

**FY 2010**  
**Congressional**  
**Budget Submission**

**Administrative**  
**Review and Appeals**

April 28, 2009

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## I. Overview for Administrative Review and Appeals

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 2010 request includes \$300,685,000 in support of 1,573 positions and 1,525 FTE workyears. The request is offset by \$4,000,000 to be transferred to EOIR from Immigration Examination Fees collected by the DHS. The request includes \$297,955,000, 1,558 positions and 1,510 FTE for EOIR and \$2,730,000, 15 positions and 15 FTE for the Office of the Pardon Attorney (OPA).

The EOIR request includes a total program increase of \$26,253,000 tied to the priority Immigration and Southwest Border Initiative, as delineated below:

**Coordination with DHS' Secure Communities Initiative** (\$14,003,000, 172 positions, 44 attorneys and 86 FTE that include 28 immigration judge teams): Secure Communities is a new DHS initiative which represents a comprehensive plan to identify and remove criminal aliens. This program will build upon, greatly expand and revolutionize the existing DHS Criminal Alien Program, in which EOIR has played a key role by adjudicating cases involving aliens incarcerated in federal, state and local prisons and jails.

**eWorld Document Management System** (\$10,250,000): This request will tie all EOIR eWorld projects together, providing a single system in which to store, distribute and archive all documents filed with or created by EOIR. This system will greatly enhance

EOIR's capacity to maximize the efficiency of case processing in support of priority enforcement and adjudication initiatives.

**Legal Orientation Program for Custodians of Unaccompanied Alien Children** (\$2,000,000): This request is to provide custodians of unaccompanied alien children with legal orientation programs to address the custodian's responsibility for the child's appearance at all immigration proceedings and to protect the child from mistreatment, exploitation, and trafficking.

EOIR includes 57 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 programmatic increases and resource allocation with DHS remains EOIR's top challenge and remains a critical goal, as has been articulated by Congress, the Administration, DOJ and DHS.

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), is well underway.

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. Currently, DAR is available in 111 courtrooms nationwide and implementation will continue until complete.

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 staff receive continuing education on immigration issues. The agency's efforts in this regard will continue through 2010. 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.

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 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 and program increases 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.

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 new DHS enforcement initiatives.

### **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 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 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 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. During 2008, immigration courts received over 329,000 matters for adjudication. For 2009, based upon receipts to date, EOIR anticipates receiving nearly 358,000 matters. It is anticipated that the current and planned expansion of DHS enforcement efforts, e.g., increased detention bed spaces, criminal alien programs and border enforcement, will continue to increase immigration court case receipts well into the future.

The Board of Immigration Appeals' (BIA) 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.

## II. Summary of Program Changes

| Item Name          | Description                                 |      |     |                 | Page |
|--------------------|---|------|-----|-----------------|------|
|                    |   | Pos. | FTE | Dollars (\$000) |      |
| Strategic Goal 3.5 | Immigration and Southwest Border Initiative | 172  | 86  | \$26,253        | 20   |

The EOIR request includes a total program increase of \$26,253,000 tied to the priority Immigration and Southwest Border Initiative, as delineated below:

**Coordination with DHS' Secure Communities Initiative** (\$14,003,000, 172 positions, 44 attorneys, and 86 FTE that include 28 immigration judge teams): Secure Communities is a new DHS initiative which represents a comprehensive plan to identify and remove criminal aliens. This program will build upon, greatly expand and revolutionize the existing DHS Criminal Alien Program, in which EOIR has played a key role by adjudicating cases including aliens incarcerated in federal, state and local prisons and jails.

**eWorld Document Management System** (\$10,250,000): This request will tie all EOIR eWorld projects together, providing a single system in which to store, distribute and archive all documents filed with or created by EOIR. This system will greatly enhance EOIR's capacity to maximize the efficiency of case processing in support of priority enforcement and adjudication initiatives.

**Legal Orientation Program for Custodians of Unaccompanied Alien Children** (\$2,000,000): This request is to provide custodians of unaccompanied alien children with legal orientation programs to address the custodian's responsibility for the child's appearance at all immigration proceedings, and to protect the child from mistreatment, exploitation, and trafficking.

### **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, [\$270,000], \$300,685,000, 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.

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

No substantive changes.

#### IV. Decision Unit Justification

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

| <b>EOIR TOTAL</b>                             | <b>Perm.<br/>Pos.</b> | <b>FTE</b> | <b>Amount</b> |
|---|-----------------------|------------|---------------|
| 2008 Enacted with Rescissions                 | 1,386                 | 1,364      | 238,320       |
| 2008 Supplementals                            | 0                     | 0          | 0             |
| 2008 Enacted w/Rescissions and Supplementals  | 1,386                 | 1,364      | 238,320       |
| 2009 Enacted                                  | 1,386                 | 1,424      | 267,613       |
| Adjustments to Base and Technical Adjustments | 0                     | 0          | 4,089         |
| 2010 Current Services                         | 1,386                 | 1,424      | 271,702       |
| 2010 Program Increases                        | 172                   | 86         | 26,253        |
| 2010 Request                                  | 1,558                 | 1,510      | 297,955       |
| <b>Total Change 2009-2010</b>                 | 172                   | 86         | 30,342        |

##### 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 57 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, 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 2008  |         | FY 2008 |         | FY 2009 Enacted |         | Current Services Adjustments and FY 2010 Program Changes |        | FY 2010 Request   |         |         |  |
| <b>Workload: Immigration Court Matters Received</b>  |                                  | 419,000  |         | 329,153 |         | 357,808         |         | 40,000   |        | 397,808           |         |         |  |
| <b>Appeals Received at BIA</b>   |                                  | 55,200   |         | 33,237  |         | 32,048          |         | 5,000  |        | 37,048            |         |         |  |
| Total Costs and FTE<br>(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   |         |  |
|  |                                  | 1,364  | 238,320 | 1,271   | 237,907 | 1,424           | 267,613 | 86   | 30,342 | 1,510             | 297,955 |         |  |
| TYPE/<br>STRATEGIC<br>OBJECTIVE  | PERFORMANCE                      | FY 2008  |         | FY 2008 |         | FY 2009 Enacted |         | Current Services Adjustments and FY 2010 Program Changes |        | FY 2010 Request   |         |         |  |
| Program Activity   | 3.5 Adjudicate Immigration Cases | FTE  | \$000   | FTE     | \$000   | FTE             | \$000   | FTE  | \$000  | FTE               | \$000   |         |  |
|  |                                  | 1,364  | 238,320 | 1,271   | 237,907 | 1,424           | 267,613 | 86   | 30,342 | 1,510             | 297,955 |         |  |
| Performance Measure  | Immigration Courts               | Total Matters Completed                            |         | 389,500 |         | 338,341         |         | 339,364  |        | 20,000            |         | 359,364 |  |
|  |                                  | Total Proceedings Completed                        |         | 335,500 |         | 280,382         |         | 281,732  |        | 17,000            |         | 298,732 |  |
|  |                                  | Expedited Asylum Completions                       |         | 47,000  |         | 12,698          |         | 7,524  |        | 100               |         | 7,624   |  |
|  |                                  | IHP Completions                                    |         | 7,900   |         | 5,525           |         | 4,420  |        | 1,000             |         | 5,420   |  |
|  |                                  | Detained Completions w/out Apps.                   |         | 70,000  |         | 100,055         |         | 106,232  |        | 6,100             |         | 112,332 |  |
|  |                                  | Total immigration court priority cases completed   |         | 124,900 |         | 118,278         |         | 118,176  |        | 7,200             |         | 125,376 |  |
|  |                                  | Backlog of pending court cases filed prior to FY04 |         | 0       |         | 5,000           |         | 0  |        | 0                 |         | 0       |  |
| Performance Measure  | Board of Immigration Appeals     | Total Appeals Completed                            |         | 52,300  |         | 38,296          |         | 31,132   |        | 2,500             |         | 33,632  |  |
|  |                                  | Detained Completions                               |         | 4,000   |         | 3,239           |         | 2,860  |        | 1,000             |         | 3,860   |  |
|  |                                  | Total Appeal priority cases completed              |         | 4,000   |         | 3,239           |         | 2,860  |        | 1,000             |         | 3,860   |  |

