



Office of Dispute Resolution

FY 2008 Congressional Budget Submission

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I. Overview for the Office of Dispute Resolution

In FY 2008, the Office of Dispute Resolution (ODR) requests a total of \$552,000, 3 positions, and 3 FTE to meet its mission.

Beginning in FY 2007, electronic copies of the Department of Justice's congressional budget justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address:
[http://www.usdoj.gov/jmd/2008justification/.](http://www.usdoj.gov/jmd/2008justification/)"

No programs within ODR have been selected for review under the Program Assessments Rating Tool (PART) process.

Mission of the Office of Dispute Resolution: To promote and facilitate the broad and effective use of alternative dispute resolution processes by the Department of Justice and throughout the Executive Branch of the federal government

"Alternative dispute resolution" (ADR) is an umbrella term for techniques that employ the services of a third-party neutral to assist in the resolution of a dispute. ADR includes mediation, arbitration, early neutral evaluation, and several other techniques. At the Department, as in other agencies and the private sector, the most commonly used ADR technique is mediation.

The Administrative Dispute Resolution Act of 1996 required federal agencies to adopt an ADR policy. The Alternative Dispute Resolution Act of 1998 required the federal district courts to have an ADR process available for all civil cases and to require civil litigants to consider use of ADR. The Department is the biggest user of the federal court system.

There will always be issues of policy, or issues that require precedential guidance to interpret a statute or regulation, where settlement or ADR will not be appropriate. In many cases, however, Department attorneys can resolve cases without undermining important legal issues, jurisdictional defenses, or policy interests. Often they are able to negotiate settlement through one-on-one negotiations with opposing counsel. There are also a considerable number of cases where such settlement discussions would be unproductive, protracted, or highly positional. The use of ADR, especially mediation, in such cases permits settlements that are in the best interests of the government. Mediation is the preferred dispute resolution process because skilled mediators can work with the parties and their counsel, encouraging them to go beyond the legal positions advanced by counsel and focus on the underlying interests of the litigants. Equally important, mediation provides a setting in which, with the aid of a mediator, the litigants can refine their risk assessments, make fully informed judgments on potential settlements, and construct creative settlements. The Department attorneys are using ADR processes to settle numerous cases annually in many types of civil enforcement and defensive litigation.

Strategic Goals/Objectives in which the Office of Dispute Resolution Plays a Role:

Strategic Goal II: Enforce Federal Laws and Represent the Rights and Interests of the American People

Objective: Strategic Goal 2.5: Enforce Federal Statutes, Uphold the Rule of Law, and Vigorously Represent the Interests of the United States in All Matters for Which the Department Has Jurisdiction. Commentary: “DOJ will...emphasize the use of Alternative Dispute Resolution (ADR)...to achieve faster, more comprehensive, and more cost-effective resolution of.... cases.”

Goals and Objectives of the Office of Dispute Resolution:

- **Promote and Evaluate the Use of ADR at the Department**

ODR funds the use of professional neutrals in appropriate Department cases. The funding for the services of dispute resolution neutrals is included in the Department appropriation enacted for the Fees and Expenses of Witnesses appropriation. Availability of this funding encourages the use of ADR in appropriate cases.

ODR evaluates the use, cost-effectiveness and results of ODR-funded ADR. The primary source of data collection for case outcomes is the hard copy evaluation forms completed by the attorneys and forwarded to ODR. While impressive, the individual case evaluations are a fragmentary picture of ADR results in the Department, and ODR faces internal challenges in its attempts to obtain more thorough reports.

- **Represent the Attorney General in Leadership of Federal ADR**

Pursuant to the Administrative Dispute Resolution Act of 1996 and the Presidential Directive of May 1, 1998, the Attorney General is the head of federal ADR, and is responsible for facilitating and encouraging the use of dispute resolution by agencies throughout the Executive Branch of the Federal Government. In discharging this responsibility, ODR represents the Attorney General on the federal Interagency ADR Steering Committee. The Steering Committee members include senior ADR professionals representing all of the Cabinet departments and many of the independent agencies. They are responsible for facilitating and encouraging agency use of ADR in their respective jurisdictions. Their accomplishments in doing so contribute to the goals, efficiency, and productivity of the Federal Government and its agencies. ADR provides an efficient and cost-effective way to manage the government’s business and maximize its resources, it facilitates the ability of agencies to focus on their core functions, and it furthers the goal of good government.

ODR is a leader in the work of the Interagency Steering Committee. ODR also provides substantive and technical assistance to the other federal agencies in conflict management system design, early case assessment, mediator selection, or other uses of ADR where requested or appropriate.

- **Represent the Department Leadership with Foreign Governments and the Private Sector**

ODR represents the Associate Attorney General in requested briefings of delegations from foreign countries on the use and benefits of ADR in the United States.

ODR represents the Associate Attorney General before private legal, business, and other constituencies on federal ADR matters.

- **Facilitate the Effective Use of ADR in Litigation and Other Agency Disputes**

ODR advises and counsels Department attorneys and client agencies on the use of ADR.

ODR advises and counsels Department attorneys on the use of professional neutrals.

ODR provides training and education for Department or other federal attorneys as needed on the effective use of ADR.

II. Summary of Program Changes

ODR does not propose any program changes.

III. Appropriations Language and Analysis of Appropriations Language

See the consolidated General Legal Activities language.¹

¹ The FY 2008 President's Budget uses the FY 2007 President's Budget language as a base so all language is presented as new.

