



BUDGET The United States Department of the Interior **JUSTIFICATIONS**

and Performance Information
Fiscal Year 2010

**OFFICE OF
THE SOLICITOR**

NOTICE: These budget justifications are prepared for the Interior, Environment and Related Agencies Appropriations Subcommittees.

Approval for release of the justifications prior to their printing in the public record of the Subcommittee hearings may be obtained through the Office of Budget of the Department of the Interior.

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
FISCAL YEAR 2010 BUDGET JUSTIFICATION**

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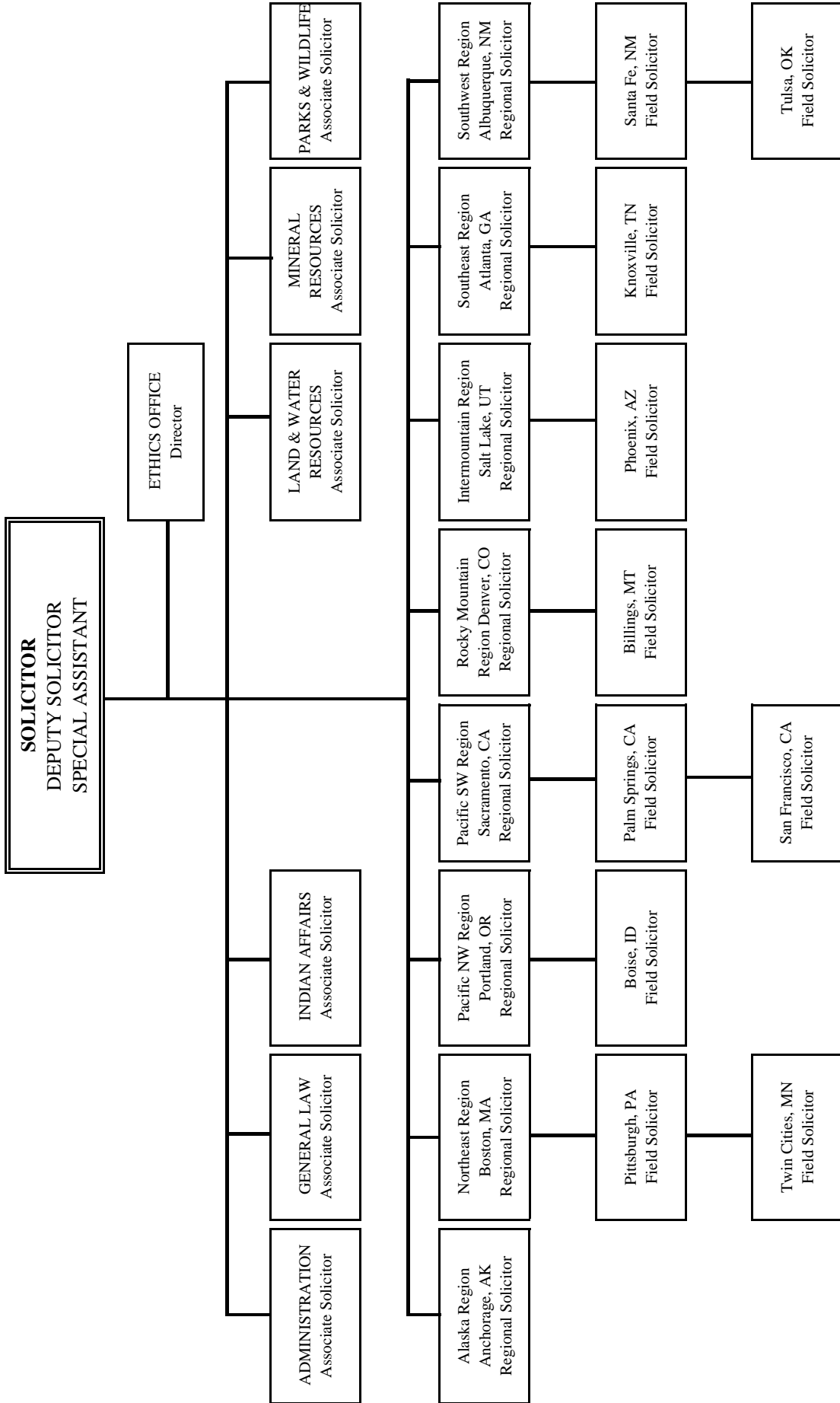
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**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
ORGANIZATIONAL CHART**



GENERAL STATEMENT

With an emphasis on high ethical standards, excellence in public service, the delivery of quality legal counsel and advice, and to fulfill the United States Department of the Interior's (Interior's) wide-ranging mission, the Office of the Solicitor (SOL, Office) performs the legal work for Interior, manages Interior's Ethics Office and resolves Freedom of Information Act (FOIA) Appeals.

The Office provides advice, counsel and legal representation to the Immediate Office of the Secretary, the Assistant Secretaries, and all other bureaus and offices overseen by the Secretary. The advice provided by the Office impacts nearly every program within the Secretary's jurisdiction.

The Office is organized into the Immediate Office of the Solicitor, the Ethics Office, five legal divisions, an administrative division, and eighteen regional and field offices located throughout the United States.

The Solicitor is the chief attorney for Interior. The Solicitor is assisted by a Deputy Solicitor, Special Assistant, Ethics Director, Senior Counsel for Collaborative Action and Dispute Resolution, six Associate Solicitors, eight Regional Solicitors, and a staff of more than three hundred attorneys and four hundred total employees.

More than half of the attorneys are assigned to regional and field offices located as far west as Anchorage, Alaska and as far east as Boston, Massachusetts. The other attorneys are assigned to divisions located at headquarters in Washington, D.C.

The Office of the Solicitor's FY 2010 budget was formulated to allow the Office to continue to improve management practices and the morale of employees. The FY 2010 budget increase is directed at improving information management with automation tools and improving low Federal Human Capital Survey ranking by providing professional training and developmental opportunities to employees.

MANAGEMENT'S CHALLENGES:

The Office has undergone significant management reform in the past few years driven by (1) reconnecting to the internet after being disconnected for seven years; (2) the lack of tools for effectively managing information and knowledge; and (3) ranking on the bottom tier in the 2006 Federal Human Capital Survey.

- The Office reconnected to the internet last summer, after being disconnected since 2001. The Office needs further investment in its information technology (IT) and its IT security infrastructure to fully utilize resources available via the internet.
- A 2005 independent study concluded that “the Office is not presently equipped with the methods and tools with which it hopes to achieve 21st century excellence...indeed, without additional resources brought to bear on these issues, it will be very difficult for the Office in the foreseeable future to overcome its knowledge management challenges...”
- A high priority management challenge is an absence of an updated records management system. There are also challenges with new filings and increasing litigation relating to important issues such as energy and climate change, the use of Federal offshore and onshore lands for alternative energy under the Energy Policy Act of 2005, and Indian trust issues.
- The 2006 Federal Human Capital Survey revealed that employees ranked this Office 222 out of 224 as an organization and last in the training and development category.

MANAGEMENT'S STRATEGIES:

The Solicitor's Office initiated efforts in 2003 to begin addressing the challenges facing the Office. Funding provided since 2006 has allowed the Office to address some of the challenges and the 2010 budget will continue this effort.

Investing in Information Technology

The Office made significant advancements in the past year with updating its aging IT infrastructure. It replaced a majority of its personal computers, upgraded key network systems, and invested in securing its IT infrastructure. In May 2008, the Office was reconnected to the internet and e-mail allowing electronic communications outside the Office. The Office will continue to invest in knowledge management tools and improving its IT infrastructure.

Investing in Records Management

The Office's records management initiative is making progress. To overhaul the records management practices, the Office contracted with the Office of the Secretary Records Officer and the National Archives and Records Administration. The Office is streamlining the process

of moving records out of the offices. The Office has designated a SOL Records Officer and formed a centralized docket section focused on creating a modern filing system to manage records. In FY 2010, the Office will continue to make progress on developing filing systems and protocols that enable the Office to conduct electronic discovery.

Placing a Premium on Ethical Conduct

Although The Department of the Interior has faced a few notorious cases of ethical conduct issues in the recent past, the Interior Department has responded to these challenges with strong leadership from the Secretary and the Designated Agency Ethics Official (DAEO). The Secretary has provided direct, strong leadership in addressing the commitment to ethics he demands of all Interior employees. He and his senior staff work closely and regularly with the DAEO, who is also the Director of the Office of Ethics in the Office of the Solicitor, to ensure that Interior is meeting his high ethical expectations.

During his first week at Interior, the Secretary sent an all employee memo and began speaking with Interior employees about the importance of both personal and professional integrity. He has consistently conveyed the need to fulfill our trust to the American people as public employees in written messages and speeches, including addressing Mineral Management Service employees in Denver on ethics issues and outlining his commitment to a culture of integrity.

