

**Congressional Submission**

**FOREIGN CLAIMS SETTLEMENT COMMISSION**

**U.S. Department of Justice**

**FY 2011 PERFORMANCE BUDGET**

## Table of Contents

	Page No.
<b>I. Overview .....</b>	1
<b>II. Summary of Program Changes .....</b>	NA
<b>III. Appropriations Language and Analysis of Appropriations Language .....</b>	4
<b>IV. Decision Unit Justification</b>	
A. Foreign Claims	
1. Program Description .....	5
2. Performance Tables .....	7
3. Performance, Resources, and Strategies .....	9
<b>V. Program Increases by Item .....</b>	NA
<b>VI. Program Offsets by Item .....</b>	NA
<b>VII. Exhibits.....</b>	10
A. Organizational Chart.....	
B. Summary of Requirements .....	
C. Program Increases by Decision Unit.....	NA
D. Resources by DOJ Strategic Goal/Objective .....	
E. Justification for Base Adjustments .....	
F. Crosswalk of 2009 Availability .....	
G. Crosswalk of 2010 Availability .....	
H. Summary of Reimbursable Resources .....	NA
I. Detail of Permanent Positions by Category .....	
J. Financial Analysis of Program Increases/Offsets .....	NA
K. Summary of Requirements by Grade.....	
L. Summary of Requirements by Object Class .....	
M. Status of Congressionally Requested Studies, Reports, and Evaluations	NA

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

### **1. Introduction**

The principal mission of the Foreign Claims Settlement Commission is to adjudicate claims of U.S. nationals against foreign governments, exercising jurisdiction conferred by the International Claims Settlement Act of 1949, as amended, and other authorizing legislation. The Commission is requesting a total of 11 permanent positions, 11 FTE, and \$2,159,000 for FY 2011.

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.usdoj.gov/jmd/2011justification/>.

This request represents an increase of \$42,000 above the FY 2010 enacted level of \$2,117,000. This increased amount will enable the Commission to continue evaluating claims of U. S. nationals against foreign governments under current claims programs as well as maintaining the decisions and records of past claims programs, and continue building and modernizing both current and past claims programs records by creating and updating the relevant databases.

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 with the advice and consent of the Senate. 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 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 a percentage 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 the administrative expenses of conducting the claims programs.

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

In 2011, the Commission will continue to administer a program that 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).

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.

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 1996 (the "Helms-Burton Act"). The Commission is continuing 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 much more quickly and accurately to requests for information from the State Department and the public.

The Commission will continue to engage in preliminary planning for a possible future program involving claims against Iraq. The Commission also will provide, upon request, technical assistance to the Department of State in conducting any 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.

In addition, the Commission will continue to furnish information contained in the 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. Upon request, it will also provide to other U.S. agencies advice on policy determinations, preliminary planning, evaluation of pending claims legislation, and liaison with Congressional committees considering legislation intended to provide for adjudication of additional types or classes of claims.

### **3. Challenges**

#### External Challenges

The Commission's external challenges include being prepared for a workload that is dictated mostly by 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. Its challenges are to assist U.S. nationals in a timely fashion in filing and documenting their claims, and understanding 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 entities upon request, while at the same time continuing its claims records modernization effort by improving and updating the information in its databases and its website.

#### **4. Performance Challenges**

The Commission is an independent agency, yet its budget is fully integrated with its own priorities and corresponds best to the Department's Strategic Goal 2: Prevent Crime, Enforce Federal Laws and Represent the Rights and Interests of the American People.

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

#### **Appropriation Language**

The 2011 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 5 U.S.C. 3109 [\$2,117,000] *\$2,159,000*

#### **Analysis of Appropriation Language**

No substantive changes are proposed.

