

## **Corporate Context for Corporate Management (CM)**

*This section on Corporate Context that is included for the first time in the Department's budget is provided to facilitate the integration of the FY 2003 budget and performance measures. The Department's Strategic Plan published in September 2000 is no longer relevant since it does not reflect the priorities laid out in President Bush's Management Agenda, the 2001 National Energy Policy, OMB's R&D project investment criteria or the new policies that will be developed to address an ever evolving and challenging terrorism threat. The Department has initiated the development of a new Strategic Plan due for publication in September 2002, however that process is just beginning. To maintain continuity of our approach that links program strategic performance goals and annual targets to higher level Departmental goals and Strategic Objectives, the Department has developed a revised set of Strategic Objectives in the structure of the September 2000 Strategic Plan.*

The Department manages an extensive array of energy-related programs over a nationwide complex including headquarters organizations, operations offices, field offices, national laboratories, power marketing administrations, special purpose offices, and sites now dedicated to environmental cleanup. The Department needs strong corporate management in order to integrate its diverse portfolio of program missions, its facilities, and its contractors spread over a large geographic base.

### **Corporate Management (CM) Goal**

**Demonstrate excellence in the management of the Department's human, financial, physical and information assets. Successfully implement each of DOE's requirements in the President's Management Agenda; demonstrate measured progress in resolving DOE's management challenges; and resolve all management recommendations from DOE's IG and GAO within three years of issuance.**

### **Strategic Objectives**

- CM1:** Achieve effective and efficient management of the Department of Energy by implementing the President's Management Agenda initiatives on Strategic Management of Human Capital; Competitive Sourcing; Improved Financial Performance; and Budget and Performance Integration. (MBE, ED)
- CM2:** Advocate and implement E-government citizen service delivery office in FY 2003. (CIO)
- CM3:** Ensure secure, efficient, effective and economical operations of the Department's Information Technology Systems and Infrastructure. (CIO)

- CM4:** Provide analysis of domestic and international energy policy, develop implementation strategies, ensure policies are consistent across DOE and within the Administration, communicate analyses and priorities to the Congress, public, industry, foreign governments, and domestic and international organizations, and enhance the export and deployment of energy technologies internationally. (PI)
- CM5:** Reduce adverse security incidents, worker injuries, and environmental releases through policy development, counterintelligence, intelligence, and oversight of the Nation's energy infrastructure, nuclear weapons, materials, facilities and information assets.  
(SO, CN, IN, OA)
- CM6:** Operate a robust review program and provide timely performance information and recommendations to facilitate: (1) implementation of the President's Management Agenda; (2) resolution of Management Challenges; (3) execution of the Secretary's priorities; (4) completion of statutory Inspector General mandates; (5) recovery of monies and opportunities for savings; and (6) the integrity of the Federal and contractor workforce. (IG)

## Budget Summary Table

(dollars in thousands)

	FY 2001 Comparable Appropriation	FY 2002 Comparable Appropriation	FY 2003 Request
Office of the Secretary	\$5,081	\$4,784	\$4,731
Energy Security	3,244	3,269	27,686
Management, Budget and Evaluation/CFO (CM1)	116,815	109,310	110,841
Board of Contract Appeals	917	953	785
Hearing and Appeals	5,533	5,381	4,753
Congressional & Intergovernmental Affairs	5,275	4,777	5,224
Economic Impact and Diversity (CM1)	6,916	6,269	6,821
General Counsel	23,894	23,775	23,964
Policy and International Affairs (CM4)	17,237	16,176	21,619
Public affairs	4,244	4,057	4,685
Inspector General (CM6)	33,556	33,856	38,872
Intelligence (CM5)	36,154	40,618	41,559
Counterintelligence (CM5)	45,079	45,514	39,383
Security (CM5)	165,357	173,977	186,506
Independent Oversight and Performance Assurance (OA)	22,275	22,228	22,615
Chief Information Officer (CIO)	73,978	75,444	84,160
<b>Subtotal Corporate Management</b>	<b>565,555</b>	<b>570,388</b>	<b>624,204</b>
Cost of Work for Others	66,027	65,499	69,916
Miscellaneous Revenues	-107,103	-137,810	-137,524
<b>Total, CM</b>	<b>524,479</b>	<b>498,077</b>	<b>556,596</b>

# Office of Hearings and Appeals

## Program Mission

The Office of Hearings and Appeals (OHA) conducts all of the Department of Energy's adjudicative processes and provides various administrative remedies.