The Secretary and the senior staff have also worked closely with the DAEO to develop, refine and implement an Ethics Office Action Plan. With careful oversight, the Interior Department has recently accomplished the following:

- Opened a satellite Departmental Ethics Office in Denver to expand ethics legal advice capacity in Denver and other western-based regions and staffed it with an experienced ethics attorney
- Conducted an assessment of Interior Bureau ethics programs and started conducting a review of the structure of the Department-wide program
- Implemented best ethics practices focused on Executive Order 13490 (the Ethics Pledge) including modification of ethics forms to include requirements of the Pledge regarding registered lobbyists and 501(c)(3) tax-exempt organizations; prepared new post-Government employment guidance for political appointees, including the incorporation of additional restrictions outlined in the Pledge
- Enhanced ethics communications with employees, including updating the Ethics Office web sites and developing a series of new computer splash screens and posters to increase visibility for ethics matters
- Updated the Agency Annual Ethics Training plan; developed a new ethics training module, "Contracting in the Workplace;" planned an ethics conference in Denver; and developed and provided bureau-focuses ethics training
- Cosponsored a "Leadership and Ethics" session for the Senior Executive Service Career Development Program
- Updated the Ethics Counselor Handbook

- Started conducting a review of supplemental ethics regulations including addressing outside activities and employment as well as prohibited financial interests
- The Solicitor has clarified that only ethics personnel and attorneys in the ethics office may provide ethics legal advice to Interior employees.

As new Bureau directors are confirmed, the DAEO will meet with them to discuss the need for resources and emphasize the priority of the ethics program as part of our on-going effort to strengthen this important Department-wide program.

Emphasizing Legal Professionalism

Guidance on several matters of importance have been issued including (1) reporting fraud, waste, and abuse to the Inspector General or other appropriate authorities; (2) surnaming; (3) serving the interests of conflicting clients; and (4) dealing with disagreements on policy. Also, the Acting Director for DOJ's Office of Professional Responsibility has spoken to SOL attorneys about the topic of professional responsibility.

In August 2008, the Solicitor's Office formed a Professional Responsibility Committee that (1) makes recommendations to the Solicitor on enhancing the infrastructure for professional responsibility in the Office; (2) develops appropriate training for professional responsibility; and (3) provides guidance to SOL attorneys and their supervisors on professional responsibility as questions arise during the practice of law. The committee ensures that new attorneys understand management's expectations of them to know and to follow the rules of professional conduct. Interior is the first cabinet-level agency outside of the Department of Justice, or the military agencies to have a professional responsibility committee.

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR**

FISCAL YEAR 2010 BUDGET REQUEST OVERVIEW

The Office of the Solicitor FY 2010 Budget Request is \$65,076,000, representing an increase of \$3,026,000 above the Office's FY 2009 Enacted budget. The request includes increases of \$2,026,000 for fixed cost changes, \$900,000 for information technology, and \$100,000 for a training program.

The Office's 2010 budget request was developed to support Interior's focus on energy, water and climate issues, and Indian communities. The budget request will allow the Office to provide legal counsel and support to all areas of the Department by ensuring that programs are carried out in a manner consistent with laws and regulations.

The following table illustrates the 2008 Actual, the 2009 Enacted, and the 2010 budget request, and changes from the 2009 Enacted budget.

TOTAL 2010 BUDGET REQUEST
(Dollars in thousands)

	2008 Actual	2009 Enacted	2010 President's Budget	2010 Request Change from 2009
Appropriation total	58,326	62,050	65,076	+3,026
FTE direct	353	354	354	0
FTE reimbursable	48	48	48	0
FTE total	401	402	402	0

Budget at a Glance
(Dollars in Thousands)

	2008 Actual	2009 Enacted	Fixed Cost Changes	Δ Internal Transfers	Program Changes	2010 Request
Appropriation: Salaries and Expenses						
Legal Services	44,351	45,938	1,317	0	0	47,255
General Administration	12,864	14,966	669	0	1,000	16,635
IT - Implementation of Knowledge Management					[900]	
/Legal Technology Support Services					[100]	
Implementation of Training Program						
Ethics Office	1,111	1,146	40	0	0	1,186
Total	58,326	62,050	2,026	0	1,000	65,076

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR**

APPROPRIATION LANGUAGE

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, [\$62,050,000] \$65,076,000. (*Department of the Interior, Environment, and Related Agencies Appropriations Act, 2009.*)

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR**

APPROPRIATION LANGUAGE CITATION

Appropriation: Salaries and Expenses

For necessary expenses of the Office of the Solicitor.

43 U.S.C. § 1455

43 U.S.C. § 1455 provides that, on and after June 26, 1946, the legal work of the Department of the Interior shall be performed under the supervision and direction of the Solicitor of the Department of the Interior, who shall be appointed by the President with the advice and consent of the Senate.

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
SUMMARY OF REQUIREMENTS**
(dollars in thousands)

Appropriation: Salaries and Expenses	<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>
FY 2009 Enacted	354		354	62,050
Fixed Costs and related changes:				
Additional cost in 2009 for January 2009 pay raise	0	+365		
Additional cost in 2010 for January 2010 pay raise	0	+561		
Federal Employee Health Insurance	0	+530		
Working Capital Fund	0	+162		
Worker's Compensation Payments	0	+11		
Unemployment Compensation	0	-1		
GSA / Non-GSA Space Rental	0	+398		
Total Fixed Costs and related changes	0		0	+2,026
Program changes:				
Information Technology Requirements	0	+900		
Knowledge Management implementation and maint.	0	[460]		
Legal Technology Support Services	0	[440]		
Training Program	0	+100		
Total program changes	0		0	+1,000
Total requirements FY 2010 request	354		354	65,076

Comparison by Activity / Program Element

(Dollars in Thousands)

	2008		2009		2010				Inc.(+) / Dec. (-) from 2009 Enacted			
	Actual		Enacted		Fixed Costs Changes (+/-)		Program Changes (+/-)		Budget Request		FTE Amount	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Legal Services	318	44,351.0	319	45,938.0	0	+ 1,317.0	0	0.0	319	47,255.0	0	+ 1,317.0
General Administration	28	12,864.0	28	14,966.0	0	+ 669.0	0	+ 1,000.0	28	16,635.0	0	+ 1,669.0
Ethics Office	7	1,111.0	7	1,146.0	0	+ 40.0	0	0.0	7	1,186.0	0	+ 40.0
Total	353	58,326.0	354	62,050.0	0	+ 2,026.0	0	+ 1,000.0	354	65,076.0	0	+ 3,026.0

OFFICE OF THE SOLICITOR
Justification of Fixed Costs and Related Changes
(in thousands of dollars)

	2009 Budget	2009 Revised	2010 Fixed Costs Change
<u>Additional Operational Costs from 2008 and 2009 January Pay Raises</u>			
1. 2009 Pay Raise, 3 Quarters in 2009 Budget	+\$762	+\$762	N/A
<i>Amount of pay raise absorbed</i>	[0]	[263]	N/A
2. 2009 Pay Raise, 1 Quarter (Enacted 3.9 %)	N/A	N/A	+\$365
			[0]
3. 2010 Pay Raise (Assumed 2.0 %)	N/A	N/A	+\$561
			[0]
<p>These adjustments fund estimated pay raises for Federal employees.</p> <p>Line 1, 2009 Revised Column is an update of 2009 budget estimates based upon the 2009 Enacted and the enacted 3.9% versus the 2.9% request.</p> <p>Line 2 is the amount needed in 2010 to fund the enacted 3.9% January 2009 pay raise from October through December 2009.</p> <p>Line 3 is the amount needed in 2010 to fund the estimated 2.0 % January 2010 pay raise from January through September 2010.</p>			
Employer Share of Federal Health Benefit Plans	+\$355	+\$0	+\$530
<i>Amount of health benefits absorbed</i>	[0]	[0]	[0]
<p>The adjustment is for changes in the Federal government's share of the cost of health insurance coverage for Federal employees. For 2010, the increase is estimated at 6.5%, the estimated increase for 2009.</p>			
Workers Compensation Payments	\$118	\$118	+\$11
<i>Amount of workers compensation absorbed</i>	[0]	[0]	[0]
<p>The 2009 adjustment is for actual charges through June 2008 in the costs of compensating injured employees and dependents of employees who suffer accidental deaths while on duty. Costs for 2010 will reimburse the Department of Labor, Federal Employees Compensation Fund, pursuant to 5 U.S.C. 8147(b) as amended by Public Law 94-273.</p>			
Unemployment Compensation Payments	\$13	\$13	-\$1
<i>Amount of unemployment compensation absorbed</i>	[0]	[0]	[0]
<p>The 2009 adjustment is for estimated changes in the costs of unemployment compensation claims to be paid to the Department of Labor, Unemployment Trust Fund, pursuant to Public Law 96-499.</p>			

	2009 Budget	2009 Revised	2010 Fixed Costs Change
Rental Payments	\$6,692	\$6,692	+\$398
<i>Amount of rental payments absorbed</i>	<i>[0]</i>	<i>[0]</i>	<i>[0]</i>
<p>The adjustment is for changes in the costs payable to General Services Administration and others resulting from changes in rates for office and non-office space as estimated by GSA, as well as the rental costs of other currently occupied space. These costs include building security; in the case of GSA space, these are paid to DHS.</p>			
Departmental Working Capital Fund	\$3,546	\$3,546	+\$162
<i>Amount of WCF payments absorbed</i>	<i>[0]</i>	<i>[0]</i>	<i>[0]</i>
<p>The 2010 changes reflect expected changes in the charges for Department services and other services through the Working Capital Fund. These charges are displayed in the Budget Justification for Departmental Management.</p>			

GENERAL ADMINISTRATION ACTIVITY

Activity: General Administration

(dollars in thousands)

	2008 Actual	2009 Enacted	2010			Change from 2009 (+/-)
			Fixed Costs & Related Changes (+/-)	Program Changes (+/-)	Budget Request	
General Administration	12,864	14,966	+669	+1,000	16,635	+1,669

The 2010 request for General Administration is \$16,635,000 an increase of \$669,000 for fixed costs, and \$1,000,000 for a program increase. The program increase includes \$900,000 for Information Technology in support of the SOL Knowledge Management program and \$100,000 to expand the SOL Training Program.

