

FY 2016
Congressional Budget
Submission

Administrative
Review and Appeals

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I. Overview of the Executive Office for Immigration Review

A. Introduction

Budget Summary: The Executive Office for Immigration Review (EOIR) requests a total of \$481,873,000 in direct budget authority, including 2,138 permanent positions and 1,739 full time equivalents (FTE). The request is offset by \$4,000,000 to be transferred to EOIR from the Department of Homeland Security's (DHS) Immigration Examination Fee Account.

The request includes program increases totaling \$124,262,000 and 345 positions (55 Immigration Judges, 43 Attorneys, and 247 Immigration Court Support Staff) and 173 FTE to address the large volume of pending cases, provide sufficient support to the Immigration Judge Corps and the Board of Immigration Appeals (BIA), improve information and data sharing with DHS, and continue to improve efficiencies in immigration court proceedings.

EOIR continues to strategically assess current caseload volumes, trends, and geographic concentration of cases and adjusts resource allocations accordingly to ensure that mission requirements are met at the lowest possible cost to the U.S. taxpayer. In addition, EOIR continues discussions with DHS to gauge the impact of enforcement activities on the immigration courts and BIA to adjust dockets and resource allocations accordingly. These discussions combined with the proposed program increases will allow EOIR to effectively manage its caseload. The FY 2016 budget request is a result of these assessments and provides the appropriate resources to continue the execution of EOIR's mission into the future.

EOIR's Mission and Strategic Objective: Under the delegated authority from the Attorney General, EOIR conducts immigration court proceedings, appellate reviews, and administrative hearings on behalf of the Department of Justice. 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.

Organization of EOIR: EOIR operates Immigration Courts in 58 locations throughout the country. EOIR employees assigned to Immigration Courts perform the majority of the immigration proceedings conducted by the EOIR. Immigration judges report to the Chief Immigration Judge.

EOIR Headquarters, located in Falls Church, VA, provides centralized operational, policy, and administrative support to EOIR immigration proceedings and programs conducted throughout the U.S. Under the direction of the EOIR Director and Deputy Director, this support is provided by:

- The Board of Immigration Appeals (BIA), which hears appeals of immigration judge decisions and certain decisions of officers of the Department of Homeland Security (DHS). The BIA decisions are binding on immigration judges and all DHS officers unless modified or overruled by the Attorney General or a federal court. Through precedent decisions, the BIA provides guidance to immigration judges, DHS, and the general public on the proper interpretation and administration of the immigration laws and regulations.

- The Office of the Chief Immigration Judge (OCIJ), which oversees the administration of 58 immigration courts located throughout the United States and exercises administrative supervision over EOIR employees assigned to those courts. The OCIJ develops policies and procedures for immigration proceedings throughout the immigration court system. In addition, the Chief Immigration Judge carries out these responsibilities with the assistance of Deputy and Assistant Chief Immigration Judges, a Chief Clerk's Office, a Language Services Unit, and other functions that coordinate management and operation of the immigration courts.
- The Office of the Chief Administrative Hearing Officer (OCAHO), which adjudicates cases involving illegal hiring and employment eligibility verification violations ("employer sanctions"), document fraud and employment discrimination under the Immigration and Nationality Act. The OCAHO is headed by a Chief Administrative Hearing Officer (CAHO) who provides overall program direction, articulates policies and procedures, establishes priorities, and administers the hearing process presided over by Administrative Law Judges (ALJs). The CAHO also reviews decisions and orders issued by OCAHO ALJs in employer sanctions and document fraud cases, and may modify, vacate or remand those decisions and orders.

A number of other Headquarters offices also provide EOIR-wide mission support:

- The Office of the Director includes the Office of Legal Access Programs (OLAP), which oversees various programs and initiatives aimed at increasing access to legal services and information for indigent and low income individuals and improving the effectiveness of the agency's adjudication processes. These programs include the Legal Orientation Program (LOP), Legal Orientation Program for Custodians of Unaccompanied Children (LOPC), and the National Qualified Representative Program (NQRP).
 - The LOP is designed to assist detained individuals in making better informed decisions earlier in their immigration court proceedings, thereby improving access to basic legal services, especially for indigent and low income individuals while increasing the efficiency of the court hearing and detention processes. Currently, the LOP operates at 31 sites, serving roughly 50,000 individuals per year. Non-governmental organizations carry out the LOP under contract with EOIR. These organizations work closely with local Immigration and Customs Enforcement (ICE) and EOIR personnel to provide group and individual orientations, self-help workshops, and pro bono referral services to detained individuals. EOIR has found the LOP to significantly reduce the average duration of individuals' detained removal proceedings before the immigration court as well as decrease their overall length of time spent in DHS detention.
 - The LOPC objectives are to improve the appearance rates of non-detained children at their immigration court hearings, and increase access to legal and other services in order to protect children from mistreatment, exploitation and trafficking. The LOPC currently operates in 14 cities, and served over 12,000 custodians in FY 2014 for children who were released from the Department of Health and Human Services' Office of Refugee Resettlement (ORR) custody and scheduled for immigration court hearings. The LOPC also operates the national LOPC call center to provide LOPC scheduling assistance as well as basic legal information to custodians of children who cannot attend a live LOPC. 8 U.S.C. 1232(b)(4).

- The National Qualified Representative Program (NQRP) was created to carry out part of the Department's new nationwide policy to provide enhanced safeguards and procedural protections to unrepresented immigration detainees with indicia of mental incompetence. The NQRP provides Qualified Representatives (e.g. attorneys or accredited representatives) to represent detained individuals found incompetent to represent themselves. As with the LOP and LOPC, EOIR contracts with non-governmental organizations to administer these services. The NQRP is currently operating in immigration courts located in Washington, California and Arizona, and is in the process of being implemented nationwide.
- The Office of the General Counsel (OGC) provides legal advice on a wide variety of matters involving EOIR and its employees in the performance of their official duties. OGC staff handle employee labor relations issues for the agency, review and prosecute complaints involving attorney misconduct, coordinate and respond to requests for assistance involving immigration fraud, coordinate the development of agency regulations and forms, provide litigation support to U.S. Attorneys, the Office of Immigration Litigation, and the Solicitor General's Office, coordinate inter-agency activities and respond to all Freedom of Information and Privacy Act requests.
- The Administration Division provides administrative and financial management support in the areas of appropriations, budget, contracts, financial management, human resources, procurement, and property management for all EOIR employees.
- The Office of Planning, Analysis, and Technology conducts EOIR's strategic and long-range planning, as well as maintains a focus on the outcome of such planning through monitoring the agency's annual performance plans. OPAT is responsible for the production of statistical reports, program analysis, and reporting on the mission-critical goals and objectives established by EOIR's senior management. In addition, OPAT oversees the design, development, operations, and maintenance of the complete range of information technology systems supporting EOIR's day-to-day operations.
- The Office of Management Programs manages several special emphasis and compliance programs, including Security, Legislative and Public Affairs, and Space and Facilities Management. OMP also oversees the planning and development of new activities in response to management proposals from the Director of EOIR, the Department of Justice, the White House, and other government authorities.

B. Adjudication of Immigration Cases

Immigration Court Proceedings Overview: The Department of Homeland Security (DHS) initiates virtually all cases before the Immigration Courts by charging an individual with potential grounds of removability and issuing a Notice to Appear (NTA) in Immigration Court. Section 240a of the Immigration and Nationality Act (INA) (8 U.S.C. 1229a).

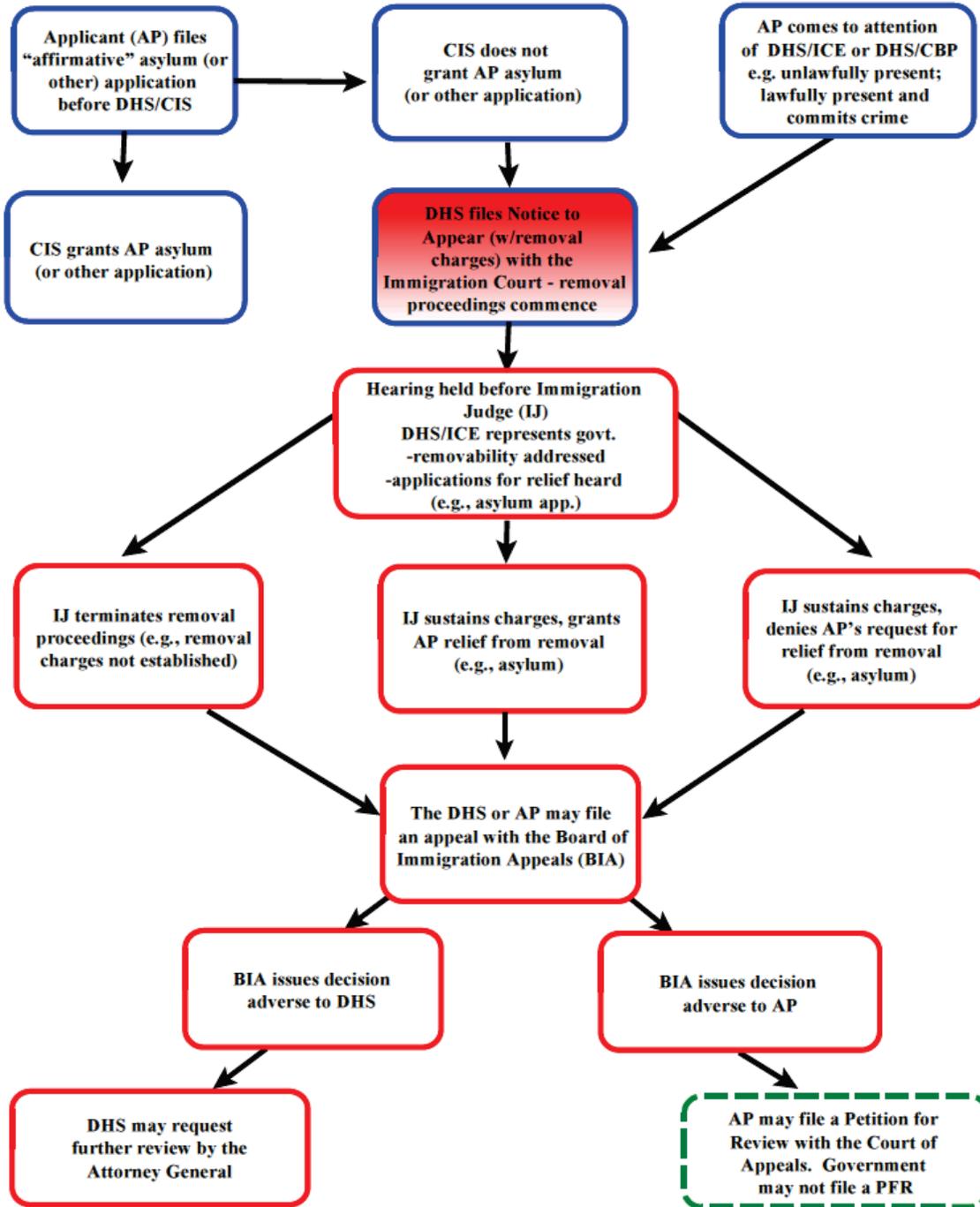
Immigration judges are responsible for conducting formal immigration court proceedings and act independently in deciding the matters before them. In removal proceedings, immigration judges determine whether an individual from a foreign country (an alien) should be allowed to enter or remain in the United States or should be removed. Immigration judges also have jurisdiction to consider various forms of relief from removal. If the immigration judge finds the individual to be removable, as charged, the individual can then request several different forms of relief from