|                           |   | <b>Final Target<br/>FY 2008</b> | <b>Actual<br/>FY 2008</b> | <b>Projected<br/>FY 2009</b> | <b>Changes</b> | <b>Requested<br/>FY 2010</b> |
|---------------------------|---|---------------------------------|---------------------------|------------------------------|----------------|------------------------------|
| <b>Efficiency Measure</b> | The measures above also serve as EOIR's efficiency measures |                                 |                           |                              |                |                              |

|                |   |     |     |     |  |     |
|----------------|---|-----|-----|-----|--|-----|
| <b>OUTCOME</b> | <b>Immigration Courts</b>                     |     |     |     |  |     |
|                | % Exp Asylum Cases within Time Goal           | 90% | 80% | 90% |  | 90% |
|                | % IHP Cases within Time Goal                  | 90% | 91% | 90% |  | 90% |
|                | % Detained Cases within Time Goal             | 90% | 90% | 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% | 96% | 90% |  | 90% |
|                | % Appeal priority cases completed             | 90% | 96% | 90% |  | 90% |

| Performance Report and Performance Plan Targets |   | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 |         | FY 2009 | FY 2010 |
|---|---|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
|   |   | Actual  | Target  | Actual  | Target  |
| Performance Measures                            | Total Matters Completed                                     | 259,584 | 273,926 | 296,494 | 301,203 | 352,000 | 365,851 | 327,300 | 389,500 | 338,341 | 339,364 | 359,364 |
|   | Total Proceedings Completed                                 | 218,282 | 228,412 | 250,763 | 258,946 | 314,000 | 323,000 | 272,000 | 335,500 | 280,382 | 281,732 | 298,732 |
|   | Expedited Asylum Completions                                | 31,019  | 39,438  | 50,017  | 47,078  | 43,000  | 27,000  | 21,200  | 47,000  | 12,698  | 7,524   | 7,624   |
|   | IHP Completions   | 11,107  | 9,637   | 7,696   | 7,835   | 9,000   | 5,600   | 6,000   | 7,900   | 5,525   | 4,420   | 5,420   |
|   | Detained Completions without Applications                   | 48,085  | 50,312  | 58,734  | 58,849  | 59,000  | 64,000  | 87,400  | 70,000  | 100,055 | 106,232 | 112,332 |
|   | Total immigration court priority cases completed            | 90,211  | 99,387  | 116,447 | 113,762 | 111,000 | 96,600  | 114,600 | 124,900 | 118,278 | 118,176 | 125,376 |
| Performance Measures                            | Total Appeals Completed                                     | 31,801  | 47,327  | 48,060  | 48,711  | 46,300  | 41,400  | 35,400  | 52,300  | 38,296  | 31,132  | 33,632  |
|   | Detained Completions*                                       | N/A     | N/A     | 3,694   | 4,089   | 3,425   | 3,000   | 3,200   | 4,000   | 3,239   | 2,860   | 3,860   |
| 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%     | 80%     | 90%     | 90%     |
|   | % IHP Cases w/in Time Goal                                  | 89%     | 84%     | 86%     | 88%     | 89%     | 92%     | 86%     | 90%     | 91%     | 90%     | 90%     |
|   | % Detained w/out Applications w/in Time Goal                | 83%     | 84%     | 88%     | 88%     | 91%     | 92%     | 89%     | 90%     | 90%     | 90%     | 90%     |
|   | % Immigration Court priority cases completed                | N/A     | N/A     | 89%     | 89%     | 91%     | 93%     | 89%     | 90%     | 89%     | 90%     | 90%     |
|   | % Backlog reduction   | N/A     | N/A     | N/A     | 59%     | 58%     | 68%     | 43%     | 50%     | 43%     | 50%     | 50%     |
| **OUTCOME Measures                              | % Detained Appeals Adjudicated within Time Goal             | N/A     | N/A     | 81%     | 91%     | 92%     | 97%     | 97%     | 90%     | 96%     | 90%     | 90%     |
|   | % Appeals priority cases completed                          | N/A     | N/A     | 81%     | 91%     | 92%     | 97%     | 97%     | 90%     | 96%     | 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> |
|---|-------------------|------------|---------------|
| 2008 Enacted with Rescissions                 | 15                | 15         | 2,329         |
| 2008 Supplementals                            | 0                 | 0          | 0             |
| 2008 Enacted w/Rescissions and Supplementals  | 15                | 15         | 2,329         |
| 2009 Enacted                                  | 15                | 15         | 2,387         |
| Adjustments to Base and Technical Adjustments | 0                 | 0          | 343           |
| 2010 Current Services                         | 15                | 15         | 2,730         |
| 2010 Program Increases                        | 0                 | 0          | 0             |
| 2010 Request                                  | 15                | 15         | 2,730         |
| <b>Total Change 2009-2010</b>                 | <b>0</b>          | <b>0</b>   | <b>343</b>    |

### 1. Program Description

The Office of the Pardon Attorney (OPA), in consultation with the Deputy Attorney General, assists the Office of the White House Counsel and the President of the United States in the responsible exercise of the executive clemency power conferred by Article II, Section 2, of the U.S. Constitution. The primary functions of OPA are to receive, review and, if appropriate, investigate clemency applications and to prepare the Department of Justice's recommendation to the President on the appropriate disposition of each application. When called upon, OPA provides general advice to the White House on clemency procedures and the historical background of clemency matters. The procedures governing the duties of OPA are set forth in regulations approved by the President and promulgated by the Attorney General in 28 C.F.R. §§ 1.1 to 1.11. The work of OPA is performed subject to the direction of the Deputy Attorney General, and the information and views gathered during the clemency review process form the basis for the report and recommendation that OPA prepares in each case for the signature of the Deputy Attorney General.

During every fiscal year since FY 1999, OPA has received more than 1,000 clemency applications for processing. In FY 2008, OPA received a total of 2,325 clemency applications, of which 555 were for pardon and 1,770 were for commutation of sentence. This number is nearly double the 1,259 filings submitted in FY 2007, when 334 pardon applications and 925 commutation applications were received. Moreover, between October 1, 2008, and January 20, 2009, OPA received 1,303 clemency applications for processing (434 for pardon and 869 for commutation) – a number that itself exceeds the total filings for FY 2007. With the burgeoning federal prison population, the elimination of other possibilities for release (such as parole), and the number of federal offenses which carry a mandatory minimum sentence, the number of prisoners who seek reduction of their prison sentences through commutation has increased dramatically. Applications for presidential pardon have skyrocketed as well, in part because a pardon is the only means by which a federally convicted felon can regain federal firearms rights lost by reason of conviction. A previously available administrative remedy under 18 U.S.C. § 925(c) to restore those rights was effectively eliminated in 1992 when Congress instituted a continuing statutory ban that prohibits the Bureau of Alcohol, Tobacco and Firearms (now the Bureau of Alcohol, Tobacco, Firearms and Explosives) from expending funds for the firearms rights restoration procedure.

For an office of OPA's small size, every budget dollar is needed to maintain its program. In FY 2006, OPA's funding level was \$2,209,000; in both FY 2007 and 2008, the OPA budget was \$2,329,000. The FY 2009 budget provides for an increase of only \$58,000 – for a total of \$2,387,000. The net effect of this minimal increase in funding over four fiscal years has been a significant decrease in real budget dollars for OPA. Grade creep, annual increases to salaries and benefits, and significant increases in rent and security costs have, over those four years, been substantially greater than the aggregate \$178,000 increase in OPA funding. (Moreover, the \$58,000 increase for FY 2009 has been unavailable to OPA for the first half of the fiscal year due to the operation of the Continuing Resolution.) This effective decrease in funding has had a significant impact on OPA's staffing levels. Since the mid-1990's, OPA has been allotted 15 FTE, which originally were filled by six attorneys and nine support staff. As attrition has occurred over the last several years, however, the staff has dwindled to 11 full-time employees – six attorneys and five support staff – and funding constraints have precluded our hiring full-time permanent employees to staff the unfilled positions. OPA has attempted to address its staffing and workload needs through the services of a detailed attorney, temporary part-time employees, and volunteer student interns, but this stop-gap measure is not an adequate substitute for permanent employee staffing.

