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I. Overview of the Executive Office for Immigration Review

The fight against terrorism remains the top enforcement priority of the Department of Justice and the Administration. A key component of this effort is the securing of our Nation's borders. 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 2012 request is \$332,583,000, 1,722 positions and 1,698 FTE workyears. The request is offset by \$4,000,000 to be transferred to EOIR from Immigration Examination Fees collected by the DHS. This request includes \$329,813,000, 1,707 positions and 1,683 FTE for EOIR and \$2,770,000, 15 positions and 15 FTE for the Office of the Pardon Attorney (OPA).

The EOIR request includes a total program increase of \$15,039,000 tied to priority initiatives, as detailed below:

Coordination with DHS Enforcement Initiatives: \$11,039,000, including 125 positions (31 attorneys) to add 21 Immigration Judge Teams and 10 Board of Immigration Appeals attorneys. The increase is necessary to respond effectively to DHS' further implementation of the Secure Communities Initiative and other immigration enforcement initiatives. Secure Communities expands and revolutionizes DHS programs designed to identify criminal and other aliens, many of which are subsequently referred to EOIR's immigration courts for adjudication. Using biometric identification capabilities to identify aliens in local custody, Secure Communities is currently deployed in over 1,000 jurisdictions in 38 states

Secure Communities will bring tens of thousands of additional cases to EOIR. As such, the receipt of the requested increase will be a critical component in EOIR's ability to adjudicate the resulting caseload.

Legal Orientation Program (LOP): \$4,000,000 to expand EOIR's highly successful LOP. The program educates detained aliens as to EOIR immigration proceedings, allowing them to make more informed decisions earlier in the adjudication process, thereby increasing efficiencies for both EOIR courts and DHS detention programs. The request will add 20 additional sites to the 27 currently operating in detention settings and responds to increasing demand, as well as the expansion goals articulated by DHS, the Administration, and many members of congress.

EOIR includes 59 immigration courts located nationwide, the Board of Immigration Appeals (BIA or Board), 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 of resource allocation with DHS remains a top challenge and critical goal for EOIR.

An assessment of EOIR's program was conducted in 2006 and resulted in an improvement plan that was executed during the next several years. The improvement plan's first action item was completed when EOIR reassessed its targets to ensure that they were suitably ambitious. While most measures were determined to be suitably ambitious, the BIA did shorten the time frame for completion of detained cases from 180 days to 150 days. The second action item, which concerns the implementation of digital audio recording (DAR), was fully completed by September, 2010, ahead of schedule.

DAR continues to improve the quality of transcriptions and enhance efficiency in the flow of records between the immigration courts, transcription contractors, and the Board. DAR is now available in all courtrooms nationwide.

The third action item involves expanded training for immigration judges and Board legal staff, which began in FY 2007 with the revision of numerous legal references materials. In 2008, EOIR expanded training for new immigration judges and BIA members to include intensive classroom training on law and procedures; two weeks of observation; and, two weeks of on-the-job training in an immigration court. Periodic training was also conducted on legal and procedural issues for immigration judges and Board members. EOIR developed an expanded training program for immigration judges and Board legal staff, including the provision of comprehensive reference materials, to ensure that staffs receive continuing education on immigration issues. The agency's efforts in this regard have continued through 2011. The fourth action item is to expand the Legal Orientation Program by six sites, improving efficiencies in immigration court proceedings for detained aliens by increasing their awareness of their rights and the process. This action item was accomplished during 2008 and 2009. During 2010, EOIR expanded the program to four additional sites.

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 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 initiatives 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 continue to 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 alien removal programs.

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.

While it is recognized that EOIR's primary mission is not tied directly to DOJ's counterterrorism strategic goals, DHS' immigration enforcement programs, the main 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 law clearly impact government-wide enforcement strategies. As such, EOIR remains important in regard to DHS/DOJ enforcement efforts.