SUMMARY OF FY 2010 PROGRAM CHANGES:

Information Technology (+900,000 / 0 FTE)

The Office of the Solicitor requests \$900,000 which includes: \$460,000 for Knowledge Management (KM) implementation and maintenance and \$440,000 for Legal Technology Support Services.

Knowledge Management (KM) (\$460,000)

In support of an ongoing effort to improve the Office and achieve efficiencies, SOL is requesting funds to continue the implementation of Knowledge Management hardware, software, services, and tools for conversion of paper documents into electronic form; communicating and sharing documents and content via electronic media and video conferencing; and providing comprehensive legal research capabilities via Web technologies. Rapid and diverse access to multiple sources of reference and factual materials is essential to effective decision making and establishing legal strategies. Continued expansion of KM system activities provides additional opportunities to improve and expand services rendered while providing better outcomes. The Office expects to invest \$46,200 for server hardware, \$35,500 for application software and software upgrades, \$115,000 in video conferencing equipment, \$71,300 in consulting services, and \$192,000 annually for on-line legal research services and communications services.

Legal Technology Support Services (\$440,000)

The data collected from the KM and Case/Matter Tracking System initiatives requires technical resources at end user locations capable of searching and delivering the content rapidly and effectively. The key to sustaining these technical resources is a lifecycle management program. To ensure efficient accomplishment of the goals and objective for the system, the Office is requesting \$294,000 for lifecycle maintenance of computing resources.

Case/matter tracking is important for four reasons. First, managers use this information to more equitably manage the work within a division or region. Second, senior managers use information contained in a case/matter tracking database along with the information collected through the position management system to better understand macro-level staffing needs in the Office. This helps managers distribute work equitably in the office by informing office-wide staffing decisions. Third, matters may be organized and linked by subject area, tagged for historical importance in the Office, and tagged for setting a precedent in an area of law. These features will provide more efficient access to relevant matters improving the thoroughness of legal review while saving effort. Forth, pending cases are evaluated for inclusion in Interior's audited annual financial statements.

The Case/Matter Tracking System initiative is ready to move into Phase II of its implementation which will provide managers with an effective means for understanding the work flow in the office. The 2010 request provides additional funding for Phase II in the following areas: \$40,000 for software licensing and maintenance, \$55,000 for computer hardware (4 servers and SAN storage), and \$51,000 for vendor installation services.

Training Program (+100,000 / 0 FTE)

To maintain a skilled workforce and meet the dynamic changes in management improvement initiatives, the Office needs sufficient funding to train staff. This Office's staff consists of professional attorneys, paralegal, legal technicians, IT support staff, financial support staff, and administrative support staff. The Office request includes \$100,000 for training using the following strategies:

- Execute a competency-based training study. The training officer will study the competencies of various positions in the Office and provide guidance to managers on the types of training that are appropriate for each position. This will help focus the limited training dollars on areas of training that are best tailored to meet the needs of the staff.
- Design an internal SOL training program. SOL employees possess a wealth of knowledge and experience in multiple Federal legal practice areas. The Office should share this knowledge and experience in a coordinated fashion as a cost-effective means toward increasing capabilities as well as improving internal coordination. This involves training in how to effectively use the Knowledge Management and Case / Matter Tracking System.

- Design an external-SOL training program. The SOL employees' knowledge and expertise can and should be shared with our client-representative bureaus. This can be done at bureau training centers for those bureaus that have them or through DOI University (DOIU) for those who do not. Some of this training is currently being performed, but it is not being performed in a coordinated manner. This type of preventative-maintenance training would increase SOL capacities because it would improve the efficiencies of our client-representatives which should reduce the number of legal issues throughout the Department. (\$60,000)
- Leverage training dollars. The Office must work with Interior bureaus and offices (especially the DOIU) as well as other Federal law offices to explore methods of economically combining resources for training. For example, SOL successfully collaborated with the Department of Justice (DOJ) to provide E-Discovery training to all attorneys in the office. (\$15,000)
- Set aside training dollars for paralegals and support staff. The Solicitor's managers typically spend the vast majority of their limited training dollars on securing training for attorneys because there is an institutional presumption that attorneys generally get a higher return on training. This practice has created a serious training deficiency in the paralegal, legal technician, and secretarial series. The Office must address this historical deficiency. (\$25,000)

GENERAL ADMINISTRATION PROGRAM OVERVIEW:

General Administration includes Executive Direction and the Division of Administration. The Division of Administration includes the FOIA and Privacy Act (PA) Appeals program, IT planning, Training program, and central services functions that centrally fund office-wide costs for information technology, telecommunications, postage, worker's compensation, personnel services, and administrative and consolidated services.

Executive Direction: Executive direction includes the Immediate Office of the Solicitor and the Associate Solicitors for Parks and Wildlife, General Law, Indian Affairs, Land and Water Resources, Mineral Resources, and Administration. The Immediate Office of the Solicitor includes the Solicitor, Deputy Solicitor, Special Assistant, Counselor, and supporting secretarial staff.

Division of Administration: Under the direction of an Associate Solicitor, the Division of Administration is responsible for providing and coordinating all management and administrative support services needed by the Office in an efficient manner. Responsibilities in the Division of Administration include organizational, strategic, and performance planning; program evaluation; budget and accounting; human resources management; employee development and training; space and property management; procurement services; IT planning and services; records management; and FOIA appeals. The Division consists of three branches, each headed by a Branch Chief who has responsibility for particular subject matters.

(1) Resource Management and Administrative Operations – Responsible for a) budget formulation, presentation, justification, and execution; b) human resource management including employee development and training; c) space and facility management; and d) other administrative services to include procurement services and property management.

(2) Information Services – Responsible for administrative and management support services in the areas of controlled correspondence; records management; and information technology, including acquisition, installation, and administration of computer hardware, software, and networks. Also, this branch ensures the Office is in compliance with all federal and departmental IT requirements.

(3) Freedom of Information Act (FOIA) and Privacy Act (PA) Appeals Office – Responsible for FOIA and PA appeals and coordinates and manages the Department's FOIA and PA appeals program. The Office is headed by the Departmental FOIA/PA Appeals Officer who has authority to directly issue appeal decisions for matters involving procedural issues not requiring legal review. An example of the type of such an appeal would be one alleging that a bureau did not conduct an adequate search of its files.

FOIA creates a statutory duty to respond to inquiries from interested citizens, and Interior takes this responsibility seriously. Resolution of appeals often requires significant staff time reviewing documents, coordinating with the bureau or office that had been responsible for the FOIA request at issue, and drafting Interior's decision. These decisions frequently involve complex issues that may only be resolved through an in-depth analysis of controlling authorities, causing the staff to devote significant time to researching and drafting the decisions. The Office has had an increasing role in providing advice on the Privacy Act, as issues relating to maintenance and protection of personal information continue to intensify.

LEGAL SERVICES ACTIVITY

Activity: Legal Services

(dollars in thousands)

	2008 Actual	2009 Enacted	2010			Change from 2009 (+/-)
			Fixed Costs & Related Changes (+/-)	Program Changes (+/-)	Budget Request	
Legal Services	44,351	45,938	+1,317	+0	47,255	+1,317

SUMMARY OF FY 2010 PROGRAM CHANGES:

The 2010 request for legal services is \$47,255,000 an increase of \$1,317,000 for fixed costs from the 2009 Enacted budget.

LEGAL SERVICES PROGRAM OVERVIEW

The responsibility of the Legal Services divisions is to effectively manage the legal work to support the top priorities of the Secretary and the client-representative bureaus. Among these legal services are representation in litigation, both administrative and judicial; preparation of legal opinions; legal review of legislation, regulations, contracts, and other documents; and furnishing informal legal counsel to clients on a continual basis in a wide variety of circumstances. The Office's request includes an increase for fixed costs.

Legal Workload Drivers: In performing its mission, the Department of the Interior constantly faces new challenges and changing legal needs. Because of this and because of a steady increase in the Office's workload over the past decade, its senior managers have repeatedly had to reassess the allocation of Office resources, particularly human resources. The Office continues to develop automated tools common to the legal profession to track legal program activities. The Office has seen an increase in the workload over the last decade. Significant examples of workload drivers include the *Energy Policy Act of 2005*, the *Surface Mining Control and Reclamation Act Amendments of 2006*, enhanced authority over offshore leasing, increased National Park Service concessions contracting activity, and various regional water crises. It is anticipated that the *Americans with Disabilities Act Amendments of 2008* which broadened the definition of disabilities will increase the number of such claims as was experienced when the Americans with Disabilities Act and other employment legislation was enacted.