The FY 2010 request includes the funding needed to fill the full-time employee positions which remain vacant. This request was approved by the Office of Management and Budget (OMB) on February 9, 2009. The \$343,000 increase would put our FY 2010 budget at \$2,730,000.

OPA has adopted every conceivable means of inexpensive technological modification to meet the manpower requirements associated with its dramatically increased workload (for example, employment of an automated telephone inquiry system that provides recorded information about the clemency process and so permits support staff employees to spend less time answering routine questions from potential clemency applicants, and more time performing case-processing responsibilities). We utilize volunteer law student interns (a total of five since May 2008) to assist in case processing, and we have streamlined case-processing techniques to the extent that is equitable. Leave was denied to two key personnel in December 2008 due to the increased caseload, and others were narrowly below their maximum leave carryover at year's end. OPA simply must have the DOJ-requested and OMB-approved \$343,000 adjustment to base in order to achieve its authorized staffing of 15 full-time employees and professionally complete its mission of supporting the President, through the Deputy Attorney General, in the responsible exercise of the clemency power.

**PERFORMANCE AND RESOURCES TABLE**

Decision Unit: Office of the Pardon Attorney

DOJ Strategic Goal/Objective: 2.7 Vigorously enforce and represent the interests of the United States in all matters over which the Department has jurisdiction

| WORKLOAD/ RESOURCES  |  | Final Target |       | Actual  |       | Projected       |       | Changes  |       | Requested (Total) |       |
|--|--|--------------|-------|---------|-------|-----------------|-------|--|-------|-------------------|-------|
|  |  | FY 2008      |       | FY 2008 |       | FY 2009 Enacted |       | Current Services Adjustments and FY 2010 Program Changes |       | FY 2010 Request   |       |
| Clemency petitions pending/received  |  |              | 2,700 |         | 3,405 |                 | 4,250 |  |       |                   | 3,000 |
| Pieces of correspondence received  |  |              | 5,700 |         | 5,700 |                 | 5,700 |  |       |                   | 5,700 |
| Total Costs and FTE<br>(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 |
|  |  | 15           | 2,329 | 11      | 1,995 | 15              | 2,387 | 0  | 343   | 15                | 2,730 |
| TYPE/<br>STRATEGIC<br>OBJECTIVE  | PERFORMANCE  | FY 2008      |       | FY 2008 |       | FY 2009 Enacted |       | Current Services Adjustments and FY 2010 Program Changes |       | FY 2010 Request   |       |
| Program Activity   |  | FTE          | \$000 | FTE     | \$000 | FTE             | \$000 | FTE  | \$000 | FTE               | \$000 |
|  | Clemency petitions processed                       | 12           | 2,209 | 9       | 1,925 | 12              | 2,255 | 0  | 343   | 13                | 2,598 |
| Performance Measure  | Number of clemency petitions processed             |              | 1,100 |         | 1,677 |                 | 1,100 |  |       |                   | 1,500 |
| Program Activity   | Correspondence processed                           | FTE          | \$000 | FTE     | \$000 | FTE             | \$000 | FTE  | \$000 | FTE               | \$000 |
|  |  | 3            | 120   | 2       | 65    | 3               | 131   | 0  | 0     | 2                 | 132   |
| Performance Measure  | Pieces of correspondence processed                 |              | 5,700 |         | 5,700 |                 | 5,700 |  |       |                   | 5,700 |
| Efficiency Measure   | The performance measure is the efficiency measure. |              |       |         |       |                 |       |  |       |                   |       |
| OUTCOME  | Clemency petitions pending at OPA                  |              | 1,100 |         | 1,728 |                 | 1,100 |  | 400   |                   | 1,500 |

Data Definition, Validation, Verification, and Limitations: OPA's case and correspondence tracking system is updated daily and used extensively to track the status of clemency petitions and correspondence. The data reflected under actual performance measure 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 | FY 2010 |
|  |   | Actual  | Target  | Actual | Target  | Target  |
| <b>Performance Measure</b>   | Number of clemency petitions processed            | 1,092   | 1,431   | 1,293   | 1,123   | 1,217   | 1,046   | 1,079   | 1,100   | 1,677  | 1,500   | 1,500   |
| <b>Performance Measure</b>   | Pieces of correspondence processed                | 8,838   | 7,000   | 5,600   | 5,250   | 5,250   | 5,250   | 5,400   | 5,700   | 5,700  | 5,700   | 5,700   |
| <b>Performance Measure</b>   |   |         |         |         |         |         |         |         |         |        |         |         |
| <b>Efficiency Measure</b>  | The performance measure is the efficiency measure |         |         |         |         |         |         |         |         |        |         |         |
| <b>OUTCOME Measure</b>   | Petitions pending at OPA                          |         |         |         |         |         | 904     | 1,080   | 1,100   | 1,728  | 1,500   | 1500    |
| <p>OPA did not meet its end-of-year target for petitions pending in FY2008 because it received 2,325 petitions in FY2008, a number that is nearly double the filings in FY2007 (1,259) and exceeds filings for any fiscal year since 1900. OPA has no control over numbers of petitions filed.</p> |   |         |         |         |         |         |         |         |         |        |         |         |

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, 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 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 2010 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 2008, the immigration courts met the targets regarding Institutional Hearing Program (IHP) cases and detained cases without applications for relief. The expedited asylum case target was missed in part due to the high number of immigration judge vacancies. Additionally, the courts missed that goal because of the progress the courts made in the agency's initiative to complete the oldest pending cases. These performance measures will be continued in FY 2010.

The performance measure for the BIA is:

- 90% of detained appeals adjudicated within 150 days

In FY 2008, the BIA exceeded this target by 6% and expects to exceed it again in FY 2009. This performance measure will continue in FY 2010.

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 2010 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.

## V. Program Increases by Item

**Item Name:** **Immigration and Southwest Border**  
**Coordination with DHS Secure Communities 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 172 Agt/Atty 44 FTE 86 Dollars \$14,003,000

### Description of Item

This request ties directly to a new, high priority enforcement initiative currently under development and implementation by ICE/DHS: Secure Communities. EOIR's 172 position increase includes 28 immigration judges, 16 BIA Staff Attorneys and related immigration court and BIA 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 new DHS initiative which leverages extensive coordination with EOIR and other DOJ components, including BOP, U.S. Attorneys, USMS, FBI and the Civil Division. In summary, Secure Communities represents a new and comprehensive initiative developed to identify, prioritize, process, detain, and remove all criminal aliens held in U.S. prisons and jails. Secure Communities will build upon, greatly expand and revolutionize 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. DHS intends to expand existing programs in federal and state prisons and, most significantly, to eventually introduce criminal alien removal programs in over 3,000 local jails nationwide.

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

While DHS has continued to receive significant program increases for a variety of immigration enforcement programs, Secure Communities is particularly noteworthy in terms of its affect upon EOIR and other DOJ components. This is the case for two primary reasons: ICE has already received initial funding and congressional approval to start the initiative; and, the initiative itself leverages extensive coordination with and reliance upon components of DOJ. For

EOIR, the impact is most clearly demonstrated by the dramatic increase in detention beds included in the plan.

ICE received \$200 million in the 2008 Omnibus appropriation (2-year funding) to begin Secure Communities. This included funding for an additional 1,246 detention beds above the 4,500 additional beds included elsewhere in the 2008 Omnibus. An additional \$150 million was appropriated for Secure Communities in 2009, including funds for 1,400 additional beds. The detention bed increases alone, both generally and those tied specifically to Secure Communities, would more than justify EOIR's requested increase. As a general rule, one immigration judge team is required for every 200 DHS detention beds.

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 increasing manpower, 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 of the Administration and Congress. 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.

#### 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 additional detention beds, coupled with expanded 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.