3. Full Program Costs

EOIR's submission contains specific performance measures, including those identified in the Departmental Performance Plan and Report. The measures are comprised of performance targets related to criminal aliens and detained aliens. 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 of its workload in the form of cases brought forth by DHS, challenging the legal status and seeking the removal of aliens. The importance of effectively planning and coordinating with DHS, as their enforcement programs increase, cannot be overstated.

EOIR's immigration court caseload has continued to increase as a result of DHS' heightened enforcement efforts. This remains the key challenge for EOIR as courts continue to receive hundreds of thousands of matters for adjudication. In 2007, immigration courts received 336,000 matters for adjudication. During 2008, that number rose to 352,000 matters. For 2009, EOIR received approximately 393,000 matters. In FY 2010 EOIR also received 393,000 matters. As a consequence, court case backlogs have continued to increase, i.e., from 186,000 matters pending at the start of 2009 to 268,000 matters pending by the end of the first quarter of FY 2011. In addition, court dockets have been stretched unacceptably far into the future, e.g., most courts are scheduled at least a year into the future (many courts have cases scheduled well into 2012).

It is anticipated that the current and planned expansion of DHS enforcement efforts will continue to increase immigration court case receipts well into the future. Most notably, EOIR is working closely with DHS as they greatly expand their Secure Communities initiative, a program which has a direct impact on EOIR court operations.

DHS has deployed Secure Communities programs to over 1,000 jurisdictions in 38 states.

BIA's mission is to provide timely guidance and interpretation of immigration law. The sustained level of over 30,000 appeals per year is an extremely large volume for any appellate body.

I. Overview for the Office of the Pardon Attorney (OPA)

1. Introduction

For FY 2012, OPA requests no program increases but seeks a current services level of 15 FTE and 15 positions, including seven attorney positions, and funding of \$2,770,000 to achieve its mission of advising and assisting the President in the exercise of the pardon power conferred upon him by Article II, Section 2 of the Constitution. This request includes total adjustment to base (ATB) increases for current services of \$42,000, before a \$2,000 reduction is taken in the form of a program decrease for administrative efficiencies. The net additional resources of \$40,000 are required to enable OPA to continue to carry out its sole program, which provides the President with timely and well-reasoned advice on matters of executive clemency. 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>.

OPA is not requesting any enhancements for information technology for FY 2012. As a small component operating in leased space, OPA is not in a position to develop large-scale environmental accountability programs. The office does, however, conserve resources by utilizing double-sided printing, purchasing supplies made of recycled materials, and recycling materials used within the office.

2. Program Description

The Office of the Pardon Attorney, in consultation with the Deputy Attorney General, assists the President, through the Office of the Counsel to the President, in the responsible exercise of the executive clemency power. The primary function of OPA is to receive, review, and when appropriate, investigate clemency applications and prepare the recommendation of the Department of Justice to the President as to the appropriate disposition of each application. In addition, OPA responds to inquiries concerning clemency petitions and the clemency process from applicants, their representatives, members of the public, Members of Congress, and various federal, state, and local officials and agencies; prepares all necessary documents to effect the President's decision to grant clemency; and notifies each clemency applicant of the President's decision regarding his clemency request. When asked to do so, OPA also provides general advice to the White House concerning clemency procedures and the historical background of clemency matters. The procedures governing OPA's duties are described in regulations approved by the President and promulgated by the Attorney General in 28 CFR §§ 1.1 to 1.11. OPA's work is performed under the direction of the Deputy Attorney General, and the information gathered during the clemency review process forms the basis for the report and recommendation that OPA prepares in each case for the signature of the Deputy Attorney General.

OPA has no control over the numbers of clemency petitions that are submitted to it for processing and consideration by the President. Between FY 1990 and FY 1998, OPA averaged 572 new filings per year. In every fiscal year since 1999, however, OPA has received over 1,000 clemency applications for processing. In FY 2008, OPA received 555 petitions for pardon and 1,770 petitions for commutation (reduction) of sentence, for a total of 2,325 clemency petitions. At the time, this total was the greatest number of petitions submitted in any fiscal year since 1900. That record was surpassed in FY 2009, however, when OPA received 666 petitions for

pardon and 1,955 petitions for commutation of sentence, for a total of 2,621 submitted applications. During FY 2010, OPA received 262 pardon petitions and 1,902 commutation petitions, for a total of 2,164 applications submitted. This trend of 2,000+ filings per fiscal year is likely to continue. In the first quarter of FY 2011, OPA received 82 pardon applications and 506 commutation applications, for a total of 588 petitions filed in just those three months.