OHA's adjudications support the Department's Corporate Management goals in the following ways. OHA conducts hearings regarding the eligibility of employees to hold security clearances. OHA assists DOE and National Nuclear Security Administration (NNSA) efforts to ensure only qualified individuals hold security clearances. This activity provides direct support to the Department's national nuclear security goal. OHA also investigates and holds evidentiary hearings in cases involving "whistleblower" complaints filed by any of the Department's 100,000 contractor employees. Thus, OHA directly supports the Department's Corporate Management objective to demonstrate efficient, effective, and economical management of the Department's human capital, financial resources, and physical assets. OHA also considers appeals of adverse DOE determinations on requests for information submitted under the Freedom of Information and Privacy Acts. It issues determinations on requests for exception based upon claims of hardship or inequity resulting from the application of any DOE order, rule, regulation or other requirement. OHA, therefore, plays a key role in helping the Department meet its Corporate Management objective to ensure that only extremely reliable individuals are allowed access to classified information and nuclear materials. OHA has recently been assigned responsibilities with regard to the soon to be proposed Scientific Integrity regulations. By providing opportunities for scientific researchers to have a hearing concerning allegations of misconduct, OHA directly supports the integrity of the Department's overall science program, including helping the Nation obtain clean, affordable, and abundant energy. Other responsibilities include considering appeals of determinations by the Office of Civilian Radioactive Waste Management of payments-equal-to-taxes for eligible jurisdictions, and of determinations by the Office of Environmental Management concerning contributions to, and reimbursements from, the Uranium Enrichment Decontamination and Decommissioning Fund.

The Office of Hearings and Appeals supports Strategic Objectives CM2, CM5 and CM6 and has developed the following specific Program Strategic Performance Goal and performance indicators:

**CM2:** Advocate and implement E-government citizen service delivery office in FY 2003.

### Program Strategic Performance Goal

? OHA supports this strategic performance goal by the speedy resolution of problems in the application of the Freedom of Information Act, and thus the timely, efficient release of material to the public. In addition, OHA posts its decisions, once they are issued, on its website.

Performance Indicator: Performance is measured by number of cases resolved, percentage of cases resolved within regulatory deadlines, number of cases affirmed vs. number reversed on appeal to Federal courts.

**CM5:** Reduce adverse security incidents, worker injuries, and environmental releases through policy development, counterintelligence, intelligence, and oversight of the Nation's energy infrastructure, nuclear weapons, materials, facilities and information assets.

### **Program Strategic Performance Goals**

? OHA supports this strategic performance goal through its hearings and appeals process to ensure that only extremely reliable individuals are allowed access to classified information and nuclear materials.

? OHA supports this strategic performance goal through its responsibilities in the Whistleblower Protection and other programs which are in place to reduce the risk that employers may retaliate, so that contractor employees feel at liberty to accurately assess and speak out about health and safety concerns at DOE facilities.

Performance Indicator: Performance is measured by number of cases resolved, percentage of cases resolved within regulatory deadlines, number of cases affirmed vs. number reversed on appeal to Federal courts.

**CM6:** Operate a robust review program and provide timely performance information and recommendations to facilitate: (1) implementation of the President's Management Agenda; (2) resolution of Management Challenges; (3) execution of the Secretary's priorities; (4) completion of statutory Inspector General mandates; (5) recovery of monies and opportunities for savings; and (6) the integrity of the Federal and contractor workforce.

### **Program Strategic Performance Goals**

? OHA supports this strategic performance goal within its responsibility of resolving allegations of scientific misconduct involving DOE-sponsored research.

Performance Indicator: Performance is measured by number of cases resolved, percentage of cases resolved within regulatory deadlines, number of cases affirmed vs. number reversed on appeal to Federal courts.