removal such as asylum and withholding of removal (including protection under the Convention Against Torture), cancellation of removal, voluntary departure, or other forms of relief from removal. Immigration judge decisions are administratively final unless appealed or certified to the Board of Immigration Appeals (BIA).

Some removal proceedings are conducted in prisons and jails as part of the Institutional Hearing Program. In coordination with DHS and correctional authorities in all 50 states, Puerto Rico, the Commonwealth of the Northern Mariana Islands, the District of Columbia, selected municipalities, and Federal Bureau of Prisons facilities, immigration judges conduct hearings to adjudicate the immigration status of alien inmates while they are serving sentences for criminal convictions.

The following flowchart details examples of paths to and through removal proceedings.

EXAMPLES OF PATHS TO AND THROUGH REMOVAL PROCEEDINGS

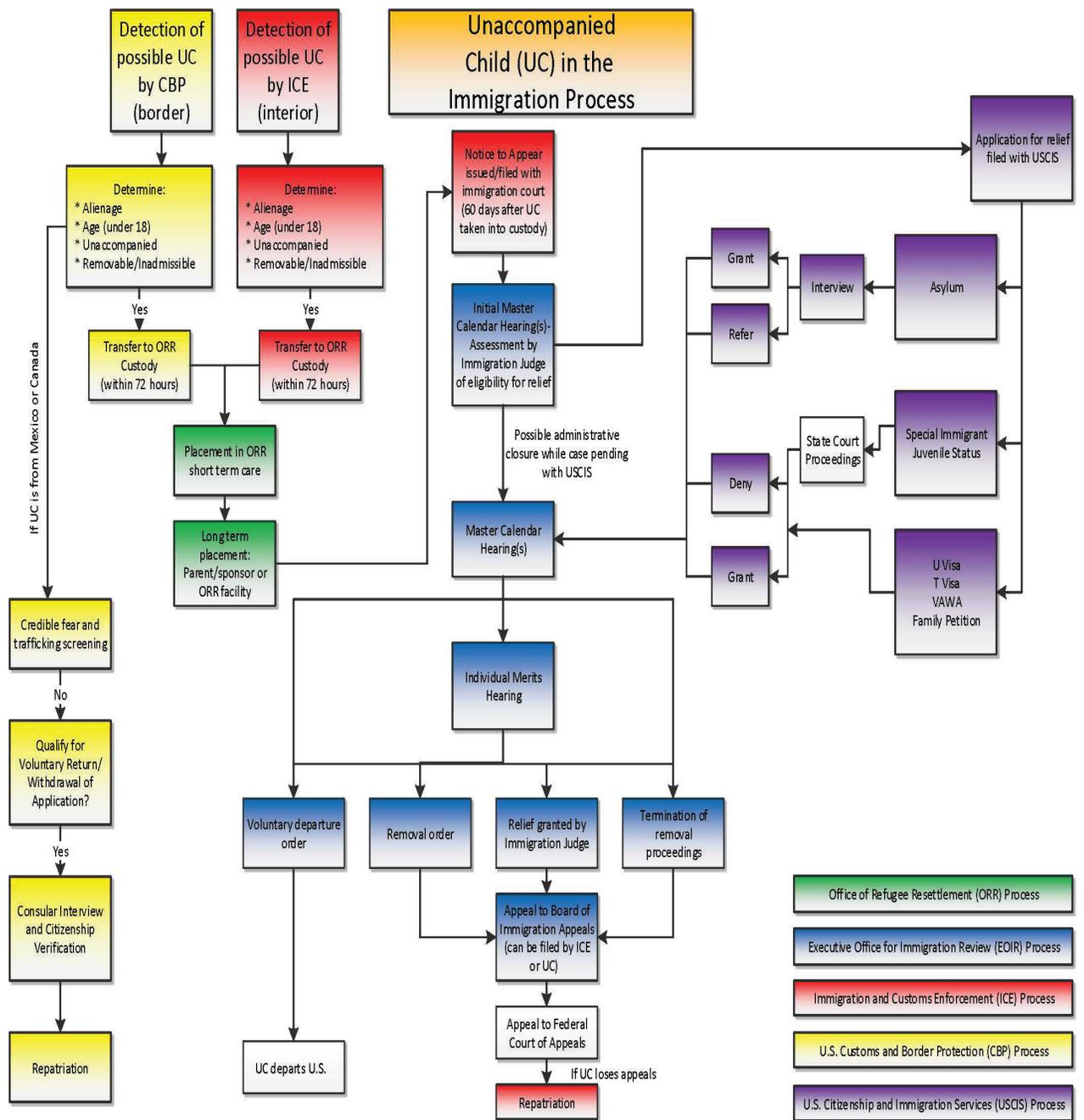


- Asylum and Credible Fear:*** Under section 208(a) of the Immigration and Nationality Act, the Attorney General may, in his discretion, grant asylum to an alien who qualifies as a “refugee.” Generally, this requires that the asylum applicant demonstrate an inability to return to his or her home country because of past persecution or a well-founded fear of

future persecution based upon his or her race, religion, nationality, membership in a particular social group, or political opinion. However, an alien may be ineligible for asylum under certain circumstances, including having failed to file an asylum application within an alien's first year of arrival in the United States, being convicted of an aggravated felony, or having been found to be a danger to national security. An immigration judge hears an applicant's claim and also hears any concerns about the validity of the claim that are raised by the DHS, Immigration and Customs Enforcement attorney, who represents the U.S. government in immigration court. The immigration judge adjudicates each case individually, on the evidence provided and in accordance with immigration law, to determine whether the applicant is eligible for asylum and merits a grant of asylum. If an applicant is ineligible for asylum, an immigration judge determines whether the applicant is eligible for any other form of relief or protection from removal. If an applicant is ineligible for any relief or protection from removal, an immigration judge will deny the application and order the applicant removed from the United States. If the alien or DHS disagrees with the immigration judge's decision, either party or both parties may appeal the decision to EOIR's appellate component, the Board of Immigration Appeals (BIA). If the alien disagrees with the BIA's ruling, the alien may file a petition for review (an appeal) with a federal circuit court of appeal.

Immigration law mandates that aliens who arrive at a U.S. port of entry without travel documents or who present fraudulent documents must be detained and placed in expedited removal proceedings. The expedited removal process allows DHS immigration inspectors to remove certain aliens from the United States without placing them in removal proceedings. During the expedited removal process: 1) Aliens who express a fear of persecution or torture receive a "credible fear" interview with a USCIS asylum officer or 2) Aliens previously removed from the United States who express a fear of persecution or torture receive a "reasonable fear" interview with a USCIS asylum officer. USCIS asylum officers refer aliens who are found to have a credible fear to EOIR for removal proceedings. During their removal proceedings, they may apply for asylum under 208 of the INA, withholding of removal relief under 241(b)(3) of the INA, or Convention Against Torture (CAT) protections. When the USCIS asylum officer finds that an alien does not have a credible fear or reasonable fear of persecution or torture, the alien may request that an EOIR immigration judge review that finding. The immigration judge's credible fear review must be done within 24 hours if possible, but no later than 7 days following the USCIS asylum officer's negative determination. The immigration judge's reasonable fear review must be done within 10 days after the USCIS asylum officer refers the negative decision to the immigration court. If the immigration judge upholds the USCIS asylum officer's decision, the expedited removal order is upheld and the alien is removed. If the immigration judge overturns the USCIS asylum officer's decision, the alien is placed in removal proceedings, or if the case emanated from a reasonable fear determination, the alien is placed in withholding-only proceedings. Individuals placed in withholding-only proceeding may apply for withholding of removal under 241(b)(3) of the INA, or Convention Against Torture protections. Sections 208, 235, 240, and 241 of the INA (8 U.S.C. 1158, 1225, 1229a, and 1231(b)(3)) and 8 CFR §§ 1208 et seq., 1235.6, and 1240 et seq.