The large caseload of the last several years has presented a continuing challenge to OPA's small staff. Although current trends suggest that submissions of pardon applications may revert for a time in the immediate future to historically normal levels, numbers of petitions for commutation of sentence are likely to remain extremely high for the foreseeable future due to the burgeoning federal prison population, the elimination of other possibilities of release such as parole, and the variety of federal crimes subject to mandatory minimum sentences. OPA is obligated to process all petitions it receives from applicants who are eligible to seek executive clemency.

Personnel expenses have always constituted the largest portion of OPA's budget; for example, in FY 2010, personnel costs constituted approximately 63% of the office's actual expenses. Moreover, OPA has little ability to control most of its non-personnel expenses because the majority of those are determined by outside entities. For example, in FY 2010, rent accounted for approximately 48% of OPA's non-discretionary, non-personnel expenses. Aside from basic equipment and supplies, most of the office's other non-personnel expenses consist of reimbursable agreements (RAs) with other Department of Justice entities for various required services. OPA's budget request for FY 2010 was developed to provide sufficient funding to accomplish the long-deferred goal of bringing the office complement back to its full staffing level of 15 full-time permanent positions in order to improve OPA's efficiency and meet its increased workload. OPA's requested budget of \$2,770,000 for FY 2012 is needed to permit the office to meet its necessary expenses and continue to timely provide the President with the best information on which to base a fair and just decision in each clemency case.

II. Summary of Program Changes

Item Name	Description				Page
		Pos.	FTE	Dollars (\$000)	
Coordination with DHS Enforcement Initiatives		125	63	\$11,039	22
Legal Orientation Program				\$4,000	24
Administrative Efficiencies				\$(279)	
Technology Refresh				\$(128)	

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Administrative Efficiencies: The Department is continually evaluating its programs and operations with the goal of achieving across-the-board economies of scale that result in increased efficiencies and cost savings. In FY 2012, the Department is focusing on areas in which savings can be achieved, which includes: printing, publications, travel, conferences, supplies, and general equipment. For EOIR, these administrative efficiencies will result in an offset of \$277,000, and \$2,000 for the Office of the Pardon Attorney.

Technology Refresh: As desktops and laptops are used primarily for basic office automation applications (e.g., spreadsheets and word processing), replacing this inventory at a slower rate is expected to have minimal impact on Department operations. In FY 2012, the Department is proposing to extend the refresh rate of all desktops and laptops by one year, resulting in an offset of \$128,000 for EOIR.

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, [\$300,685,000], \$332,583,000, 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. (Department of Justice Appropriations Act, 2010.)

Analysis of Appropriations Language

No substantive changes.

IV. Decision Unit Justification

A. Executive Office for Immigration Review (EOIR)

EOIR TOTAL	Perm. Pos.	FTE	Amount
2010 Enacted with Rescissions	1,558	1,510	297,955
2010 Supplementals	0	0	0
2010 Enacted w/Rescissions and Supplementals	1,558	1,510	297,955
2011 CR	1,558	1,510	297,955
Adjustments to Base and Technical Adjustments	24	110	17,224
2012 Current Services	1,582	1,620	315,179
2012 Program Increases	125	63	15,039
2012 Program Offsets	0	0	(405)
2012 Request	1,707	1,683	329,813
Total Change 2010-2012	149	173	31,858

EOIR—Information Technology Breakout (of Decision Unit Total)	Perm. Pos.	FTE	Amount
2010 Enacted with Rescissions	28	28	39,152
2010 Supplementals	0	0	0
2010 Enacted w/Rescissions and Supplementals	28	28	39,152
2011 CR	33	33	31,977
Adjustments to Base and Technical Adjustments	0	0	0
2012 Current Services	33	33	31,977
2012 Program Increases	0	0	1,191
2012 Program Offsets	0	0	33,168
2012 Request	33	33	33,168
Total Change 2010-2012	5	5	(5,984)

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 a high-volume 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); 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 59 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 the 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, also known as the Criminal Alien Program, 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, state and local corrections authorities, and EOIR.