IV. Decision Unit Justification

A. Office of Dispute Resolution

<i>Office of Dispute Resolution</i> TOTAL	Perm. Pos.	FTE	Amount
2006 Enacted with Rescissions	3	3	480
2006 Supplementals	-	-	-
2006 Enacted w/Rescissions and Supplementals	-	-	-
2007 Estimate	3	3	542
Adjustments to Base and Technical Adjustments	-	-	10
2008 Current Services	3	3	552
2008 Program Increases	-	-	-
2008 Offsets	-	-	-
2008 Request	3	3	552
Total Change 2007-2008			10

* Office of Dispute Resolution — Information Technology Breakout (of Decision Unit Total)	Perm. Pos.	FTE	Amount
2006 Enacted with Rescissions	-	-	-
2006 Supplementals	-	-	-
2006 Enacted w/Rescissions and Supplementals	-	-	-
2007 President's Budget	-	-	-
Adjustments to Base and Technical Adjustments	-	-	-
2008 Current Services	-	-	-
2008 Program Increases	-	-	-
2008 Offsets	-	-	-
2008 Request	-	-	-
Total Change 2007-2008	-	-	-

**ODR's IT is funded through the Justice Consolidated Office Network.*

1. Program Description

The major function of the Office of Dispute Resolution (ODR) is to promote and facilitate the broad and effective use of alternative dispute resolution processes by the Department of Justice and throughout the Executive Branch of the federal government.

The Office of Dispute Resolution: promotes and evaluates the use of ADR at the Department; represents the Attorney General in leadership of federal ADR; represents the

Department leadership with foreign governments and the private sector; and facilitates the effective use of ADR in litigation and other agency disputes.

The position of Senior Counsel for Alternative Dispute Resolution was established within the Office of Associate Attorney General (ASG) in July 1995. Funding for the Senior Counsel, his staff and the operating expenses of his office has come from a combination of sources including direct funding from the Department's General Administration account and a variety of non-reimbursable funding arrangements with headquarters litigating components, the U.S. Attorneys, and others. Pursuant to a reprogramming in June 1998, the Senior Counsel was moved from the Office of the Associate Attorney General and established as a separate and distinct Office of Dispute Resolution reporting to the Associate Attorney General. At the direction of Congress, the Office's operational funding is now derived from the General Legal Activities appropriation.

Funding for the services of dispute resolution neutrals in fiscal years 1996-1998 was derived from a \$1 million reprogramming from the Fees and Expenses of Witnesses (FEW) appropriation. Upon exhaustion of that funding in FY 1998, the participating components advanced additional funding for this purpose in anticipation of the approval of another funding transfer for this purpose. House objection to such a request in FY 1998 left these activities without a formal funding source. Another request to make funding available from the Working Capital Fund unobligated balance transfers for the services of the contract neutrals in FY 1999 was also rejected (the House recommended that funding be transferred from the Fees and Expenses of Witnesses appropriation). The FY 2003 appropriation enacted for the Fees and Expenses of Witnesses appropriation included \$1,200,000 for ADR neutrals. The FY 2004 appropriation enacted was \$1,656,335 due to increased requirements by Department components for mediation services. The FY 2005 appropriation enacted was \$1,300,000. The FY 2006 appropriation enacted was \$1,417,000. For FY 2007, ODR requested \$1,300,000.

PROGRAM IMPROVEMENTS: N/A

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: Office of Dispute Resolution											
DOJ Strategic Goal/Objective: Supporting Strategic Goal II - Objective 2.5											
WORKLOAD/ RESOURCES		Final Target		Actual		Projected		Changes		Requested (Total)	
		FY 2006		FY 2006		2007 Estimate		Current Services Adjustments		FY 2008 Request	
Workload											
Number of Cases Authorized for Funding of Professional Neutrals		164		485		164		0		164	
Number of Trainings to Facilitate the Effective Use of ADR		5		2		5		0		5	
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
Total Costs and FTEs		3	592	2	335	3	599	0	599	3	552
TYPE/ STRATEGIC OBJECTIVE	PERFORMANCE	FY 2006		FY 2006		FY 2007 Estimate		Current Services Adjustments		FY 2008 Request	
Program	Activity	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		3	480	2	335	3	599	0	10	3	552
OUTCOME *	Percentage of Cases Resolved Using Voluntary ADR	60%		78%		60%		0		60%	
	Percentage of Cases Resolved Using Court-Ordered ADR (New, starting FY 2006)	25%		58%		25%		0		25%	
	Number of briefings held for foreign delegations on the use and benefits of ADR (discontinued measure)	4		1		.....		.....		.....

Program Activity Data Definition, Validation, Verification, and Limitations:

Workload Measures:

ODR funds the use of professional neutrals in appropriate Department cases. It represents the number of cases for which ODR (or the Executive Office for United States Attorneys pursuant to delegated authority from ODR) authorized funding of professional neutrals. The sources of data collection for tabulating the number of cases authorized for funding of professional neutrals are the requests for funding authorization submitted by the components to ODR and the disposition of those requests by ODR, and the requests for funding from United States Attorneys' Offices which are authorized by the Executive Office for United States Attorneys pursuant to authority delegated by ODR. ODR and the Executive Office for United States Attorneys are responsible for tracking the requests for funding authorization they receive and their disposition of those requests. Also, ODR and the Executive Office for United States Attorneys are responsible for ensuring compliance with their procedures for maintaining the integrity of their data collections systems.

