

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

and Performance Information
Fiscal Year 2013

**OFFICE OF
THE SOLICITOR**

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

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**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
FISCAL YEAR 2013 BUDGET JUSTIFICATION**

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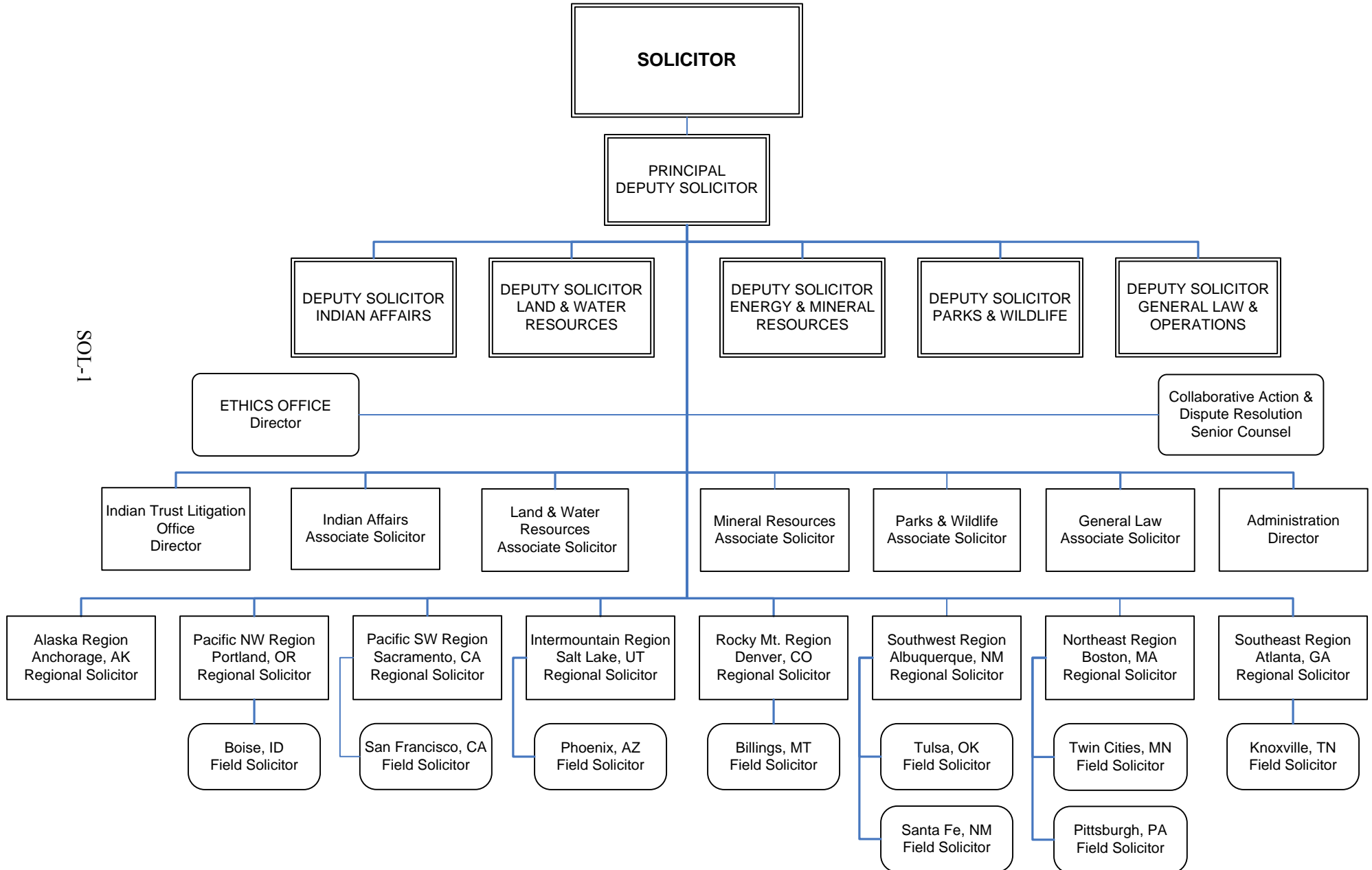
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DEPARTMENT OF THE INTERIOR

OFFICE OF THE SOLICITOR

ORGANIZATIONAL CHART



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GENERAL STATEMENT

The Office of the Solicitor (SOL, Office) maintains the focal mission of inspiring high ethical standards and providing quality legal counsel and advice. The Office strives to fulfill the Department of the Interior's expansive mission by performing the legal work of the Department of the Interior, managing Interior's Ethics Office and resolving 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 coordinates with the Department of Justice to address issues before federal courts.

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 seven Deputy Solicitors, Senior Counselors including one for Collaborative Action and Dispute Resolution, an Ethics Director, 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 2013 budget focuses on supporting the Department of the Interior's efforts to improve efficiency and effectiveness. The FY 2013 budget allows the Office to continue to improve management practices and manage the Ethics Office for maximum effectiveness.

GOVERNMENT-WIDE INITIATIVES:

Campaign to Cut Waste

Over the last two years, the Administration has implemented a series of management reforms to curb uncontrolled growth in contract spending, terminate poorly performing information technology projects, deploy state of the art fraud detection tools, focus agency leaders on achieving ambitious improvements in high priority areas, and open Government up to the public to increase accountability and accelerate innovation.