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		Projected		Changes		Requested (Total)	
		FY 2010		FY 2010		FY 2011 CR		Current Services Adjustments and FY 2012 Program Changes		FY 2012 Request	
Workload: Immigration Court Matters Received		397,808		391,437		410,000		20,000		430,000	
Appeals Received at BIA		37,048		35,736		37,000		3,000		40,000	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		1,510	297,955	1,510	297,955	1,510	297,955	173	31,858	1,683	329,813
TYPE/ STRATEGIC OBJECTIVE	PERFORMANCE	FY 2010		FY 2010		FY 2011 CR		Current Services Adjustments and FY 2012 Program Changes		FY 2012 Request	
Program Activity	3.5 Adjudicate Immigration Cases	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		1,510	297,955	1,510	297,955	1,510	297,955	173	31,858	1,683	329,813
Performance Measure	Immigration Courts										
	Total Matters Completed	359,364		352,676		370,000		10,500		380,500	
	Total Proceedings Completed	298,732		286,738		316,000		10,500		326,500	
	IHP Completions	5,420		3,950		5,000		1,000		6,000	
	Detained Completions	152,458		111,264		115,000		0		115,000	
Performance Measure	Board of Immigration Appeals										
	Total Appeals Completed	33,632		33,234		35,000		1,000		36,000	
	Detained Completions	3,860		3,261		4,000		1,000		5,000	
Efficiency Measure	The measures above also serve as EOIR's efficiency measures										

OUTCOME	Immigration Courts					
	% IHP Cases within Time Goal	87%	87%	85%		85%
	% Detained Cases within Time Goal	90%	89%	85%		85%
	Board of Immigration Appeals					
	% Detained Cases Adjudicated within Time Goal	94%	93%	90%		90%

Performance Report and Performance Plan Targets		FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
		Actual	Target	Actual	Target							
*Performance Measures	Total Matters Completed	296,494	301,203	352,000	365,851	327,300	338,341	351,234	359,364	352,676	370,000	380,500
	Total Proceedings Completed	250,763	258,946	314,000	323,000	272,000	280,382	289,339	298,732	286,738	316,000	326,500
	Expedited Asylum Completions (Discontinued)	50,017	47,078	43,000	27,000	21,200	12,698	7,603	N/A	N/A	N/A	N/A
		7,696	7,835	9,000	5,600	6,000	5,525	4,311	5,420	3,950	5,000	6,000
	IHP Completions											
	Detained Completions without Applications (Discontinued)	58,734	58,849	59,000	64,000	87,400	100,055	107,391	N/A	N/A	N/A	N/A
Total immigration court priority cases completed (Discontinued)	116,447	113,762	111,000	96,600	114,600	118,278	119,305	N/A	N/A	N/A	N/A	
New Detained Completions								144,763	152,458	111,264	115,000	115,000
*Performance Measures	Total Appeals Completed	48,060	48,711	46,300	41,400	35,400	38,296	33,030	33,632	33,234	35,000	36,000
	Detained Completions	3,694	4,089	3,425	3,000	3,200	3,239	3,243	3,860	3,261	4,000	5,000
Efficiency Measures	The measures above also serve as EOIR's efficiency measures											
***OUTCOME Measures	% Expedited Asylum Cases within Time Goal (Discontinued)	91%	89%	92%	95%	90%	80%	82%	N/A	N/A	N/A	N/A
	% IHP Cases w/in Time Goal	86%	88%	89%	92%	86%	91%	90%	85%	87%	85%	85%
	% Detained w/out Applications w/in Time Goal (Discontinued)	88%	88%	91%	92%	89%	90%	88%	N/A	N/A	N/A	N/A
	% Immigration Court priority cases completed (Discontinued)	89%	89%	91%	93%	89%	89%	88%	N/A	N/A	N/A	N/A
	% Backlog reduction (Discontinued)	N/A	59%	58%	68%	43%	43%	50%	N/A	N/A	N/A	N/A
	New: Detained Completions								85%	89%	85%	85%
**OUTCOME Measures	% Detained Appeals Adjudicated within Time Goal	81%	91%	92%	97%	97%	96%	96%	90%	93%	90%	90%
	% Appeals priority cases completed (Discontinued)	81%	91%	92%	97%	97%	96%	96%	N/A	N/A	N/A	N/A