- ***Unaccompanied Children (UC):*** Unaccompanied children (UC) are placed in immigration proceedings when DHS files an NTA with the immigration court, generally after the child is placed with an appropriate sponsor (custodian) or in the long-term care of the Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR). This allows the child's case to begin in the immigration court location where the child will be residing and to avoid delays due to changes in venue. Cases involving unaccompanied children are placed on the court's juvenile docket. All immigration courts have arranged for specialized juvenile dockets, which consolidates these cases for master calendar hearings. Thirty-nine immigration courts are actively hearing such cases on these dockets. Unaccompanied children cases involving recent border crossers are currently scheduled for a first master calendar hearing within 21 days of the immigration court's receipt of the Notice to Appear. Dockets involving such cases are also being adjusted so that judges can give appropriate continuances, irrespective of whether docket time is available on a given date. The cases generally proceed under the laws that apply to adults, but judges employ their training to take into consideration the special vulnerabilities and needs of children. EOIR provides specialized training to immigration judges who are expected to hear cases involving juveniles. In addition, the Office of the Chief Immigration Judge has issued an Operating Policies and Procedures Memorandum that deals exclusively with the handling of cases involving unaccompanied children. Pursuant to section 208(b)(3)(C) of the INA, the immigration proceedings of unaccompanied children who seek asylum protection in the United States are administratively closed and the case is transferred to the U.S. Citizenship and Immigration Services Asylum Program for adjudication in the first instance. Homeland Security Act of 2002, sections 208 and 240 of the INA (8 U.S.C. 1158 and 1229a, and 8 U.S.C.S. 1232 et seq.). The following flowchart details an unaccompanied child's potential path in the immigration process.



Appellate Review: In most appeals to the Board, the process begins with the filing of a notice of appeal challenging an immigration judge's decision. The appeal is filed either by the alien and/or the Government (which is represented by DHS, Immigration and Customs Enforcement). When an appeal is filed by either party, the Board acknowledges receipt of the appeal, transcribes the proceedings below (where appropriate), and sets a briefing schedule to allow both parties to present their arguments. Once briefing concludes, the appeal is adjudicated by a panel of one, three, or all Board Members.

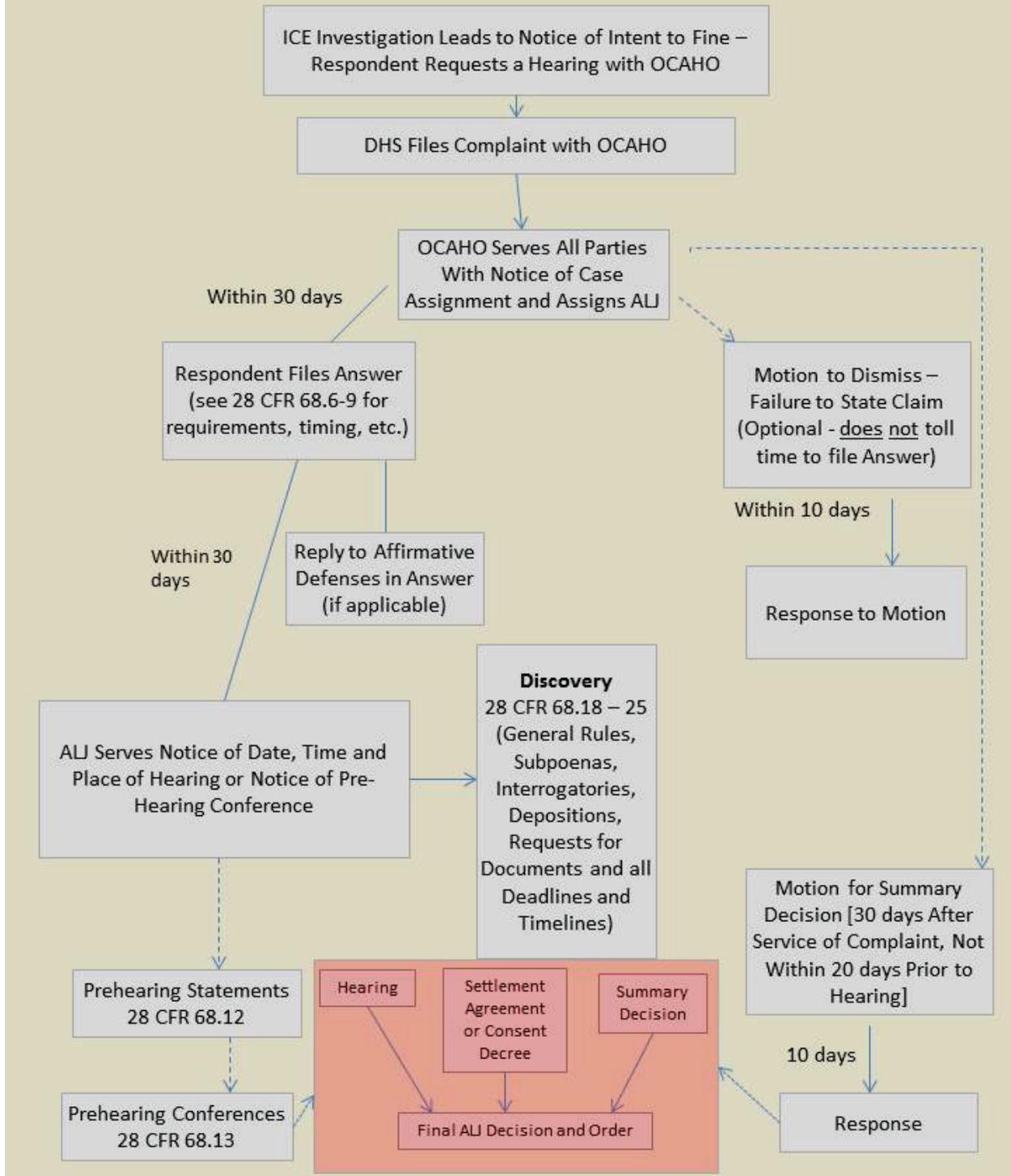
If the decision is not published, the decision is binding only on the parties. If the Board elects to publish the decision, it becomes legal precedent and is binding nationwide.

The Board's decision will stand unless and until modified or overruled by the Attorney General, a federal court, or the Board itself upon favorable re-review pursuant to a motion.

Administrative Hearings: OCAHO cases begin with the filing of a complaint, either by the DHS, Immigration and Customs Enforcement, in employer sanctions and document fraud cases under INA §§ 274A and 274C, respectively, or by private individuals or entities and/or the DOJ, Office of Special Counsel for Immigration Related Unfair Employment Practices, Civil Rights Division, in immigration-related employment discrimination cases under INA § 274B. After the complaint is filed, the respondent is given an opportunity to file an answer. Following the answer, the parties typically file prehearing statements, undertake discovery, and participate in one or more telephonic prehearing conferences with the ALJ. Parties may also engage in settlement negotiations and file dispositive motions with the ALJ. Cases that are not resolved or dismissed proceed to a formal evidentiary hearing, typically held near where the parties reside or the alleged violation(s) occurred. Final decisions and orders issued by the ALJ in employer sanctions and document fraud cases are reviewable by the Chief Administrative Hearing Officer (CAHO) and/or the Attorney General. Once a final agency decision has been issued, a party may file an appeal with the appropriate federal circuit court of appeals. Final ALJ decisions in immigration-related employment discrimination cases are not reviewable by the CAHO or the Attorney General; rather, these decisions may be appealed directly to the appropriate federal circuit court of appeals. The following flowcharts detail the OCAHO adjudicative process:

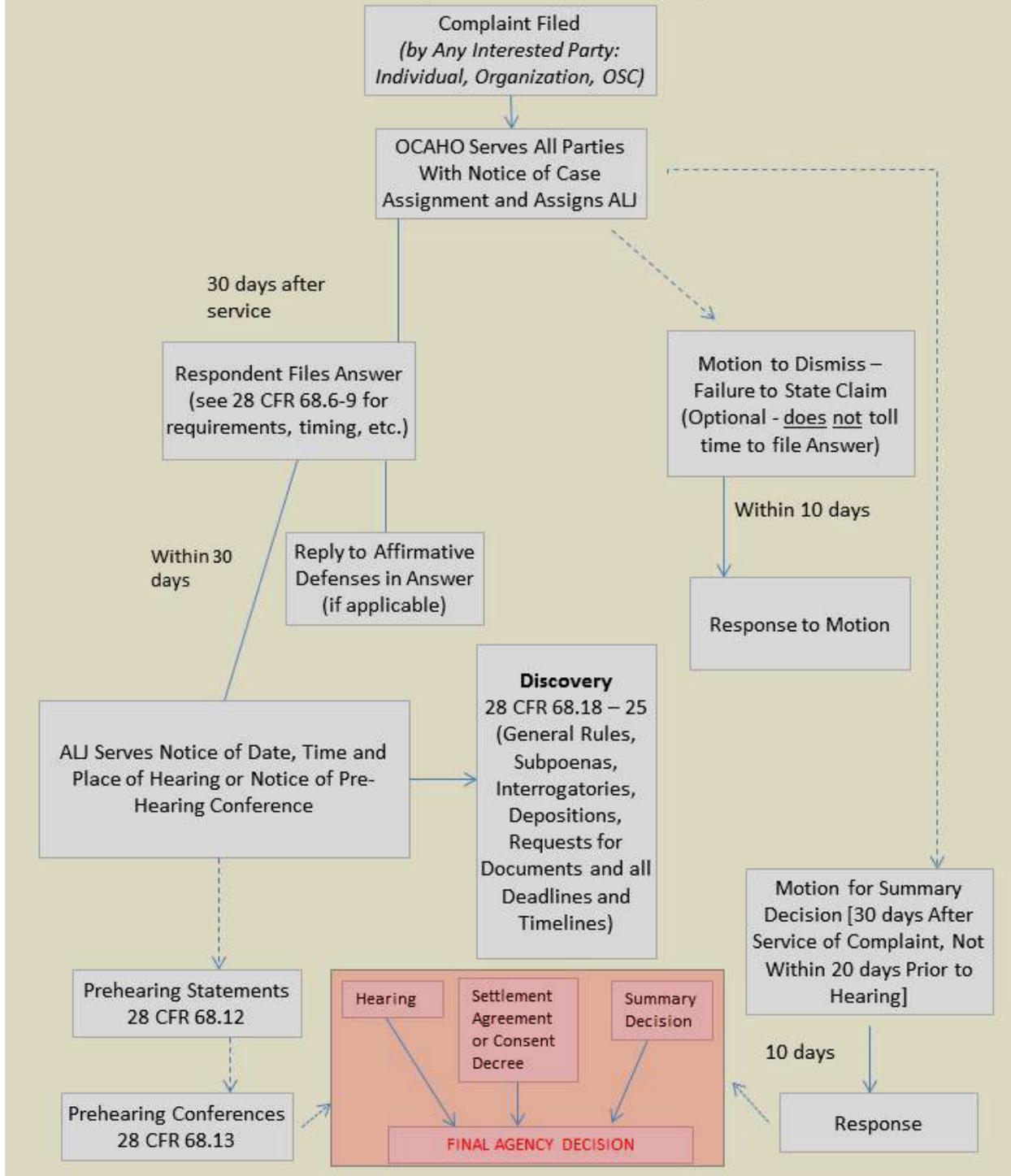
OCAHO

Pre-Hearing Procedures: 28 CFR Part 68 - Cases Involving Claims Under INA 274A – Unlawful Employment of Aliens INA 274C – Document Fraud



