

**OFFICE OF THE SOLICITOR GENERAL**

**FY 2010 CONGRESSIONAL BUDGET SUBMISSION**

**April 24, 2009**

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\*Please refer to the General Legal Activities Consolidated Exhibits

# **I. Overview for the Office of the Solicitor General**

## **A. Introduction**

For FY 2010, the Office of the Solicitor General (OSG) requests a total of \$10,809,000, 48 positions, including 22 attorney positions, and 49 FTE to meet its mission. This request is a current services request for OSG since no program increases are being requested. Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.usdoj.gov/jmd/2010justification/>.

## **B. Mission/Background**

Mission: The major function of the Solicitor General's Office is to conduct substantially all litigation on behalf of the United States and its agencies in the Supreme Court of the United States, to approve decisions to appeal and seek further review in cases involving the United States in the lower federal courts, and generally to supervise the handling of litigation in the federal appellate courts. The original Statutory Authorization Act of June 22, 1870, states: "There shall be in the Department of Justice an officer learned in the law, to assist the Attorney General in the performance of his duties to be called the Solicitor General." As stated in 28 CFR 0.20, the general functions of the Office are as follows: (1) conducting or assigning and supervising all Supreme Court cases, including appeals, petitions for and in opposition to *certiorari*, briefs and arguments; (2) determining whether, and to what extent, appeals will be taken by the government to all appellate courts (including petitions for rehearing *en banc* and petitions to such courts for the issuance of extraordinary writs); (3) determining whether a brief *amicus curiae* will be filed by the government, or whether the government will intervene, in any appellate court, or in any trial court in which the constitutionality of an Act of Congress is challenged; and (4) assisting the Attorney General and the Deputy Attorney General in the development of broad Department program policy.

## **C. Challenges**

Although OSG's mission and strategic objectives will not change in FY 2010, the challenges it faces may. In recent years, OSG has faced new expectations unprecedented in its history, and was called upon to assume added responsibilities. For example, in the past administration the Solicitor General was asked by the Attorney General and the White House to assume a range of litigation responsibilities in the lower courts with regard to challenges to the United States government's detention at Guantanamo Bay, Cuba, and at the Naval Brig in South Carolina of persons captured in connection with the ongoing efforts to prevent and punish terrorist activities. These cases are handled by a team of government lawyers headed by the Solicitor General and have placed a significant drain on the limited resources of the Office. In this administration the Office assumed a leading role in the legal proceedings regarding Ali Saleh Al-Marri, an individual who was detained at the Naval Brig in South Carolina and is now facing criminal charges in federal court in Illinois. In the years to come, in addition to continuing to play a significant role in the litigation relating to terrorism, the Office may play a similar role in defending the new economic regulation arising from the current financial crisis. Finally, attorneys from the OSG increasingly have been asked to brief and argue particularly important criminal cases in the *en banc* stage in the appellate courts. All of these additional responsibilities have strained OSG resources.

OSG supports the strategic plan of the Department of Justice in the following way.

**DOJ Strategic Goal 2: Prevent Crime, Enforce Federal Laws and Represent the Rights and Interests of the American People (\$10,809,000)**

- Objective 2.7: Vigorously enforce and represent the interests of the United States in all matters over which the Department has jurisdiction.

**D. Full Program Costs**

OSG has only one program—Federal Appellate Activity. Its program costs consist almost entirely of fixed costs, such as personnel and personnel-related costs, GSA rent, mandatory reimbursable agreements with other DOJ components, and printing.

**E. Performance Challenges**

**External Challenges** The Office of the Solicitor General (OSG) does not initiate any programs, but it is required to handle all appropriate Supreme Court cases and requests for appeal, amicus, or intervention authorization. In the vast majority of cases filed in the Supreme Court in which the United States is a party, a petition is filed by an adverse party and the United States responds in some way, either by filing a brief or (after reviewing the cases) waiving its right to do so. Additionally, the Supreme Court formally requests the Solicitor General to express the views of the United States on whether the Court should grant *certiorari* in a case in which the United States is not a party. The number of cases in which the Solicitor General petitions the Supreme Court for review, acquiesces in a petition for a writ of *certiorari* filed by an adverse party, or participates as an intervenor or as amicus curiae is governed exclusively by the Solicitor General's determination that it is in the best interest of the United States to take such action. Further, such activity may vary widely from year to year, which limits the Office's ability to plan its workload and performance activity, since the Office has no control over this activity.