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, the unique relationships between EOIR adjudications programs and DHS immigration enforcement programs, 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 3: Ensure the fair and efficient administration of justice.

a. Performance Plan and Report for Outcomes

As illustrated in the preceding Performance Measure Table, EOIR's priority is its detained caseload. For the FY 2011 targets, EOIR's measures reflect this priority.

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

- 85% of Institutional Hearing Program (criminal alien cases) completed before release from incarceration
- 85% of detained cases completed within 60 days

In FY 2010, the immigration courts met these two priority targets.

The performance measure for the BIA is:

- 90% of detained appeals adjudicated within 150 days

In FY 2010, the BIA exceeded this target by 3%. This performance measure will continue in FY 2011.

EOIR's adjudication functions are part of the government's broader 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. This includes 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.

To summarize, the FY 2011 target is to complete EOIR's priority adjudications within 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.

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 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.

B. Office of the Pardon Attorney

<i>Office of the Pardon Attorney</i>	Perm. Pos.	FTE	Amount
2010 Enacted with Rescissions	15	15	\$2,730,000
2010 Supplemental	0	0	0
2010 Enacted w/Rescissions and Supplementals	15	15	\$2,730,000
2011 CR	15	15	\$2,730,000
Adjustments to Base and Technical Adjustments	0	0	\$42,000
2012 Current Services	15	15	\$2,772,000
2012 Program Increases	0	0	0
2012 Program Offsets	0	0	-\$2,000
2012 Request	15	15	\$2,770,000
Total Change 2010-2012			\$40,000

<i>Office of the Pardon Attorney-Information Technology Breakout (of Decision Unit Total)</i> -- Not applicable	Perm. Pos.	FTE	Amount
2010 Enacted with Rescissions	0	0	0
2010 Supplemental	0	0	0
2010 Enacted w/Rescissions and Supplementals	0	0	0
2011 CR	0	0	0
Adjustments to Base and Technical Adjustments	0	0	0
2012 Current Services	0	0	0
2012 Program Increases	0	0	0
2012 Program Offsets	0	0	0
2012 Request	0	0	0
Total Change 2010-2012	0	0	0

1. Program Description

The Office of the Pardon Attorney (OPA) receives, reviews, and when appropriate, investigates applications to the President for executive clemency and prepares for the Deputy Attorney General the recommendation of the Department of Justice to the President as to the appropriate disposition of each application. In addition, OPA responds to inquiries concerning clemency applications and the clemency process from applicants, the public, Members of Congress, and federal, state, and local agencies, and prepares all necessary documents to effect the President's decision to grant clemency. When asked to do so, OPA also provides general advice to the White House concerning clemency procedures and the historical background of clemency matters.

2. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: Office of the Pardon Attorney											
WORKLOAD/ RESOURCES		Final Target		Actual		Projected		Changes		Requested (Total)	
		FY 2010		FY 2010		FY 2011 CR		Current Services Adjustments and FY 2012 Program Changes		FY 2012 Request	
Workload											
Clemency petitions pending/received		3,100		3,378		3,300				3,300	
Pieces of correspondence received		5,700		5,700		**					
Total Costs and FTE _ OPA has no reimbursable costs or FTE		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		15	2,730	12	2,428	15	\$2,730	0	\$ 40	15	\$2,770
TYPE/ STRATEGIC OBJECTIVE	PERFORMANCE	FY 2010		FY 2010		FY 2011 CR		Current Services Adjustments and FY 2012 Program Changes		FY 2012 Request	
		FTE	\$0	FTE	\$0	FTE	\$0	FTE	\$0	FTE	\$0
Program Activity	Clemency petitions processed	13	2,598	10	2,296	15	\$2,730	0	\$ 40	15	\$2,770
Performance Measure *	Number of clemency petitions processed by OPA	1,500		1,990		1,800				1,800	
Program Activity **	Correspondence processed	2	132	2	132					**	
Performance Measure *	Correspondence processed	5,700		5,700		**	**	**	**	**	**
OUTCOME	Petitions pending at OPA	1,500		1,388		** 1,500	**	**	**	1,500	**
* The Performance Measure is the Efficiency Measure. ** OPA will cease tracking correspondence processing as a separate program activity in 2011 since it is an auxiliary function in the clemency case processing mission.											
Data Definition, Validation, Verification, and Limitations: OPA's case and correspondence tracking system is updated daily and used to track the status of petitions and correspondence. Performance data is derived from this tracking system and cross-referenced with internal reports to ensure accuracy.											

PERFORMANCE MEASURE TABLE

Decision Unit: Office of the Pardon Attorney

Performance Report and Performance Plan Targets		FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
		Actual	Target	Actual	Target	Target						
Performance Measure	Clemency petitions processed	1,293	1,123	1,217	1,046	1,079	1,677	3,135	1,500	1,990	1,500	1,500
Performance Measure	Correspondence processed	5,600	5,250	5,250	5,250	5,400	5,700	5,700	5,700	5,700	**	
Performance Measure												**
Efficiency Measure	Performance measure is efficiency measure											
OUTCOME Measure	Petitions pending at OPA	N/A	N/A	N/A	904	1,080	1,728	1,214	1,500	1,388	1,500	1,500

N/A = Data unavailable

** OPA will cease tracking correspondence processing as a separate program activity in FY 2011 since it is an auxiliary function in the clemency case processing mission.

V. Program Increases by Item

A. Item Name: Coordination with DHS Enforcement Initiatives

Budget Decision Unit: EOIR

Strategic Goal & Objective: 3.5: Adjudicate all immigration cases promptly and impartially in accordance with due process.

Organizational Program: Immigration Adjudications

Program Increase: Positions 125 Agt/Atty 31 FTE 63 Dollars \$11,039,000

Description of Item

This request ties directly to DHS enforcement programs, most notably a high priority enforcement initiative currently expanding nationwide by ICE/DHS: Secure Communities. EOIR's 125-position increase includes 21 immigration judges, 10 BIA staff attorneys and related immigration court and BIA legal support staff.

The specific threat addressed by this initiative relates to the crimes committed in communities nationwide by illegal aliens. A large subset of the millions of illegal aliens residing in the United States, numbering in the hundred of thousands, commits serious, oftentimes violent crimes. The identification and removal of these criminal aliens is critical to ensuring the safety of our neighborhoods.

Secure Communities is a DHS initiative which leverages technology, using biometric identification capabilities to identify aliens in local custody. In summary, Secure Communities represents a comprehensive initiative developed to identify, prioritize, process, detain, and remove incarcerated aliens. Secure Communities builds upon, greatly expands and revolutionizes the existing Criminal Alien Program, in which EOIR has traditionally played a key role with respect to conducting immigration proceedings involving aliens incarcerated in federal, state and local facilities. The program is currently deployed in over 1,000 jurisdictions in 38 states.

The deployment of the resources included in the EOIR program increase will be made in close coordination with ICE and the affected DOJ components.

Justification

Secure Communities is particularly noteworthy in terms of its affect upon EOIR; the initiative itself increases the number of cases referred to EOIR for adjudication.