ODR provides trainings for Department or other federal attorneys on the effective use of ADR. The source of data collection for tabulating the number of trainings conducted is the records of ODR. ODR is responsible for tracking the trainings it conducts and is responsible for ensuring compliance with its procedures for maintaining the integrity of its data collection system.

Outcome Measures:

ODR measures the percentage of cases resolved using *voluntary* ADR. The primary source of data collection for tabulating the Department's use of ADR is component reporting. The primary source of case outcomes is attorney evaluations. Each litigating component is responsible for tracking attorney usage of ADR and forwarding this information to ODR. ODR gathers outcome information from attorneys. The individual components are responsible for ensuring compliance with their local procedures for maintaining the integrity of their data collection systems.

ODR measures the percentage of cases resolved using *court-ordered* ADR. The primary source of data collection for tabulating the Department's use of ADR is component reporting. The primary source of case outcomes is attorney evaluations. Each litigating component is responsible for tracking attorney usage of ADR and forwarding this information to ODR. ODR gathers outcome information from attorneys. The individual components are responsible for ensuring compliance with their local procedures for maintaining the integrity of their data collection systems.

PERFORMANCE MEASURE TABLE											
Decision Unit: Office of Dispute Resolution											
Performance Report and Performance Plan Targets		FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006		FY 2007	FY 2008
		Actual	Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
OUTCOME Measure	Percentage of Cases Resolved Using Voluntary ADR	N/A	68%	70%	63%	60%	64%	60%	79%	60%	60%
	Percentage of Cases Resolved Using Court-Ordered ADR	N/A	N/A	N/A	N/A	N/A	N/A	25%	59%	25%	25%

N/A = Data unavailable

* Denotes inclusion in the DOJ Annual Performance Plan

3. Performance, Resources, and Strategies

Strategic Goal II: Enforce Federal Laws and Represent the Rights and Interests of the American People

Objective: Strategic Goal 2.5: Enforce Federal Statutes, Uphold the Rule of Law, and Vigorously Represent the Interests of the United States in All Matters for Which the Department Has Jurisdiction. Commentary: “DOJ will...emphasize the use of Alternative Dispute Resolution (ADR)...to achieve faster, more comprehensive, and more cost-effective resolution of.... cases.”

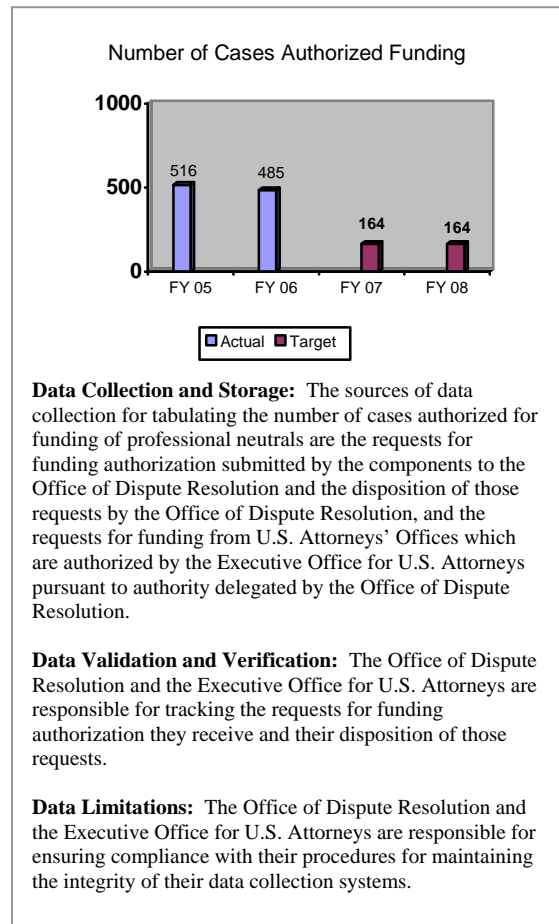
3.1 Workload Measure 1: Number of cases authorized for funding of professional neutrals

a. Performance Plan and Report for Outcomes

In support of its goal to promote the use of ADR at the Department, ODR funds the use of professional neutrals in appropriate Department cases. The areas and scope of funding support authorized are broad.

ODR funds the use of professional neutrals in ADR processes to settle a large variety of Department cases annually. The funding covers a variety of litigation, including:

- Civil Division use of ADR in aviation and admiralty defenses, medical malpractice, civil fraud, class action discrimination, health care and consumer fraud enforcement, and workplace discrimination litigation
- Tax Division civil litigation
- The vast array of civil matters handled in United States Attorneys’ Offices nationwide
- Civil Rights Division cases involving housing, employment, education, and other types of discrimination claims
- Environment and Natural Resources Division litigation in water rights disputes and Native American land disputes



For FY 2005, ODR funded the use of professional neutrals in 516 cases, for a total of \$1,123,810. In FY 2006, ODR funded the use of professional neutrals in 485 cases, for a total of \$1,045,596.38.

Discussion: The number of cases funded fluctuates from year to year, and data cannot definitely explain the fluctuations. This is because the number of cases for which the components request funding depends on factors that are inherently unpredictable and uncontrollable, e.g., number and types of affirmative and defensive litigation cases begun in the components, number and types of cases ordered into ADR by the courts, appropriateness of individual cases for ADR, likelihood that individual cases may/may not be settled, and ability and willingness of DOJ clients and opposing counsel to settle a case. ODR's future targets are based on past funding, but that is necessarily an imprecise and uncontrollable goal.