**Internal Challenges** The Office's personnel resources have decreased slightly in the past decade; at the same time the workload of the office has increased. Because of the size of the Office, when positions become vacant it places undue burden on the entire staff to keep the work flowing. When attorneys leave and before replacements arrive, the work must be assigned to another attorney who is already overburdened. This slows down the process and, in turn, affects all units/sections in the office, i.e., Paralegal Unit, Desktop Publishing Unit, and Case Management Section.

## II. Summary of Program Changes: N/A

## III. Appropriations Language and Analysis of Appropriations Language:

Please refer to the General Legal Activities Consolidated Exhibits

## IV. Decision Unit Justification

### A. Federal Appellate Activity

<i>Federal Appellate Activity</i>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2008 Enacted with Rescissions	48	49	9,883,000
2008 Enacted w/Rescissions and Supplementals	48	49	9,883,000
2009 Enacted	48	49	10,440,000
Adjustments to Base and Technical Adjustments			369,000
2010 Current Services	48	49	10,809,000
2010 Request	48	49	10,809,000
<b>Total Change 2009-2010</b>			369,000

### 1. Program Description

The major function of the Solicitor General's Office is to supervise the handling of government litigation in the Supreme Court of the United States and in Federal appellate courts, to determine whether an amicus curiae brief will be filed by the government, and to approve intervention by the United States to defend the constitutionality of Acts of Congress.

The original Statutory Authorization Act of June 22, 1870, states: "There shall be in the Department of Justice an officer learned in the law, to assist the Attorney General in the performance of his duties to be called the Solicitor General." As stated in 28 CFR 0.20, the general functions of the Office are as follows: (1) conducting or assigning and supervising all Supreme Court cases, including appeals, petitions for and in opposition to *certiorari*, briefs and arguments; (2) determining whether, and to what extent, appeals will be taken by the government to all appellate courts (including petitions for rehearing *en banc* and petitions to such courts for the issuance of extraordinary writs); (3) determining whether a brief amicus curiae will be filed by the government, or whether the government will intervene, in any appellate court, or in any trial court in which the constitutionality of an Act of Congress is challenged; and (4) assisting the Attorney General and the Deputy Attorney General in the development of broad Department program policy.

This Office does not initiate any programs, have control of the Supreme Court litigation it is required to conduct, or determine the number of appeal and amicus authorizations it handles. Amicus filings often involve important constitutional or Federal statutory questions that will fundamentally affect the administration and enforcement of major Federal programs. Examples in recent Terms include cases presenting significant issues of criminal procedure (affecting the government's ability to succeed in prosecutions), as well as important issues under the civil rights laws (such as the Voting Rights Act and the Americans with Disabilities Act), the environmental laws (such as the Clean Water Act), and many others.

OSG's workload measures in FY 2008 continued the recent year's upward trend in both the number of cases in which the Solicitor General was required to participate and in the number of requests received by the Solicitor General for determinations concerning appellate or *certiorari* review or miscellaneous other matters. For fiscal years 2003 thru 2005, the Solicitor General, on average, participated in some way in 3,561 cases each year. By comparison, in fiscal years 2006 thru 2008, the Solicitor General, on average, participated in 4,141 cases per year, an increase of 14% from the previous three year period (FY 2003- FY 2005). Similarly, for fiscal years 2003-2005, the Solicitor General, on average, responded in some way to 1,913 requests per year for determinations concerning appellate or *certiorari* review. For fiscal years 2006 thru 2008, the Solicitor General, on average, responded to 2,335 such requests, an increase of 22% from the previous three year period.

During FY 2008 (the 2007 Term of the Supreme Court running June 30, 2007 through June 29, 2008), the Office had 651 Supreme Court matters pending at the beginning of the Term, received an additional 3,830 Supreme Court matters, terminated 3,970 of these matters, and left a balance of 511 matters pending at the end of the Term. The Office completed 744 appellate determinations, 1,184 *certiorari* determinations and 594 miscellaneous recommendations.<sup>1</sup> The Office participated in 55 oral arguments before the Supreme Court.<sup>2</sup> During FY 2009 (the 2008 Term of the Supreme Court running June 30, 2008 through June 30, 2009), the Office anticipates having approximately 511 Supreme Court matters pending at the beginning of the Term, receiving an additional 3,830 Supreme Court matters, terminating approximately 3,830 of these matters, leaving a balance of 511 matters pending at the end of the Term. The Office also anticipates completing approximately 744 appellate determinations, 1,184 *certiorari* determinations, 594 miscellaneous recommendations, and participating in approximately 55 oral arguments before the Supreme Court. Finally, during FY 2010 (the 2009 Term of the Supreme Court running July 1, 2009 through June 30, 2010), the Office anticipates having approximately 511 Supreme Court matters pending at the beginning of the Term, receiving an additional 3,830 Supreme Court matters, terminating approximately 3,830 of these matters, leaving a balance of 511 matters pending at the end of the Term. The Office also anticipates completing approximately 744 appellate determinations, 1,184 *certiorari* determinations, 594 miscellaneous recommendations, and participating in approximately 55 oral arguments before the Supreme Court.