**Item Name:** **Immigration and Southwest Border**  
**eWorld Document Management System**  
**Budget Decision Unit:** EOIR  
**Strategic Goal & Objective:** 3.5: Adjudicate all immigration cases promptly and impartially in accordance with due process.  
**Organizational Program:** Information Technology

Program Increase: Positions 0 Agt/Atty 0 FTE 0 Dollars \$10,250,000

Description of Item

EOIR's request includes an enhancement of \$10,250,000 for the eWorld Document Management System, a component of EOIR's larger eWorld project. This request ties to the Department of Justice Strategic Plan and the Attorney General's directives. This request seeks to continue development of EOIR's 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 to remove aliens from the United States in a timely manner. With the establishment of the DHS Secure Communities program and other enforcement initiatives, and the Department of Justice's emphasis on ensuring timely adjudications while providing due process, the various components of the 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 eWorld project is a multi-year, multi-phased project that is transitioning EOIR from using paper to electronic documents for its official records. During FY 2005 – FY 2009, EOIR designed and began developing four 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 eWorld project.
- (2) The digital audio recording (DAR) system is revolutionizing how immigration proceedings are recorded and transcribed. Similar to CASE, the DAR system is a required building block for future phases of the eWorld project.
- (3) The Immigration Review Information Exchange System (IRIES) is being designed in conjunction with other federal entities to ensure that agencies are sharing data in the most efficient manner possible.
- (4) A Document Management System (DMS) will tie all of the eWorld projects together. The DMS will provide a single system in which to store, distribute, manage changes, and archive all documents filed with or created by EOIR. CASE, DAR, and IRIES will all feed documents to, and receive documents from the DMS. These other systems will not meet their full requirements or achieve their full potential without a unified DMS.

The 2009 appropriation included a program increase for DAR and IRIES. In Fiscal Year 2010, EOIR intends to design, develop, test and deploy a unified document management system for all of the eWorld systems and EOIR as a whole. A program increase is required to complete this mission-critical project.

As 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's public adjudication records via the web-based case management system. At the conclusion of 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. The DMS is essential to meet this objective.

EOIR's FY 2010 request focuses on one project that will finalize the foundation for complete implementation of eWorld: the DMS.

- (1) The DMS will enhance the ability to respond to immigration initiatives, share information between federal agencies, and open communication with the public. Although the IRIES project will enable EOIR to exchange data with DHS, the transfer of documents will require the DMS. With the DMS, EOIR and DHS' Immigration and Customs Enforcement (ICE) division will be able to exchange charging documents and final orders of removal – documents that are critical to the efficient and orderly removal of criminal aliens and others who have violated immigration laws of the United States. EOIR currently receives and generates hundreds of thousands of documents each year. Transferring these documents between EOIR and DHS, DOJ Civil Division litigators, the respondents, and respondents' counsel is highly cost and time inefficient. The CASE system will utilize the DMS to replace this manual process with an electronic process allowing external parties to submit electronic documents to EOIR and allowing EOIR to electronically route documents internally.
- (2) The DMS also supports the Attorney General's Comprehensive Review of EOIR, which directed EOIR to develop a digital recording system and reduce the transcription backlog. Currently the digital recordings of immigration court hearings can be burned to CDs and couriered to transcribers when a case is appealed. Transcribers then courier printed transcripts back to EOIR headquarters. At headquarters the transcripts are physically moved around the building for review, then FedExed to the court sites for review and signature by the immigration judge. Once reviewed by the Immigration Judge, the paper transcript is FedExed back to EOIR headquarters and then FedExed to the parties. The DMS system would eliminate this wasteful process. DMS will connect with DAR to allow the transcribers to submit electronic transcripts directly to EOIR. The transcript will be electronically routed to all reviewing parties, accept edits from authorized parties, record approvals, then electronically distribute the recordings to the parties. This will significantly cut costs and processing time surrounding the more than 20,000 transcripts ordered by EOIR each year.
- (3) In addition, the DMS supports the Government Paperwork Elimination Act (GPEA). The ultimate goal of the eWorld program is to eliminate paper and replace physical

document filing, storage, and distribution with its electronic equivalent. The DMS will lay the foundation for EOIR to do exactly that. The DMS is a system that will tie DAR, CASE, IRIES and other elements of the eWorld program together. Each system will utilize the DMS as a resource to serve its users and fulfill the eWorld goals.

EOIR's base appropriations cannot accommodate the purchase of the COTS software, hardware, and development services required to deploy the DMS. The majority of those costs will be incurred in fiscal year 2010.

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 DMS will assist EOIR in accomplishing this objective, as cases that are appealed will be transcribed more rapidly and will be sent more quickly to the appropriate parties. In addition, this program increase will meet the objective under Goal 2 concerning the fair and efficient processing of civil immigration cases.

**Item Name:** Legal Orientation Program for Custodians of Unaccompanied Alien Children

Budget Decision Unit: EOIR

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

Organizational Program: Southwest Border Initiative

Program Increase: Positions 0 Agt/Atty 0 FTE 0 Dollars \$2,000,000

Description of Item

This request is to provide custodians of unaccompanied alien children with legal orientation programs to address the custodian's responsibility for the child's appearance at all immigration proceedings, and to protect the child from mistreatment, exploitation, and trafficking.

## Funding

### Administrative Review and Appeals (EOIR and OPA)

#### Base Funding

| FY 2008 Enacted |              |      |         | FY 2009 Enacted |              |      |         | FY 2010 Current Services |              |      |         |
|-----------------|--------------|------|---------|-----------------|--------------|------|---------|--------------------------|--------------|------|---------|
| Pos             | agt/<br>atty | FTE  | \$(000) | Pos             | agt/<br>atty | FTE  | \$(000) | Pos                      | agt/<br>atty | FTE  | \$(000) |
| 1401            | 462          | 1379 | 240,649 | 1401            | 462          | 1439 | 270,000 | 1401                     | 462          | 1439 | 274,432 |

#### Personnel Increase Cost Summary (EOIR)

| Type of Position    | Modular Cost<br>per Position (\$000) | Number of<br>Positions<br>Requested | FY 2010<br>Request (\$000) | FY 2011 Net<br>Annualization<br>(change from 2009)<br>(\$000) |
|---------------------|--------------------------------------|-------------------------------------|----------------------------|---|
| Immigration Judge   | 185                                  | 28                                  | 5,180                      | 3,047   |
| Language Specialist | 58                                   | 28                                  | 1,624                      | 1,363   |
| Legal Technician    | 52                                   | 28                                  | 1,453                      | 948   |
| Clerk               | 52                                   | 28                                  | 1,453                      | 948   |
| Law Clerk           | 70                                   | 28                                  | 1,960                      | 1,478   |
| Attorney            | 88                                   | 16                                  | 1,405                      | 1,206   |
| Paralegal           | 58                                   | 16                                  | 928                        | 779   |
| Total Personnel     | 563                                  | 172                                 | 14,003                     | 9,769   |

#### Non-Personnel Increase Cost Summary (EOIR)

| Non-Personnel<br>Item   | Unit Cost | Quantity | FY 2010 Request<br>(\$000) | FY 2011 Costs<br>(\$000) |
|-------------------------|-----------|----------|----------------------------|--------------------------|
| Total Non-<br>Personnel | N/A       | N/A      | 12,250                     | 3,075                    |

#### Total Request for this Item (EOIR and OPA)

|                  | Pos  | Agt/Atty | FTE  | Personnel<br>(\$000) | Non-<br>Personnel<br>(\$000) | Total<br>(\$000) |
|------------------|------|----------|------|----------------------|------------------------------|------------------|
| Current Services | 1401 | 462      | 1439 | 155,576              | 118,856                      | 274,432          |
| Increases        | 172  | 44       | 86   | 14,003               | 12,250                       | 26,253           |
| Grand Total      | 1573 | 506      | 1525 | 169,579              | 131,106                      | 300,685          |

## VI. E-Government Initiatives

The Justice Department is fully committed to the E-Government initiatives. 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