The figures are based on requests for authorizations for funding submitted by the components to ODR.

***FY 2005 Performance Actual:** 516*

***FY 2006 Performance Actual:** 485*

***FY 2007 Performance Target:** 164*

***FY 2008 Performance Target:** 164*

b. Strategies to Accomplish Outcomes:

Strategies to Achieve FY 2006/07/08 Goal: ODR will continue aiming for a high number of cases authorized for funding of professional neutrals, but recognizes that despite fluctuations, use of ADR will continue to bring significant savings and benefits to the Department and the United States Government.

3.2 Workload Measure 2: Number of trainings to facilitate the use of ADR

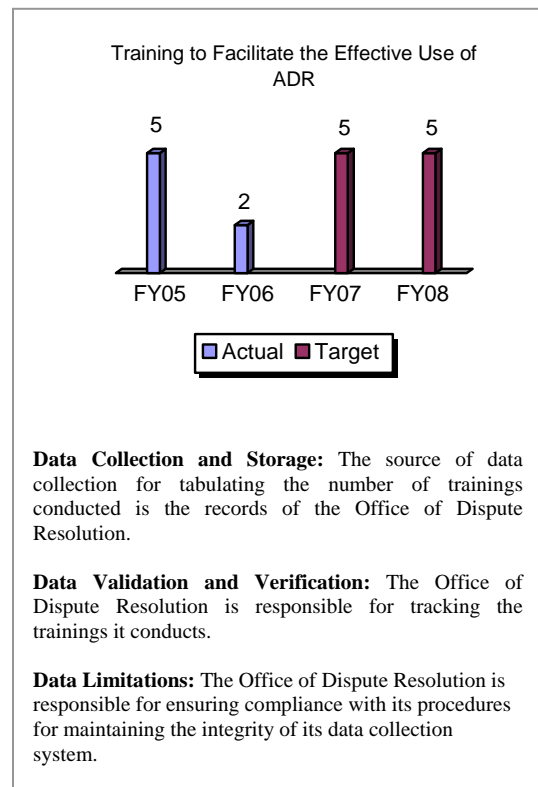
a. Performance Plan and Report for Outcomes

In support of its goal to facilitate the effective use of ADR in litigation and other agency disputes, ODR provides training and education for Department or other federal attorneys as needed on the effective use of ADR.

In FY 2005, ODR conducted five trainings, including courses for the National Advocacy Center on mediation trial advocacy and mediation appellate advocacy, the Civil Division’s new Honors Program attorneys on court-ordered mediation and finding professional neutrals, the Civil Rights Division Housing and Civil Enforcement Section on introduction to use of mediation, and the Environment and Natural Resources Division Appellate Section on appellate mediation.

In FY 2006, ODR conducted two trainings on obtaining ADR services, and benefits of ADR, for environmental enforcement cases.

Discussion: The number of trainings fluctuates from year to year. This is because the number of trainings which Department components or federal agencies need or request depends on factors that vary, e.g., number of new attorneys hired who need training, number of subject-specific needs that arise in Department components and federal agencies because of caseload or particular types of cases being handled, and ability of Department and federal management officials to dedicate time for training. ODR’s future targets are based on past training, but that is necessarily an imprecise goal.



The figures are based on ODR’s records of trainings conducted.

- FY 2005 Performance Actual: 5***
- FY 2006 Performance Actual: 2***
- FY 2007 Performance Target: 5***
- FY 2008 Performance Target: 5***

b. Strategies to Accomplish Outcomes

Strategies to Achieve FY 2006/07/08 Goal: ODR will continue aiming for a high number of trainings, but recognizes that despite fluctuations, training in ADR will continue to promote its effective use in the Department and other federal agencies.

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

No programs within ODR have been selected for review under the Program Assessments Rating Tool (PART) process.

3.3 Outcome Measure 1: Percentage of cases resolved using voluntary ADR

a. Performance Plan and Report for Outcomes

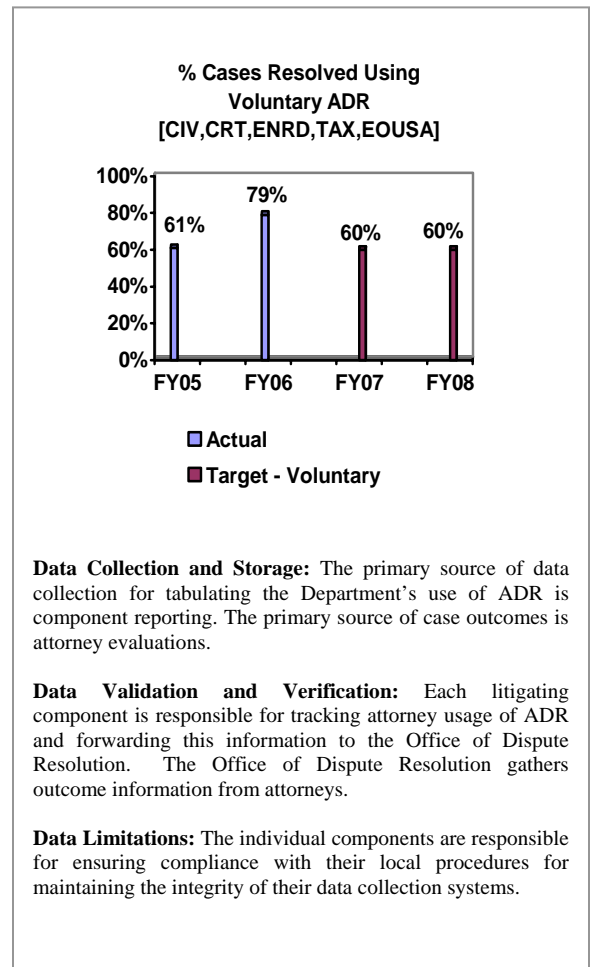
In support of its goal to evaluate the use of ADR at the Department, ODR has evaluated the use, cost-effectiveness and results of ODR-funded ADR at the Department. In the past, and through and including FY 2005, ODR's outcome measure was the overall percentage of cases resolved using ADR. Beginning in FY 2006, ODR has two outcome measures: one measuring the percentage of cases resolved using *voluntary* ADR, and the other measuring the percentage of cases resolved using *court-ordered* ADR.