ICE estimates that 300,000 to 450,000 criminal aliens, who are potentially removable, are detained each year in federal, state and local prisons and jails nationwide. By partnering with

federal, state, county and local law enforcement, and adding technology to share information between agencies, DHS intends to dramatically increase criminal alien removals.

ICE has delineated four key strategic goals for Secure Communities:

- Strategic Goal 1 – Identify and process all criminal aliens amenable for removal while in federal, state and local custody;
- Strategic Goal 2 – Enhance current detention strategies to ensure no removable alien is released into the community due to a lack of detention space or an appropriate alternative to detention;
- Strategic Goal 3 – Implement removal initiatives that shorten the time aliens remain in ICE custody prior to removal, thereby maximizing the use of detention resources and reducing cost; and,
- Strategic Goal 4 – Maximize cost effectiveness and long-term success through deterrence and reduced recidivism.

Secure Communities and the identification and removal of criminal aliens has clearly become a top priority. EOIR's role in expediting the adjudication of removal proceedings involving criminal aliens will play an integral role in the initiative, e.g., by enabling DHS to process those found removable immediately upon completion of their sentences. EOIR's ability to provide timely adjudications will also assist greatly in the efficient use of detention beds, as well as federal, state and local prison and jail space nationwide. As such, EOIR's program increase is made in light of the need to achieve the goals articulated above.

As DHS continues to roll out Secure Communities to counties nationwide, and augments other immigration enforcement programs, EOIR's caseload continues to grow. During FY 2004, immigration courts received less than 300,000 matters for adjudication. That number increased to over 351,000 in 2008. In FY 2009, EOIR received 393,000 immigration court cases and received an additional 393,000 in 2010. Given the expansion of Secure Communities, EOIR immigration court case receipts will easily top 400,000 annually by 2011.

Impact on Performance (Relationship of Increase to Strategic Goals)

This initiative ties directly to Strategic Goal 3.5 and to the Congress and Administration's immigration priorities. The volume and geographic concentration of the additional caseload will depend upon DHS' implementation strategies. However, the expanded DHS programs in federal, state and local prisons will undoubtedly add cases to EOIR's dockets. Because of their existence in detention and prison settings, these cases will have to be adjudicated expeditiously and as a top priority.

B. Item Name: Legal Orientation Program

Budget Decision Unit: EOIR

Strategic Goal & Objective: 3.5: Adjudicate all immigration cases promptly and impartially in accordance with due process.

Organizational Program: Immigration Adjudications

Program Increase: Positions 0 Agt/Atty 0 FTE 0 Dollars \$4,000,000

Description of Item

This request expands upon the highly successful Legal Orientation Program (LOP), which Congress established and has funded since 2002. Through group and individual orientations, workshops and referrals for pro bono representation, the LOP educates detained aliens about immigration court proceedings. LOP has been shown to increase efficiencies in the immigration court and DHS detention processes. This is primarily due to the alien's ability to come to court better prepared, significantly reducing the time required for judges to explain the process, rights, avenues of relief, etc. anew. Better education of aliens about the process serves to speed the process, reduce the need for continuances and reduce the number of in absentia removal orders.

Justification

The current \$4,000,000 funding level supports LOP programs in 27 detention settings. The \$4,000,000 requested program increase will respond to elevated demand at existing sites and will allow LOP to expand to approximately 20 additional sites. In addition to the benefits cited above, evaluation reports have shown that LOP participants completed their immigration court cases in detention on an average of 13 days faster than detainees who did not participate in an LOP.