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<sup>1</sup> The figures on determinations and recommendations provided in this document do not directly correspond with the figures provided on the Office's Workload Measurement Tables. Our Workload Measurement Tables track our workload by case; these figures track our workload by determination. Often, the Office of the Solicitor General will receive a request for authorization that includes more than one potential outcome: for example, the Solicitor General may receive a request for authorization for rehearing en banc, or, in the alternative, for a petition for a writ of certiorari. In that case, the Solicitor General may make two determinations; (1) no rehearing and (2) no certiorari. Our Workload Measurement Tables reflect that as a single request; here, we have provided a separate accounting for each determination. Additionally, the figures provided in this document under "miscellaneous requests" include requests for authorization of settlement, for stays, and for mandamus, while the figures on the Performance Measurement Tables do not include such requests.

<sup>2</sup> The figure for oral argument participation reflects the number of oral arguments the Office presented to the Supreme Court as a party, amicus curiae, or intervenor; it does not reflect the total number of underlying cases for each of those arguments.

**PERFORMANCE AND RESOURCES TABLE**

**Decision Unit: Federal Appellate Activity**

**DOJ Strategic Goal/Objective: Goal 2 -- Prevent Crime, Enforce Laws and Represent the Rights and Interests of the American People. Objective 2.7 - Vigorously enforce and represent the interests of the United States in all matters over which the Department has jurisdiction.**

<b>WORKLOAD/ RESOURCES</b>		<b>Final Target</b>		<b>Actual</b>		<b>Projected</b>		<b>Changes</b>		<b>Requested (Total)</b>	
		<b>FY 2008</b>		<b>FY 2008</b>		<b>FY 2009 Enacted</b>		<b>Current Services Adjustments and FY 2010 Program Changes</b>		<b>FY 2010 Request</b>	
<b>Workload</b>											
<b>Cases in which the Solicitor General Participated</b>		3,750		4,000		3,300				3,750	
<b>Requests to which the Solicitor General Responded</b>		1,851		2,341		1,851				1,851	
<b>Total Costs and FTE</b> (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>
		49	9,883	49	9,883	49	10,440		[ ]	49	10,809
<b>TYPE/ STRATEGIC OBJECTIVE</b>	<b>PERFORMANCE</b>	<b>FY 2008</b>		<b>FY 2008</b>		<b>FY 2009 Enacted</b>		<b>Current Services Adjustments and FY 2010 Program Changes</b>		<b>FY 2010 Request</b>	
<b>Program Activity</b>		<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>
	Federal Appellate Activity	49	9,883	49	9883	49	10,440		369	49	10,809
<b>Workload Measure</b>	Cases in which the Solicitor General participated	3,750				3,300				3,750	
<b>Workload Measure</b>	Requests to which the Solicitor General responded	1,851				1,851				1,851	
<b>OUTCOME</b>											

**A. Definitions of Terms or Explanations for Indicators:**

**Footnote 1:** Because the work of the Office is primarily governed by the Supreme Court's schedule, the Office tracks its workload by Supreme Court Term. Fiscal years roughly correspond to Supreme Court Terms, which run from July of the Term year through June of the next year. Reference to fiscal years in this document will reflect information for the applicable Supreme Court Term. Accordingly, FY 2008 corresponds with the 2007 Supreme Court Term, FY 2009 corresponds with the 2008 Supreme Court Term, and so on. The Office of the Solicitor General handles Supreme Court matters on an ongoing basis. As a result, some matters will overlap from one fiscal year to the next, and they are included in the data for the term in which they most appropriately fit.

**Footnote 2:** Includes requests for authorizations as well as recommendations against appeal, intervention, or participation amicus curiae. This category does not include miscellaneous requests, such as requests for authorization of settlement, for stays, for mandamus, etc.