- ***Energy Policy Act of 2005 and Energy-Related Initiatives:*** The Office has seen an increase in both litigation and requests for advice by DOI bureaus related to the *Energy Policy Act of 2005* (EPAct) and other recent energy-policy initiatives. The EPAct contains multiple initiatives, including amending the leasing authorities for

geothermal and coal resources and creating leasing authority for ocean renewable resources, requiring a number of DOI bureaus (including MMS and BLM) to engage in many new rulemakings, to conduct studies, to enter into memoranda of understanding with other agencies, to start pilot projects, to amend resource management plans, and to develop new policies. These have and will continue to require the Office to provide intensive legal support in the development and implementation stages, and in defending DOI actions against possible legal challenges. Much of the legal advice involves interpreting complex provisions of the law, advising Interior bureaus of the range of policy options, and assisting the bureaus with drafting regulations and other documents by the dates prescribed in the Act. This work is currently ongoing and is expected to continue in FY 2010 and beyond.

The EAct provides regulatory authority to the Minerals Management Service (MMS) to manage development and implementation of alternative energy projects on the Outer Continental Shelf (OCS), including wind, wave and solar projects, to regulate transportation of oil and gas, and authorize alternative uses of oil and gas platforms. The Office has devoted and will continue to devote considerable effort in assisting with development of these regulatory programs, including legal interpretation of the scope of the authority, rulemaking, and defense of litigation.

Another example of increased workload requirements is those that will result from Section 241 of the EAct which provides that with respect to Federal Energy Regulatory Commission (FERC) hydropower projects, any license applicant or other party to the license proceeding is entitled to a determination on the record, after opportunity for a trial-type hearing of no more than 90 days, of any disputed issue of material fact pertaining to any section 4(e) condition or section 18 fishway prescription filed by Interior in the license proceeding. This trial-type hearing process is expedited, so all processes, including motions to dismiss, discovery, the actual hearing, post-hearing briefing and final decisions, must be completed in no more than 90 days. Interior must initiate a 30-day period for license parties to request a trial-type hearing in any licensee proceeding in which Interior files one or more section 4(e) conditions or section 18 prescriptions. This workload will increase with the filing for FERC approval of tidal and wave energy projects. These are new technologies for which FERC is expecting to process numerous permit and license applications in the next year which will expand Interior and the Office's responsibilities, particularly with the requirements for trial-type hearings.

- ***Return of Authority for Offshore Leasing Decisions:*** Another source of workload is the 2008 lifting of congressional and executive moratoria on offshore leasing. The development of the next 5-year leasing program will involve far more decisions than confronted in the last decade when Congress and the President had removed the entire Atlantic and Pacific coasts from consideration for leasing. This will be followed by National Environmental Policy Act (NEPA) analysis, Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) consultations, and foreseeable litigation

for individual sales scheduled in areas without a prior history of development, all requiring additional legal support.

- ***Surface Mining Control and Reclamation Act (SMCRA) Amendments of 2006:*** This legislation substantially changed the part of SMCRA that governs the Abandoned Mine Land Fund, a trust fund that is used for the reclamation and restoration of land and water resources adversely affected by past coal mining. The amendments also authorize the Office of Surface Mining Reclamation and Enforcement (OSM) to adopt remaining incentives and to allow Indian tribes to operate SMCRA regulatory programs. Work in response to this legislation requires extensive, resource-intensive legal support by the Office in both the development and implementation stages as well as defending the Department's actions. The Department has also seen a large increase in the number of new proposals for alternative energy development and for energy corridor rights of way. As new proposals for wind and geothermal energy developments on federal lands are submitted, the Office is providing advice to the Department's land management agencies and defending administrative and judicial appeals of those agencies' decisions. A number of new energy corridors for electrical, liquefied natural gas, natural gas, and other energy transmission are being proposed to cross federal lands. The requirements to streamline and coordinate federal agencies' review of these proposals is requiring significant effort to sort out the procedures and the various agencies' roles, responsibilities, and opportunities for substantive input.
- ***Water: Preventing Crisis and Conflict:*** The Department is working to address emerging water conflicts before they become a crisis. A priority is finding solutions to conflicts that arise from the interplay of water shortages, explosive population growth, aging water supply facilities, and conflicting demands among users. This Office is involved in legal review of various agreements with States, local entities, and other stakeholders.
- ***Revised NPS Concessions Regulations:*** The passage of the National Park Service Concessions Management Act of 1998 and revised NPS concessions regulations thereafter led to a substantial backlog in concession contract reauthorizations which is still being completed. Increased competition for such contracts has required providing more legal services to the NPS than in the past.

With its emphasis on improving automation, the SOL FY 2010 budget is designed to allow the Office to effectively manage this increased work through improved efficiency and effectiveness of the staff rather than by increasing staff.

Program and Organizational Overview – Legal Services

The Office of the Solicitor consists of a headquarters organization in Washington, D.C., and regional and field offices in 18 locations throughout the United States. The Solicitor is the chief attorney for Interior and the principal legal adviser to the Secretary. The Solicitor directs the Office's professional staff and is responsible for the legal work provided to Interior.

The Washington, D.C. office is organized into the Immediate Office of the Solicitor, the Ethic's Office, five major legal divisions, and an administrative division as detailed below. Each division is headed by an Associate Solicitor who is directly responsible to the Solicitor and Deputy Solicitor. Attorneys under the supervision of Associate Solicitors render legal services for the Interior's programs. The field organization of the Solicitor's Office is divided into eight regions, as detailed below. Each region is headed by a Regional Solicitor who is directly responsible to the Solicitor and Deputy Solicitor.

HEADQUARTERS

Immediate Office of the Solicitor

Office of Ethics

Division of Parks and Wildlife

Division of General Law

Division of Indian Affairs

Division of Land and Water Resources

Division of Mineral Resources

Division of Administration

<u>REGION</u>	<u>REGIONAL OFFICES</u>	<u>FIELD OFFICES</u>
Alaska	Anchorage, Alaska	----
Southeast	Atlanta, Georgia	Knoxville, Tennessee
Northeast	Boston, Massachusetts	Pittsburgh, Pennsylvania Twin Cities, Minnesota
Inter-mountain	Salt Lake City, Utah	Phoenix, Arizona
Rocky Mountain	Denver, Colorado	Billings, Montana
Pacific Northwest	Portland, Oregon	Boise, Idaho
Pacific Southwest	Sacramento, California	Palm Springs, California San Francisco, California
Southwest	Albuquerque, New Mexico	Santa Fe, New Mexico Tulsa, Oklahoma

PROGRAM AND ORGANIZATION DESCRIPTIONS

The majority of the Office's resources are devoted to the defense of a wide range of litigation against the United States, both administrative and judicial, and to other "nuts-and-bolts" legal services, ensuring that Interior's agencies carry out their responsibilities in accordance with the law. In most judicial litigation, SOL attorneys actively assist or are co-counsel with attorneys from DOJ. In some judicial litigation and all administrative litigation, attorneys represent the Interior without assistance from DOJ.

The Office also provides everyday legal service assistance in drafting and reviewing legislation, proposed and final regulations, contracts, memoranda of agreement, decisions, agreements, leases, rights-of-way, title documents, and other legal instruments, as well as providing both written and oral legal advice on a constant flow of legal questions. Some of these questions arise from such generic statutes as the Administrative Procedure Act (APA), Freedom of Information Act, Privacy Act, Federal Advisory Committee Act (FACA), Federal Tort Claims Act (FTCA), Civil Service Reform Act, the Civil Rights Acts, and the Rehabilitation Act, while other questions arise from the many specific statutes applicable to Interior's program areas, statutes on which the Office's attorneys and paralegals have developed significant expertise.

In addition to this essential baseline of legal work, the Office engages in a significant number of special legal projects, providing critical legal support for the Interior's key initiatives. The legal staff assists the bureaus in responding to congressional direction in appropriations and substantive legislation. The Office advises the bureaus on legal options for streamlining processes and improving program management and implementing plans to carry out departmental goals. Finally, the Office assists the bureaus in responding to Inspector General,

congressional, judicial, and public FOIA requests, as well as subpoenas for documents.

In addition to the immediate Office of the Secretary and the offices of the Assistant Secretaries, client-representatives include the following bureaus and offices within Interior:

- Bureau of Indian Affairs (BIA)
- Bureau of Indian Education (BIE)
- Bureau of Land Management (BLM)
- Bureau of Reclamation (BOR)
- Fish and Wildlife Service (FWS)
- Minerals Management Service (MMS)
- National Park Service (NPS)
- Office of Surface Mining Reclamation and Enforcement (OSM)
- United States Geological Survey (USGS)
- Policy, Management and Budget (PMB)
- Office of Chief Information Officer (OCIO)
- Office of Civil Rights (PCR)
- Office of Environmental Policy and Compliance (OEPC)
- Office of Historical Trust Accounting (OHTA)
- Office of Indian Trust Transition (OITT)
- Office of Insular Affairs (OIA)
- Office of the Special Trustee (OST)
- Indian Arts and Crafts Board (IACB)
- Federal Subsistence Board (FSB)
- Exxon Valdez Trustee Council

Client-representative specific narratives are omitted for those bureaus and offices where the legal services provided are predominantly generic, that is, relating to personnel, procurement, FOIA, and other statutes of general applicability to all bureaus and offices.

