,006		(9,006)		
Unobligated balance, end of year		0		9,006		(9,006)		
Recoveries of prior year obligations		(18)		0		0		
<b>Total DIRECT requirements</b>		<b>229,142</b>		<b>240,649</b>		<b>263,791</b>		
Reimbursable FTE:								
Full-time permanent							0	0
23.1 GSA rent (Reimbursable)								0
25.3 DHS Security (Reimbursable)								0