In FY 2005, the percentage of cases resolved using ADR in the Civil, Civil Rights, Environmental and Natural Resources, and Tax Divisions, and the United States Attorneys' Offices was 61%.

In FY 2006, the percentage of cases resolved using voluntary ADR was 79%.

Discussion: The resolution rates fluctuate from year to year, and data cannot definitively explain the fluctuations. This is because the resolution rate of ADR in Department cases depends on factors that are inherently unpredictable and uncontrollable, e.g., number and types of affirmative and defensive litigation cases begun in the components, number and types of cases ordered into ADR by the courts, appropriateness of individual cases for ADR, likelihood that individual cases may/may not be settled, and ability and willingness of DOJ clients and opposing counsel to settle a case. ODR's future targets are based on success in meeting past targets, but that is necessarily an imprecise and uncontrollable goal.

The figures are based on manual records of attorney evaluations of ADR results in individual cases, submitted mostly in those cases in which attorneys procured the services of the neutral through payment from the ODR fund administered by ODR. These evaluations are a fragmentary picture of results in the Department and consequently the use and benefits of ADR are believed to be underreported. Nonetheless, the data show that DOJ continues to realize significant benefits through use of ADR, as illustrated in the following case examples.



In FY 2005, mediation yielded significant benefits. Mediation saved 900 hours of attorney and staff time in a Fair Housing Act discrimination case. In an employment discrimination case, mediation saved \$350,000 in litigation and discovery expenses, and nine months of litigation and discovery time, and avoided adverse precedent. In a major civil fraud accounting case, the government recovered \$62 million through the use of mediation and saved four months of trial preparation. In another civil fraud case, use of ADR saved 2,000 hours of discovery time, resolved the case two years sooner than would have been the case in litigation, and prevented other future similar disputes. In yet another civil fraud case, mediation saved \$500,000 in litigation and discovery expenses, the time of two full-time employees for 18 months, and 18 months in litigation and discovery time, and it altered the conduct giving rise to the dispute. Mediation also saved 1,000 hours of attorney time and improved the relationship between the parties in a condemnation of water rights action. In that same case, attorneys reported that ADR resulted in a more favorable settlement than if ADR had not been employed. Mediation in a Federal Tort Claims Act case avoided a potential loss of over \$6 million and saved 480 hours of attorney and staff time.

In FY 2006, mediation continued to bring benefits to the Department. In an environmental enforcement case, mediation saved \$1,000,000 in litigation/discovery expenses, saved 4,000 hours of attorney/staff time and 18 months of litigation/discovery time, yielded a better settlement than was likely without the use of mediation, and avoided adverse precedent. In an environmental defense case, mediation saved \$150,000 in litigation/discovery expenses, saved 2,500 hours of attorney/staff time and at least six months of litigation/ discovery time, produced a better settlement than likely without ADR, and avoided adverse precedent. In nine tort cases, mediation achieved a better settlement than was likely without ADR, saved \$1,540,000 in litigation/discovery expenses, saved 2,240 hours of attorney/staff time and 31 months of litigation/discovery time. In a discrimination/sexual harassment case, mediation saved 780 hours of attorney time and six months of litigation/discovery time, and resulted in a better settlement than would have been likely without ADR. In an employment discrimination case, the mediator's objective assessment of the plaintiff's claims prevented the government from having to engage in full discovery and summary judgment briefing in a non-meritorious case. In a disability rights case, mediation saved 2,000 hours of attorney time and eight months of litigation/discovery time, resulted in a better settlement than would have been likely without ADR, and altered the conduct giving rise to the dispute. In two tax cases, mediation saved 20 months of discovery/litigation time and produced a better settlement than would have been likely without ADR. In a First Amendment case, mediation saved up to 12 months of litigation/discovery time, and avoided adverse precedent.

Resolution of cases through ADR offers important benefits in the Department's enforcement and defensive litigation. Settlement gives the Department and the United States government significant savings in the costs and delay of litigation and discovery, as well as the monies paid to resolve the dispute. The saved resources can be used to handle other matters that cannot or should not settle.

ADR allows the parties to negotiate a creative disposition that best serves their interests and which may go beyond the jurisdiction of a court to order. ADR fosters solutions that may substitute for the payment of money or reduce potential monetary exposure. Even where the case does not settle, ADR can be valuable in narrowing the issues, or helping the parties move closer to settlement (or facilitate a later settlement) by demonstrating good faith, improving their relations, or making progress in the negotiations. ADR may be beneficial in resolving several related disputes in one global settlement, or in settling one dispute that can set parameters for the resolution of similar future disputes. ADR can contribute to effective case management by resolving discovery disputes or facilitating the informal exchange of critical information.