#### IV. Decision Unit Justification

##### A. Foreign Claims

<i>Foreign Claims - TOTAL</i>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2009 Enacted with Rescissions	11	11	\$1,823
2009 Supplemental			---
2009 Enacted w/Rescissions and Supplementals	11	11	\$1,823
2010 Enacted	11	11	\$2,117
Adjustments to Base and Technical Adjustments			\$42
2011 Current Services	11	11	\$2,159
2011 Program Increases			---
2011 Request	11	11	\$2,159
<b>Total Change 2010-2011</b>			\$42

##### 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 promote the international rule of law through adjudication of claims brought by United States citizens against foreign governments.

The Commission pursues the following organizational goals:

- To adjudicate claims and award compensation to terrorism-related claims against Libya pursuant to the U.S.-Libya Claims Settlement Agreement as well as the Libyan Claims Resolution Act.
- To adjudicate claims and award compensation to any previously uncompensated U.S. claimants for property losses in Albania and to conduct outreach to inform American citizens who were unaware of its Albanian claims program.
- 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 prepare to adjudicate the outstanding claims of U.S. nationals against the Government of Iraq, upon enactment of authorizing legislation or referral to the Commission by the Secretary of State.
- Upon request, to assist the Department of State in negotiations for the settlement of claims against foreign governments, including, in particular, U.S. claims against Russia and the other original constituent republics of the former Soviet Union, which were adjudicated under Public Law 285, 84th Congress.
- 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, and to conduct outreach to make known the existence of the POW compensation program to persons previously unaware of it.
- To advise other agencies and Congress 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 information on past programs, general information on the Commission and how to contact the staff with questions.

**PERFORMANCE AND RESOURCES TABLE**

**Decision Unit: Foreign Claims**

**DOJ Strategic Goal/Objective: Corresponds to Strategic Goal 2, Objective 2.5**

<b>WORKLOAD/ RESOURCES</b>		<b>Final Target</b>		<b>Actual</b>		<b>Projected</b>		<b>Changes</b>		<b>Requested (Total)</b>	
		<b>FY 2009</b>		<b>FY 2009</b>		<b>2010 Enacted</b>		<b>Current Services Adjustments and FY 2011 Program Change</b>		<b>FY 2011 Request</b>	
<b>Workload</b>											
<b>Total Costs and FTE</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>
		11	\$1,823	11	\$1,603	11	\$2,117		\$42	11	\$2,159
<b>TYPE/ STRATEGIC OBJECTIVE</b>	<b>PERFORMANCE</b>	<b>FY 2009</b>		<b>FY 2009</b>		<b>2010 Enacted</b>		<b>Current Services Adjustments and FY 2011 Program Change</b>		<b>FY 2011 Request</b>	
<b>Program Activity</b>	Adjudication of Claims	<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>
		11	\$1,823	11	\$1,603	11	\$2,117		\$42	11	\$2,159
<b>Performance Measure</b>											
<b>Efficiency Measure</b>											
<b>OUTCOME</b>											

Data Definition, Validation, Verification, and Limitations: *Use this section to discuss data terms, data sources, how the information is collected, how the information is verified, and data limitations to include how well the indicator measures performan*

**PERFORMANCE MEASURE TABLE**

**Decision Unit: Foreign Claims**

Performance Report and Performance Plan Targets		FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009		FY 2010	FY 2011
		Actual	Target	Actual	Target							
Performance Measure		NA	NA	NA	NA							
Performance Measure		NA	NA	NA	NA							
Performance Measure		NA	NA	NA	NA							
Efficiency Measure		NA	NA	NA	NA							
OUTCOME Measure		NA	NA	NA	NA							

N/A = Data unavailable

\* Denotes inclusion in the DOJ Annual Performance Plan

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

The Commission is an independent agency, yet its budget is fully integrated with its own priorities and corresponds best to the Department's Strategic Goal 2: Enforce Federal Laws and Represent the Rights and Interests of the American People.

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

The Commission's activities are not presented in the Department's performance plans or reports. However, in addition to its principal function of adjudicating United States nationals' claims 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 conducted. It also provides advice to other Federal agencies on 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.