ORGANIZATIONAL DESCRIPTIONS

The **Division of General Law** is responsible for legal matters related to procurement, patents, and tort claims; Insular areas; equal employment opportunity, labor law, and other personnel matters; and administrative and other general legal issues, including legislative and appropriations issues not assigned to another division. In addition, the Division provides legal assistance and counsel to the Assistant Secretary - Policy, Management and Budget and to the Endangered Species Committee. The Division has an Associate Solicitor and three branches, each headed by an Assistant Solicitor.

- (1) The Branch of Acquisitions and Intellectual Property has responsibility for legal matters related to Interior contract and procurement functions including related litigation, use of revolving and franchise funds, interagency agreements, grants and cooperative agreements, the Federal Tort Claims Act, the Military Personnel and Civilian Employees Claims Act, claims relating to agreements and contracts

under the Indian Self Governance and Self Determination Acts, patents, copyrights, trademarks, rights in data, and other forms of intellectual property.

- (2) The Branch of General Legal Services has responsibility for legal matters related to budget, financial management, legal ethics, FOIA, records management, electronic data management, partnerships, the Federal Advisory Committee Act, the Privacy Act, rule making, and other administrative law matters, internal delegations of authority, departmental law enforcement policies, Insular areas, all other related and general matters not specifically the responsibility of any other branch or division.
- (3) The Branch of Personnel Litigation and Civil Rights has responsibility for legal matters related to the areas administered by the Office for Equal Opportunity, including internal complaints, Title VI matters, and minority business enterprise matters; personnel management and equal employment opportunity litigation, personnel policy, and labor relations.

The **Division of Indian Affairs** is responsible for legal matters related to the programs and activities of the Bureau of Indian Affairs and the Bureau of Indian Education. In addition, the Division provides legal assistance and counsel to the Assistant Secretary - Indian Affairs. The Division has an Associate Solicitor and four branches, each headed by an Assistant Solicitor.

- (1) The Branch of Water and Power has responsibility for legal matters related to BIA programs and activities with respect to water rights held in trust by the United States for Indian Tribes and allottees, including adjudications and Congressional settlements of Indian water rights; license applications before the FERC and hydroelectric power projects that affect Indian reservations and resources; and the operation and maintenance of BIA irrigation projects.
- (2) The Branch of Trust Responsibility has responsibility for advising the Secretary in the Secretary's capacity as trustee over lands and minerals owned by Indian Tribes and individual Indians. The Branch is responsible for legal matters related to the acquisition and management of lands held in trust for the benefit of Indian Tribes and individual Indians; the management of the trust assets, including probate, and the use, leasing, sale, and conservation of trust assets such as forest and range lands; breach of trust and land claim litigation; environmental issues arising in connection with trust lands, and the protection and preservation of tribal cultural resources.
- (3) The Branch of Tribal Government and Alaska has responsibility for legal matters related to BIA tribal governmental programs and activities. In addition, the Branch is responsible for tribal status, treaty rights, reservation boundary, zoning, and taxation disputes; issues concerning Federal, State, and tribal jurisdiction; tribal courts and law enforcement and implementation of the Indian Civil Rights Act.

- (4) The Branch of General Indian Legal Activities has responsibility for legal matters related to BIA and BIE programs and activities other than those assigned to other branches. These matters include gaming, self-determination and self-governance, education, roads, social services, and economic development.

The **Division of Land and Water Resources** is responsible for legal matters related to the programs and activities of BOR and BLM, other than legal matters concerning BLM's mineral programs. The Division is also responsible for representing all of Interior's bureaus in both pursuing and defending claims seeking reimbursement under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for costs incurred in cleaning up contamination on Interior lands. In addition, the Division provides legal assistance and counsel to the Assistant Secretary - Water and Science; the Assistant Secretary - Land and Minerals Management; and, with respect to matters concerning operation of the Department's Central Hazardous Materials Fund, the Assistant Secretary - Policy, Management and Budget. The Division has an Associate Solicitor and three branches, each headed by an Assistant Solicitor.

- (1) The Branch of Public Lands has responsibility for legal matters related to BLM land management functions, including land acquisitions, disposals, exchanges, surveys, boundaries, withdrawals, classification, rights-of-way, trespass, land titles, land use planning, wild horses and burros, grazing, forest management, wildland fire issues, law enforcement, and wilderness.
- (2) The Branch of Water and Power has responsibility for legal matters related to BOR programs and activities, including contracting for water delivery, repayment, and operation and maintenance; hydropower development; water research and technology; water policy; and water rights.
- (3) The Branch of Federal Facilities Compliance has responsibility for legal matters related to cleanup and cost-recovery associated with hazardous substance contamination on Interior-managed land. The Branch advises the managers of the Department's Central Hazardous Materials Fund, which finances the Department's most complex and expensive remediation sites, and represents the Department and Bureaus at these sites in negotiating settlements by which responsible parties perform cleanup work or reimburse the Department's cleanup costs. The Branch also coordinates its response activities with Interior's Natural Resources Damage Assessment and Restoration Program.

The **Division of Mineral Resources** is responsible for legal matters related to the programs and activities of the USGS, other than those related to its Biological Research Division; MMS, other than those related to royalty collection and enforcement; OSM; and BLM's energy and mineral programs. The Division is also responsible for legal services pertaining to programs and activities of the Department related to the Law of the Sea and international law affecting marine minerals, pollution, and related matters. The Division provides legal assistance and counsel to

the Assistant Secretary - Water and Science and the Assistant Secretary - Land and Minerals Management. The Division has an Associate Solicitor and three branches, each headed by an Assistant Solicitor.

- (1) The Branch of Petroleum Resources has responsibility for legal matters related to MMS programs and activities, those of the BLM fluid minerals program (with the exception of geothermal resources) and BLM matters associated with oil shale and tar sands. The Branch is also responsible for legal matters related to international marine minerals, international and national boundaries, international pollution matters, and other Law of the Sea, Outer Continental Shelf, and international matters.
- (2) The Branch of Onshore Mining and Reclamation has responsibility for legal matters related to the minerals programs (including geothermal resources) of BLM and USGS, programs (including geothermal resources) of BLM and USGS, including development and extraction, environmental regulation and protection, reclamation, remediation, and issues arising from both active and abandoned mining activities, but excepting matters pertaining to oil, gas, helium, oil shale, and tar sands.
- (3) The Branch of Surface Mining has responsibility for legal matters related to OSM programs and activities, including regulatory programs, enforcement and collections, and abandoned mine land reclamation.

The **Division of Parks and Wildlife** is primarily responsible for legal matters related to the programs and activities of NPS, FWS, and the Biological Research Division of the USGS. In addition, the Division provides legal assistance and counsel to the Assistant Secretary - Fish, Wildlife and Parks. The Division has an Associate Solicitor and three branches, each headed by an Assistant Solicitor.

- (1) The Branch of National Parks has responsibility for legal matters related to NPS programs and activities and for legal matters related to the programs and activities of NPS's National Capital Region as well as and the United States Park Police.
- (2) The Branch of Fish and Wildlife has responsibility for legal issues related to the programs, activities, and policies of Interior and FWS concerning conservation, the preservation of migratory birds, fish, other kinds of endangered species, game and marine mammals, and their habitats throughout the United States, its possessions and territorial waters; the protection, management, and use of natural and cultural resources within the National Wildlife Refuge System; and interaction and liaison between the Interior and other Federal and state agencies, foreign countries and international organizations.
- (3) The Branch of Environmental Restoration has responsibility for various legal issues, including those related to the programs, activities, and policies of Interior and its various agencies, and claims for natural resource damages and their

restoration; hydropower licensing FERC under the Federal Power Act as it relates to the NPS and FWS; and the prevention of significant deterioration of air quality values in units of the park and refuge systems under the Clean Air Act.

The **Division of Administration**¹

The **Office of Ethics**², which is part of the Immediate Office of the Solicitor, is responsible for Department-wide implementation of the Ethics in Government Act and other applicable ethics statutes, Executive Orders, and regulations. The Office oversees the Interior's nationwide ethics program, providing advice on ethics issues, developing and disseminating Interior's policy and guidance on ethics and conflict of interest matters, and serving as Interior's liaison with the Office of Government Ethics.

The **Office of Indian Trust Litigation**, which is part of the Immediate Office of the Solicitor, is responsible for defending litigation brought by Indian Tribes and individual Indians against Interior for breach of trust relating to the accounting for, and management of, trust funds held by Interior for tribes and individual Indians and for breach of trust relating to the management of tribal lands and natural resources. There are over 90 tribal trust cases still pending.

Although a definitive ruling was made in late FY 2008 in the trial of *Cobell v. Kempthorne* (D.D.C) over the adequacy of Interior's plan to conduct historical accountings for individual Indian trust accounts, appeal activity in this case, now *Cobell v. Salazar*, will likely extend into FY 2010 and future fiscal years, as will the need to defend individual Indian historical accountings in court as they are issued under Interior's plan.