FY 2005 Performance Actual: 61%

FY 2006 Performance Actual: 79%

FY 2007 Performance Target: 60%

FY 2008 Performance Target: 60%

b. Strategies to Accomplish Outcomes

Strategies to Achieve FY 2006/07/08 Goal: ODR will continue aiming for use and resolution rates that are high but recognizes that despite fluctuations, use of ADR will continue to bring significant savings and benefits to the Department and the United States Government.

ODR will continue its efforts to better evaluate use and results of ADR by obtaining more comprehensive reporting from the components. ODR joined in the Department case management project to focus on improving reporting. The new Department-wide Litigation Case Management System includes a centralized application and database for case management, In order to provide consistency and usability for all components. ODR's requested that the litigation architecture include tracking of dispute resolution. ODR will also explore the possibility of requiring the components that utilize ADR to report annually on the number of cases in which ADR was used and the total cost and resource savings realized through use of ADR. ODR created a new online ADR evaluation form that Department attorneys can complete for every case in which ADR was used and, beginning in FY 2006, the attorneys have been able to submit the completed evaluation form electronically to ODR. ODR has also established an internal Department web page that provides practical guidance-at-a-glance for Department attorneys on the use and benefits of ADR. The ADR evaluation form is on that internal web page.

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

No programs within ODR have been selected for review under the Program Assessments Rating Tool (PART) process.

3.4 Outcome Measure 2: Percentage of cases resolved using court-ordered ADR

a. Performance Plan and Report for Outcomes

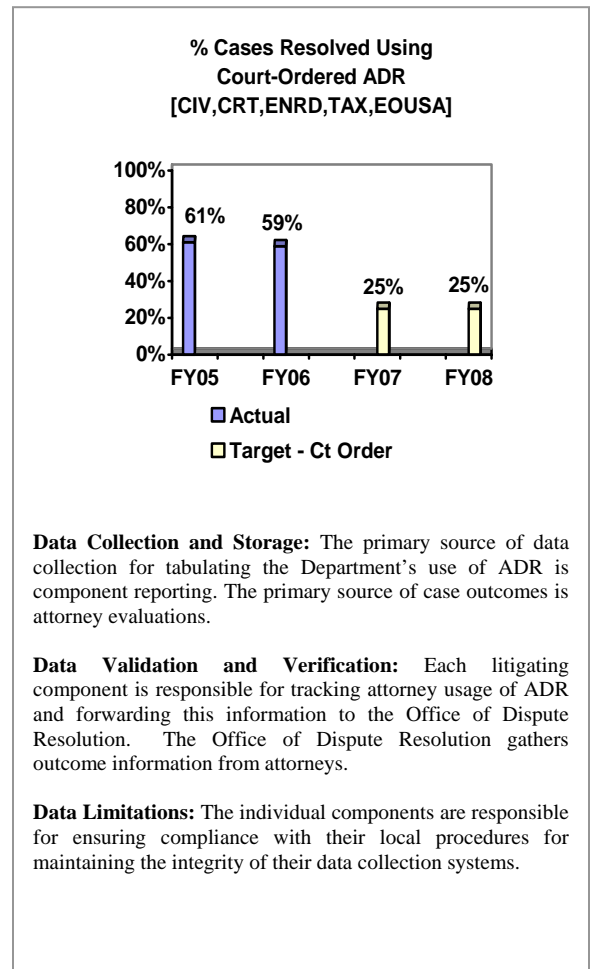
In support of its goal to evaluate the use of ADR at the Department, ODR has evaluated the use, cost effectiveness and results of ODR-funded ADR at the Department. In the past, and through and including FY 2005, ODR's outcome measure was the overall percentage of cases resolved using ADR. Beginning in FY 2006, ODR has two outcome measures: one measuring the percentage of cases resolved using *voluntary* ADR, and the other measuring the percentage of cases resolved using *court-ordered* ADR.

In FY 2005, the percentage of cases resolved using ADR in the Civil, Civil Rights, Environmental and Natural Resources, and Tax Divisions, and the United States Attorneys' Offices was 61%.

In FY 2006, the percentage of cases resolved using court ordered ADR was 59%.

Discussion: The resolution rates fluctuate from year to year, and data cannot definitively explain the fluctuations. This is because the resolution rate of ADR in Department cases depends on factors that are inherently unpredictable and uncontrollable, e.g., number and types of affirmative and defensive litigation cases begun in the components, number and types of cases ordered into ADR by the courts, appropriateness of individual cases for ADR, likelihood that individual cases may/may not be settled, and ability and willingness of DOJ clients and opposing counsel to settle a case. ODR's future targets are based on success in meeting past targets, but that is necessarily an imprecise and uncontrollable goal.

The figures are based on manual records of attorney evaluations of ADR results in individual cases, submitted mostly in those cases in which attorneys procured the services of the neutral through payment from the ODR fund administered by ODR. These evaluations are a fragmentary picture of results in the Department and consequently the use and benefits of ADR are believed to be underreported.