## OHA Personnel Security Cases Received

	<u>Hearings</u>	<u>Appeals</u>
FY 2000	87	18
FY 2001	88	21
FY 2002 (est.)	94	23
FY 2003 (est.)	98	27

Towards this objective, OHA issues timely, high quality decisions that consider and balance the facts, the Congressionally mandated objectives underlying each proceeding, the rights and interests of individual litigants, and the interests of customers, stakeholders and concerned parties such as the public, State and Federal governments. In cases involving access to classified information and other secure materials, the employment interests of an individual employee are weighed and balanced against vital national security interests (which allow access only to trustworthy employees). Insofar as whistleblower complaints are concerned, the interests of the Department lie in promoting an atmosphere in which employees may raise concerns about fraud, waste, abuse, safety and health without fear of retaliation, while ensuring that DOE's contractors may manage their operations in the most efficient manner possible. All funding for OHA is for Program Direction, which provides for the Federal staffing resources and associated expenses required to carry out OHA's mission.

## Annual Performance Results and Targets

FY 2001 Results (FY 2001 partial)	FY 2002 Target/Results	FY 2003 Target
OHA resolved 109 security clearance cases. Of these, 89 percent were resolved within the regulatory deadline or within limited extensions of time given by the Director. (CM5)	Upon receipt of security clearance cases, OHA will resolve 90 percent of these cases within regulatory deadline or within limited extensions of time given by the Director. (CM5)	Upon receipt of security clearance cases, OHA will resolve 90 percent of these cases within regulatory deadline or within limited extensions of time given by the Director. (CM5)
OHA held on-site hearings and otherwise resolved 43 whistleblower cases. (CM5)	OHA will conduct investigations and process all whistleblower complaints. (CM5)	OHA will conduct investigations and process all whistleblower complaints. (CM5)
OHA resolved 79 Freedom of Information and Privacy Acts cases. Of these 95 percent were resolved within the regulatory deadlines or within limited extensions of time given by the appellant. (CM2, CM5)	Upon receipt of Freedom of Information and Privacy Act cases, OHA will resolve 95 percent of these cases within the regulatory deadline or within limited extensions of time given by the appellant. (CM2, CM5)	Upon receipt of Freedom of Information and Privacy Act cases, OHA will resolve 95 percent of these cases within the regulatory deadline or within limited extensions of time given by the appellant. (CM2, CM5)
OHA has worked with the Office of Science in drafting the Department's proposed scientific misconduct regulations. (CM6)	OHA will be ready to conduct any scientific misconduct complaints that are referred to it. (CM6)	OHA will be ready to conduct any scientific misconduct complaints that are referred to it. (CM6)

### Significant Accomplishments and Program Shifts

- In concert with recent Congressional action creating the NNSA, OHA and NNSA have signed a memorandum of understanding. This agreement gives OHA authority, subject to review by NNSA, to adjudicate whistleblower and Freedom of Information Act (FOIA) appeal cases affecting NNSA elements. In its role of providing adjudicatory services for the NNSA, OHA is now supporting the NNSA's mandate to provide security for the Nation's nuclear weapon stockpile. In this area, prompt decision-making is of vital importance. In FY 2001, in 89 percent of the personnel security cases received, OHA resolved the cases within the regulatory deadline.
- During FY 2001, OHA began to receive an increasing number of personnel security cases. Based upon this factor and increasing investigation activity, OHA projects that its annual security case receipts will increase by approximately 10 percent in FY 2003. To date, these increased case receipts primarily reflect increased security activity at the Albuquerque Operations Office.

- OHA continues to provide the adjudications underlying DOE's Contractor Employee Whistleblower Protection Program. In its role in promoting an environment wherein workers can freely raise material health and safety concerns, OHA advances worker safety and health throughout the DOE complex. OHA, in its adjudications, seeks to balance the public interest in promoting a workplace where workers are free to express concerns without fear of retaliation with the need for DOE contractors to be able to manage their resources as efficiently as possible. OHA, therefore, protects workers against reprisals and helps to identify meritorious cases involving workplace health and safety, fraud, waste, abuse or mismanagement. During FY 2001, OHA resolved 43 whistleblower and whistleblower-related cases.
- OHA continues to maintain its record of resolving Freedom of Information Act appeals on a timely basis, supporting the parallel goals of DOE transparency and of energy-stakeholders' needs to access information. This is especially important in light of constrained resources and increased focus on energy supply and generation. In FY 2001, OHA resolved 79 FOIA and Privacy Act appeals. Of these, 95 percent of the decisions were issued to the appellant within the statutory 20 working days of receipt of the appeal or within an extension of time agreed to by the appellant.
- The Department is establishing procedures by regulation to implement Subtitle D of the Energy Employee Occupational Illness Compensation Program Act of 2000. OHA is designated as the appellate authority in deciding which claims are sent to physician panels for review and in making the final DOE determination in cases where contractor employees seek DOE's help in filing a claim for worker's compensation based on illness or death caused by the exposure to a toxic substance while employed at a DOE facility. While DOE has estimated that physician panels will process 3,000 to 4,000 claims in the first two years of the program, there is no current estimate as to the case work that OHA will be required to adjudicate.
- The Department is implementing by regulation the government-wide policy on research integrity. These regulations will establish a process by which researchers may respond to claims of research misconduct and will apply to all research funded by the Department wherever it occurs, including the National Laboratories and the NNSA. OHA is designated to provide both investigatory and adjudicatory services under those regulations, similar to the services OHA already provides for the Contractor Employee Protection Program.