Regions and Field Offices. The following paragraphs describe the field organization and client assignments of SOL. Legal services are provided based on bureau regional boundaries, rather than SOL regional boundaries. Because regional boundaries vary from bureau to bureau, the actual areas served by the Solicitor's Regional and Field Offices overlap to a considerable extent, with the result that more than one Regional or Field Solicitor's Office may handle legal matters for different bureaus within a single state. In addition, Regional and Field offices are responsible for legal matters arising in Interior's offices within their jurisdiction, including all elements of the Office of the Secretary, the Assistant Secretary – Policy, Management, and Budget, and organizations affiliated with Interior.

A. The **Alaska Region** is responsible for legal matters involving all bureaus except OSM and MMS in Alaska. The Regional Office is located in Anchorage, Alaska.

B. The **Northeast Region** is responsible for legal matters involving all bureaus except BIA in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; legal matters involving all bureaus except NPS in Illinois, Indiana, Michigan, Minnesota, Ohio, and

¹ In-depth description of the Division of Administration is on pages SOL-14 – SOL-17.

² More in-depth description of the Ethics Office is on pages SOL-30 – SOL-34.

Wisconsin; and legal matters involving specific bureaus in Iowa (BIA, FWS, and USGS), Kentucky (OSM), Missouri (FWS), Nebraska (BIA), North Dakota (BIA), South Dakota (BIA), and Tennessee (OSM). The Regional Office is located in Newton Corner, Massachusetts, and Field Offices are located in Fort Snelling, Minnesota, and Pittsburgh, Pennsylvania.

C. The **Pacific Northwest Region** is responsible for legal matters involving all bureaus in Idaho, Oregon, and Washington; and legal matters involving the BIA in southern Alaska (Metlakatla) and northwestern Montana (Flathead Indian Reservation). The Region also handles legal matters for the Pacific northwest Region of BOR extending into northwestern Montana, and for Region I of the FWS, it handles legal matters in Hawaii and the Pacific Islands. The Regional Office is located in Portland, Oregon, and a Field Office is located in Boise, Idaho.

D. The **Pacific Southwest Region** is responsible for legal matters involving all bureaus in California and Nevada; and legal matters involving specific bureaus in Alaska (OSM and USGS), Hawaii (NPS and USGS), Idaho (OSM), Oregon-Klamath Basin (BOR), Pacific Islands (NPS and USGS), and Washington (OSM and USGS). The Regional Office is located in Sacramento, California, and Field Offices are located in Palm Springs, California, and San Francisco, California.

E. The **Intermountain Region** is responsible for legal matters involving all bureaus except FWS and OSM in Utah; legal matters involving all bureaus except FWS and OSM in Arizona; legal matters for BOR in Nevada and California (BOR Lower Colorado Region) and Colorado, New Mexico, and Texas (BOR Upper Colorado Region); legal matters for BIA in Nevada (BIA Eastern Nevada Field Office and Western Nevada Agency) and New Mexico (BIA Navajo Regional Office); and legal matters for BLM in Nevada (shared with the Pacific Southwest Region). The Regional Office is located in Salt Lake City, Utah, and a Field Office is located in Phoenix, Arizona.

F. The **Rocky Mountain Region** is responsible for legal matters involving the BLM National Operations Center (NOC) nationwide and all legal matters involving the BLM in Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming; all legal matters involving the BOR Denver Office and the BOR Great Plains Region (located east of the Continental Divide in Colorado, Wyoming, and Montana, and in Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, Texas); all legal matters involving FWS Region IX in Colorado and FWS Region VI (Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming); legal matters involving the MMS Minerals Revenue Management and legal matters involving MMS in Colorado; legal matters involving the National Business Center (NBC) in Colorado; legal matters involving the NPS Denver Service Center, NPS WASO in Colorado, the NPS Midwest Region in Arkansas, Iowa, Indiana, Illinois, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, NPS concessions contract matters for the Midwest and Intermountain Regions; and all other legal matters involving the NPS Intermountain Region in Colorado, Montana (with the exception of Big Hole Battlefield—Nez Perce), and Wyoming; all legal matters involving the BIA in Montana (with the exception of the Flathead Indian Reservation) and Wyoming; all legal matters involving the Central Region of the USGS; and all legal matters coordinated through OSM

Western Region. The Regional Office is located in Lakewood, Colorado and a Field Office is located in Billings, Montana.

G. The **Southeast Region** is responsible for legal matters involving all bureaus in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and the Virgin Islands; legal matters involving all bureaus except MMS in Louisiana; legal matters for specific bureaus in Arkansas (FWS and OSM), Connecticut (BIA), Illinois (OSM), Indiana (OSM), Iowa (OSM), Kansas (OSM), Maine (BIA), Massachusetts (BIA), Missouri (OSM), New York (BIA), Oklahoma (OSM), Rhode Island (BIA), Texas (OSM), and Virginia (BIA, BLM, and OSM); and legal matters for specific NPS programs in select states in the Region. The Regional Office is located in Atlanta, Georgia, and a Field Office is located in Knoxville, Tennessee.

H. The **Southwest Region** is responsible for legal matters involving all bureaus in New Mexico, Oklahoma, and Texas; the Navajo Region of the BIA in New Mexico, Arizona, and Colorado; and specific bureaus in Arizona (FWS, and OSM), Illinois (OSM), Kansas (BIA, BLM, MMS), and Louisiana (MMS, OSM). The Southwest Region also is responsible for legal matters involving the BIA's Office of Law Enforcement and the Office of Facilities Management and Construction, the BIE, and the Office of the Principal Deputy Special Trustee. The Regional Office is located in Albuquerque, New Mexico, and Field Offices are located in Santa Fe, New Mexico, and Tulsa, Oklahoma.

ETHICS OFFICE ACTIVITY

Activity: Ethics Office
(dollars in thousands)

	2008 Actual	2009 Enacted	2010			Change from 2009 (+/-)
			Fixed Costs & Related Changes (+/-)	Program Changes (+/-)	Budget Request	
Ethics Office	1,111	1,146	+40	+0	1,186	+40

SUMMARY OF FY 2010 PROGRAM CHANGES:

The 2010 request for the Ethics program is \$1,186,000 an increase of \$40,000 for fixed costs from the 2009 Enacted budget.

PROGRAM OVERVIEW

The Departmental Ethics Office (DEO) is responsible for overseeing Interior's statutorily mandated ethics program, and derives its authority directly from the Secretary, who by regulation, is the head of the agency's ethics program. The DEO is responsible for implementing the laws, Executive Orders, regulations and departmental policies concerning conflicts of interest and employee responsibilities and conduct (5 C.F.R. § 2638.201-202). The DEO is unique within the Office, as it has programmatic responsibilities, as well as the rendering of legal advice.

The DEO is headed by a Director, who is also the Designated Agency Ethics Official (DAEO). The DAEO is delegated the responsibility to manage and coordinate Interior's Ethics program (5 C.F.R. § 2638.202-203). The DEO also ensures the implementation of and compliance with the Ethics in Government Act of 1989, other statutes with ethics provisions, E.O. 12674, government-wide ethics regulations, and Interior's supplemental ethics regulations and policies governing employee conduct.

The DEO develops departmental ethics policy and strives to provide every Interior employee the proper counseling and technical assistance to help them with the ethics and conduct issues they may face as entrusted public servants. The ethics office seeks to integrate leadership and ethical concepts into everyday decision making in order to foster and maintain high ethical standards for Interior employees and to ensure that employees incorporate an awareness of the ethics rules and regulations into their day-to-day management practices.

The DEO provides direct services to all employees: within the Immediate Office of the Secretary, under the Assistant Secretary for Policy, Management and Budget, employees within the SOL as well as all political employees. Along with this program requirement, the DEO is

responsible for providing oversight and technical assistance to Interior's eight bureaus to ensure that each of the bureaus' ethics programs are in compliance with all applicable ethics laws, executive orders, and regulations (5 C.F.R. § 2638.202).

The DEO performs a number of tasks that are required to be performed by law or regulation. Additionally, the DEO provides other, broader assistance in a variety of Interior initiatives to ensure that attention is paid to whether a particular course of action is prudent and in concert with ethics laws and regulations at large. The DEO's responsibilities may therefore be categorized as required or necessary. Comprehensive attention to both types of responsibilities is critical to maintaining a robust ethics program throughout Interior.

At the request of the Secretary of the Interior and with the support of the Solicitor, the Director of DEO reviewed the Office of Government Ethics (OGE) Ethics Program Model Practices to determine what practices Interior already utilized and to determine which additional model practices Interior could or should implement. Of the eighty Ethics Program Model Practices, Interior was already utilizing sixty. In some cases the Interior practices that were implemented could be enhanced by establishing or improving systems that are already in place.

Based on this review the Director developed a strategic action plan on how to implement the remaining twenty Ethics Program Model Practices. While incorporating new Model Practices into Interior's ethics program and enhancing other practices it is essential to continue the technical competence of the ethics program. In addition to that initial action plan, the Director has updated the action plan and continues to develop new initiatives to foster a stronger ethical climate with partners, industry and other non-federal entities. Some of the Model Practices that have been incorporated include:

The DEO has increased its liaison efforts with the OGE and has served as a member of the OGE Leadership initiative focus group. Additionally, the DEO is a member of the Ethics Resource Center and the Ethics Compliance Officers Association.