OCAHO

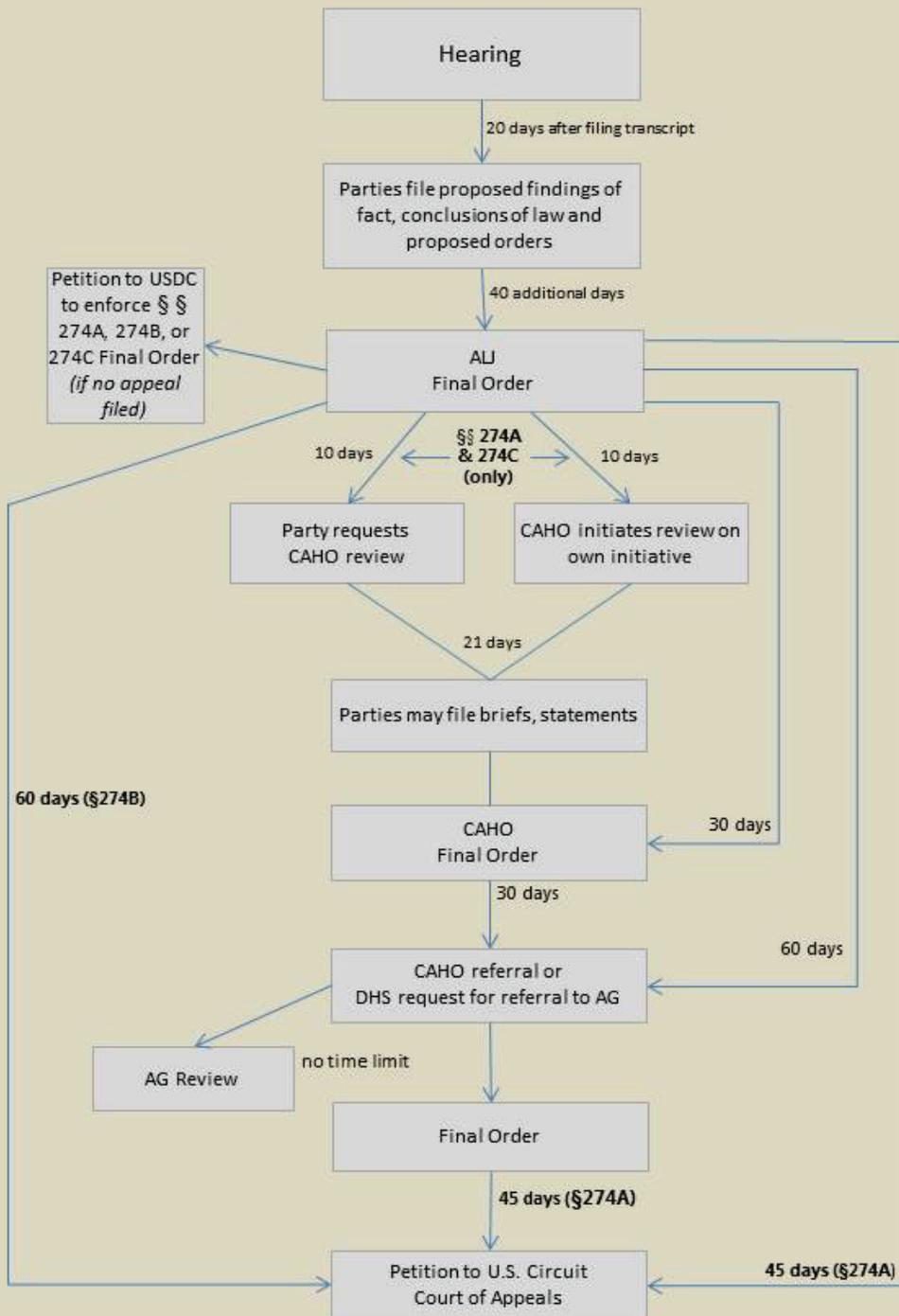
Pre-Hearing Procedures: 28 CFR Part 68 - Cases Involving Claims Under INA 274B – Unfair Immigration-Related Employment Practices



OCAHO

Hearing and Review Procedures

28 CFR Part 68



C. EOIR's 2016 Budget Strategy

EOIR's immigration courts represent the Department's front-line presence with respect to the interpretation and application of immigration law. Cases are received on-site, across the Nation, directly from DHS personnel. EOIR receives virtually all of its workload in the form of cases brought by DHS seeking the removal of undocumented aliens from the United States. It remains critically important to balance EOIR's adjudicative resources with DHS's enforcement efforts.

EOIR's strategy is three-fold. First, in accordance with the President's directives, immigration court resources are prioritizing individuals who are threats to national security and public safety, or who are apprehended at or near the border. In addition, EOIR has refocused resources prioritizing cases involving migrants who have recently crossed the southwest border and whom DHS has placed into removal proceedings -- so that these cases are processed both quickly and fairly to enable prompt removal in appropriate cases, while ensuring the protection of asylum seekers and others. EOIR's top priority is the adjudication of cases that fall into the following four groups: unaccompanied children; families in detention; families released on "alternatives to detention;" and all other detained cases. This refocusing of resources allows EOIR to prioritize the adjudication of the cases of those individuals involved in the summer border crisis.

EOIR is coordinating with DHS regarding the prioritization of the pending caseload before the immigration courts and the BIA. To help preserve limited immigration court resources, EOIR will work with DHS to prioritize the immigration docket in accordance with DHS' application of its prosecutorial authority. In addition, many of those cases are currently off calendar, will need to be rescheduled, and the courts have begun that effort. EOIR is currently evaluating options for addressing these cases involving individuals who are not threats to national security and public safety.

Second, EOIR will continue discussions with the DHS to gauge the impact of enforcement activities upon the immigration courts and to adjust dockets and resource allocations accordingly. EOIR anticipates that these discussions combined with an increase in resources will allow EOIR to more effectively manage its caseload.

Finally, EOIR will continue aggressively hiring immigration judges and critical positions that provide support to the immigration courts.

To implement EOIR's strategy, the request includes program increases totaling \$124,262,000 and 345 positions (55 Immigration Judges, 43 Attorneys, and 247 Immigration Court Support Staff) and 173 FTE to address the large volume of pending cases, provide sufficient support to the immigration judge corps, improve information and data sharing with DHS, and continue to improve efficiencies in immigration court proceedings.

D. Performance Challenges

Internal Challenges:

As a result of sequestration, EOIR halted all hiring including backfills of critical immigration judge teams. The immigration judge corps was reduced from a high point of 272 by mid-December 2010 to 237 as of January 2015. The rate of attrition continues to outpace our ability to backfill all positions including immigration judge positions. All of this occurred while DHS

immigration enforcement funding increased, putting more of a strain on our immigration courts across the country.

In order to appropriately manage both our incoming and pending caseload, EOIR needs a sustained commitment from Congress to support budget requests for EOIR resources including hiring immigration judges and court support staff. It is challenging to predict in one year what next year's caseload may bring, so we need a consistent source of funding that allows EOIR to remain flexible in its hiring processes, permitting us to ramp up staffing when needed, and consistently account for natural attrition of the immigration judge corps and other staff.

EOIR is currently engaged in an aggressive hiring initiative to fill over 65 immigration judge positions. However, the immigration judge hiring process is complex and multifaceted. In addition to our need to ensure that candidates are well qualified in terms of their familiarity with immigration law and possess necessary character traits to make them a good fit, we also must vet them through a careful and thorough process, which includes two Deputy Attorney General panels prior to the Attorney General appointment. This process usually takes 10 months and is essential to adding the right people to the immigration judge corps.

External Challenges: EOIR receives virtually all of its workload in the form of cases brought by DHS seeking the removal of undocumented alien from the United States. It remains critically important to balance EOIR's adjudicative resources with DHS's enforcement efforts. For example, last summer a high volume of families and unaccompanied children were identified either at or near the Southwest Border. In response to this surge of aliens, DHS enforcement efforts spiked. As such, in accordance with the President's directives, immigration court resources are prioritizing individuals who are threats to national security and public safety, or who are apprehended at or near the border.

The number of cases pending adjudication rose from 262,681 at the end of FY 2010 to 418,861 at the end of FY 2014, an increase of more than 156,000 cases. This represents a nearly 60% increase in cases pending adjudication in five years. In addition, the surge of border crossing cases, in the summer of 2014, greatly impacted EOIR's pending caseload.