Resolution of cases through ADR offers important benefits in the Department's enforcement and defensive litigation. Settlement gives the Department and the United States government significant savings in the costs and delay of litigation and discovery, as well as the monies paid to resolve the dispute. The saved resources can be used to handle other matters that cannot or should not settle. ADR allows the parties to negotiate a creative disposition that best serves their interests and which may go beyond the jurisdiction of a court to order. ADR fosters solutions that may substitute for the payment of money or reduce potential monetary exposure. Even where the case does not settle, ADR can be valuable in narrowing the issues, or helping the parties move closer to settlement (or facilitate a later settlement) by demonstrating good faith, improving their relations, or making progress in the negotiations. ADR may be beneficial in resolving several related disputes in one global settlement, or in settling one dispute that can set parameters for the resolution of similar future disputes. ADR can contribute to effective case management by resolving discovery disputes or facilitating the informal exchange of critical information.

FY 2005 Performance Actual: 61%

FY 2006 Performance Actual: 59%

FY 2007 Performance Target: 25%

FY 2008 Performance Target: 25%

b. Strategies to Accomplish Outcomes

Strategies to Achieve FY 2006/07/08 Goal: ODR will continue aiming for use and resolution rates that are high but recognizes that despite fluctuations, use of ADR will continue to bring significant savings and benefits to the Department and the United States Government.

ODR will continue its efforts to better evaluate use and results of ADR by obtaining more comprehensive reporting from the components. ODR joined in the Department case management project to focus on improving reporting. The new Department-wide Litigation Case Management System includes a centralized application and database for case management, in order to provide consistency and usability for all components. ODR requested that the litigation architecture include tracking of dispute resolution. ODR will also explore the possibility of requiring the components that utilize ADR to report annually on the number of cases in which ADR was used and the total cost and resource savings realized through use of ADR. ODR created a new online ADR evaluation form that Department attorneys can complete for every case in which ADR was used and, beginning in FY 2006, the attorneys have been able to submit the completed evaluation form electronically to ODR. ODR has also established an internal Department web page that provides practical guidance-at-a-glance for Department attorneys on the use and benefits of ADR. The ADR evaluation form is on that internal web page.

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

No programs within ODR have been selected for review under the Program Assessments Rating Tool (PART) process.

V. Exhibits

B: Summary of Requirements

Summary of Requirements
 Office of Dispute Reesolution
 Salaries and Expenses
 (Dollars in Thousands)

	FY 2008 Pres. Budget		
	Perm. Pos.	FTE	Amount
2006 Enacted (with Rescissions, direct only)	3	3	\$480
2006 Supplementals			
Total 2006 Enacted (with Rescissions and Supplementals)	3	3	480
2007 President's Budget (Information Only)			586
2007 Continuing Resolution Level (as reflected in the 2008 President's Budget; Information Only)			
2007 Estimate (direct only)*	3	3	542
2007 Estimate (with Rescissions)	3	3	542
Technical Adjustments			(9)
Adjustments to Base			
Increases:			
2008 pay raise (3.0%)			7
2007 pay raise annualization (2.2%)			2
Change in compensable days			2
Retirement			2
GSA Rent			6
Total Adjustments to Base			19
Total Adjustments to Base and Technical Adjustments			10
2008 Current Services	3	3	552
2008 Total Request	3	3	552
2007 - 2008 Total Change	0	0	10

* The Department of Justice 2008 budget request was built on a starting point that recognized progress in enacting the FY 2007 appropriation. The starting point used (referred to throughout this document as the "Estimate") is the average of the Senate Committee and House passed marks, less one percent, unless noted otherwise.

Summary of Requirements
Office of Dispute Resolution
Salaries and Expenses
(Dollars in Thousands)

	2006 Enacted w/Rescissions and Supplementals			2,007 Estimate			2008 <i>Adjustments to Base and Technical Adjustments</i>			2008 Current Services			2008 Increases			2008 Offsets			2008 Request			
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	
Estimates by budget activity																						
Office of Dispute Resolution	3	3	\$480	3	3	\$542			\$10	3	3	552	\$0	\$0		3	3	\$552
Total	3	3	480	3	3	542	....	....	10	3	3	552	....	....	....	....	....	....	3	3	552
Total FTE	3			3						3									3			
Total Comp FTE	3	3	480	3	3	542			10	3	3	552							3	3	552	

D: Resources by DOJ Strategic Goal and Strategic Objective

**Resources by Department of Justice Strategic Goal/Objective
Office of Dispute Resolution**
(Dollars in Thousands)

Strategic Goal and Strategic Objective	2006 Enacted		2007 Estimate		2008							
	w/Recessions and Supplementals		Direct, Reimb. Other FTE	Direct Amount \$000s	Request	Increases		Offsets		2008 Request		
	Direct, Reimb. Other FTE	Direct Amount \$000s				Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	
Goal 2: Enforce Federal Laws and Represent the Rights and Interests of the American People	3	480	3	542	3	552					3	552
2.5 Enforce federal statutes, uphold the rule of law, and vigorously represent the United State in all matters for which the department has jurisdiction	3	480	3	542	3	552					3	552
Subtotal, Goal 2	3	480	3	542	3	552	-	-	-	-	3	552
GRAND TOTAL	3	480	3	542	3	552					3	552

E. Justification for Base Adjustments

Justification for Base Adjustments Office of Dispute Resolution

Increases

2008 pay raise. This request provides for a proposed 3.0 percent pay raise to be effective in January of 2008. (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, \$ 7,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$ 5,250 for pay and \$ 1,750 for benefits).

Annualization of 2007 pay raise. This pay annualization represents first quarter amounts (October through December) of the 2007 pay increase of 2.2 percent. The amount requested \$2,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$ 1,500 for pay and \$500 for benefits).