**B. Data Validation and Verification.**

The Office of the Solicitor General handles all aspects of the law—not just civil matters. The Office uses the Automated Docket System (ADS) to track the matters handled by its attorneys. Data are keyed by the Case Management staff. For Supreme Court matters, all data are verified by the Supervisor or her Assistant, and checked against Supreme Court Records. The Case Management System Supervisor executes daily statistical reports to ensure accurate tracking of both Supreme Court matters and requests for authorization to appeal, intervene, or participate amicus curiae.

Additionally, once a week the Case Management System Supervisor distributes statistical reports on all Office matters to each attorney in the Office. The attorneys then review the reports to ensure accurate tracking of the matters for which they are responsible.

**Issues Affecting OSG's Program Performance.**

The Office of the Solicitor General does not initiate any programs or have control over the number of Supreme Court cases it is required to handle or the number of requests for appeal, amicus, or intervention authorizations it receives. In the vast majority of cases filed in the Supreme Court in which the United States is a party, a petition is filed by an adverse party and the United States is obliged to respond. Additionally, the Office does not control the number of cases in which the Supreme Court formally requests the Solicitor General to express the views of the United States. The number of cases in which the Solicitor General petitions the Supreme Court for review, acquiesces in a petition for a writ of certiorari filed by an adverse party, or participates as an intervenor or as amicus curiae is governed exclusively by the Solicitor General's determination that it is in the best interests of the United States to do so. Thus, the Solicitor General participates in 100% of the cases in which the United States is required to participate, as well as 100% of the cases in which the Solicitor General has determined that the interests of the United States require participation.



**PERFORMANCE MEASURE TABLE**

**Decision Unit: Federal Appellate Activity**

Performance Report and Performance Plan Targets		FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008		FY 2009	FY 2010
		Actual	Actual	Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
<b>Performance Measure</b>	Cases in which the Solicitor General participated	3,237	3,675	3,736	3,811	3,345	4,000	4,423	3,750	4,000	3,300	3,750
<b>Performance Measure</b>	Requests to which the Solicitor General responded	1,935	1,827	1,779	1,815	2,145	2,389	2,274	1,851	2,341	1,851	1,851
<b>Performance Measure</b>												
<b>Efficiency Measure</b>												
<b>OUTCOME Measure</b>												

N/A = Data Not Available

\* Denotes inclusion in the DOJ Annual Performance Plan

### 3. Performance, Resources, and Strategies

The Office of the Solicitor General's only decision unit—Federal Appellate Activity—contributes to the Department's Strategic Goal 2: Prevent Crime, Enforce Federal Laws and Represent the Rights and Interests of the American People. The decision unit's total resources fall under the Department's Strategic Objective 2.7 – Vigorously enforce and represent the interests of the United States in all matters over which the Department of Justice has jurisdiction.

#### a. Performance Plan and Report for Outcomes

The first performance measure is: Cases in which the Solicitor General participated. During the 2006 (FY 2007) Supreme Court Term (June 29, 2006 through June 30, 2007), the Office participated in 4,423 cases and in the 2007 (FY 2008) Supreme Court Term, the Office participated in 4,000 cases.

The second performance measure is: Requests for determinations regarding appeal, *certiorari*, or other matters to which the Solicitor General responded. During the 2006 Supreme Court Term, the Office responded to 2,274 requests, and in the 2007 Supreme Court Term, the office responded to 2,341 requests. Because the work of the Office is primarily governed by the Supreme Court's schedule, the Office tracks its workload by Supreme Court Term. Fiscal years roughly correspond to Supreme Court Terms, which run from July of the Term year through June of the next year.

OSG participated in more cases and responded to more requests than anticipated in FY 2008. The Office of the Solicitor General does not initiate any programs, have control over the number of Supreme Court cases it is required to handle, or determine the number of requests for appeal, amicus, or intervention authorizations it receives. In the vast majority of cases filed in the Supreme Court in which the United States is a party, a petition is filed by an adverse party and the United States is obliged to respond in some way, either by filing a brief or (after review of the case) waiving the right to do so. Additionally, the Office does not control the number of cases in which the Supreme Court formally requests the Solicitor General to express the views of the United States. Thus, performance measures may vary widely from year to year which increases the likelihood that OSG's actual measures will also vary widely from projected goals. The number of cases in which the Solicitor General petitions the Supreme Court for review, acquiesces in a petition for a writ of *certiorari* filed by an adverse party, or participates as an intervenor or as amicus curiae is governed exclusively by the Solicitor General's determination that it is in the best interests of the United States to take such action.

#### b. Strategies to Accomplish Outcomes

To fulfill the Office of the Solicitor General's critical mission of representing the interests of the United States in the Supreme Court, the Office will devote all resources necessary to prevail in the Supreme Court. For FY 2010, OSG is requesting base funding of 48 positions, 49 work years and \$10,809,000 to accomplish its goals.