The caseload remains the key challenge for EOIR as courts continue to receive hundreds of thousands of cases for adjudication each year. Additionally, BIA's sustained level of approximately 30,000 appeals per year is an extremely large volume for any appellate body.

Overview for the Office of the Pardon Attorney

For FY 2016, the Office of the Pardon Attorney (OPA) requests a total of \$6,508,000, 33 FTE, and 46 positions, of which 27 are attorneys, to help achieve its mission of advising and assisting the President in the exercise of the pardon power conferred on him by Article II, Section 2 of the Constitution. This request includes a program increase of \$2,012,000, 12 FTE, and 24 positions, of which 16 are attorneys, to help support and accomplish the goals of the Clemency Initiative announced by the Deputy Attorney General in April 2014. The Initiative focuses consideration on commutation applications from low-level, non-violent offenders who have served at least 10 years in prison, have demonstrated good conduct in prison, have no history of violence and no significant criminal history or ties to gangs or large-scale criminal organizations, and if convicted today of the same offenses, would likely receive substantially lower sentences than those they are serving.

Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.justice.gov/02organizations/bpp.htm>

1. Introduction

For over 100 years, the President has requested and received the assistance of the Attorney General and his designees in the Department of Justice in exercising his clemency power with regard to persons who have committed offenses against the United States. Within the Department, OPA is the component assigned to carry out this function under the direction of the Deputy Attorney General. The long-standing role of Department officials advising the President on clemency matters is reflected in various public record documents dating to the late 19th century. Moreover, since at least 1898, Presidents have adopted advisory rules to describe their programs for processing clemency applications and their directions to the Attorney General in carrying out the Department's clemency advisory functions. The rules, which govern OPA's work but do not bind the President, are approved by the President and published by the Attorney General. The current version of the administrative rules was promulgated in October 1993 and amended in August and September 2000. They are published in 28 C.F.R. §§ 1.1 to 1.11 and are also available on OPA's web site at <http://www.justice.gov/pardon/clemency.htm>.

The two principal forms of clemency sought by applicants are pardon after completion of sentence and commutation (reduction) of a sentence being served. The traditional standards by which clemency applications are evaluated in connection with the preparation of the Department's letters of advice to the President have been utilized for decades and are publicly available on OPA's web site at <http://www.justice.gov/pardon/petitions.htm>. The criteria for commutation consideration under the Clemency Initiative is also available on the Office's web site at <http://www.justice.gov/pardon/new-clemency-initiative.html>.

2. Challenges

OPA's workload has increased significantly since FY 2007, which was the last fiscal year when its total of new cases received numbered fewer than approximately 2,000. Thereafter, in the seven fiscal years between FY 2008 and FY 2014, OPA received a total of more than 20,400 new petitions for processing, of which 17,690 were petitions for commutation of sentence. The

case filings in FY 2014, consisting of 273 pardon applications and 6,561 commutation applications, constituted a historic total of 6,834 new filings in a fiscal year. Throughout this period, OPA's authorized staffing level was 15 positions and 14 FTE - a level that was established for the office in the mid-1990's, when OPA received approximately 600 new cases per fiscal year. The FY 2015 appropriation included an increase of \$800,000 and 7 additional positions, 4 of them being attorneys, for OPA to address the significant backlog in case processing that developed as a result of its greatly increased workload over successive years.

The announcement of the Department's Clemency Initiative in FY 2014 has resulted in an exponential increase in new case filings for OPA. As of the end of January 2014, when the Deputy Attorney General first outlined plans for the Initiative in a speech to the New York Bar Association, OPA had received 676 clemency applications for the fiscal year, including 608 commutation petitions. By the end of July 2014, that number had multiplied nearly 10 times to 6,105 clemency petitions, of which 5,916 were commutation requests. Given that trend, OPA expected that its new filings would meet or exceed 7,000 petitions by the end of the fiscal year, driven principally by the submission of requests for commutation of sentence. At the end of FY 2014, OPA's estimation was only short by 166 petitions. Moreover, based on the fact that over 30,000 federal inmates have requested the assistance of *pro bono* counsel in order to file commutation petitions for consideration under the Initiative, there can be no doubt that OPA will receive many thousands of additional clemency petitions for processing in FY 2015 and FY 2016. The office is obliged to process all applications it receives, regardless of whether they are from persons who are eligible to seek executive clemency from the President, and thus has no control over the size of its caseload. The impact of this massive influx of new cases will be felt by the office for many years to come and the additional staff and resources requested for FY 2016 are essential to enable OPA to continue to address the significantly increased workload.

II. Summary of Program Changes – Executive Office for Immigration Review

Item Name	Description				Page
	Executive Office for Immigration Review	Pos.	FTE	Dollars (\$000)	
Immigration Court Support	An additional 15 attorneys to support the Immigration Judge Corps.	15	8	1,262	32
Legal Representation of Children	Improve the level and quality of legal representation for vulnerable populations	0	0	50,000	34
IT Modernization	Additional funding to develop an information sharing system and refresh VTC/DAR equipment	0	0	3,000	36
Immigration Judge Teams	This will allow EOIR to reduce the case backlog	330	165	60,000	38
Legal Orientation Program (LOP) Expansion	Expansion of 40 additional LOP sites to meet increased program demand.	0	0	10,000	40
Total, EOIR		345	173	\$124,262	

Summary of Program Changes – Office of the Pardon Attorney

Item Name	Description				Page
	Office of the Pardon Attorney	Pos.	FTE	Dollars (\$000)	
Clemency Initiative	To fund the hiring of additional staff to support the goals of the Clemency Initiative and to advise and assist the President in the exercise of the executive clemency power	24	12	2,012	43
Total, OPA		24	12	\$2,012	

III. Appropriations Language and Analysis of Appropriations Language

Appropriations Language

New language proposed for FY 2016 is *italicized*.

Administrative Review and Appeals (Including Transfer of Funds)

For expenses necessary for the administration of pardon and clemency petitions and immigration-related activities, [\$347,154,000], *\$488,381,000*, of which \$4,000,000 shall be derived by transfer from the Executive Office for Immigration Review fees deposited in the “Immigration Examinations Fee” account. *Provided, That, of the amount available for the Executive Office for Immigration Review:*

- (1) not to exceed \$15,000,000 shall remain available until expended; and*
- (2) \$50,000,000 shall be available to implement and evaluate programs to improve the level and quality of legal representation for vulnerable populations, including through the provision of counsel, and shall remain available until September 30, 2017.*

Justification:

1) Language is needed to provide EOIR with the flexibility to carry forward up to \$15 million of the funds appropriated in FY 2016 in a no-year account. This carry-over authority is consistent with other DOJ appropriations and provides operational flexibility for hiring, IT purchases, and other operational needs.

2) Two-year funding of \$50 million is requested for the legal representation of vulnerable populations, such as unaccompanied children. Two-year funding would enable a phased-in implementation to address the current strain on the capacity of experienced individuals and organizations providing legal services to vulnerable populations.

IV. Program Activity Justification

A. Executive Office for Immigration Review (EOIR)

<i>Executive Office for Immigration Review</i>	Perm. Pos.	FTE	Amount (\$\$\$)
2014 Enacted	1,582	1,313	312,200
2015 Enacted	1,793	1,460	347,154
Adjustments to Base and Technical Adjustments	0	106	10,457
2016 Current Services	1,793	1,566	357,611
2016 Program Increases	345	173	124,262
2016 Request	2,138	1,739	481,873
Total Change 2015-2016	345	279	134,719

1. Program Description

EOIR is comprised of three components responsible for the adjudication of immigration cases.

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, principally involve 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 also issues decisions relating to the EOIR Attorney Discipline Program.

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 constant Federal court activity and frequent major legislative action in the immigration field.

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 58 courts throughout the United States. Generally, immigration judges determine removability and adjudicate applications for relief from removal such as cancellation of removal, adjustment of status, asylum or waivers of removability. Custody redetermination hearings are held when an

alien in DHS custody seeks a reduction in the bond amount set by DHS, or a release on his or her own recognizance.

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 designed to expedite the removal of criminal aliens and involves close coordination with DHS, the Bureau of Prisons, and state and local corrections authorities.

Office of the Chief Administrative Hearing Officer - The Office of the Chief Administrative Hearing Officer (OCAHO) employs Administrative Law Judges (ALJs) appointed pursuant to 5 U.S.C. § 3105 to adjudicate cases arising under Sections 274A, 274B and 274C of the INA. Section 274A provides for sanctions (civil penalties and injunctive relief) 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 employment eligibility verification requirements; or (3) require the execution of an indemnity bond by employees to protect the employer or entity from potential liability for unlawful employment practices. Section 274B prohibits employment discrimination based on national origin or citizenship status and provides for civil penalties and various equitable remedies. Section 274C provides civil penalties for immigration-related document fraud. Adjudicative proceedings are initiated by complaints filed with OCAHO by DHS (in Section 274A and Section 274C cases), or the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) in the Civil Rights Division, and/or aggrieved private parties and entities (in section 274B cases). Cases are assigned to ALJs by the Chief Administrative Hearing Officer (CAHO), who is also responsible for program management and policy development for the Office.

The CAHO is also authorized to conduct administrative reviews of ALJ decisions in INA Sections 274A and 274C cases, and may affirm, modify, vacate and/or remand such decisions. Unless the case is certified to the Attorney General, the CAHO's decision on review constitutes the final agency action with respect to these cases. The CAHO also certifies that ALJs who hear Section 274B cases have received the specialized training in employment discrimination matters that is required by statute.