In November 2011, President Obama issued an Executive Order reinforcing these performance and management reforms and the achievement of efficiencies and cost-cutting across the government. This Executive Order identifies specific savings as part of the Administration's Campaign to Cut Waste to achieve a 20 percent reduction in administrative spending from 2010 to 2013. Each agency is directed to establish a plan to reduce the combined costs associated with travel, employee information technology devices, printing, executive fleet efficiencies, and extraneous promotional items and other areas.

The Department of the Interior's goal is to reduce administrative spending by \$207 million from 2010 levels by the end of 2013. To meet this goal, the Department is leading efforts to reduce waste and create efficiencies by reviewing projected and actual administrative spending to allocate efficiency targets for bureaus and Departmental offices to achieve the 20 percent target. Additional details on the Campaign to Cut Waste can be found at <http://www.whitehouse.gov/the-press-office/2011/11/09/executive-order-promoting-efficient-spending>.

DOI Strategic Plan

The FY 2011-2016 DOI Strategic Plan, in compliance with the principles of the GPRA Modernization Act of 2010, provides a collection of mission objectives, goals, strategies and corresponding metrics that provide an integrated and focused approach for tracking performance across a wide range of DOI programs. While the DOI Strategic Plan for FY 2011 – FY 2016 is the foundational structure for the description of program performance measurement and planning for the FY 2013 President's Budget, further details for achieving the Strategic Plan's goals are presented in the DOI Annual Performance Plan and Report (APP&R). Bureau and program specific plans for FY 2013 are fully consistent with the goals, outcomes, and measures described in the FY 2011-2016 version of the DOI Strategic Plan and related implementation information in the Annual Performance Plan and Report (APP&R).

MANAGEMENT'S CHALLENGES:

The Office of the Solicitor's FY 2013 budget request was formulated with full consideration of the tight limits on discretionary spending. The request will allow the Office to continue to promote an ethical culture throughout the Department and enhance management practices. The Office has undergone continual and significant management reform over the past several years. Management reforms have been primarily driven by: (1) the need to provide early and continuous legal counsel on the development of new programs in priority areas such as energy, climate, water infrastructure, treasured landscapes, restoring relationships with and improving services to Indian Tribes, and open government while maintaining the Office's established level of service to the rest of the Department; (2) the Office's improved ranking on the 2011 Best Places to Work in the Federal Government survey; (3) multiple ethical lapses at all levels of the Department in recent years; and (4) the need to manage and capture information and knowledge.

The Office must provide early and continuous guidance in new priority areas to ensure that developing programs are grounded in established legal principles and precedents. The Office must be able to focus on priority areas such as the new energy economy, a renewable clean energy future, energy independence, enforcement of civil pollution-control laws, modernization of mining law and programs, climate change, refocused implementation of the Endangered Species Act, rebuilding America's water infrastructure, protecting America's Treasured Landscapes, restoring relationships with and improving services to Indian Tribes, and implementing the Open Government Directive, all without diminishing the level of service provided to existing and established Departmental programs.

MANAGEMENT'S STRATEGIES:

The Solicitor's Office has made significant strides addressing its challenges. Funding beginning in 2006 has facilitated the Office in meeting these challenges and the 2013 budget will continue this effort.

Placing a Premium on Ethical Conduct

In January 2011, the Ethics Office transitioned from hard/paper copy submissions of financial disclosure forms to an electronic financial disclosure filing system. Additionally, in April 2011, the Ethics Office was recognized by the Office of Government Ethics (OGE) in its 2011 Program Excellence and Innovation Award. The OGE also awarded the Department of the Interior for having an —Ethics Campaign to Build Organizational Integrity. In honoring DOI with this recognition, OGE confirmed that the Department of the Interior has made great strides in building awareness of its ethics agenda and making DOI's program an excellent example for other agencies to follow.

Addressing Emerging Priorities

The Office of the Solicitor will face many new, complex, and wide-ranging demands for legal services for at least the next 2-4 years as a direct result of the Deepwater Horizon oil spill. In FY 2011, the Office participated in negotiating a \$1 billion interim natural resource damage settlement with British Petroleum and other Federal stakeholders. The Office will continue to play a critical role for several years providing extensive legal support to an array of legal matters stemming from the Deepwater Horizon oil spill, including: 1) Multi District Litigation (MDL) deposition coverage; 2) providing legal advice to the BOEM/BSEE/U.S. Coast Guard Joint Investigation Team (JIT); 3) close coordination and provision of expertise to DOJ in multiple lawsuits arising from the spill; and 4) providing general advice to the JIT and the Directors of BOEM and BSEE about all of these and other matters.

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

FISCAL YEAR 2013 BUDGET REQUEST OVERVIEW

The FY 2013 President's Budget request for the Office of the Solicitor is \$64,939,000, representing a decrease of \$1,251,000 from the Office's FY 2012 Enacted budget. The request includes an increase of \$1,215,000 for fixed costs. The request also includes decreases of \$2,466,000: 1) \$220,000 eliminating non-mandatory training; 2) \$200,000 in travel cost reductions 3) \$320,000 for space reduction; 4) \$870,000 in the Ethics Office; 5) \$400,000 eliminating IT contractor support; and 6) \$456,000 for workforce planning.

The Office developed a 2013 budget that focuses on supporting the Department of the Interior's efforts to improve the efficiency and effectiveness of Department-wide programs by delivering the highest quality legal services to Interior. The Office's 2013 budget reflects a realignment of resources to provide essential legal services to the Department at a reduced cost.