OSG has experienced an increase in several Court related activities. In addition, the OSG is facing new expectations unprecedented in its history and has been called upon to assume added responsibilities. These include all the examples set forth in Section I.C of this budget submission. The government's response to both terrorism and economic distress will place a range of new demands on OSG, which it stands ready to meet.

The Office is reviewing its operations and processes to increase overall efficiency and reduce costs. The Office has made a number of changes and will continue to make additional efforts when appropriate.

For example, in FY 2008 OSG purchased two production quality scanners that allow the Office to scan and e-mail large documents thus eliminating the need, in many cases, to make copies and use couriers to deliver time sensitive documents. Incorporating the latest scanning technology into OSG's business practices significantly increased both office efficiency and reduced operating costs.

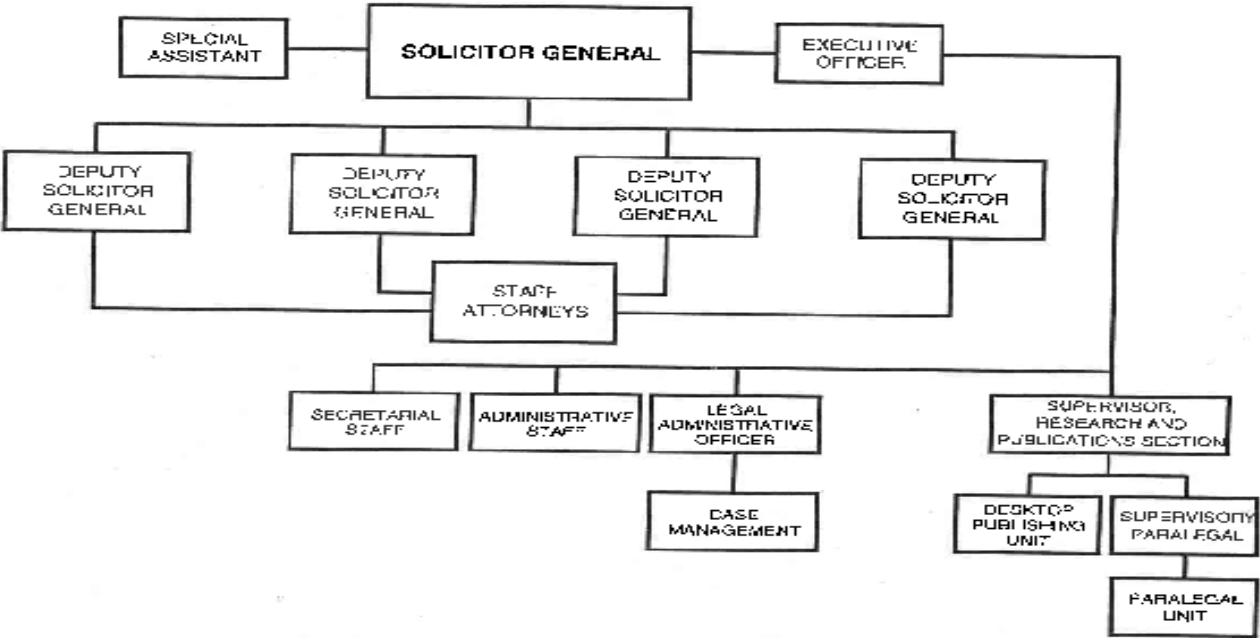
For large IT purchases, OSG has partnered with the DOJ's Chief Information Officer to leverage the purchasing power of the entire Department of Justice. OSG recently purchased laptops for the entire staff to be used while teleworking, on travel, or during emergencies that require OSG to relocate to an alternative work site. Due to the volume purchasing of the Department, these laptops were deeply discounted in price and this discount made the purchase financially viable.

OSG continues to expand the cost efficient use of volunteer college interns and paid summer law clerks to augment OSG's staff. By tapping into the vast supply of talented undergraduate and law school students, OSG is able to focus more resources on critical, complex, and time sensitive issues, while at the same time ensuring that the more routine issues are frequently addressed. The end result for the OSG is that more work is getting done than otherwise would, and at a fraction of the cost of hiring contractors.

This strategy will better enable the OSG and the Department to meet its mission and goals under DOJ Strategic Goal Objective 2.7: Vigorously enforce and represent the interests of the United States in all matters over which the Department has jurisdiction.