The DEO as part of its efforts to increase training initiatives is a member of the Interagency Ethics Council task force on training. The DAEO and Alternate Agency Ethics Official (AAEO) and other ethics officials from the DEO presented ethics sessions at the Solicitor's Management Conference, at politicals' meetings, and several other conferences. The DEO will focus on several training initiatives based on the Departmental Ethics Training Plan including:

- Personal appearances by Senior Leaders at training.
- Preparing effective decision making modules for training to enhance the ethics culture.
- Enhance ethics training by having leaders and managers discuss ethics related issues with their staff at staff meetings and other work settings.
- Identify trends of ethics violations and publicize what happens with ethical lapses.
- Use media accounts to showcase what happens to those who violate the laws.
- Focus on training the 14 guiding principles of ethics.
- Solicit feedback on training from employees.

- Train the ethics officials, branching out their training into effective decision making and an ethical culture.

The DEO became trained in program reviews and conducted an assessment of the BIA ethics program, similar to an OGE program review. The results of this assessment assisted in determining additional processes and systems that have been implemented and incorporated into the BIA ethics program. There will continue to be assessments of the bureau ethics programs by the DEO. Bureaus Ethics Counselors will also receive program review training in order to properly execute their oversight role.

REQUIRED FUNCTIONS

- Oversight and Technical Assistance to Bureaus: Not only is the DEO responsible for performing ethics functions for a broad spectrum of employees, it is also responsible for ensuring that Interior's bureaus are properly administering their ethics programs. The regulations require that the DAEO administer a program for periodic evaluation of the ethics program and its components. Currently, the DEO meets this responsibility by convening monthly meetings with the bureaus' headquarters ethics contacts to ensure consistency in the management of the program. Additionally, the DEO has utilized contract services to perform program reviews of the bureaus. The DEO provides, live workshop training on topics important to the consistent management of the bureaus' ethics programs. The DEO will conduct a program review as part of the oversight responsibility of the office. Additionally, the DEO is preparing for a week long training program for ethics counselors and a joint ethics training session with the Office of Government Ethics.
- Presidential Appointments: The DEO plays a critical role in the clearance process of nominees to Presidentially Appointed-Senate Confirmed (PAS) positions. The DEO reviews financial documents, consults with the nominees, and recommends and drafts appropriate recusals or authorizations to allow the nominees to perform their duties without actual or apparent conflicts of interest. Key in this process is the coordination with the White House Counsel's Office, and the OGE. Additionally, the DEO works with Interior's Office of Congressional and Legislative Affairs to prepare nominees for their committee hearings and assists in the drafting of responses to any questions committee members may have of nominees. In a Presidential transition year, additional time is spent coordinating and ensuring compliance with the financial disclosure requirements for all political appointees, training these employees, and providing individual counseling on a range of ethics topics essential to the appropriate performance of their official duties.
- Financial Disclosure: The DEO is responsible for ensuring that the public and confidential financial disclosure reporting requirements are met by the requisite employees. Both levels of financial disclosure require the administration of

tracking systems for the collection, review, and certification of the forms in accordance with the time frames set out by regulation (5 C.F.R. § 2634.601-607; § 2634.901-909). Additionally, any remedial action required as a result of review and certification of these forms must be administered by the DEO or respective bureau ethics program. Such remedial actions include divestiture, recusals, or authorization, all of which require a determination in accordance with criminal statutes and administrative regulations. Department-wide, there are approximately 13,000 filers of financial disclosure forms. All forms require technical as well as more stringent financial conflict of interest review and certification. The DEO is responsible for certifying all financial disclosure forms of employees: in the Immediate Office of the Secretary, under the Assistant Secretary for Policy, Management and Budget, employees in the Office and all Interior political employees. PAS employees' financial disclosure forms are certified by the DAEO and forwarded to OGE for final certification.

- Training: The DEO is responsible for providing new employee ethics training as well as annual training for all filers of the confidential and public financial disclosures. All report filers are required to receive annual training. The administration of the ethics training program is in accordance with 5 C.F.R. § 2638.701-708. The DEO is responsible for providing guidance and training for all bureau ethics counselors to ensure consistency in the advice and counseling provided to employees.
- Counseling: As required by 5 C.F.R. § 2638.203, the DEO is responsible for maintaining a system for counseling employees on all ethics matters, including interpretations of the criminal financial conflict of interest statutes, the post-employment statute, as well as all standards of conduct regulations (both government-wide and agency-specific). Such systems must include adequate documentation of questions raised and advice rendered to provide employees with advice, but also for purposes of audit and evaluation by the OGE, or in support of an investigation of alleged violations by the Office of Inspector General. The DEO is responsible for providing guidance and counseling to ethics counselors and general employees on any changes to the ethics rules and regulations.
- Liaison Role: The DAEO is required to be Interior's liaison with the OGE for all matters relating to the management of the ethics program (5 C.F.R. § 2638.203(b)). The DAEO and ethics staff performs this role with the White House Counsel's Office, as well as with the Office of Special Counsel.

NECESSARY FUNCTIONS

As stated earlier, there are a number of necessary functions performed by the DEO in order to meet its required responsibilities and also for the purpose of furthering the goal of administering a robust and proactive ethics program, which includes prevention, education, identification of violations, and coordination of enforcement actions. Among these necessary functions are:

- Act as liaison and technical advisor to the Office of Inspector General (OIG).
- Compile Department-wide annual reports to be submitted to the OGE.
- Participate in the work of the Deputy Chief Human Capital Officer workgroup, to ensure that other aspects of Interior's human resources responsibilities include attention to ethics, i.e., working to include ethics management performance standards in supervisors and ethics counselors' position descriptions.
- Serve on several Department-wide initiatives, such as donations of gifts policy; appropriate identification of ethics considerations for volunteers and special government employees; and the Agency Emergency Preparedness Team.
- Work with the Division of General Law on the Federal Advisory Committee Act issues that raise ethics questions, such as the proper designation of members as either representatives or special government employees, and ensuring the administration of financial disclosure requirements for those designated as special government employees.
- Ensure an adequate system for responding to FOIA requests as well as requests for documents or other technical assistance from Congressional Committees.

SECTION 405 OF THE INTERIOR, ENVIRONMENT AND RELATED AGENCIES APPROPRIATION ACT

The 2006 Interior, Environment and Related Agencies Appropriation Act requires disclosure of overhead, administrative and other types of spending:

Section 405: Estimated overhead charges, deductions, reserves or hold backs from programs, projects, activities and subactivities to support government-wide, departmental, agency or bureau administrative functions or headquarters, regional or central office operations shall be presented in annual budget justifications and subject to approval by the Committees on Appropriations. Changes to such estimates shall be presented to the Committees on Appropriations for approval.

The administrative costs for this Office will be displayed in two components – **External Administrative Costs**, and **Bureau Billing for Client Support** for reimbursable attorney positions funded by clients.

➤ **External Administrative Costs** – the following table illustrates external administrative costs paid to Interior and other agencies to support Department-wide activities such as IT security, architecture, and capital planning; training through DOI University; telecommunications; finance and accounting services; building security; mail room; and enterprise licenses.

External Administrative Costs (in thousands of dollars)			
	FY 2008 Actual	FY 2009 Estimate	FY 2010 Estimate
Interior's Working Capital Fund			
Centralized Billings	2,887.6	3,558.3	3,696.3
Direct Billings	1,950.0	2,801.0	2,915.5
Total	4,837.6	6,359.3	6,611.8

➤ **Bureau Billing for Client Support** - A number of client bureaus and offices within Interior have brought the Office special requests for assistance that goes beyond the level of services this Office is generally able to provide. The client generally has identified a special project needing legal services of limited duration but some urgency. In these instances, the Office typically hires one or more attorneys on term appointments for the duration of the project, and the Office enters into a reimbursable support agreement with the client to cover the cost. Prior to FY 2001, this Office only billed clients for salary and benefits and absorbed the indirect costs associated with

the reimbursable support. In FY 2001, the Office began to collect indirect overhead costs for reimbursable attorney positions funded by Interior’s bureaus and offices.

The table below illustrates the indirect overhead costs for reimbursable attorney positions funded by clients. The indirect overhead costs reflects a pro rata portion of salary and benefit costs for administrative and support staff, operating costs which includes space, telecommunications, postage, courier services, supplies, printing, copying, computer equipment, law books, automated legal research services, and external administrative costs.

Bureau Billing for Client Support (in thousands of dollars)			
	FY 2008 Actual	FY 2009 Estimate	FY 2010 Estimate
Attorney salaries and benefits	7,469.0	8,110.6	8,272.8
Reimbursable attorney overhead	2,031.0	2,218.4	2,306.0
Total	9,500.0	10,329.0	10,578.8

In addition to reimbursements for staff positions and some related expenses, client bureaus continue to fund a portion of the Office's travel. Consistent with the understanding developed with the Appropriations Committees, travel related to litigation and other core Office functions is paid out of the SOL appropriation, but clients fund some travel for our attorneys to provide client training, attend meetings, and for other matters not involving core Office functions.