2. Performance and Resources Tables

PERFORMANCE AND RESOURCES TABLE												
Decision Unit: Executive Office for Immigration Review												
RESOURCES			Target		Actual		Projected		Changes		Requested (Total)	
			FY 2014		FY 2014		FY 2015		Current Services Adjustments and FY 2016 Program Changes		FY 2016 Request	
Workload:												
Immigration Court Matters Received ¹			272,000		306,045		292,000				334,500	
Received at BIA			35,000		29,723		35,500		42,500		36,000	
Immigration Court Cases Pending			350,000		418,861		384,000		500		418,000	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)			FTE		FTE		FTE		FTE		FTE	
			\$000		\$000		\$000		\$000		\$000	
			1,355		1,313		1,460		279		1,739	
			312,200		312,200		347,154		134,719		481,873	
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2014		FY 2014		FY 2015		Current Services Adjustments and FY 2016 Program Changes		FY 2016 Request	
Program Activity			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		3.7 Adjudicate Immigration Cases	1,355	312,200	1,355	312,200	1,460	347,154	279	134,719	1,739	481,873
Performance Measure: Output		Immigration Courts Total	255,000		248,078		285,000		72,500		357,500	
		Matters Completed ² Total	192,000		184,322		203,000		NA		NA	
		Cases Completed ³ IHP	4,600		4,232		4,870		NA		NA	
		Completions Detained	60,000		57,842		63,500		NA		NA	
Performance Measure: Efficiency		Board of Immigration Appeals Total Appeals Completed	37,000		30,822		38,500		3,000		41,500	
		Detained Completions	4,500		4,677		4,760		NA		NA	
Performance Measure: Outcome		Immigration Courts IHP Cases within Time Goal %	85%		79%		85%					
		Detained Cases with Time Goal	85%		74%		80%				85%	
		Board of Immigration Appeals Detained Cases Adjudicated with Time Goal	-		-		-				80%	
			90%		93%		90%		-		90%	
<p>Definition: The Executive Office for Immigration Review (EOIR) has identified two types of immigration court cases (Institutional Hearing Program (IHP) and detained cases) and one type of Board of Immigration Appeals (BIA) case (detained appeals) as case types for performance measurement. The IHP is a collaborative effort between EOIR, the Department of Homeland Security (DHS) and various federal, state, and local corrections agencies. The IHP permits immigration judges to hold removal hearings inside correctional institutions prior to the alien completing his or her criminal sentence.</p> <p>Data Validation, Verification, and Limitations: Data are collected from the Case Access System for EOIR (CASE), a nationwide case-tracking system at the trial and appellate levels. Court staff nationwide enters data, which are electronically transmitted and stored at EOIR headquarters, allowing for timely and complete data collection. Data are verified by on-line edits of data fields. Headquarters and field office staff use routine daily, weekly, and monthly reports that verify data. Data validation is also performed on a routine basis through data comparisons between EOIR and DHS databases. There are no data limitations known at this time.</p>												

¹Prior to FY 2014 EOIR captured the following information as part of “immigration matters received”: all proceeding receipts (if a case moved from one court to another court a receipt was counted at each court, also proceedings in which an appeal is remanded to the immigration court or the case is reopened were counted as proceeding receipts), all bond receipts, and all motion to reopen or motion to reconsider receipts. In FY 2014 EOIR will change the way it counts this workload measure. For the numbers reflected in the FY 2013 actuals in this table, and in FY 2014 and beyond, “immigration matters received” will include the initial Notice to Appear filed by DHS only (not subsequent proceeding receipts), all bond receipts, and all motion to reopen, motion to reconsider, and motion to recalendar receipts. In addition, prior to FY 2014, the number of appeals received and completed by the BIA counted joined family cases as a single appeal. For the numbers reflected in the FY 2013 actuals in this table and in FY 2014 and beyond, “appeals received” will count each appeal received (“leads” and “riders”) individually while “appeals completed” will count each appeal completed (“leads” and “riders”) individually.

² Prior to FY 2014 EOIR captured the following information as part of “total matters completed”: all proceeding completions (if a case moved from one court to another court a completion was counted at each court), all bond completions, and all motion to reopen or motion to reconsider completions. In FY 2014 EOIR will change the way it counts this workload measure. For the numbers reflected in the FY 2013 actuals in this table, and in FY 2014 and beyond, “total matters completed” will include all case completions, all bond completions, and motion to reopen, motion to reconsider, and motion to recalendar completions that were not granted. Changes of venue and transfers will no longer be counted.

³ In FY 2012 and FY 2013 EOIR captured all proceeding completions. If an individual changed venue or was transferred, the court would count a completion. In FY 2014 EOIR will change the way it counts this workload measure. For the numbers reflected in the FY 2013 actuals in this table and in FY 2014 and beyond, EOIR will count initial proceeding completions as well as subsequent proceeding completions. Changes of venue and transfers will no longer be counted

PERFORMANCE MEASURE TABLE										
Strategic Objective	Decision Unit:		Executive Office for Immigration Review							
	Performance Report and Performance Plan Targets		FY 2010	FY 2011	FY 2012	FY 2013	FY 2014		FY 2015	FY 2016
			Actual	Actual	Actual	Actual	Target	Actual	Target	Target
3.7	Performance Measure	Total Matters Completed	352,676	393,387	382,062	390,000	255,000	248,078	285,000	357,500
	Performance Measure	Total Proceedings Completed	286,738	302,577	289,405	294,846	192,000	184,322	203,000	N/A
	Performance Measure	IHP Completions ⁴	3,950	3,782	3,670	3,678	4,600	4,232	4,870	N/A
	Performance Measure	Detained Completions ⁵	111,264	112,154	89,350	94,868	60,000	57,842	63,500	N/A
	Performance Measure	Total Appeals Completed	33,234	35,271	36,381	36,000	37,000	30,822	38,500	41,500
	Performance Measure	Detained Completions ⁶	3,261	4,212	4,659	4,646	4,500	4,677	4,760	N/A
	Efficiency Measure	The measures above also serve as EOIR's efficiency measures								
	OUTCOME Measure	% IHP Cases w/in Time Goal	87%	88%	87%	85%	85%	79%	85%	85%
	OUTCOME Measure	% Detained Completions	89%	88%	86%	85%	85%	74%	80%	80%
	OUTCOME Measure	% Detained Appeals Adjudicated within Time Goal	93%	94%	97%	90%	90%	93%	90%	90%

N/A = Data unavailable

⁴ All institutional Hearing Program cases completed during the time period.

⁵ All initial case completions for detained individuals. This does not include change of venue or transfers. In addition, it does not include cases that have been reopened or remanded from the Board of Immigration Appeals.

⁶ All appeals completed for detained individuals.

3. Performance, Resources, and Strategies

a. Performance Plan and Report for Outcomes

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

- 85% of Institutional Hearing Program (criminal aliens) cases completed before release from incarceration
- 80% of detained cases completed within 60 days

In FY 2014, the immigration courts did not meet these two priority targets but continue to reallocate resources to strive to complete these priority cases in a timely fashion. The goal for the Institutional Hearing Program will continue in FY 2015, while the goal for detained cases will change to “80% of detained cases completed within 60 days.” This change is due in large part to the new way that EOIR now counts cases as well as the changing nature of immigration court cases. The goal in FY 2016 will remain the same for both of these measures.

The performance measure for the BIA is:

- 90% of detained appeals adjudicated within 150 days

In FY 2014, the BIA exceeded this target by 3%. This performance measure will continue through FY 2016.

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 space. 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 2016 target is to complete EOIR’s priority adjudications within established timeframes.

b. Strategies to Accomplish Outcomes

Case adjudication is the performance indicator for EOIR. Performance measures (the number of cases completed) have been established for several high priority case types.

EOIR has established case completion goals for the various types of cases that the immigration courts adjudicate, and will continue to reallocate existing resources to the adjudication of priority cases including the four new priorities resulting from the recent influx of juveniles, adults with children, and recent border crossers. This includes adjusting court dockets to consolidate the

amount of hearing time devoted to detained cases and to scheduling first hearings for the cases of unaccompanied children and adults with children.

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. 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 immediate 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.

In accordance with this goal, OCAHO launched its E-filing Pilot Program on May 30, 2014. The pilot program has been extended until May 29, 2015. Under the pilot program, parties who agree to participate and comply with the procedural and technological requirements of the program will be able to file, serve and receive OCAHO scanned case documents by email. It is anticipated that this program will reduce the time, cost and resources attendant to filing and serving documents by mail or overnight delivery. After the pilot program ends, OCAHO will assess whether procedural and technological changes are necessary to implement a permanent program. Implementation of a permanent program will require replacement of OCAHO's Automated Case Management System Database, new technological equipment and additional personnel to administer the program.

B. Office of the Pardon Attorney

<i>Office of the Pardon Attorney</i>	Direct Pos.	Estimated FTE	Amount
2014 Enacted	15	13	2,800
2015 Enacted	22	18	3,918
Adjustments to Base and Technical Adjustments	0	3	578
2016 Current Services	22	21	4,496
2016 Program Increases	24	12	2,012
2016 Request	46	33	6,508
Total Change 2015-2016	24	15	2,590

1. Program Description

The primary function of OPA is to receive, evaluate, and investigate clemency applications and prepare the recommendation of the Department of Justice as to the appropriate disposition of each application for the signature of the Deputy Attorney General. In addition, OPA responds to inquiries concerning executive clemency petitions and the clemency process from applicants, their representatives, members of the public, Members of Congress, and various federal, state, and local officials and agencies; prepares all necessary documents to effect the President's decision to grant clemency; and notifies each clemency applicant of the President's decision concerning his or her clemency request. When asked to do so, OPA also provides general advice to the White House concerning executive clemency procedures and the historical background of clemency matters.

2. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE												
Decision Unit: Office of the Pardon Attorney												
RESOURCES			Target		Actual		Target		Changes		Requested (Total)	
			FY 2014		FY 2014		FY 2015		Current Services Adjustments and FY 2016 Program Changes		FY 2016 Request	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			14	2,800	13	2,822	18	3,918	15	2,590	33	6,508
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2014		FY 2014		FY 2015		Current Services Adjustments and FY 2016 Program Changes		FY 2016 Request	
Program Activity			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
	2.6	Processing clemency petitions	14	2,800	13	2,822	18	3,918	15	2,590	33	6,508
Performance Measure: Output		Number of petitions processed	1,500		1,079		1,700				3,500	
Performance Measure: Outcome		Number petitions pending at OPA	1,500		7,790		10,000				10,000	

Data Definition, Validation, Verification, and Limitations: **INFORMATION REQUIRED:** OPA's automated case tracking and processing system is updated daily and used extensively to track the status of clemency petitions. Performance data derived therefrom are cross-referenced with internal reports to ensure accuracy.

PERFORMANCE MEASURE TABLE										
Decision Unit: Office of the Pardon Attorney										
Strategic Objective	Performance Report and Performance Plan Targets		FY 2010	FY 2011	FY 2012	FY 2013	FY 2014		FY 2015	FY 2016
			Actual	Actual	Actual	Actual	Target	Actual	Target	Target
2.6	Performance Measure	Clemency petitions processed	1,990	2,409	1,669	1,962	1,500	1,079	1,700	3,500
	Performance Measure	Correspondence processed	5,700	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Performance Measure									
	Efficiency Measure	Performance measure is efficiency measure								
	OUTCOME Measure	Petitions pending at OPA	1,388	895	1,156	1,867	1,800	7,790	10,000	10,000

3. Performance, Resources, and Strategies

a. Performance Plan and Report for Outcomes

Because OPA's sole mission is to assist the President in the exercise of the clemency power, its performance measure is the number of clemency petitions it processes during a given fiscal year. Likewise, the Office's outcome measure is the number of clemency petitions that remain pending at the end of the fiscal year. In FY 2009, OPA set its annual targets for both measures at 1,500 cases, and it consistently exceeded both targets through FY 2012. In FY 2013, OPA exceeded its target for petitions processed, but it missed the target for petitions pending at the end of the fiscal year due to the uncommonly large number of new filings it received (2,673 total applications). In light of that historic number of filings, OPA increased its petitions pending target to 1,800 cases for FY 2014. However, the Office was unable to meet its outcome measure target for cases pending at the end of the fiscal year. The degree to which the Office will be able to meet its annual cases-pending outcome target will depend significantly on the volume of new petitions filed in upcoming fiscal years and how quickly OPA can bring new staff on board to work through the high cumulative number of petitions filed in the last few fiscal years.

OPA's ability to achieve its targets has been adversely affected by the cumulative effect of the uncommonly large number of petitions it received in FY 2013 and, especially, by the influx of commutation petitions submitted in FY 2014 as a result of the announcement of the Clemency Initiative. As OPA's existing staff has discovered, expending the substantial resources required simply to manage such a volume of clemency requests significantly decreases those available for analyzing and evaluating the merits of individual applications and preparing the appropriate letters of advice to inform the President. This problem will become substantially more acute in FY 2015 and FY 2016, as more and more commutation petitioners file applications in the expectation that they will be decided before the end of the current Administration. Given the many thousands of inmates (over 30,000 as of December 2014) who already have requested legal assistance from the consortium of defense attorneys formed to provide *pro bono* representation to potential applicants under the Initiative, there can be no doubt that the numbers of commutation petitions filed by the end of FY 2016 will be extraordinary and that the cumulative effect of such filings will be especially challenging.

Accordingly, OPA's need for additional resources in FY2016 is essential. However, given that it is still unclear how many thousands of new petitions will be filed in FY 2015, OPA is significantly hampered in its effort to develop realistic performance targets for fiscal years 2015 and 2016. The number of petitions the Office can reasonably expect to process to completion during each of those years depends critically upon the number of additional staff OPA ultimately is able to hire and how quickly they can be brought on board and trained in commutation evaluation.

b. Strategies to Accomplish Outcomes

Building upon the resources appropriated in FY 2015, OPA's request for FY 2016 includes 16 attorneys, 6 paralegals, and 2 clerical staff members. Once hired and trained, these additional

personnel would bring OPA's staffing complement to 27 attorneys, 13 paralegals, and 6 administrative staff, including the office administrator.

Because of the electronic case processing and tracking system OPA utilizes to manage its workload, paralegal and administrative staff are crucial to the efficient processing of clemency petitions. The myriad tasks they fulfill include opening cases and scanning files; obtaining necessary records from outside agencies such as the Bureau of Prisons and United States Probation Offices and adding them to electronic case files; flagging substantive issues for attorneys; assisting with the production and dissemination of requests for comments from United States Attorneys and sentencing judges, tracking and responding to mail and e-mail inquiries from petitioners, their representatives, third parties, and government entities; preparing packages of letters of advice for transmittal to the Office of the Deputy Attorney General and the White House; continuously updating electronic case files and tracking cases from beginning to end; preparing notices of decision after the President has acted; closing case files; preparing and cross-checking caseload reports; managing Freedom of Information Act requests and responses, drafting responses to White House mail on clemency related inquiries for the signature of the Pardon Attorney, and maintaining clemency statistics. The FY 2016 budget request would result in an attorney: paralegal staffing ratio of approximately 2:1 that would significantly assist with case processing efficiency.

The additional attorney positions requested for FY 2016 are essential to OPA's effort to make substantial progress on the enormous caseload that has developed since the announcement of the 2014 Clemency Initiative and will grow over the next two fiscal years. Many of these cases will raise complex legal issues, since the Clemency Initiative criteria require the determination of whether a petitioner's sentence would be different if imposed under current law. Given the volume of cases OPA is expected to receive under the Initiative, it is extremely important that the office have on staff as large a cadre of experienced clemency attorneys as possible to evaluate the merits of incoming petitions and draft cogent, legally correct letters of advice to assist the President's decision-making.

V. Program Increases by Item

Item Name: **Immigration Court Support**

Budget Decision Unit: EOIR

Strategic Goal & Objective: 3.7: Adjudicate all immigration cases promptly and impartially in accordance with due process.

Organizational Program: Immigration Adjudications

Program Increase: Positions 15 Agt/Atty 15 FTE 8 Dollars \$1,262,000

Description of Item

This increase will provide EOIR with 15 additional attorneys to support the Immigration Judge Corps and provide legal assistance with immigration matters before the courts.

Justification

DHS enforcement efforts have generated new priorities for the courts as well as more cases, and may generate more immigration court case receipts well into the future. As a result, EOIR's pending caseload continues to grow. Court support staff is critical to the operations and timely data entry of court proceeding information. This increase will allow EOIR to hire support positions not included as part of the immigration judge teams. This includes critical attorney vacancies where attrition and new lines of business have created the need for additional staffing resources.

Impact on Performance (Relationship of Increase to Strategic Goals)

This initiative ties directly to Strategic Objective 3.7 and to Congress and the Administration's immigration priorities.

Base Funding

FY 2014				FY 2015 Enacted				FY 2016 Current Services			
Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)
1,582	530	1,355	312,200	1,793	583	1,460	347,154	1,793	583	1,566	357,611

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2016 Request (\$000)	FY 2017 Net Annualization
Attorney (0905)	84	15	1,262	1,320
Total Personnel	84	15	1,262	1,320

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2016 Request (\$000)	FY 2017 Net Annualization
Total Non-Personnel				

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total	FY 2017 Net Annualization
Current Services	1,793	583	1,566	215,174	142,437	357,611	
Increases	15	15	8	1,262	0	1,262	1,320
Decreases	0	0	0	0	0	0	
Grand Total	1,808	598	1,574	216,436	142,437	358,873	1,320

Item Name: **Legal Representation of Children**

Budget Decision Unit: EOIR

Strategic Goal & Objective: 3.7: Adjudicate all immigration cases promptly and impartially in accordance with due process.

Organizational Program: Immigration Adjudications

Program Increase: Positions 0 Agt/Atty 0 FTE 0 Dollars \$50,000,000

Description of Item

This additional funding will enable EOIR to expand its pilot program, which improves immigration court efficiencies by providing legal counsel to children going through immigration proceedings.

Justification

Immigration judges can conduct hearings more efficiently when unaccompanied children are assisted by competent legal representatives. A legal representative can help identify any form(s) of relief for which the child may be eligible and develop a record supporting the application(s) for relief. Having a competent representative prepare and present the child's testimony in the case can help facilitate the child's communication with the court. Further, the availability of a legal representative to answer questions, explain the adjudicative process to the unaccompanied child, and timely prepare the evidence that would be submitted to the immigration judge, would save the court valuable time during hearings. When unaccompanied children are effectively represented, we expect the courts will be able to reduce the number of continuances granted for the purpose of obtaining counsel and/or evidence.

Impact on Performance (Relationship of Increase to Strategic Goals)

This initiative ties directly to Strategic Objective 3.7 and to Congress and the Administration's immigration priorities.

Base Funding

FY 2014				FY 2015 Enacted				FY 2016 Current Services			
Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)
			2,000				4,824				4,824

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2016 Request (\$000)	FY 2017 Net Annualization
Total Personnel				

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2016 Request (\$000)	FY 2017 Net Annualization
Legal Representation of Children			50,000	
Total Non-Personnel			50,000	

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total	FY 2017 Net Annualization
Current Services					4,824	4,824	
Increases					50,000	50,000	
Grand Total					54,824	54,824	

Item Name: **IT Modernization**

Budget Decision Unit: EOIR

Strategic Goal & Objective: 3.7: Adjudicate all immigration cases promptly and impartially in accordance with due process.

Organizational Program: Immigration Adjudications

Program Increase: Positions 0 Agt/Atty 0 FTE 0 Dollars \$3,000,000

Description of Item

This increase will provide EOIR with \$3 million to develop an information and data sharing system with the DHS, which will enhance information sharing between both Departments and help improve the efficiency of processing case materials. In addition, this funding will also allow EOIR to refresh its Video Conferencing and Digital Audio Recording equipment, which is critical to the immigration courts.