## **VI. EXHIBITS**

**OFFICE OF THE SOLICITOR GENERAL**



Approved by *[Signature]* Date 7/18/06  
 ALBERTO H. SOLIZALES  
 Attorney General

Exhibit A - Organizational Chart

**B: Summary of Requirements**

**Summary of Requirements**  
Office of the Solicitor General  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2010 Request		
	Perm. Pos.	FTE	Amount
<b>2008 Enacted (with Rescissions, direct only)</b>	48	49	9,883
2008 Supplementals			
<b>Total 2008 Revised Continuing Appropriations Resolution (with Rescissions)</b>	<b>48</b>	<b>49</b>	<b>9,883</b>
<b>2009 Enacted (with Rescissions, direct only)</b>	48	49	10,440
2009 Supplementals			
<b>Total 2009 Enacted (with Rescissions and Supplementals)</b>	<b>48</b>	<b>49</b>	<b>10,440</b>
Technical Adjustments			
Restoration of 2009 Prior Year Unobligated Balance Rescission			
Adjustments to Base			
Increases:			
2010 pay raise (2.0%)			242
2009 pay raise annualization (3.9%)			63
Retirement			5
Federal Health Insurance Premiums			32
GSA Rent			17
DHS Security Charge			1
Postage			1
Security Investigations			2
Government Printing Office			4
WCF Rate Increase			2
Subtotal Increases	0	0	369
Decreases:			
Non-recurrence of 2009 Supplemental			
Non-recurrals [list all]			
Subtotal Decreases	0	0	0
Total Adjustments to Base	0	0	369
Total Adjustments to Base and Technical Adjustments	0	0	369
<b>2010 Current Services</b>	<b>48</b>	<b>49</b>	<b>10,809</b>
Increase 1			
Offset 1			
Subtotal Increases	0	0	0
Offsets			
Offset 2			
Subtotal Offsets	0	0	0
Total Program Changes	0	0	0
<b>2010 Total Request</b>	<b>48</b>	<b>49</b>	<b>\$10,809</b>
2009 - 2010 Total Change	0	0	369

**Summary of Requirements**  
Office of the Solicitor General  
Salaries and Expenses  
(Dollars in Thousands)

	2008 Appropriation Enacted w/Rescissions and Supplementals			2009 Enacted			2010 Adjustments to Base and Technical Adjustments			2010 Current Services			2010 Offsets	2010 Request		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Amount	Pos.	FTE	Amount
<b>Estimates by budget activity</b>																
Federal Appellate Activity	48	49	9,883	48	49	10,440			369	48	49	10,809		48	49	10,809
<b>Total</b>	<b>48</b>	<b>49</b>	<b>\$9,883</b>	<b>48</b>	<b>49</b>	<b>\$10,440</b>	<b>0</b>	<b>0</b>	<b>\$369</b>	<b>48</b>	<b>49</b>	<b>\$10,809</b>	<b>\$0</b>	<b>48</b>	<b>49</b>	<b>\$10,809</b>

**D: Resources by DOJ Strategic Goal and Strategic Objective**

**Resources by Department of Justice Strategic Goal/Objective  
Office of the Solicitor General**  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	2008 Appropriation Enacted w/Rescissions and Supplementals		2009 Enacted		2010 Current Services		2010				2010 Request			
	Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	Increases		Offsets		Direct, Reimb. Other FTE	Direct Amount \$000s		
							Direct Other FTE	Amount \$000s	Direct Other FTE	Amount \$000s				
<b>Goal 1: Prevent Terrorism and Promote the Nation's Security</b> 1.1 Prevent, disrupt, and defeat terrorist operations before they occur 1.2 Strengthen partnerships to prevent, deter, and respond to terrorist incidents 1.3 Prosecute those who have committed, or intend to commit, terrorist acts in the United States 1.4 Combat espionage against the United States <b>Subtotal, Goal 1</b>														
	0	0	0	0	0	0	0	0	0	0	0	0	0	
<b>Goal 2: Prevent Crime, Enforce Federal Laws and Represent the Rights and Interests of the American People</b> 2.1 Strengthen partnerships for safer communities and enhance the Nation's capacity to prevent, solve, and control crime 2.2 Reduce the threat, incidence, and prevalence of violent crime 2.3 Prevent, suppress, and intervene in crimes against children 2.4 Reduce the threat, trafficking, use, and related violence of illegal drugs 2.5 Combat public and corporate corruption, fraud, economic crime, and cybercrime 2.6 Uphold the civil and Constitutional rights of all Americans 2.7 Vigorously enforce and represent the interests of the United States in all matters over which the Department has jurisdiction 2.8 Protect the integrity and ensure the effective operation of the Nation's bankruptcy system <b>Subtotal, Goal 2</b>	49	9,883	49	10,440	49	10,809	0	0	0	0	49	10,809	49	10,809
	49	9,883	49	10,440	49	10,809	0	0	0	0	49	10,809	49	10,809
<b>Goal 3: Ensure the Fair and Efficient Administration of Justice</b> 3.1 Protect judges, witnesses, and other participants in federal proceedings, and ensure the appearance of criminal defendants for judicial proceedings or confinement 3.2 Ensure the apprehension of fugitives from justice 3.3 Provide for the safe, secure, and humane confinement of detained persons awaiting trial and/or sentencing, and those in the custody of the Federal Prison System 3.4 Provide services and programs to facilitate inmates' successful reintegration into society, consistent with community expectations and standards 3.5 Adjudicate all immigration cases promptly and impartially in accordance with due process 3.6 Promote and strengthen innovative strategies in the administration of State and local justice systems 3.7 Uphold the rights and improve services to America's crime victims <b>Subtotal, Goal 3</b>														
	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>GRAND TOTAL</b>	49	\$9,883	49	\$10,440	49	\$10,809	0	\$0	0	\$0	49	\$10,809	49	\$10,809