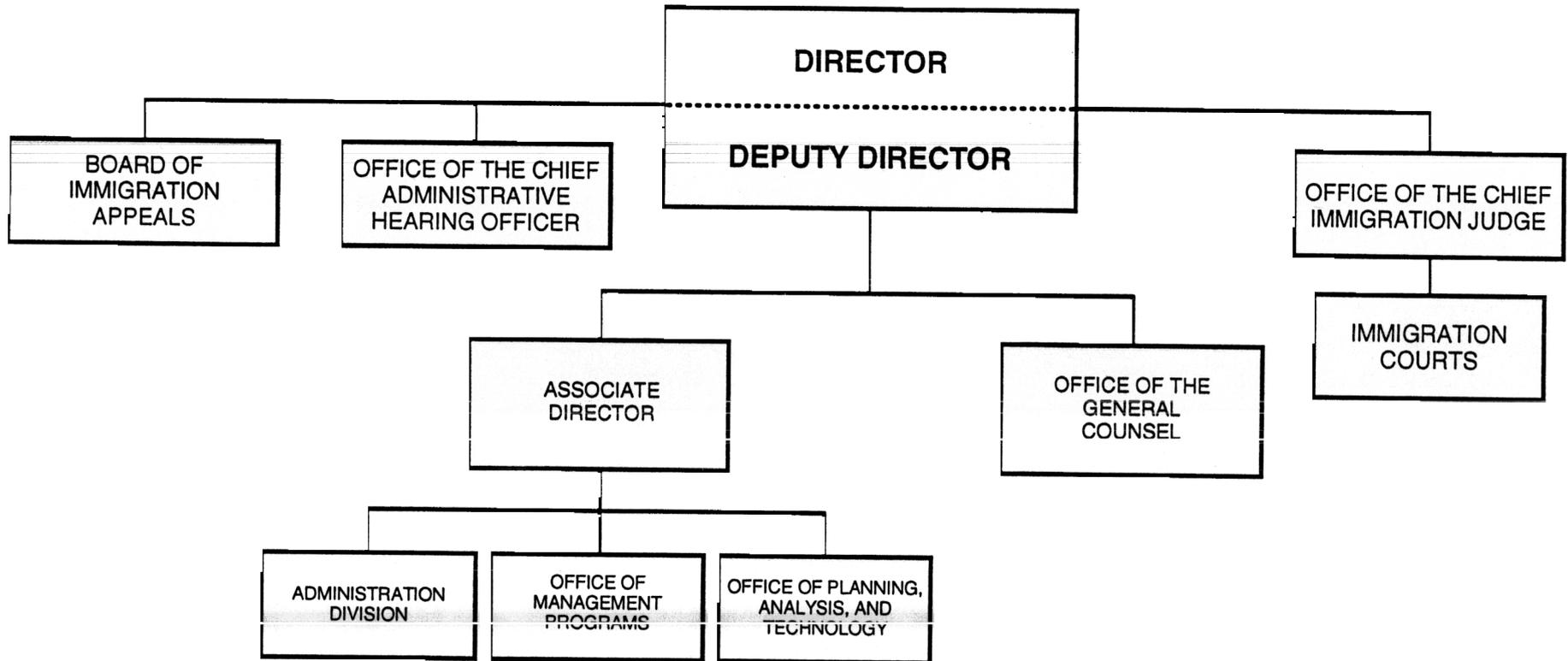
The Department of Justice participates in the following E-Government initiatives and Lines of Business:

|  |                     |  |                                      |
|--|---------------------|--|--------------------------------------|
| 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 for FY2008. The anticipated EOIR e-Government reimbursement to WCF is \$130 for FY2009.

## **EXHIBITS**

# EXECUTIVE OFFICE FOR IMMIGRATION REVIEW



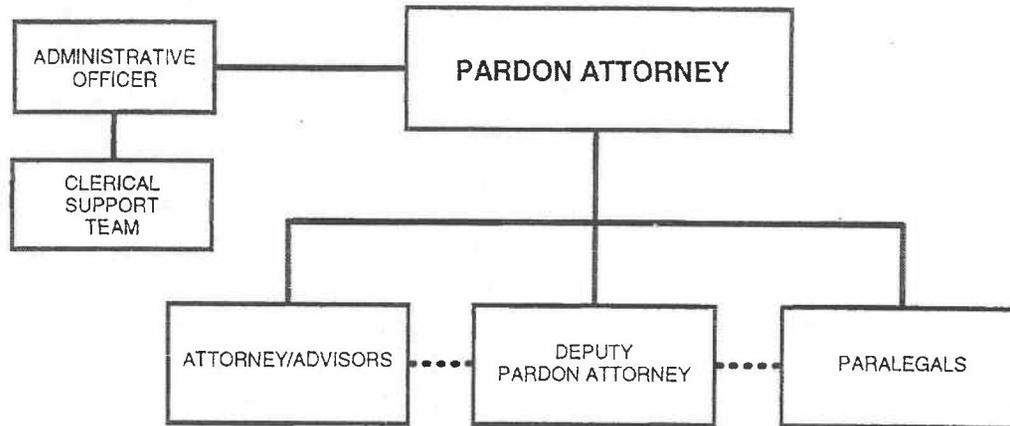
Approved by:



JOHN ASHCROFT  
Attorney General

Date: November 19, 2004

# OFFICE OF THE PARDON ATTORNEY



Approved by:

JOHN D. ASHCROFT  
Attorney General

Date: May 15, 2001

**B: Summary of Requirements**

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

|   | FY 2010 Request |              |                  |
|---|-----------------|--------------|------------------|
|   | Perm. Pos.      | FTE          | Amount           |
| <b>2008 Enacted (with Rescissions, direct only)</b>                               | 1,401           | 1,379        | 240,649          |
| 2008 Supplementals  |                 |              |                  |
| <b>Total 2008 Revised Continuing Appropriations Resolution (with Rescissions)</b> | 1,401           | 1,379        | 240,649          |
| <b>2009 Enacted (with Rescissions, direct only)</b>                               | 1,401           | 1,439        | 270,000          |
| 2009 Supplementals  |                 |              |                  |
| <b>Total 2009 Enacted (with Rescissions and Supplementals)</b>                    | <b>1,401</b>    | <b>1,439</b> | <b>270,000</b>   |
| Technical Adjustments   |                 |              |                  |
| DHS Immigration Examination Fee Account   |                 |              | (4,000)          |
| Transfers   |                 |              |                  |
| DHS Immigration Examination Fee Account   |                 |              | 4,000            |
| Adjustments to Base   |                 |              |                  |
| Increases:  |                 |              |                  |
| 2010 pay raise (2.0%)   |                 |              | 2,504            |
| 2009 pay raise annualization (3.9%)   |                 |              | 1,714            |
| Retirement  |                 |              | 132              |
| Health Insurance  |                 |              | 185              |
| Employee Compensation Fund  |                 |              | 85               |
| GSA Rent  |                 |              | 1,859            |
| DHS Security Charge   |                 |              | 89               |
| Base Program Cost Adjustment (LOP)  |                 |              | 4,000            |
| Postage   |                 |              | 17               |
| Security Investigattions  |                 |              | 4                |
| Government Printing Office (GPO)  |                 |              | 3                |
| WCF Rate Increase   |                 |              | 49               |
| Subtotal Increases  | 0               | 0            | 10,641           |
| Decreases:  |                 |              |                  |
| Non-recrural of 2009 Non-Personnel Increases                                      |                 |              | (5,000)          |
| Non-recrural of 2009 LOP  |                 |              | (1,209)          |
| Subtotal Decreases  | 0               | 0            | (6,209)          |
| Total Adjustments to Base   | 0               | 0            | 4,432            |
| Total Adjustments to Base and Technical Adjustments                               | 0               | 0            | 4,432            |
| <b>2010 Current Services</b>  | <b>1,401</b>    | <b>1,439</b> | <b>274,432</b>   |
| Program Changes   |                 |              |                  |
| Increases   |                 |              |                  |
| Coordination with DHS Initiative  | 172             | 86           | 14,003           |
| eWorld Document Management System   | 0               | 0            | 10,250           |
| Legal Orientation for Custodians of Unaccompanied Alien Children                  | 0               | 0            | 2,000            |
| Subtotal Increases  | 172             | 86           | 26,253           |
| Total Program Changes   | 172             | 86           | 26,253           |
| <b>2010 Total Request</b>   | <b>1,573</b>    | <b>1,525</b> | <b>\$300,685</b> |
| 2009 - 2010 Total Change  | 172             | 86           | 30,685           |