The following table illustrates the 2011 Actual, the 2012 Enacted, and the 2013 Budget Request.

TOTAL 2013 BUDGET REQUEST
(Dollars in thousands)

Budget Authority	2011 Actual	2012 Enacted	2013 President's Budget
Appropriation Total	64,946	66,190	64,939
FTE Direct	364	359	358
FTE Reimbursable	58	65	65
FTE Allocation	21	17	17
FTE Total	443	441	440

Budget at a Glance
(dollars in thousands)

	2011 Actual	2012 Enacted	Fixed Cost Changes	Program Changes	2013 Request
Appropriation: Salaries and Expenses					
Legal Services	47,510	47,434	941	-656	47,719
Travel Reduction				[-200]	
Workforce Planning				[-456]	
General Administration	16,244	16,218	240	-940	15,518
Training Program Reduction				[-220]	
Space Reduction				[-320]	
Eliminate IT Contractor Support				[-400]	
Ethics Office	1,192	2,538	34	-870	1,702
Reduction in One-time Costs				[-870]	
Total	64,946	66,190	1,215	-2,466	64,939

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Summary of Requirements

(Dollars in Thousands)

	2011 Actual		2012 Enacted		Fixed Costs	Program Changes (+/-)		2013 President's Budget		Changes from 2012	
	<i>Total FTE</i>	<i>Amount</i>	<i>Total FTE</i>	<i>Amount</i>		<i>FTE</i>	<i>Amount</i>	<i>Total FTE</i>	<i>Amount</i>	<i>FTE</i>	<i>Amount</i>
Salaries & Expenses											
Legal Services	290	47,510	281	47,434	+941	-3	-656	278	47,719	-3	+285
General Administration	67	16,244	70	16,218	+240	+0	-940	70	15,518	+0	-700
Ethics	7	1,192	8	2,538	+34	+2	-870	10	1,702	+2	-836
TOTAL, SOL	364	64,946	359	66,190	1,215	-1	-2,466	358	64,939	-1	-1,251

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

Appropriation: Salaries and Expenses

	<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>
FY 2012 Enacted			359	66,190
Fixed Costs and related changes:				
Calendar Year 2013 Quarters 1-3	0	+ 174		
Change in Number of Paid Days	0	+ 190		
Employer Share of Federal Health Benefit Plans	0	+ 166		
Departmental Working Capital Fund	0	- 31		
Worker's Compensation Payments	0	+ 14		
Unemployment Compensation	0	+ 20		
GSA Rental Payments	0	+ 682		
Program changes:				
Reduction in One-time Costs	+ 2	- 870		
Training Program Reduction	0	- 220		
Travel Reduction	0	- 200		
Space Reduction	0	- 320		
Eliminate IT Contractor Support	0	- 400		
Workforce Planning	- 3	- 456		
Total program changes			- 1	- 1,251
FY 2013 President's Budget Request			<u>358</u>	<u>64,939</u>

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Office of the Solicitor
Justification of Fixed Costs
(Dollars in Thousands)

Pay Raise and Pay-Related Changes	2011	2012 Change	2013 Change
Calendar Year 2010 Quarter 4	0		
Calendar Year 2011 Quarters 1-3	0		
Calendar Year 2011 Quarter 4		0	
Calendar Year 2012 Quarters 1-3		0	
Calendar Year 2012 Quarter 4			0
Calendar Year 2013 Quarters 1-3			+174
Non-Foreign Area COLA Adjustment to Locality Pay	0	+32	
Change in Number of Paid Days		-200	+190
Employer Share of Federal Health Benefit Plans	2,472	+168	+166

Other Fixed Cost Changes and Projections	2011	2012 Change	2013 Change
Worker's Compensation Payments	178	-3	+14
<p>The adjustment is for changes in the costs of compensating injured employees and dependents of employees who suffer accidental deaths while on duty. Costs for the BY 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	10	0	+20
<p>The adjustment is for projected changes in the costs of unemployment compensation claims to be paid to the Department of Labor, Federal Employees Compensation Account, in the Unemployment Trust Fund, pursuant to Public Law 96-499.</p>			
GSA Rental Payments	7,056	+1,256	+682
<p>The adjustment is for changes in the costs payable to General Services Administration (GSA) 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. Costs of mandatory office relocations, i.e. relocations in cases where due to external events there is no alternative but to vacate the currently occupied space, are also included.</p>			
Departmental Working Capital Fund	3,696	-21	-31
<p>The change reflects expected changes in the charges for centrally billed Department services and other services through the Working Capital Fund without including IT Transformation investments. These charges are displayed in the Budget Justification for Departmental Management.</p>			

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

APPROPRIATION LANGUAGE

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, \$64,939,000. (Department of the Interior, Environment, and Related Agencies Appropriations Act, 2012.)

**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.

GENERAL ADMINISTRATION ACTIVITY

Activity: General Administration
(dollars in thousands)

	2011 Actual	2012 Enacted	2013			Change from 2012 (+/-)
			Fixed Costs & Related Changes (+/-)	Program Changes (+/-)	Budget Request	
General Administration	16,244	16,218	+ 240	- 940	15,518	- 700
FTE	67	70	0	0	70	0

Summary of 2013 Program Changes for General Administration

Request Component	(\$000)	FTE
<u>Program Changes:</u>		
• Training Program Reduction	-220	0
• Space Reduction	-320	0
• Eliminate IT Contractor Support	-400	0
TOTAL Program Changes	- 940	0

The 2013 budget request for General Administration is \$15,518,000 and 70 FTE, a program decrease of \$940,000 from the 2012 Enacted level.