## E. Justification for Base Adjustments

### Justification for Base Adjustments Office of the Solicitor General

#### Increases

2010 pay raise. This request provides for a proposed 2.0 percent pay raise to be effective in January of 2010 (This percentage is likely to change as the budget formulation process progresses.) This increase includes locality pay adjustments as well as the general pay raise. The amount requested, \$242,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$182,000 for pay and \$60,000 for benefits).

Annualization of 2009 pay raise. This pay annualization represents first quarter amounts (October through December) of the 2009 pay increase of 3.9 percent included in the 2009 President's Budget. The amount requested \$63,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits\$ 47,000 for pay and \$16,000 for benefits).

Retirement. Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 3 percent per year. The requested increase of \$5,000 is necessary to meet our increased retirement obligations as a result of this conversion.

Health Insurance: Effective January 2008, this component's contribution to Federal employees' health insurance premiums increased by 11.1 percent. Applied against the 2009 estimate of \$290,000, the additional amount required is \$32,000.

General Services Administration (GSA) Rent. GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$17,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective in FY 2010 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied. GSA provided data on the rate increases.

DHS Security Charges. The Department of Homeland Security (DHS) will continue to charge Basic Security and Building Specific Security. The requested increase of \$1,000 is required to meet our commitment to DHS, and cost estimates were developed by DHS.

Postage: Effective May 11, 2009, the Postage Service implemented a rate increase of 2.5 percent. This percentage was applied to the 2010 estimate of \$20,000 to arrive at an increase of \$1,000.

Security Investigations: The \$2,000 increase reflects payments to the Office of Personnel Management for security reinvestigations for employees requiring security clearances.

Government Printing Office (GPO): GOP provides an estimated rate increase of 2%. This percentage was applied to the FY 2009 estimate of \$209,000 to arrive at an increase of \$4,000.

WCF Rate Increases. Components in the DC metropolitan area use and rely on the Department's Working Capital Fund (WCF) for support services including telecommunications services, computer services, finance services, as well as internet services. The WCF continues to invest in the infrastructure supporting the telecommunications services, computer services, internet services. Concurrently, several security initiatives are being implemented and additional resources are being directed to financial management in an effort to maintain a clean audit status. Funding of \$2,000 is required for this account.

**F: Crosswalk of 2008 Availability**

**Crosswalk of 2008 Availability**

Office of the Solicitor General

Salaries and Expenses

(Dollars in Thousands)

Decision Unit	FY 2008 Enacted Without Rescissions			Rescissions			Supplementals			Reprogrammings / Transfers			Carryover/ Recoveries			2008 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Federal Appellate Activity	48	49	9,883													48	49	9,883
<b>TOTAL</b>	<b>48</b>	<b>49</b>	<b>\$9,883</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>48</b>	<b>49</b>	<b>\$9,883</b>
Reimbursable FTE																		0
Total FTE		49			0			0			0			0				49
Other FTE																		
LEAP																		0
Overtime																		0
Total Compensable FTE		49			0			0			0			0				49

**G: Crosswalk of 2009 Availability**

**Crosswalk of 2009 Availability**

Office of the Solicitor General  
Salaries and Expenses  
(Dollars in Thousands)