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

|   | 2008 Appropriation Enacted<br>w/Rescissions and Supplementals |              |                  | 2009 Enacted |              |                  | 2010 Adjustments to Base and<br>Technical Adjustments |          |                | 2010 Current Services |              |                  | 2010 Increases |           |                 | 2010 Offsets |          |            | 2010 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        | 238,320          | 1,386        | 1,424        | 267,613          | 0   | 0        | 4,089          | 1,386                 | 1,424        | 271,702          | 172            | 86        | 26,253          | 0            | 0        | 0          | 1,558        | 1,510        | 297,955          |
| Office of the Pardon Attorney           | 15  | 15           | 2,329            | 15           | 15           | 2,387            | 0   | 0        | 343            | 15                    | 15           | 2,730            | 0              | 0         | 0               | 0            | 0        | 0          | 15           | 15           | 2,730            |
| <b>Total</b>                            | <b>1,401</b>  | <b>1,379</b> | <b>\$240,649</b> | <b>1,401</b> | <b>1,439</b> | <b>\$270,000</b> | <b>0</b>  | <b>0</b> | <b>\$4,432</b> | <b>1,401</b>          | <b>1,439</b> | <b>\$274,432</b> | <b>172</b>     | <b>86</b> | <b>\$26,253</b> | <b>0</b>     | <b>0</b> | <b>\$0</b> | <b>1,573</b> | <b>1,525</b> | <b>\$300,685</b> |
| Reimbursable FTE                        |   |              |                  |              |              |                  |   |          |                | 0                     |              |                  |                |           |                 |              |          |            |              |              | 0                |
| Total FTE                               |   | 1,379        |                  |              | 1,439        |                  |   | 0        |                | 1,439                 |              |                  |                | 86        |                 |              | 0        |            |              |              | 1,525            |
| Other FTE:                              |   |              |                  |              |              |                  |   |          |                |                       |              |                  |                |           |                 |              |          |            |              |              |                  |
| LEAP                                    |   |              |                  |              |              |                  |   |          |                |                       |              |                  |                |           |                 |              |          |            |              |              |                  |
| Overtime                                |   |              |                  |              |              |                  |   |          |                |                       |              |                  |                |           |                 |              |          |            |              |              |                  |
| Total Comp. FTE                         |   | 1,379        |                  |              | 1,439        |                  |   | 0        |                | 1,439                 |              |                  |                | 86        |                 |              | 0        |            |              |              | 1,525            |

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

**FY 2010 Program Increases/Offsets By Decision Unit**  
**Administrative Review and Appeals**  
(Dollars in Thousands)

| Program Increases  | Location of Description<br>by Decision Unit | Decision Unit 1 |            |           |                 | Total Increases |
|--|---|-----------------|------------|-----------|-----------------|-----------------|
|  |   | Pos.            | Agt./Atty. | FTE       | Amount          |                 |
| Coordinations with DHS Initiative  | EOIR  | 172             | 44         | 86        | 14,003          | 14,003          |
| eWorld Document Management System  | EOIR  | 0               | 0          | 0         | 10,250          | 10,250          |
| Legal Orientation Program for Custodians of Unaccompanied Alien Children | EOIR  | 0               | 0          | 0         | 2,000           | 2,000           |
| <b>Total Program Increases</b>   |   | <b>172</b>      | <b>44</b>  | <b>86</b> | <b>\$26,253</b> | <b>\$26,253</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   | 2008 Appropriation Enacted<br>w/Rescissions and Supplementals |                         | 2009 Enacted                |                         | 2010 Current Services       |                         | 2010                |                  |                     |                  | 2010 Request                |                         |
|--|---|-------------------------|-----------------------------|-------------------------|-----------------------------|-------------------------|---------------------|------------------|---------------------|------------------|-----------------------------|-------------------------|
|  | Direct, Reimb.<br>Other FTE                                   | Direct Amount<br>\$000s | Direct, Reimb.<br>Other FTE | Direct Amount<br>\$000s | Direct, Reimb.<br>Other FTE | Direct Amount<br>\$000s | Increases           |                  | Offsets             |                  | Direct, Reimb.<br>Other FTE | Direct Amount<br>\$000s |
|  |   |                         |                             |                         |                             |                         | Direct<br>Other FTE | Amount<br>\$000s | Direct<br>Other FTE | Amount<br>\$000s |                             |                         |
| <b>Goal 1: Prevent Terrorism and Promote the Nation's Security</b>   |   |                         |                             |                         |                             |                         |                     |                  |                     |                  |                             |                         |
| 1.1 Prevent, disrupt, and defeat terrorist operations before they occur  |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 1.2 Strengthen partnerships to prevent, deter, and respond to terrorist incidents  |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 1.3 Prosecute those who have committed, or intend to commit, terrorist acts in the United States   |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 1.4 Combat espionage against the United States   |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| <b>Subtotal, Goal 1</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>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   |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 2.2 Reduce the threat, incidence, and prevalence of violent crime  |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 2.3 Prevent, suppress, and intervene in crimes against children  |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 2.4 Reduce the threat, trafficking, use, and related violence of illegal drugs   |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 2.5 Combat public and corporate corruption, fraud, economic crime, and cybercrime  |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 2.6 Uphold the civil and Constitutional rights of all Americans  |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 2.7 Vigorously enforce and represent the interests of the United States in all matters over which the Department has jurisdiction                                      | 15  | 2,329                   | 15                          | 2,387                   | 15                          | 2,730                   | 0                   | 0                | 0                   | 0                | 15                          | 2,730                   |
| 2.8 Protect the integrity and ensure the effective operation of the Nation's bankruptcy system   |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| <b>Subtotal, Goal 2</b>  | <b>15</b>   | <b>2,329</b>            | <b>15</b>                   | <b>2,387</b>            | <b>15</b>                   | <b>2,730</b>            | <b>0</b>            | <b>0</b>         | <b>0</b>            | <b>0</b>         | <b>15</b>                   | <b>2,730</b>            |
| <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 |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 3.2 Ensure the apprehension of fugitives from justice  |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 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   |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 3.4 Provide services and programs to facilitate inmates' successful reintegration into society, consistent with community expectations and standards                   |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 3.5 Adjudicate all immigration cases promptly and impartially in accordance with due process   | 1,364   | 238,320                 | 1,424                       | 267,613                 | 1,424                       | 271,702                 | 86                  | 26,253           | 0                   | 0                | 1,510                       | 297,955                 |
| 3.6 Promote and strengthen innovative strategies in the administration of State and local justice systems  |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| 3.7 Uphold the rights and improve services to America's crime victims  |   |                         |                             |                         |                             |                         |                     |                  |                     |                  | 0                           | 0                       |
| <b>Subtotal, Goal 3</b>  | <b>1,364</b>  | <b>238,320</b>          | <b>1,424</b>                | <b>267,613</b>          | <b>1,424</b>                | <b>271,702</b>          | <b>86</b>           | <b>26,253</b>    | <b>0</b>            | <b>0</b>         | <b>1,510</b>                | <b>297,955</b>          |
| <b>GRAND TOTAL</b>   | <b>1,379</b>  | <b>\$240,649</b>        | <b>1,439</b>                | <b>\$270,000</b>        | <b>1,439</b>                | <b>\$274,432</b>        | <b>86</b>           | <b>\$26,253</b>  | <b>0</b>            | <b>\$0</b>       | <b>1,525</b>                | <b>\$300,685</b>        |

## **E. Justification for Base Adjustments**

### **Justification for Base Adjustments Administrative Review and Appeals**

#### Transfers

This transfer in the amount of \$4,000,000 is from DHS for Immigration Examination Fees annually.

#### Technical Adjustments

This technical adjustment in the amount of \$(4,000,000) is an offset of fees that are collected by DHS and transferred to EOIR's base annually.

#### Increases

2010 pay raise. This request provides for a proposed 2.0 percent pay raise to be effective in January of 2010 (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, \$2,504,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$1,814,000 for pay and \$690,000 for benefits).

Annualization of 2009 pay raise. This pay annualization represents first quarter amounts (October through December) of the 2009 pay increase of 3.9 percent included in the 2009 President's Budget. The amount requested \$1,714,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$1,243,000 for pay and \$471,000 for benefits).

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 3 percent per year. The requested increase of \$132,000 is necessary to meet our increased retirement obligations as a result of this conversion.

Employees Compensation Fund: The \$85,000 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 2008, this component's contribution to Federal employees' health insurance premiums increased by 2.6 percent. Applied against the 2009 estimate of \$252,757, the additional amount required is \$185,000.

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 \$1,853,000 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 2010 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied. GSA provided data on the rate increases.

DHS Security Charges. The Department of Homeland Security (DHS) will continue to charge Basic Security and Building Specific Security. The requested increase of \$89,000 is required to meet our commitment to DHS, and cost estimates were developed by DHS.