Eliminate Non-Mandatory Training (-\$220,000/ 0 FTE) - The Office of the Solicitor requests a reduction of \$220,000 for the elimination of non-mandatory training. The Office will focus on mandatory training and in-house or other free training opportunities.

Space Reduction (-\$320,000/ 0 FTE) - The Office of the Solicitor requests a reduction of \$320,000 for decreased space. Reductions in space will be realized through office consolidations for non-supervisory attorneys in offices where currently only one attorney works. Vacated space will be returned to the Department for reallocation to other tenants. Savings will also be realized through increased utilization of telework by eligible employees.

Eliminate IT Contractor Support (-\$400,000/ 0 FTE) - The Office of the Solicitor requests a reduction of \$400,000 for IT contractor support. The Office currently utilizes contractors to perform help desk administration and desktop support services. In FY 2013, the Office will leverage support services offered by the IT Transformation Initiative.

GENERAL ADMINISTRATION PROGRAM OVERVIEW:

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; as well as eight Regional Solicitors. The Immediate Office of the Solicitor includes the Solicitor, six Deputy Solicitors, Special Assistant, Senior Counselors, and supporting secretarial staff.

Division of Administration: Under the direction of a Director, the Division of Administration is responsible for providing and coordinating all management and administrative support services needed by the Office. 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; and records management.

LEGAL SERVICES ACTIVITY

Activity: Legal Services
(dollars in thousands)

	2011 Actual	2012 Enacted	2013			Change from 2012 (+/-)
			Fixed Costs & Related Changes (+/-)	Program Changes (+/-)	Budget Request	
Legal Services	47,510	47,434	+ 941	- 656	47,719	+ 285
FTE	290	281	0	- 3	278	- 3

Summary of 2013 Program Changes for Legal Services

<u>Request Component</u>	<u>(\$000)</u>	<u>FTE</u>
<u>Program Changes:</u>		
• Travel Reduction	- 200	0
• Workforce Planning	- 456	-3
<u>TOTAL Program Changes</u>	<u>- 656</u>	<u>- 3</u>

The 2013 budget request for Legal Services is \$47,719,000 and 278 FTEs, a program decrease of \$656,000 and 3 FTEs from the 2012 Enacted level.

Travel Reduction (-\$200,000/ 0 FTE) – The Office of the Solicitor requests a reduction of \$200,000 for travel. The Office will utilize teleconferencing, videoconferencing, and other technologies that will allow real-time communications and shared access to documents enabling more meetings to be conducted remotely and electronically.

Workforce Planning (-\$456,000/ -3 FTEs) – The Office of the Solicitor requests a reduction of \$456,000 for FTEs. The Office will realize this reduction through workforce planning and position management. While the legal work for the Department is increasing, the Office recognizes the need for tighter limits on discretionary spending. The Office will meet the legal work demands by working with bureaus to prioritize their requests for attorney involvement.

LEGAL SERVICES PROGRAM OVERVIEW

The responsibility of the Legal Services division is to effectively manage the legal work to support the top priorities of the Secretary and the 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 informal legal counsel to clients on a continual basis in a wide variety of circumstances.

Legal Workload Drivers: In performing its mission, the Department of the Interior constantly faces new challenges and changing legal needs. The Office has seen an increase in the workload over the last decade. Significant examples of workload drivers include enforcement of civil pollution-control laws, the *Energy Policy Act of 2005*, enhanced authority over offshore leasing, *Oil Pollution Act of 1990* related assessments and oil spill remediation efforts, the *Surface Mining Control and Reclamation Act Amendments of 2006*, various regional water crises, and the National Park Service concessions contracting activity. The *Americans with Disabilities Act Amendments of 2008*, which broadened the definition of disabilities, will increase the number of claims.

- ***Deepwater Horizon Oil Spill:*** The explosion of the Deepwater Horizon oil well in the Gulf of Mexico has led to a sharp increase in demand for advice on complex and unique oil spill related issues. Special working groups composed of attorneys with expertise in assessing natural resource damage claims have been formed to address the environmental damage. Addressing the impact of the oil spill requires the expertise of our attorneys in a wide range of areas including contracting, analyzing emergency authorities, and document preservation. The Department's offshore leasing decisions will be affected by the oil spill for years. The Office's counsel and legal advice will be needed in this area in 2013 and beyond.
- ***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* (EPAAct) and other recent energy-policy initiatives. The EPAAct requires the development of 10,000 megawatts of non-hydropower renewable energy on public lands by 2015 (Sec. 211 of Public Law 109-58). The EPAAct also authorizes the Bureau of Ocean Energy Management (BOEM) to issue leases for renewable resource processes on the Outer Continental Shelf. The President's "New Energy for America Plan" calls for 10 percent of electricity to come from renewable energy by 2012 and 25% by 2025. This will require DOI to amend the leasing authorities for geothermal and coal resources and create leasing authority for ocean renewable resources, engage in many new rulemakings, conduct studies, enter into memoranda of understanding with other agencies, start pilot projects, amend resource management plans, and 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 law, including National Environmental Policy Act (NEPA), Endangered Species Act (ESA), National Historic Preservation Act (NHPA), Migratory Bird Treaty Act (MBTA), and Federal Land Policy and Management Act (FLPMA), advising Interior bureaus on the range of policy options, and assisting the bureaus with drafting regulations, leases and rights of way, and conducting extensive environmental review by the dates prescribed in the Act.