Justification

As immigration reform continues to be defined and real-time challenges regarding mission essential business requirements arise between EOIR and DHS, it is imperative that IT systems and applications that support immigration processes owned by numerous agencies are efficient and effective in sharing information and streamlining business processes.

Impact on Performance (Relationship of Increase to Strategic Goals)

This initiative ties directly to Strategic Objective 3.7 and to Congress and the Administration's immigration priorities.

Base Funding

FY 2014				FY 2015 Enacted				FY 2016 Current Services			
Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)
			49,900				38,200				38,200

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2016 Request (\$000)	FY 2017 Net Annualization
Total Personnel				

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2016 Request (\$000)	FY 2017 Net Annualization
Information Technology Modernization			3,000	
Total Non-Personnel			3,000	

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total	FY 2017 Net Annualization
Current Services					38,200	38,200	
Increases					3,000	3,000	
Grand Total					41,200	41,200	

Item Name: **Immigration Judge Teams**

Budget Decision Unit: EOIR

Strategic Goal & Objective: 3.7: Adjudicate all immigration cases promptly and impartially in accordance with due process.

Organizational Program: Immigration Adjudications

Program Increase: Positions 330 Agt/Atty 83 FTE 165 Dollars \$60,000,000

Description of Item

This increase will enable EOIR to add 55 new Immigration Judge Teams to help effectively manage and adjudicate the pending caseload.

Justification

With the current volume of receipts, this caseload will continue to grow well into the future. At the same time, EOIR's attrition rate continues to outpace our ability to backfill all positions including immigration judge positions. This program increase, together with the increase in the 2015 appropriation, will allow EOIR to adjudicate more cases annually and better address the caseload.

Impact on Performance (Relationship of Increase to Strategic Goals)

This initiative ties directly to Strategic Objective 3.7 and to the Congress' and Administration's immigration priorities. The volume and geographic concentration of the additional caseload will depend upon DHS' enforcement strategies. However, the new enforcement priorities outlined by the Executive branch will undoubtedly impact EOIR's dockets. Because these and other priority case types are docketed on short time lines or adjudicated in detention or prison settings, they will have to be handled expeditiously. At the same time, EOIR must also address the growing pending caseload, requiring additional adjudicative resources.

Base Funding

FY 2014				FY 2015 Enacted				FY 2016 Current Services			
Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)
1,582	530	1,355	312,200	1,793	583	1,460	347,154	1,793	583	1,566	357,611

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2016 Request (\$000)	FY 2017 Net Annualization
Attorney (0905)	496	55	27,280	
Information & Arts (1000-1099)	106	55	5,830	
Clerical and Office Services (0300-0399)	92	110	12,394	
Paralegal/Other Law (0900-0999)	126	55	6,930	
Attorney (0905)	168	28	4,704	
Paralegal/Other Law (0900-0999)	106	27	2,862	
Total Personnel	1,094	330	60,000	

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2016 Request (\$000)	FY 2017 Net Annualization
Total Non-Personnel				

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total	FY 2017 Net Annualization
Current Services	1,793	583	1,566	215,174	142,437	357,611	
Increases	330	83	165	60,000	0	60,000	
Grand Total	2,123	666	1,731	275,174	142,437	417,611	

Item Name: **Legal Orientation Program**

Budget Decision Unit: EOIR

Strategic Goal & Objective: 3.7: Adjudicate all immigration cases promptly and impartially in accordance with due process.

Organizational Program: Immigration Adjudications

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

Description and Justification of Item

This requested increase will expand the successful LOP and continue to improve efficiencies in immigration court proceedings for detained aliens by increasing their awareness of their rights and the overall immigration proceeding process. Evaluation reports have shown that LOP participants complete their immigration court cases in detention on an average of 12 days faster than detainees who do not participate in an LOP. The requested additional funding will respond to elevated demand at existing DHS sites and enable LOP to add 40 additional sites to the 37 sites we expect to be operating by the end of FY 2015, 35 of which are in detention centers.

Impact on Performance (Relationship of Increase to Strategic Goals)

This initiative ties directly to Strategic Objective 3.7 and to the Congress' and Administration's immigration priorities. This program increase would enhance immigration court efficiencies, allowing EOIR to adjudicate cases in a more timely fashion, especially the high priority detained cases.

Base Funding

FY 2014				FY 2015 Enacted				FY 2016 Current Services			
Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)
			8,610				11,434				11,434

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2016 Request (\$000)	FY 2017 Net Annualization
Total Personnel				

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2016 Request (\$000)	FY 2017 Net Annualization
Legal Orientation Program (LOP) Expansion			10,000	
Total Non-Personnel			10,000	

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total	FY 2017 Net Annualization
Current Services					11,434	11,434	
Increases					10,000	10,000	
Grand Total					21,434	21,434	

Base Funding - EOIR

FY 2014				FY 2015 Enacted				FY 2016 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
1,582	530	1,355	312,200	1,793	583	1,460	347,154	1,793	583	1,566	357,611

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2016 Request (\$000)	FY 2017 Net Annualization
Attorney (0905)	496	55	27,280	
Information & Arts (1000-1099)	106	55	5,830	
Clerical and Office Services (0300-0399)	92	110	12,394	
Paralegal/Other Law (0900-0999)	126	55	6,930	
Attorney (0905)	168	28	4,704	
Paralegal/Other Law (0900-0999)	106	27	2,862	
Attorney (0905)	84	15	1,262	1,320
Total Personnel	1,178	345	61,262	1,320

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2016 Request (\$000)	FY 2017 Net Annualization
Pilot - Innovative Ideas/Legal Representation of Children			50,000	
Information Technology Modernization			3,000	
Legal Orientation Program (LOP) Expansion			10,000	
Miscellaneous Adjustment				
Total Non-Personnel			63,000	

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total	FY 2017 Net Annualization
Current Services	1,793	583	1,566	215,174	142,437	357,611	
Increases	345	98	173	31,264	92,998	124,262	1,320
Decreases	0	0	0	0	0	0	
Grand Total	2,138	681	1,739	246,438	235,435	481,873	1,320

Item Name:	Clemency Initiative
Strategic Goal:	Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law
Strategic Objective:	Objective 2.6: Protect the federal fisc and defend the interests of the United States
Budget Decision Unit:	Office of the Pardon Attorney
Organizational Program:	Executive clemency advisory program

Program Increase: Positions 24 Agt/Atty 16 FTE 12 Dollars \$2,012,000

Description of Item

This request to fund 24 additional positions, consisting of 16 attorneys, 6 paralegals, and 2 administrative support positions, is crucial to OPA’s effort to review and prepare recommendations concerning the clemency requests of thousands of federal inmates who have and are expected to seek commutation of sentence pursuant to the Clemency Initiative announced by the Deputy Attorney General in 2014.

Justification

The requested program increase for FY 2016 is essential to OPA’s effort to meet the challenging task set by the Department’s implementation of the 2014 Clemency Initiative. Given the historic numbers of commutation applicants who have already applied for clemency and who have indicated their desire to do so with the assistance of *pro bono* counsel, OPA will be unable to keep pace with the expected influx of petitions during the next two fiscal years unless it receives significant additional resources. OPA is obliged to process all clemency petitions it receives from persons who are eligible to seek clemency from the President. Even with the benefit of the additional resources appropriated in FY 2015, the Office’s staffing level is currently inadequate to manage the expected increase in the commutation caseload, conduct the necessary review of so many petitions, and supervise the preparation of recommendations for the thousands of petitions that will be filed. It is crucial that the Office’s attorney and paralegal resources be increased to address the challenge of processing the thousands of clemency applications that have been and will be filed so as to identify and present for the President’s consideration candidates for commutation of sentence who meet the criteria of the Initiative.

Impact on Performance

OPA's mission supports Strategic Goal 2.6, which encompasses the Department's responsibility "to support the Attorney General in his role as legal adviser to the President" including "advising the President concerning the appropriate disposition of applications for executive clemency." As of the end of FY 2014, OPA is faced with a historic workload that resulted in the Office beginning FY 2015 with a huge backlog of cases that undoubtedly will grow in FY 2016. During the past two administrations, the President's final year in office witnessed a significant spike in the numbers of clemency petitions filed. The same effect is certain to be seen in FY 2016 and it will likely begin even earlier, in FY 2015, as thousands of commutation petitioners seek consideration under the Clemency Initiative. These factors will inevitably lead to a continuing backlog of cases. The size of the backlog by the end of FY 2016 depends in great part on the level of resources made available to OPA to meet this challenge.

OPA will continue to track its performance by monitoring the number of petitions it processes and the number of petitions that remain pending. With additional attorney and paralegal resources, the office expects to be able to increase significantly its productivity and efficiency in processing petitions. Once all of the requested additional positions are filled and new personnel are fully trained, OPA projects that it would be able to increase its case processing target to 3,500 cases for FY 2016. It will take several years, however, to work through the backlog that will only increase as the thousands of inmates who have sought pro bono legal assistance begin submitting their clemency petitions for consideration.

Funding

Base Funding - OPA

FY 2014 Enacted				FY 2015 Enacted				FY 2016 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
15	7	13	2,800	22	11	18	3,918	22	11	21	4,496

Personnel Increase Cost Summary

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2016 Request (\$000)	FY 2017 Net Annualization (change from 2016) (\$000)
Clerical and Office Services (0300-0399) (GS-6)	\$39	2	\$78	\$42
Attorneys (0905) (GS-15)	\$103	16	\$1,640	\$1,304
Paralegals / Other Law (0900-0999) (GS-9)	\$49	6	\$294	\$186
Total Personnel		24	\$2,012	\$1,532

Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2017 Net Annualization (change from 2016) (\$000)
Current Services	22	11	21	\$4,496	\$0	\$4,496	
Increases	24	16	12	\$2,012	\$0	\$2,012	\$1,532
Grand Total	46	27	33	\$6,508	\$0	\$6,508	\$1,532

VI. EXHIBITS