Decision Unit	FY 2009 Enacted			Rescissions			Supplementals			Reprogrammings / Transfers			Carryover/ Recoveries			2009 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Federal Appellate Activity	48	49	10,440													48	49	10,440
<b>TOTAL</b>	<b>48</b>	<b>49</b>	<b>10,440</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>48</b>	<b>49</b>	<b>\$10,440</b>
Reimbursable FTE																		0
Total FTE		49			0			0			0			0				49
Other FTE																		0
LEAP																		0
Overtime																		0
Total Compensable FTE		49			0			0			0			0				49

**I: Detail of Permanent Positions by Category**

**Detail of Permanent Positions by Category**  
 Office of the Solicitor General  
 Salaries and Expenses

Category	2008 Enacted w/Rescissions and Supplementals		2009 Enacted		2010 Request					
	Total Authorized	Total Reimbursable	Total Authorized	Total Reimbursable	ATBs	Program Increases	Program Decreases	Total Pr. Changes	Total Authorized	Total Reimbursable
Clerical and Office Services (300-399)	17		17						17	
Accounting and Budget (500-599)	1		1						1	
Attorneys (905)	22		22						22	
Paralegals / Other Law (900-998)	6		6						6	
Information & Arts (1000-1099)	2		2						2	
<b>Total</b>	<b>48</b>		<b>48</b>						<b>48</b>	
Headquarters (Washington, D.C.)	48		48						48	
U.S. Field									0	
Foreign Field									0	
<b>Total</b>	<b>48</b>	<b>0</b>	<b>48</b>						<b>48</b>	

**K: Summary of Requirements by Grade**

**Summary of Requirements by Grade**

Office of the Solicitor General

Salaries and Expenses

Grades and Salary Ranges	2008 Enacted w/Rescissions and		2009 Enacted		2010 Request		Increase/Decrease	
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
Executive Level III.....	1		1		1			
SES, \$111,676 - \$168,000	4		4		4			0
Senior Level	2		2		2			0
GS-15, \$110,363 - 143,471	16		16		16			0
GS-14, \$93,822 - 121,967	3		3		3			0
GS-13, \$79,397 - 103,220	2		2		2			0
GS-12, \$66,767 - 86,801	3		3		3			0
GS-11, \$55,706 - 72,421	9		9		9			0
GS-9, \$46,041 - 59,852	8		8		8			0
<b>Total, appropriated positions</b>	<b>48</b>	<b>0</b>	<b>48</b>		<b>48</b>			<b>0</b>
<b>Average SES Salary</b>		<b>168,000</b>		<b>173,208</b>		<b>177,019</b>		
<b>Average GS Salary</b>		<b>\$100,000</b>		<b>\$103,100</b>		<b>\$105,368</b>		
<b>Average GS Grade</b>		<b>13</b>		<b>13</b>		<b>13</b>		

**L: Summary of Requirements by Object Class**

**Summary of Requirements by Object Class**

Office of the Solicitor General

Salaries and Expenses

(Dollars in Thousands)

Object Classes	2008 Actuals		2009 Enacted		2010 Request		Increase/Decrease	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
11.1 Direct FTE & personnel compensation		4,031	47	4,300	47	4,515	0	215
11.3 Other than full-time permanent		1,118	2	1,300	2	1,365	0	65
11.5 Total, Other personnel compensation		286	0	300	0	300	0	0
<i>Overtime</i>							0	0
<i>Other Compensation</i>							0	0
11.8 Special personal services payments				0			0	0
Total	0	5,435	49	5,900	49	6,180	0	280
Other Object Classes:								
12.0 Personnel benefits		1,280		1,450		1,470		20
21.0 Travel and transportation of persons		19		100		100		0
22.0 Transportation of things		310		400		412		12
23.1 GSA rent		1,418		1,400		1,450		50
23.2 Moving/Lease Expirations/Contract Parking		80		100		105		5
23.3 Comm., util., & other misc. charges		108		125		129		4
24.0 Printing and reproduction		288		250		260		10
25.2 Other services		183		185		169		(16)
25.3 Purchases of goods & services from Government accounts (DHS Sec. Etc..)		258		270		278		8
25.6 Medical Care (Health Unit)		3		5		6		1
25.7 Operation and maintenance of equipment		12		50		50		0
26.0 Supplies and materials		100		120		130		10
31.0 Equipment		93		85		70		(15)
<b>Total obligations</b>		<b>\$9,587</b>		<b>\$10,440</b>		<b>\$10,809</b>		<b>\$369</b>