The EPAAct provides regulatory authority to the Bureau of Ocean Energy Management 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.

Increased workload also will result from Section 241 of the EPO Act, 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 within 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 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. Workload will increase with the filing for FERC approval of tidal and wave energy projects. 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. In the aftermath of the Gulf oil spill, all leasing projects will be subject to intensive review of NEPA analysis and ESA and Marine Mammal Protection Act (MMPA) consultations, and litigation is virtually guaranteed 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 re-mining 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, and to respond to crises and serious conditions involving water allocations as they arise. 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 increased the demand for legal services to the NPS.

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 (which includes six Deputy Solicitors with subject matter oversight), the Ethics Office, five major legal divisions, and an administrative division as detailed below. Each legal 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 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 Principal 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
Intermountain	Salt Lake City, Utah	Phoenix, Arizona
Rocky Mountain	Denver, Colorado	Billings, Montana
Pacific Northwest	Portland, Oregon	Boise, Idaho
Pacific Southwest	Sacramento, 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, Office attorneys represent 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 in 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 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)
Bureau of Ocean Energy Management (BOEM)
Bureau of Safety and Environmental Enforcement (BSEE)
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 also manages the Department's Freedom of Information Act (FOIA) and Privacy Act (PA) appeals program. The Division has an Associate Solicitor, three branches, each headed by an Assistant Solicitor, and one office headed by a branch chief.

- (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, legal support of fast-track contracting and assistance under the American Recovery and Reinvestment Act, 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, rulemaking, 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 Departmental Office of Civil Rights, including internal complaints, Title VI matters, and minority business enterprise matters; personnel management and equal employment opportunity litigation; and labor relations.
- (4) The Freedom of Information Act (FOIA) and Privacy Act (PA) Appeals Office has responsibility 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.

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 asserting, on behalf of all of Interior's bureaus, affirmative claims seeking reimbursement under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for costs incurred by those bureaus in remediating contamination on bureau lands. The Division also defends the bureaus in contribution actions asserted against them under CERCLA and other laws. 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, surveys, boundaries, withdrawals, classification, rights-of-way, trespass, land titles, land use planning, 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 Environmental Compliance Response has responsibility for legal matters related to cost-recovery and cost-avoidance involving cases funded from Interior's Central Hazardous Materials Fund. The Branch also has responsibility for legal assistance and counsel with respect to issues of environmental compliance that arise under numerous state and federal laws at Interior's facilities, as well as environmental liabilities that arise during real property transactions. The Branch also works closely with U.S. Environmental Protection Agency and other agencies in promoting the redevelopment of Brownfield sites; encouraging the cleanup of mixed ownership sites (private and public lands); and facilitating the remediation of formerly used defense sites. 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; BOEM; BSEE; OSM; as well as legal matters concerning BLM's 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 BOEM and BSEE 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. While the principal

focus is on Federal mineral lease obligations of a nonfinancial nature, and operations on Indian mineral leases, it also provides advice on royalty matters related to those minerals upon request.

- (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 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 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 and the Assistant Secretary – Water and Science. 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's programs and activities and for legal matters related to the programs and activities of NPS's National Capital Region 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 Interior and other Federal and state agencies, foreign countries and international organizations.
- (3) The Branch of Environmental Restoration has responsibility for the resolution of legal problems which involve the programs, activities, and policies of Interior and its various agencies, when related to natural resource restoration.

The **Division of Administration**¹ is responsible for providing and coordinating all management and administrative support services needed by the Office.

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 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.

¹ In-depth description of the Division of Administration is on pages SOL-12 – SOL-13.

² More in-depth description of the Ethics Office is on pages SOL-27 – SOL-31.

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 nearly 100 pending tribal trust cases.

The settlement announced in *Cobell v. Salazar* illustrates the possibility of successfully resolving complex Indian trust litigation and reaffirms the United States' long-standing policy and intention of achieving settlement through alternative dispute resolution (ADR) efforts, wherever possible. The Office is committed to resolving the claims asserted by Plaintiffs in the tribal Trust cases through cooperative efforts and the United States – through its DOJ counsel, the Department, and the United States Department of the Treasury – has engaged in informal settlement discussions or formal ADR processes with various plaintiff Tribes and their counsel regarding the plaintiff Tribes' trust claims. Of the nearly 100 Tribal Trust cases pending in the United States Court of Federal Claims, various United States District Courts, and the United States Court of Appeals for the Federal Circuit, approximately 70 cases have been temporarily stayed so the parties can pursue informal settlement discussions or formal ADR processes.

The United States and Tribes have successfully resolved Tribal Trust cases in the past several years. These successful Tribal Trust case settlements have involved trust accounting, trust fund management, and trust resource (or non-monetary trust asset) management issues. These settlements reflect diverse ADR approaches, from the use of a settlement judge or a third-party neutral evaluator to direct discussions between the plaintiff Tribes and the United States. All of these cases have required extensive document and data discovery at significant cost to the government defendants.

Although many plaintiff Tribes have attempted to adopt a cooperative and efficient approach to the very necessary document and data discovery, several others have adopted a litigation strategy reminiscent of the early years of Cobell which saw more extensive discovery tactics which require a disproportionate share of resources.