Legal Orientation Program (LOP): EOIR is directed to provide not less than \$4,000,000 for the LOP.

Postage: Effective May 11, 2009, the Postage Service implemented a rate increase of 4.8 percent. This percentage was applied to the 2010 estimate of \$675,000 to arrive at an increase of \$17,000.

Security Investigations: The \$4,000 increase reflects payments to the Office of Personnel Management for security reinvestigations for employees requiring security clearances.

Government Printing Office (GPO): GPO provides an estimated rate increase of 4%. This percentage was applied to the FY 2009 estimate of \$171,000 to arrive at an increase of \$3,000.

WCF Rate Increases. Components in the DC metropolitan area use and rely on the Department's Working Capital Fund (WCF) for support services including telecommunications services, computer services, finance services, as well as internet services. The WCF continues to invest in the infrastructure supporting the telecommunications services, computer services, internet services. Concurrently, several security initiatives are being implemented and additional resources are being directed to financial management in an effort to maintain a clean audit status. Funding of \$49,000 is required for this account.

Decreases

Non-recurrence of FY 2009 Non-Personnel Increases. \$5,000,000.

Non-recurrence of FY 2009 Legal Orientation Program (LOP). \$1,209,000.

**F: Crosswalk of 2008 Availability**

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

| Decision Unit                           | FY 2008 Enacted Without Rescissions |              |                  | Rescissions |          |            | Supplementals |          |            | Reprogrammings / Transfers |          |            | Carryover/ Recoveries |          |            | 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                               | 1,364        | 238,320          | 0           | 0        | 0          | 0             | 0        | 0          | 0                          | 0        | 0          | 0                     | 0        | 0          | 1,386             | 1,364        | 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>1,379</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>1,379</b> | <b>\$240,649</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            |

**G: Crosswalk of 2009 Availability**

**Crosswalk of 2009 Availability**  
 Administrative Review and Appeals  
 Salaries and Expenses  
 (Dollars in Thousands)

| Decision Unit                           | FY 2009 Enacted |              |                | Rescissions |          |          | Supplementals |          |          | Reprogrammings / Transfers |          |          | Carryover/ Recoveries |          |          | 2009 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        | 267,613        | 0           | 0        | 0        | 0             | 0        | 0        | 0                          | 0        | 0        | 0                     | 0        | 0        | 1,386             | 1,424        | 267,613          |
| Office of the Pardon Attorney           | 15              | 15           | 2,387          | 0           | 0        | 0        | 0             | 0        | 0        | 0                          | 0        | 0        | 0                     | 0        | 0        | 15                | 15           | 2,387            |
| <b>TOTAL</b>                            | <b>1,401</b>    | <b>1,439</b> | <b>270,000</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>0</b> | <b>1,401</b>      | <b>1,439</b> | <b>\$270,000</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                   | 2008 Enacted |          |                | 2009 Planned |          |                | 2010 Request |          |             | Increase/Decrease |          |                  |
|---|--------------|----------|----------------|--------------|----------|----------------|--------------|----------|-------------|-------------------|----------|------------------|
|   | Pos.         | FTE      | Amount         | Pos.         | FTE      | Amount         | Pos.         | FTE      | Amount      | Pos.              | FTE      | Amount           |
| Executive Office for Immigration Review | 0            | 0        | 3,774          | 0            | 0        | 5,217          | 0            | 0        | 20          | 0                 | 0        | (5,197)          |
| <b>Budgetary Resources:</b>             | <b>0</b>     | <b>0</b> | <b>\$3,774</b> | <b>0</b>     | <b>0</b> | <b>\$5,217</b> | <b>0</b>     | <b>0</b> | <b>\$20</b> | <b>0</b>          | <b>0</b> | <b>(\$5,197)</b> |

## I: Detail of Permanent Positions by Category

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

| Category                                  | 2008 Enacted w/Rescissions and Supplementals |                    | 2009 Enacted     |                    | 2010 Request |                   |                   |                   |                  |                    |
|---|--|--------------------|------------------|--------------------|--------------|-------------------|-------------------|-------------------|------------------|--------------------|
|   | Total Authorized                             | Total Reimbursable | Total Authorized | Total Reimbursable | ATBs         | 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              |                    |              | 28                |                   | 28                | 357              |                    |
| Accounting and Budget (500-599)           | 6  |                    | 6                |                    |              |                   |                   | 0                 | 6                |                    |
| Attorneys (905)                           | 462  |                    | 462              |                    |              | 44                |                   | 44                | 506              |                    |
| Paralegals / Other Law (900-998)          | 425  |                    | 425              |                    |              | 72                |                   | 72                | 497              |                    |
| Information & Arts (1000-1099)            | 129  |                    | 129              |                    |              | 28                |                   | 28                | 157              |                    |
| 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>172</b>        | <b>0</b>          | <b>172</b>        | <b>1,573</b>     | <b>0</b>           |
| Headquarters (Washington, D.C.)           | 485  |                    | 485              |                    |              | 32                |                   | 32                | 517              |                    |
| U.S. Field                                | 916  |                    | 916              |                    |              | 140               |                   | 140               | 1,056            |                    |
| 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>172</b>        | <b>0</b>          | <b>172</b>        | <b>1,573</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:  | Decision Unit 1 |                 |          |                 |          |            | Program Changes |                 |
|--|-----------------|-----------------|----------|-----------------|----------|------------|-----------------|-----------------|
|  | Inc. 1          |                 | Inc. 2   |                 | Offset   |            | Program Changes |                 |
|  | Pos.            | Amount          | Pos.     | Amount          | Pos.     | Amount     | Pos.            | Amount          |
| IJ 1-4   | 28              | 4,107           |          |                 |          |            | 28              | 4,107           |
| GS-15  |                 |                 |          |                 |          |            | 0               | 0               |
| GS-14  |                 |                 |          |                 |          |            | 0               | 0               |
| GS-13  | 16              | 1,410           |          |                 |          |            | 16              | 1,410           |
| GS-12  |                 |                 |          |                 |          |            | 0               | 0               |
| GS-11  | 28              | 1,731           |          |                 |          |            | 28              | 1,731           |
| GS-10  |                 |                 |          |                 |          |            | 0               | 0               |
| GS-9   | 44              | 2,247           |          |                 |          |            | 44              | 2,247           |
| GS-8   |                 |                 |          |                 |          |            | 0               | 0               |
| GS-7   | 56              | 2,338           |          |                 |          |            | 56              | 2,338           |
| GS-5   |                 |                 |          |                 |          |            | 0               | 0               |
| Total positions & annual amount                        | 172             | 11,833          | 0        | 0               | 0        | 0          | 172             | 11,833          |
| Lapse (-)  | (86)            | (5,917)         | 0        | 0               | 0        | 0          | (86)            | (5,917)         |
| Other personnel compensation                           |                 |                 |          |                 |          |            | 0               | 0               |
| Total FTE & personnel compensation                     | 86              | 5,917           | 0        | 0               | 0        | 0          | 86              | 5,917           |
| Personnel benefits                                     |                 | 1,727           |          |                 |          |            | 0               | 1,727           |
| Travel and transportation of persons                   |                 | 259             |          |                 |          |            | 0               | 259             |
| Transportation of things                               |                 | 71              |          |                 |          |            | 0               | 71              |
| GSA rent   |                 | 0               |          |                 |          |            | 0               | 0               |
| Communication, rents, and utilities                    |                 | 359             |          |                 |          |            | 0               | 359             |
| Printing   |                 | 12              |          |                 |          |            | 0               | 12              |
| Advisory and assistance services                       |                 | 0               |          | 2,000           |          |            | 0               | 2,000           |
| Other services   |                 | 1,067           |          |                 |          |            | 0               | 1,067           |
| Purchases of goods & services from Government accounts |                 | 915             |          |                 |          |            | 0               | 915             |
| Medical Care   |                 | 9               |          |                 |          |            | 0               | 9               |
| Operation and maintenance of equipment                 |                 | 641             |          |                 |          |            | 0               | 641             |
| Supplies and materials                                 |                 | 178             |          |                 |          |            | 0               | 178             |
| Equipment  |                 | 2,001           |          | 10,250          |          |            | 0               | 12,251          |
| Buildout   |                 | 847             |          |                 |          |            | 0               | 847             |
| <b>Total, 2010 program changes requested</b>           | <b>86</b>       | <b>\$14,003</b> | <b>0</b> | <b>\$12,250</b> | <b>0</b> | <b>\$0</b> | <b>86</b>       | <b>\$26,253</b> |