Funding

Base Funding

FY 2010 Enacted (w/resc./supps)				FY 2011 CR				FY 2012 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
1,573	506	1,525	300685	1,573	506	1,525	300,685	1,597	512	1,635	317,951

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2012 Request (\$000)	FY 2013 Net Annualization (change from 2012)	FY 2014 Net Annualization(change from 2013) (\$000)
Immigration Judge	202	21	4,242	2,418	143
Language Specialist	62	21	1,302	764	725
Legal Technician	56	21	1,176	679	231
Clerk	56	21	1,176	679	231
Law Clerk	75	21	1,575	1,123	845
Attorney	94	10	940	812	247
Paralegal	62	10	620	476	345
Total Personnel	607	125	11,039	6,951	2,767

Non-Personnel Increase Cost Summary

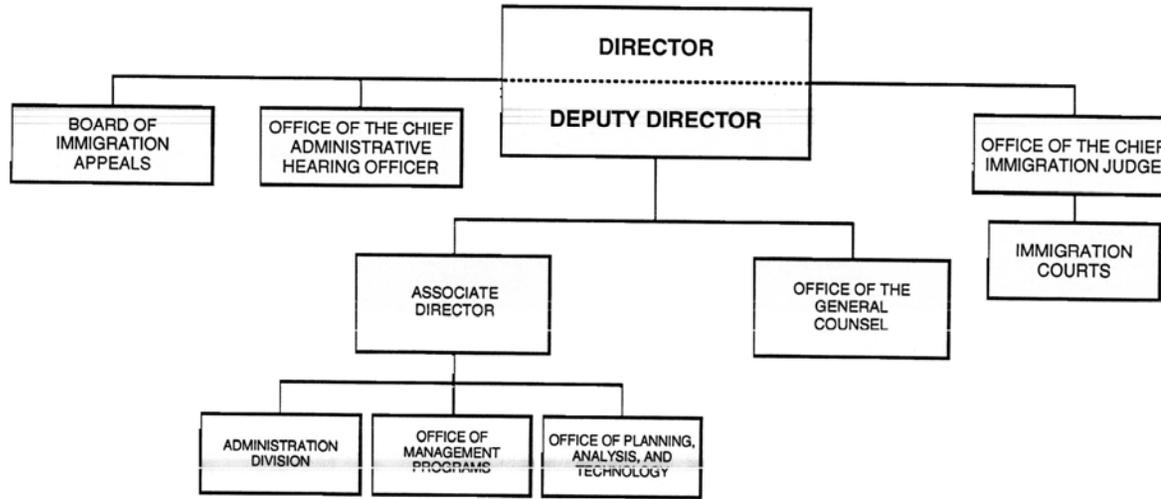
Non-Personnel Item	Unit Cost	Quantity	FY 2012 Request (\$000)	FY 2013 Net Annualization (change from 2012)	FY 2014 Net Annualization(change from 2013) (\$000)
Total Non-Personnel	N/A	N/A	4,000	N/A	N/A

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total	FY 2013 Net Annualization (change from 2012)	FY 2014 Net Annualization(change from 2013) (\$000)
Current Services	1,597	512	1,635	186,828	131,123	317,951	0	0
Increases	125	31	63	11,039	4,000	15,039	6,951	2,767
Decreases	0	0	0	0	(407)	(407)	0	0
Grand Total	1,678	543	1,656	197,867	134,716	332,583	6,951	2,767

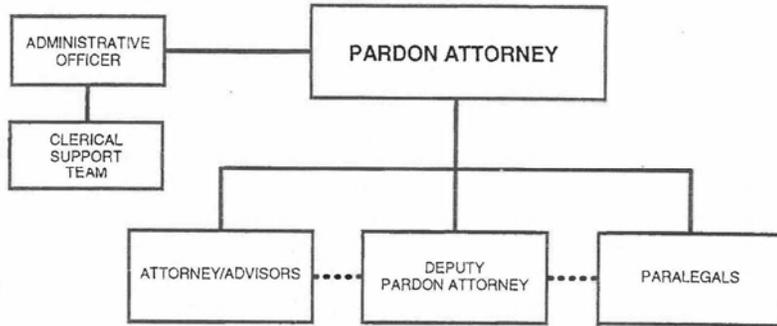
EXHIBITS

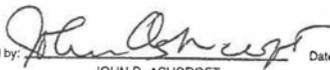
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW



Approved by:  Date: November 19, 2004
JOHN ASHCROFT
Attorney General

OFFICE OF THE PARDON ATTORNEY



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