#### **b. Strategies to Accomplish Outcomes**

In 2011, the Commission will adjudicate claims against Libya under Executive Order 13477 which implements the U.S.-Libya Claims Settlement Agreement as well as the Libyan Claims Resolution Act.

Under the International Claims Settlement Act of 1949, 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.

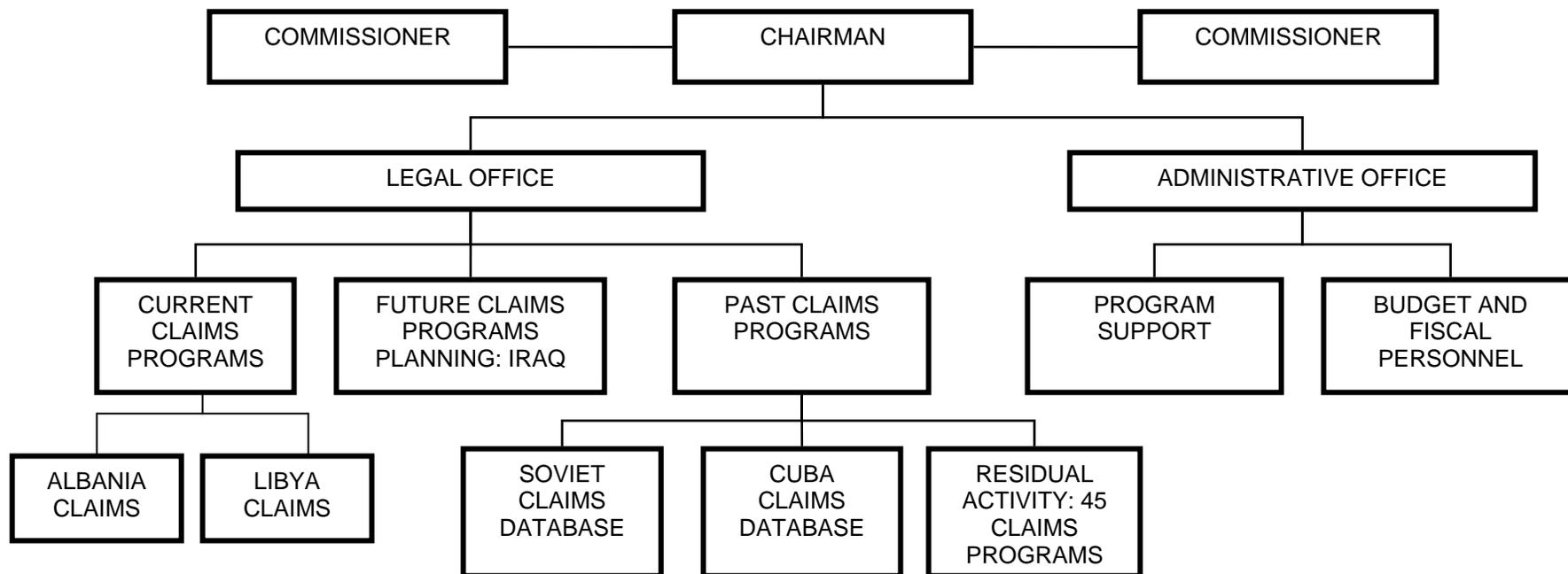
The Commission will also research and respond to requests for information concerning properties expropriated by the Castro regime in Cuba, in support of the Department of State's continuing implementation of Title IV of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (the "Helms-Burton Act"). In addition, the Commission will continue to engage in preliminary planning for a program involving claims against Iraq. The Commission also will provide, upon request, technical assistance to the Department of State in conducting government-to-government claims settlement negotiations.

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## **VII. EXHIBITS**

## A: Organizational Chart

### FOREIGN CLAIMS SETTLEMENT COMMISSION



Approved by:

  
MAURICIO J. TAMARGO, CHAIRMAN

Date: March 1, 2009

Exhibit A – Organizational Chart