Exhibit J - Financial Analysis of Program Changes

**K: Summary of Requirements by Grade**

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

| Grades and Salary Ranges             | 2008 Enacted<br>w/Rescissions and |                | 2009 Enacted |                  | 2010 Request |                  | Increase/Decrease |        |
|--------------------------------------|-----------------------------------|----------------|--------------|------------------|--------------|------------------|-------------------|--------|
|                                      | Pos.                              | Amount         | Pos.         | Amount           | Pos.         | Amount           | Pos.              | Amount |
| SES, \$117,787 - \$177,000           | 9                                 |                | 6            |                  | 6            |                  | 0                 |        |
| AL-3, \$162,900                      | 1                                 |                | 1            |                  | 1            |                  | 0                 |        |
| SL, \$162,900                        | 14                                |                | 16           |                  | 16           |                  | 0                 |        |
| IJ 1-4, \$107,240 - 162,900          | 244                               |                | 227          |                  | 255          |                  | 28                |        |
| GS-15, \$120,830 - 153,200           | 157                               |                | 180          |                  | 180          |                  | 0                 |        |
| GS-14, \$102,721 - 133,543           | 64                                |                | 69           |                  | 69           |                  | 0                 |        |
| GS-13, \$86,927 - 113,007            | 93                                |                | 88           |                  | 104          |                  | 16                |        |
| GS-12, \$73,100 - 95,026             | 145                               |                | 123          |                  | 123          |                  | 0                 |        |
| GS-11, \$60,989 - 79,280             | 62                                |                | 98           |                  | 126          |                  | 28                |        |
| GS-10, \$55,512 - 72,164             | 31                                |                | 38           |                  | 38           |                  | 0                 |        |
| GS-9, \$50,408 - 65,531              | 74                                |                | 48           |                  | 92           |                  | 44                |        |
| GS-8, \$45,639 - 59,333              | 236                               |                | 264          |                  | 264          |                  | 0                 |        |
| GS-7, \$41,210 - 53,574              | 46                                |                | 56           |                  | 112          |                  | 56                |        |
| GS-6, \$37,084 - 48,207              | 50                                |                | 40           |                  | 40           |                  | 0                 |        |
| GS-5, \$33,269 - 43,251              | 48                                |                | 17           |                  | 17           |                  | 0                 |        |
| GS-4, \$29,736 - 38,655              | 20                                |                | 26           |                  | 26           |                  | 0                 |        |
| GS-3, \$26,487 - 34,431              | 5                                 |                | 15           |                  | 15           |                  | 0                 |        |
| GS-2, \$24,277 - 30,547              | 7                                 |                | 25           |                  | 25           |                  | 0                 |        |
| GS-1, \$21,592 - 27,013              | 2                                 |                | 7            |                  | 7            |                  | 0                 |        |
| Ungraded                             | 93                                |                | 57           |                  | 57           |                  | 0                 |        |
| <b>Total, appropriated positions</b> | <b>1,401</b>                      |                | <b>1,401</b> |                  | <b>1,573</b> |                  | <b>172</b>        |        |
| <b>Average SES Salary</b>            |                                   | <b>173,711</b> |              | <b>\$179,096</b> |              | <b>\$183,036</b> |                   |        |
| <b>Average GS Salary</b>             |                                   | <b>78,388</b>  |              | <b>\$80,818</b>  |              | <b>\$82,596</b>  |                   |        |
| <b>Average GS Grade</b>              |                                   | <b>12</b>      |              | <b>12</b>        |              | <b>12</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   | 2008 Actuals |                  | 2009 Enacted |                  | 2010 Request |                  | Increase/Decrease |                 |
|--|--------------|------------------|--------------|------------------|--------------|------------------|-------------------|-----------------|
|  | FTE          | Amount           | FTE          | Amount           | FTE          | Amount           | FTE               | Amount          |
| 11.1 Direct FTE & personnel compensation   | 1,169        | 109,819          | 1,424        | 120,280          | 1,510        | 130,317          | 86                | 10,037          |
| 11.3 Other than full-time permanent  | 112          | 6,880            | 0            | 6,952            | 0            | 6,952            | 0                 | 0               |
| 11.5 Total, Other personnel compensation   | 0            | 653              | 0            | 678              | 0            | 679              | 0                 | 1               |
| <i>Overtime</i>  |              | 86               |              | 72               |              | 72               | 0                 | 0               |
| <i>Other Compensation</i>  |              | 567              |              | 563              |              | 563              | 0                 | 0               |
| 11.8 Special personal services payments  |              | 0                |              | 0                |              | 0                | 0                 | 0               |
| Total  | 1,281        | 117,352          | 1,424        | 127,910          | 1,510        | 137,948          | 86                | 10,038          |
| Other Object Classes:  |              |                  |              |                  |              |                  |                   |                 |
| 12.0 Personnel benefits  |              | 31,159           |              | 31,030           |              | 33,245           |                   | 2,215           |
| 13.0 Unemployment Compensation   |              | 0                |              | 2                |              | 2                |                   | 0               |
| 21.0 Travel and transportation of persons  |              | 2,377            |              | 2,467            |              | 2,726            |                   | 259             |
| 22.0 Transportation of things  |              | 1,528            |              | 1,477            |              | 1,549            |                   | 72              |
| 23.1 GSA rent  |              | 26,573           |              | 27,579           |              | 29,441           |                   | 1,862           |
| 23.2 Moving/Lease Expirations/Contract Parking   |              | 15               |              | 17               |              | 18               |                   | 1               |
| 23.3 Comm., util., & other misc. charges   |              | 4,697            |              | 4,597            |              | 4,974            |                   | 377             |
| 24.0 Printing and reproduction   |              | 178              |              | 184              |              | 200              |                   | 16              |
| 25.1 Advisory and assistance services  |              | 5,831            |              | 13,968           |              | 16,759           |                   | 2,791           |
| 25.2 Other services  |              | 26,091           |              | 32,011           |              | 35,219           |                   | 3,208           |
| 25.3 Purchases of goods & services from Government accounts (Antennas, DHS Sec. Etc..) |              | 4,679            |              | 4,904            |              | 5,821            |                   | 917             |
| 25.4 Operation and maintenance of facilities   |              | 1,406            |              | 1,448            |              | 1,448            |                   | 0               |
| 25.6 Medical Care  |              | 154              |              | 159              |              | 168              |                   | 9               |
| 25.7 Operation and maintenance of equipment  |              | 13,936           |              | 18,998           |              | 19,640           |                   | 642             |
| 26.0 Supplies and materials  |              | 2,363            |              | 2,449            |              | 2,628            |                   | 179             |
| 31.0 Equipment   |              | 1,562            |              | 593              |              | 7,845            |                   | 7,252           |
| 32.0 Buildout  |              | 0                |              | 187              |              | 1,034            |                   | 847             |
| 42.0 Litigation  |              | 1                |              | 20               |              | 20               |                   | 0               |
| <b>Total obligations</b>   |              | <b>\$239,902</b> |              | <b>\$270,000</b> |              | <b>\$300,685</b> |                   | <b>\$30,685</b> |
| Unobligated balance, start of year   |              | 0                |              | 747              |              | 0                |                   |                 |
| Unobligated balance, end of year   |              | 747              |              | (747)            |              | 0                |                   |                 |
| Recoveries of prior year obligations   |              |                  |              |                  |              |                  |                   |                 |
| <b>Total DIRECT requirements</b>   |              | <b>240,649</b>   |              | <b>270,000</b>   |              | <b>300,685</b>   |                   |                 |
| Reimbursable FTE:  |              |                  |              |                  |              |                  |                   |                 |
| Full-time permanent  |              |                  |              |                  |              |                  | 0                 | 0               |
| 23.1 GSA rent (Reimbursable)   |              |                  |              |                  |              |                  |                   | 0               |
| 25.3 DHS Security (Reimbursable)   |              |                  |              |                  |              |                  |                   | 0               |