Regions and Field Offices. To the extent practicable, 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, BOEM, and BSEE 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 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 a Field Office is located in 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, NPS, 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 shared with the Southwest Region); 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, Montana, North Dakota, South Dakota, Utah, and Wyoming); legal matters involving the Office of Natural Resources Revenue (ONRR) and legal matters involving BOEM and BSEE 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 BOEM and BSEE 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, Texas, and on the Navajo Reservation; and legal matters involving specific bureaus in Arizona (FWS, and OSM), Colorado (BIA), Illinois (OSM), Kansas (BIA, BLM, BOEM, and BSEE), Louisiana (BOEM and BSEE), and Missouri (BIA). 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, with a unit in Santa Fe, New Mexico, and a Field Office located in Tulsa, Oklahoma.

ETHICS OFFICE ACTIVITY

Activity: Ethics Office
(dollars in thousands)

	2011 Actual	2012 Enacted	2013			Change from 2012 (+/-)
			Fixed Costs & Related Changes (+/-)	Program Changes (+/-)	Budget Request	
Ethics Office	1,192	2,538	+ 34	- 870	1,702	- 836
FTE	7	8	0	+ 2	10	+ 2

Summary of 2013 Program Changes for Ethics Office

<u>Request Component</u>	<u>(\$000)</u>	<u>FTE</u>
<u>Program Changes:</u>		
• Reorganize the Ethics Office	- 870	+ 2
TOTAL Program Changes	- 870	+ 2

The 2013 budget request for the Ethics Office is \$1,702,000 and 10 FTE, a program decrease of \$870,000 and increase of 2 FTEs from the 2012 Enacted level.

Reduction in One-time Costs (-\$870,000/+2 FTE) – The Office of Solicitor requests a decrease of \$870,000 for the Ethics Office. The Ethics Office leverages technology whenever possible to meet its mission and the FY 2013 request reflects the reduction in one-time costs associated with an ethics, case, and matter tracking system implemented and funded in FY 2012. The Ethics Office will implement this tracking system in FY 2012, and only the maintenance of this system and 3 FTES above the FY 2011 level will be required in FY 2013 and beyond.

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, Executive Order 12674: *Principles of Ethical Conduct for Government Officers and Employees*, 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 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 required 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. 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 and direction 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, although some enhancements and improvements are needed.

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, and in implementing the Secretary's Secretarial Order directing the enhancement of the Department's Ethics Program, 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 political's 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.
 - Asking managers to discuss ethics related issues with their staff at staff meetings and other work settings.
 - Identifying trends of ethics violations and publicizing consequences from ethical lapses.
 - Use media accounts to showcase what happens to those who violate the laws.

- Focusing on training the 14 guiding principles of ethics.
- Soliciting feedback on training from employees.
- Training ethics officials, branching out their training into effective decision making and an ethical culture.

The DEO was 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 to be 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 to properly execute their oversight role.

To improve the financial disclosure process, the DEO procured and is in the process of implementing an electronic system of employee filing and DEO review. The DEO is participating in multi-agency initiatives overseen by the Office of Government Ethics, such as the Ethics Counselor Certification Program and the Benchmarking Project to develop ethics program assessment tools. The DEO is reviewing DOI supplemental ethics regulations to determine appropriate revisions to further assure the highest level of ethical culture at DOI.

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.
- 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. 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. 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 of the Solicitor 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

There are a number of necessary functions performed by the DEO to meet its responsibilities and to ensure 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 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 2011 Actual	FY 2012 Enacted	FY 2013 Estimate
Interior's Working Capital Fund			
Centralized Billings	3,696.2	3,650.4	3,650.5
Direct Billings	1,229.9	1,510.6	1,517.1
Total	5,044.9	5,065.1	5,121.7

➤ **Bureau Billing for Client Support** - A number of client bureaus and offices within Interior have requested assistance 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 2011 Actual*	FY 2012 Enacted	FY 2013 Estimate
Attorney salaries and benefits	8,644.0	12,145.2	12,145.2
Reimbursable attorney overhead	2,213.6	3,330.0	3,330.0
Total	10,857.6	15,475.2	15,475.2

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.

* The Office also received a \$2,759,000 allocation for salaries, benefits, and overhead in FY 2011 for Office of the Secretary Indian Trust litigation issues.

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

Identification Code 14-0107-0	2011 Actual	2012 Estimate	2013 Estimate
Obligations by program activity:			
0001 Direct program	66	66	65
0801 Reimbursable program activity	10	11	11
0802 Allocation program activity	.....	4	4
0899 Total reimbursable obligations	<u>10</u>	<u>15</u>	<u>15</u>
0900 Total new obligations	<u>76</u>	<u>81</u>	<u>80</u>
Budgetary resources:			
Unobligated balance:			
1011 Unobligated balance transferred from other accounts	<u>1</u>	.....	.....
1050 Unobligated balance (total)	1	.....	.....
Budget authority:			
Appropriations, discretionary:			
1100 Appropriation	<u>65</u>	<u>66</u>	<u>65</u>
1160 Appropriation, discretionary (total)	65	66	65
Spending authority from offsetting collections, discretionary:			
1700 Collected	10	15	15
1701 Change in uncollected payments, Federal Sources	<u>4</u>	.....	.....
1750 Spending auth from offsetting collections, disc (total)	<u>14</u>	<u>15</u>	<u>15</u>
1900 Budget Authority (total)	<u>79</u>	<u>81</u>	<u>80</u>
1930 Total budgetary resources available	80	81	80
Memorandum (non-add) entries			
1940 Unobligated balance expiring	-4	.....	.....
Change in obligated balances:			
Obligated balance, start of year (net):			
3000 Unpaid obligations, brought forward, Oct 1 (gross)	5	4	5
3010 Uncollected pymts, Fed sources, brought forward, Oct 1	<u>-1</u>	<u>-4</u>	<u>-4</u>
3020 Obligated balance, start of year (net)	4	.....	1
3030 Obligations incurred, unexpired accounts	76	81	80
3031 Obligations incurred, expired accounts	1	.....	.....
3040 Outlays (gross)	-77	-80	-80
3050 Change in uncollected pymts, Fed sources, unexpired	-4	.....	.....
3051 Change in uncollected pymts, Fed sources, expired	1	.....	.....
3081 Recoveries of prior year unpaid obligations, expired	-1	.....	.....
Obligated balance, end of year (net):			
3090 Unpaid obligations, end of year (gross)	<u>4</u>	<u>5</u>	<u>5</u>
3091 Uncollected pymts, Fed sources, end of year	<u>-4</u>	<u>-4</u>	<u>-4</u>
3100 Obligated balance, end of year (net)	.....	1	1