Pursuant to CERCLA, as amended (42 U.S.C. 9601, et seq), the Federal Water Pollution Control Act (Clean Water Act), and the Oil Pollution Act (OPA) of 1990, (U.S.C. 101-380), the Office will receive funding, funding level yet to be determined, from the Natural Resource Damage Assessment and Restoration (NRDAR) Fund for NRDAR-related travel and work.

DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
PROGRAM AND FINANCING
(in millions of dollars)

Identification Code 14-0107-0	2008 Actual	2009 Estimate	2010 Estimate
Obligations by program activity:			
0001 Direct program	58	62	65
0900 Reimbursable program	10	10	10
0901 Reimbursable program-Recovery Act activities	.....	2	1
1000 Total new obligations	<u>68</u>	<u>74</u>	<u>76</u>
Budgetary resources available for obligation:			
2200 New budget authority (gross)	69	74	75
2395 Total new obligations	-68	-74	-76
2398 Unobligated balance expiring or withdrawn	-1	.....	.....
New budget authority (gross) detail:			
Discretionary:			
4000 Appropriation	59	62	65
4035 Appropriation permanently reduced	-1	.....	.....
4300 Appropriation (total discretionary)	<u>58</u>	<u>62</u>	<u>65</u>
Spending authority from offsetting collections:			
5800 Offsetting collection (cash)	9	12	10
5810 Change in uncollected customer payments from Federal sources (unexpired)	<u>2</u>	.....	.....
5890 Spending authority from offsetting collections (total discretionary)	<u>11</u>	<u>12</u>	<u>10</u>
7000 Total new budget authority (gross)	<u>69</u>	<u>74</u>	<u>75</u>
Change in obligated balances:			
7240 Obligated balance, start of year	3	2	2
7245 Adjustment to obligated balance, start of year	.....	-1	.....
7310 Total new obligations	68	74	76
7320 Total outlays (gross)	-69	-73	-75
7400 Change in uncollected customer payments from Federal sources (unexpired)	-2	.....	.....
7410 Change in uncollected customer payments from Federal sources (expired)	<u>2</u>	.....	.....
7440 Obligated balance, end of year	<u>2</u>	<u>2</u>	<u>3</u>
Outlays (gross), detail:			
8690 Outlays from new discretionary authority	65	70	71
8693 Outlays from discretionary balances	4	3	4
8700 Total outlays (gross)	<u>69</u>	<u>73</u>	<u>75</u>
Offsets:			
Against gross budget authority and outlays:			
8800 Offsetting collections (cash) from: Federal sources	-11	-12	-10
Against gross budget authority only:			
8895 Change in uncollected customer payments from Federal sources (unexpired)	-2	.....	.....
8896 Portion of offsetting collections (cash) credited to expired accounts	2	.....	.....
Net budget authority and outlays:			
8900 Budget authority	<u>58</u>	<u>62</u>	<u>65</u>
9000 Outlays	58	61	65
9502 Unpaid obligation, end of year	5		

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR**

**OBJECT CLASSIFICATION
(in million of dollars)**

Identification Code 14-0107-0	2008 Actual	2009 Estimate	2010 Estimate
Direct Obligations			
1111 Personnel compensation: Full-time permanent	36	39	40
1121 Civilian personnel benefits	9	10	10
1231 Rental payments to GSA	6	6	7
1252 Other services	<u>5</u>	<u>6</u>	<u>7</u>
1990 Subtotal, obligations, Direct obligations	56	61	64
Reimbursable Obligations			
2111 Personnel compensation: Full-time permanent	5	5	5
2121 Civilian personnel benefits	1	1	1
2210 Travel and transportation of persons	1	1	1
2252 Other Services	3	5	4
	<u> </u>	<u> </u>	<u> </u>
2990 Subtotal, obligations, Reimbursable obligations	10	12	11
9995 Below reporting threshold	2	1	1
9999 Total new obligations	<u>68</u>	<u>74</u>	<u>76</u>

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR**

PERSONNEL SUMMARY

Identification Code 14-0107-0	2008 Actual	2009 Estimate	2010 Estimate
<hr/>			
Direct:			
1001 Civilian full-time equivalent employment	353	354	354
Reimbursable:			
2001 Civilian full-time equivalent employment	<u>48</u>	<u>48</u>	<u>48</u>
	401	402	402

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
EMPLOYEE COUNT BY GRADE**

	FY 2008	FY 2009	FY 2010
	<u>Actual</u>	<u>Estimate</u>	<u>Estimate</u>
Executive Level IV	<u>1</u>	<u>1</u>	<u>1</u>
Subtotal	1	1	1
SES/SL	18	20	20
GS-15	82	83	84
GS-14	183	187	186
GS-13	40	37	36
GS-12	15	14	13
GS-11	11	12	16
GS-10	1	1	0
GS-9	11	10	12
GS-8	9	10	8
GS-7	34	32	33
GS-6	8	8	7
GS-5	0	0	2
GS-4	0	0	0
GS-3	0	0	0
GS-2	<u>1</u>	<u>0</u>	<u>0</u>
Subtotal	395	394	397
Total employment (actual/projected) at end of fiscal year	414	415	418

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
Reimbursable Positions
(in thousands of dollars)**

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
Bureau of Indian Affairs			
Legal support, licensing of FERC projects	174	178	193
Legal support, realty matters	32	0	0
Legal support, restoration of land	44	46	48
Legal support, review and examine land titles	46	48	0
Legal support, land and water resources issues	387	368	385
Subtotal	<u>683</u>	<u>640</u>	<u>626</u>
Bureau of Land Management			
Legal support, implementation of rangeland reform and related litigation	197	0	0
Legal support, water rights issues	86	90	93
Legal support, Trans Alaska Pipeline System	187	193	177
Legal support, processing tort claims	64	67	72
Legal support, Southern Nevada Public Land Management Act implementation	182	146	158
Legal support, Personnel Law	159	150	156
Legal support, Public Land & environmental oil & gas, and energy law	359	288	148
Legal support, National Environmental Policy Act functions relating to the Energy Policy Act of 2005	600	687	768
Subtotal	<u>1,834</u>	<u>1,621</u>	<u>1,572</u>

DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
Reimbursable Positions
(in thousands of dollars)

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
Bureau of Reclamation			
Legal support, water law issues	86	90	93
Legal support, stream adjudications, contracts, and water rights issues	125	132	140
Legal support, including water contracts and water right issues	206	211	127
Legal support, including water contracts and water right issues	0	0	164
Legal support, Central Valley Project water service contracts, Central Valley Improvement Act implementation, and water quality standards for the Sacramento-San Joaquin Delta Estuary and CalFed process	181	190	199
Legal support, Reclamation law, NEPA, and ESA	177	182	191
Legal support, Gila River Indian Community distribution system for the Central Arizona Project and development of Colorado River management criteria and compliance activity	158	167	175
Legal support, Boulder Canyon Project Act	202	205	194
Legal support, Boulder Canyon Project Act	155	157	163
Legal support, water right contracts	78	193	198
Legal support, stream adjudications and water right issues	43	153	0
Subtotal	<u>1,411</u>	<u>1,680</u>	<u>1,644</u>
Fish and Wildlife Service			
Legal support, FWS environmental law issues	83	88	88
Legal support, realty matters	96	0	0
Legal support, Alaska subsistence	190	200	208
Legal support, refuge mgt and land acquisition matters	99	95	100
Subtotal	<u>468</u>	<u>383</u>	<u>396</u>
Mineral Management Service			
Legal support, relating to Energy Policy Act 2005, with attention on the Coastal Impact Assistance Program	135	50	174
Legal support, with attention on the Royalty In Kind Program	134	32	208
Legal support, with attention on the Royalty In Kind Program	196	0	0
Subtotal	<u>465</u>	<u>82</u>	<u>382</u>

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
Reimbursable Positions
(in thousands of dollars)**

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
National Business Center			
Legal support, NBC contractual & acquisition services	153	160	169
Legal support, NBC contractual & acquisition services		145	149
Legal support, NBC contractual & acquisition services	0	150	159
Legal support, NBC contractual & acquisition services	0	0	133
Subtotal	<u>153</u>	<u>455</u>	<u>610</u>
National Park Service			
Legal support, water rights issues	170	177	183
Legal support, issues related to use of water from Cape Cod National Seashore and Assateague Island	82	88	88
Legal support, Mojave National Preserve and Golden Gate National Recreation Area issue	116	0	0
Legal support, Yosemite National Park issues	99	95	100
Legal support, coordination of erosion planning & other issues at Atlantic coastal parks and other NEPA issues	162	176	0
Subtotal	<u>629</u>	<u>536</u>	<u>371</u>
Office of the Secretary			
Employees detailed to Working Group on Indian Water Rights Settlements	80	0	0
Legal support, NIGC, Indian land determination	0	169	179
Legal support, Everglades restoration	153	159	171
Legal support, Office of Special Trustee for American Indians	2,618	3,017	3,570
Legal support, HAZMAT compliance	753	758	808
Subtotal	<u>3,604</u>	<u>4,103</u>	<u>4,728</u>
TOTAL REIMBURSEMENTS	9,247	9,500	10,329