## Funding Schedule

(dollars in thousands)

	FY 2001 <sup>a</sup>	FY 2002 <sup>a</sup>	FY 2003 <sup>a</sup>	\$ Change	% Change
Salaries and Benefits .....	2,632	2,524	2,503	-218	-0.8%
Travel.....	80	80	80	0	0.0%
Support Services.....	20	20	20	0	0.0%
Other Related Expenses.....	533	533	533	0	0.0%
Total.....	<u>3,265</u>	<u>3,157</u>	<u>3,136</u>	-21	-0.6%
Total Excluding Full Funding for Federal Retirements, Program	<u>2,993</u>	<u>2,893</u>	<u>2,961</u>	+68	+2.4%
Full-Time Equivalents.....	23	22	17	-5	-23%

<sup>a</sup> The FY 2001 and FY 2002 columns of the FY 2003 Congressional Request include funding in the amounts of \$272,000 and \$264,000 respectively, for the Government's share of increased costs associated with pension and annuitant health care benefits. These funds are comparable to FY 2003 funding of \$203,000. (Note that the data are presented on a comparable basis as if the legislation had been enacted and implemented in FY 2001.)

## Detailed Program Justification

(dollars in thousands)

	FY 2001	FY 2002	FY2003
<b>Salaries and Benefits</b> .....	<b>2,632</b>	<b>2,524</b>	<b>2,503</b>
<p>Funding supports 17 FTEs in FY 2003; a reduction of 5 FTE. The increased funding will cover costs associated with termination of these employees. Funding is also included for the Government's share of increased costs associated with pension and annuitant health care benefits.</p>			
<b>Travel</b> .....	<b>80</b>	<b>80</b>	<b>80</b>
<p>For transportation to DOE field sites to conduct hearings on cases and whistleblower investigations.</p>			
<b>Support Services</b> .....	<b>20</b>	<b>20</b>	<b>20</b>
<p>Funding for computer support of the office information system and for assistance in maintaining OHA's Home Page on the Internet for rapid public access to the office's publicized decisions. OHA utilizes computer information systems to improve management and promote efficient use of resources, and it promptly (within 24 hours) publishes OHA decisions and findings on its publicly accessible, customer-friendly and increasingly visited website. OHA also regularly publishes the Federal Energy Guidelines as a major research tool for both DOE and the public.</p>			
<b>Other Related Expenses</b> .....	<b>533</b>	<b>533</b>	<b>533</b>
<p>This category includes funding for employee training, charges by the Working Capital Fund for base services: rent, utilities, telephone, supplies, postage, building operations, photocopies, telecommunications, printing (including publication of federal register notices, and printing of decisions), and automated office support system support and maintenance. OHA also pays for certain services directly, including timesharing (Westlaw) and purchases of computer equipment and software.</p>			
<b>Total, Program Direction</b> .....	<b><u>3,265</u></b>	<b><u>3,157</u></b>	<b><u>3,136</u></b>

**Explanation of Funding Changes From FY 2002 to FY 2003**

**FY 2003 vs. FY 2002**  
(\$000)

**Salaries and Benefits**

OHA has will eliminate 5 FTEs from its Other Defense Activities work in FY 2003. The increased funding will cover increased costs associated with termination of 5 FTE positions and funding for the Government's share of increased costs associated with pension and annuitant health care benefits.....

	<u>-21</u>
<b>Total Funding Change, Program Direction.....</b>	<b><u>-21</u></b>