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

Budget authority and outlays, net:				
Discretionary:				
4000	Budget authority, gross	79	81	80
Outlays, gross:				
4010	Outlays from new discretionary authority	73	77	76
4011	Outlays from discretionary balances	4	3	4
4030	Outlays, gross (total)	77	80	80
Offsets against gross budget authority and outlays:				
Offsetting collections (collected) from:				
4030	Federal sources	-10	-15	-15
Additional offsets against gross budget authority only:				
4050	Change in uncollected pymts, Fed sources, unexpired	-4	.....	.....
4070	Budget authority, net (discretionary)	65	66	65
4080	Outlays, net (discretionary)	67	65	65
4180	Budget authority, net (total)	65	66	65
4190	Outlays net (total)	67	65	65

DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
OBJECT CLASSIFICATION
(in million of dollars)

Identification Code 14-0107-0	2011 Actual	2012 Estimate	2013 Estimate
Direct obligations			
1111 Personnel compensation: Full-time permanent	41	42	41
1121 Civilian personnel benefits	10	11	11
1231 Rental payments to GSA	7	8	8
1252 Other services	<u>7</u>	<u>5</u>	<u>5</u>
1990 Subtotal, obligations, Direct obligations	65	66	65
Reimbursable obligations			
2111 Personnel compensation: Full-time permanent	6	6	6
2121 Civilian personnel benefits	2	2	2
2210 Travel and transportation of persons	1	1	1
2252 Other Services	1	2	2
2990 Subtotal, obligations, Reimbursable obligations	<u>10</u>	<u>11</u>	<u>11</u>
Allocation Account - direct:			
3111 Personnel compensation: Full-time permanent	1	2	2
3121 Civilian personnel benefits	.....	1	1
3252 Other Services	.....	1	1
3990 Subtotal, obligations, Allocation Account - direct	<u>1</u>	<u>4</u>	<u>4</u>
9999 Total new obligations	<u>76</u>	<u>81</u>	<u>80</u>

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
PERSONNEL SUMMARY**

Identification Code 14-0107-0	2011 Actual	2012 Estimate	2013 Estimate
Direct:			
1001 Civilian full-time equivalent employment	364	359	358
Reimbursable:			
2001 Civilian full-time equivalent employment	58	65	65
Allocation account:			
3001 Civilian full-time equivalent employment	21	17	17
	443	441	440

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

	FY 2011	FY 2012	FY 2013
	<u>Actual</u>	<u>Estimate</u>	<u>Estimate</u>
Executive Level IV	1	1	1
SES	22	21	21
Subtotal	23	22	22
SL	1	1	1
GS/GM-15	92	96	96
GS-14	218	213	212
GS-13	28	32	32
GS-12	20	15	15
GS-11	19	18	18
GS-10	1	1	1
GS-9	11	11	11
GS-8	8	7	7
GS-7	23	24	24
GS-6	6	4	4
GS-5	0	0	0
GS-4	3	3	3
GS-3	2	0	0
Subtotal	431	424	423
Total employment (actual & estimates)	455	447	446

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
REIMBURSABLE POSITIONS
(in thousands of dollars)**

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>
Bureau of Indian Affairs			
Legal support, licensing of FERC projects	192	195	194
Legal support, restoration of land	33	48	0
Legal support, probate and AIPRA issues	191	195	205
Legal support, tribal status issues	196	70	0
Legal support, Indian Affairs	0	130	184
Subtotal	<u>612</u>	<u>639</u>	<u>583</u>
Bureau of Land Management			
Legal support, mining, rights-of-way, NEPA, CERCLA, FLPMA, NHPA, grazing, forest fire cost recovery, title issues, and recreational use of public lands	70	79	97
Legal support, SNPLMA, other special assignments on behalf of BLM	180	187	194
Legal support, public land, environmental oil & gas, and energy law	135	113	125
Legal support, NEPA relating to the EPAct of 2005	117	156	169
Legal support, land use planning; work related to FLPMA and BLM's regulations implementing FLPMA, NEPA, ESA, NHPA, and other statutes, regulations, and policies	322	343	362
Legal support, all issues related to land and mineral resources	345	542	603
Legal support, special assignments on behalf of BLM	195	188	210
Legal support, natural resources in Idaho	314	366	378
Legal support, legal counsel services on behalf of BLM	132	0	0
Legal support, including Employment Law, and other duties as assigned	0	281	295
Legal support, geothermal matters	0	77	100
Legal support, related to renewable energy	0	336	393
Legal support, renewable energy, other special assignments on behalf of BLM	0	423	549
Legal support, natural resources and minerals in New Mexico	0	44	75
Subtotal	<u>1,810</u>	<u>3,132</u>	<u>3,551</u>

DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
REIMBURSABLE POSITIONS
(in thousands of dollars)

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>
Bureau of Ocean Energy Management			
Legal support, relating to Energy Policy Act of 2005, with attention on the Coastal Impact Assistance Program	108	181	0
Legal support, offshore minerals and renewable energy issues	124	144	365
Legal support, relating to offshore minerals	0	0	591
Legal support, relating to Alaska issues	0	170	168
Legal support, relating to offshore renewable energy issues	0	0	157
Subtotal	<u>232</u>	<u>495</u>	<u>1,281</u>
Bureau of Reclamation			
Legal support, stream adjudication and water rights issues	140	162	192
Legal support, water contracts, water rights issues, Klamath Project issues, NEPA, and NHPA	106	150	161
Legal support for Lower Colorado Region to include Colorado River management and regulations, drafting and review of water contracts, water accounting issues, Indian water settlements	198	208	232
Legal support, Reclamation law, Indian water rights settlements, NEPA, CWA and ESA	0	56	127
Legal Support, Central Utah Project – Title II construction and Title III mitigation programs	181	180	186
Legal support, Boulder Canyon Project Act	164	178	198
Legal support, Bay Delta Conservation Plan (BDCP), Central Valley Project Improvement Act implementation, ESA, NEPA, CVP operations, San Joaquin River Restoration Program	203	205	206
Legal support, land management, contract reviews, water issues ESA & NEPA, BBDCP, and San Joaquin River Settlement	199	211	213
Legal support, water rights, water quality, and contracts for the CVP, non-CVP projects in California and others in Nevada	203	208	212
Legal support, special assignments or other BOR related projects	207	152	0
Legal support, Great Plains Region water service contracts, land title, NEPA, Indian water rights settlements, and general water rights	142	144	159
Legal support, water and Klamath project issues	78	80	81
Legal support, including procurement, employment law, agreements, and any and all other legal support as necessary	0	135	230
Subtotal	<u>1,821</u>	<u>2,068</u>	<u>2,197</u>

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
REIMBURSABLE POSITIONS
(in thousands of dollars)**

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>
Bureau of Safety and Environment Enforcement			
Legal support, relating to the regulation of offshore mineral operations and enforcement of BSEE regulations	0	0	288
Legal support, project management relating to document discovery for Deepwater Horizon	0	0	192
Subtotal	<u>0</u>	<u>0</u>	<u>480</u>
Fish and Wildlife Service			
Legal support, civil service law, EEO, labor law, natural resource damage assessment, civil penalty, and environmental law issues	90	93	97
Legal support, FOIA, refuge management, and land acquisition matters	96	96	102
Legal support, high priority refuge and ESA issues	0	0	189
Legal support, high priority realty issues	0	0	40
Legal support, including procurement, employment law, agreements, and any and all other legal support as necessary	0	0	47
Legal support, fisheries and ecological services	0	74	0
Subtotal	<u>186</u>	<u>262</u>	<u>475</u>
National Business Center			
Legal support, NBC contractual & acquisition services	554	715	864
Legal support, including procurement, employment law, agreements, and any and all other legal support as necessary	0	145	150
Subtotal	<u>554</u>	<u>860</u>	<u>1,015</u>
National Park Service			
Legal support, water rights issues	172	185	219
Legal support, civil service law, EEO, labor law, and tort law issues	90	93	97
Legal support, FOIA, Partnership Agreements, Cultural and natural resources	96	96	102
Legal support, Everglades restoration	161	225	212
Legal support, including procurement, employment law, agreements, and any and all other legal support as necessary	184	521	386
Legal support, for acquisition related transactions	76	59	0
Subtotal	<u>779</u>	<u>1,179</u>	<u>1,015</u>

**DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
REIMBURSABLE POSITIONS
(in thousands of dollars)**

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>
Office of the Special Trustee for American Indians			
Legal support, Office of Special Trustee for American Indians	0	119	176
Legal support, Office of Special Trustee for American Indians *	[3,198]	[2,759]	2,417
Subtotal	<u>0</u>	<u>119</u>	<u>2,593</u>
Office of Surface Mining			
Legal support, Office of Surface Mining issues	<u>0</u>	<u>202</u>	<u>197</u>
Subtotal	0	202	197
Other Offices and Programs			
Legal support, NIGC, Indian land determination	118	0	0
Legal support, ONRR Royalty In Kind Program	319	400	371
Legal support, ONRR related matters	0	92	113
Legal support, NRDAR	152	35	38
Legal support, trust policy and procedure projects	359	356	370
Legal support, HAZMAT compliance	938	896	1067
Legal support, EPA federal facility compliance	39	0	0
Legal support, DOJ assignment	<u>110</u>	<u>122</u>	<u>128</u>
Subtotal	2,035	1,902	2,087
TOTAL REIMBURSEMENTS	8,029	10,858	15,475

* The Office received an allocation of 14 FTEs in FY 2010 & 2011 for Office of the Secretary Indian Trust litigation issues.