Changes in Compensable Days. The increased costs of two more compensable days in FY 2008 compared to FY 2007 is calculated by dividing the FY 2007 estimated personnel compensation \$1,420 and applicable benefits \$580 by 260 compensable days. The cost increase of two compensable days is \$2,000.

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 \$7,000 is required to meet our commitment to GSA.

Retirement. Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on OPM government-wide 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 \$2,000 is necessary to meet our increased retirement obligations as a result of this conversion

*ATBS must be recalculated following final FY 2007 action

F: Crosswalk of 2006 Availability

Crosswalk of 2006 Availability

Office of Dispute Resolution

(Dollars in Thousands)

Decision Unit	FY 2006 Enacted Without Rescissions			Rescissions			Supplementals			Reprogrammings / Transfers			Carryover/ Recoveries			2006 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Office of Dispute Resolution	3	3	486			(6)										3	3	480
TOTAL	3	3	\$486	....	....	(\$6)	....	....	\$0	....	....	\$0	....	....	\$0	3	3	\$480
Total FTE		3																3
Other FTE																		
LEAP																		
Overtime																		
Total Compensable FTE		3			....			....			....			....				3

Enacted Rescissions. Funds rescinded as required by the Department of Justice Appropriations Act, 2006 (P.L. 109-108) and the Department of Defense Appropriations Act, 2006 (P.L. 109-148).

G: Crosswalk of 2007 Availability

Crosswalk of 2007 Availability

Office of Dispute Resolution

Salaries and Expenses

(Dollars in Thousands)

Decision Unit	2007 Estimate			Rescissions			Reprogrammings / Transfers			Unobligated Balances Carried Forward /Recoveries			2007 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Office of Dispute Resolution		3	542										....	3	542
TOTAL	3	542	....	....	\$0	....	....	\$0	....	....	\$0	....	3	542
Reimbursable FTE															
Total FTE		3			....			....			....			3	
Other FTE															
LEAP														
Overtime														
Total Compensable FTE		3			....			....			....			3	

I: Detail of Permanent Positions by Category

Detail of Permanent Positions by Category
 Office of Dispute Resolution
 Salaries and Expenses

Category	2006 Enacted w/Rescissions and Supplementals		2007 Estimate		2008 Request								
	Total Authorized	Total Reimbursable	Total Authorized	Total Reimbursable	Adj. to Base Increases	Adj. to Base Decreases	Total ATB	Program Increases	Program Decreases	Total Pr. Changes	Total Authorized	Total Reimbursable	
Clerical and Office Services (300-399)	1		1								....	1	
Attorneys (905)	2		2								....	2	
Total	3	....	3	....	....	....	....	....	....	....	....	3	....
Location													
Headquarters (Washington, D.C.)	3		3								....	3	
U.S. Field											....	....
Foreign Field											....	....
Total	3	....	3	....	....	....	....	....	....	....	....	3	....

K: Summary of Requirements by Grade

Summary of Requirements by Grade

Office of Dispute Resolution
Salaries and Expenses

Grades and Salary Ranges	2006 Actual Obligations w/Rescissions and Supplementals		2007 Estimate		2008 Request		Increase/Decrease	
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
SES 155,000	1		1	....	1	....	....	....
GS-15, \$107,521-139,774	1		1	....	1	....	....	....
GS-11, \$54272-70558	1		1	....	1	....	....	....
Total, appropriated positions	3		3	....	3	....	....	....
Average SES Salary		\$ 155,000		\$ 159,805		\$ 163,321		
Average GS Salary		\$ 87,195		\$ 89,898		\$ 91,876		
Average GS Grade		13		13		13		

L: Summary of Requirements by Object Class

Summary of Requirements by Object Class

Office of Dispute Resolution

Salaries and Expenses

(Dollars in Thousands)

Object Classes	2006 Obligations		2007 Estimate		2008 Request		Increase/Decrease	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
11.1 Direct FTE & personnel compensation	3	184	3	267	3	274	....	7
11.3 Other than full-time permanent	....	....	....	....	....	....	....	....
11.5 Total, Other personnel compensation	....	....	....	....	....	....	....	....
<i>Overtime</i>	....	....	....	....	....	....	....	....
<i>Other Compensation</i>	....	....	....	....	....	....	....	....
11.8 Special personal services payments	....	....	....	....	....	....	....	....
Total	3	184	3	267	3	274	....	7
Reimbursable FTE:								
Full-time permanent								
Other Object Classes:								
12.0 Personnel benefits		28		57		57		
21.0 Travel and transportation of persons		2		3		3		
22.0 Transportation of things		3		1		1		
23.2 Rental Payments to Others		68		194		197		3
23.3 Comm., util., & other misc. charges		4		4		4		
25.2 Other services		12		10		10		
25.3 Purchases of goods & services from Government accounts		11		2		2		
26.0 Supplies and materials		9		2		2		
31.0 Equipment		14		2		2		
							
							
Total obligations		\$335		\$542		\$552		\$10
Unobligated balance, start of year [-]				....		....		....
Unobligated balance, end of year [+]		145						
Recoveries of prior year obligations [-]		....		....		....		....
Total requirements		480		542		552		10
Relation of Obligation to Outlays:								
Total obligations		335		542		552		10
Obligated balance, start of year [+]		....		....		....		....
Obligated balance, end of year [-]								
Recoveries of prior year obligations		....		....		....		....
Outlays				....		....		....