



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

and Performance Information  
Fiscal Year 2023

**OFFICE OF  
THE SOLICITOR**

NOTICE: These budget justifications are prepared for the Interior, Environment and Related Agencies Appropriations Subcommittees. Approval for release of the justifications prior to their printing in the public record of the Subcommittee hearings may be obtained through the Office of Budget of the Department of the Interior.

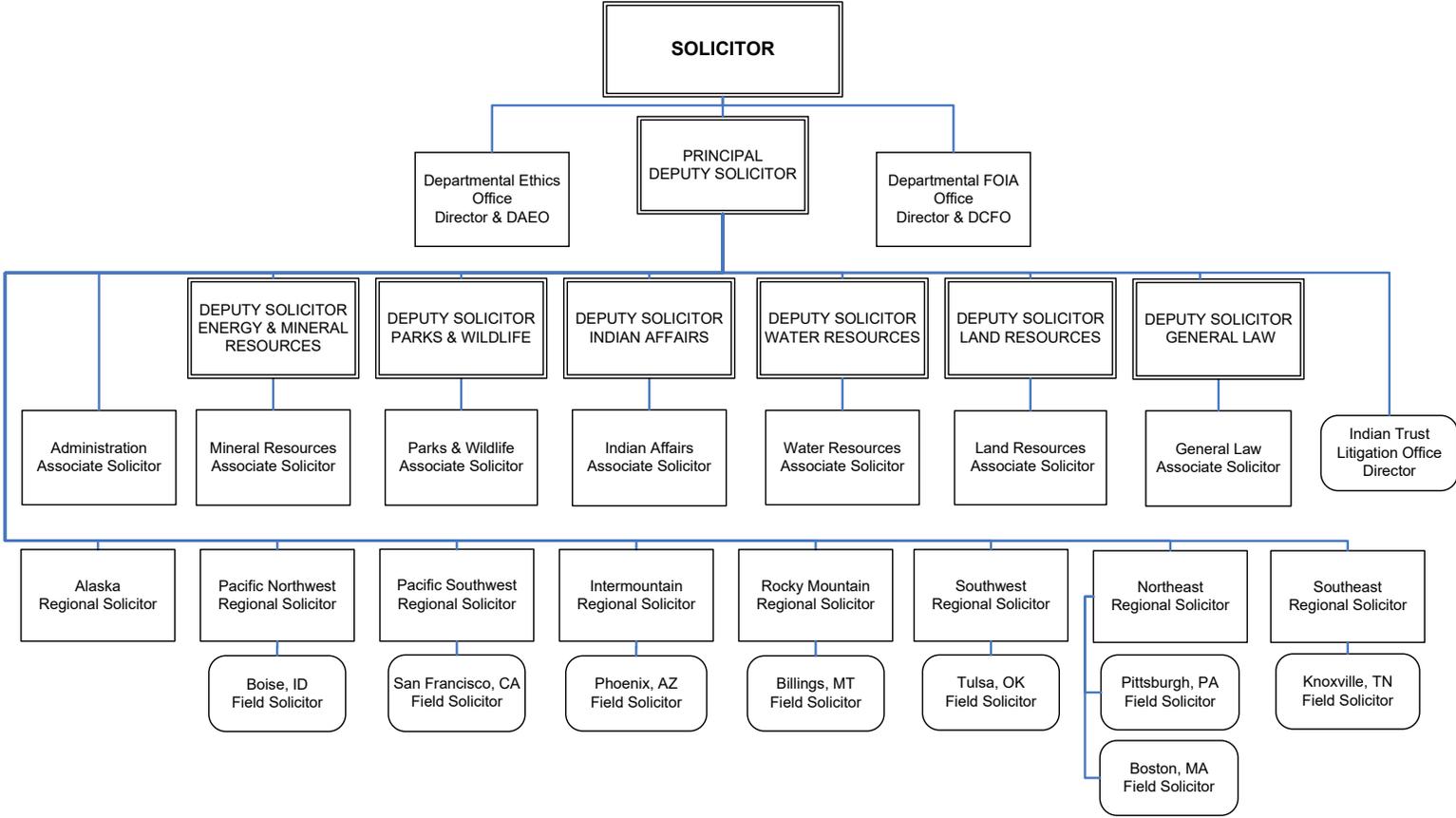


Printed on  
Recycled Paper

# TABLE OF CONTENTS

Table of Contents.....	1
Organizational Chart.....	2
General Statement.....	3
Legal Services Workload.....	4
Counseling.....	5
Litigation.....	5
Defensive Litigation.....	6
Affirmative Litigation.....	6
Fiscal Year 2023 Budget Request Overview.....	8
Budget at a Glance.....	9
Summary of Requirements.....	10
Justification of Fixed Costs and Internal Realignments.....	11
Appropriations Language.....	13
Justification of Proposed Language Changes.....	14
Appropriations Language Citation.....	15
General Administration Activity.....	16
Legal Services Activity.....	18
Ethics Office.....	28
Required Functions.....	29
FOIA Office.....	31
Disclosure of Administrative Assessments.....	34
Employee Count by Grade.....	36
Reimbursable Positions.....	37
FY 2021 Equal Access to Justice Act Payments.....	43
FY 2021 Endangered Species Act Payments.....	45

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



SOL-2

## GENERAL STATEMENT

The mission of the Office of the Solicitor (SOL) is to provide legal counsel and advice to the Secretary and the Department, while inspiring and ensuring the highest ethical standards. The Office provides legal representation to the Secretary and all senior leadership, as well as comprehensive legal services to all bureaus and offices, ensuring that the Department's programs and activities are conducted in accordance with applicable laws and regulations. SOL's legal representation spans the entire spectrum of the Department's broad mission, providing expertise on a host of natural resource and environmental law issues, as well as mineral law, water law, land use law, Indian law, contract law, tort law, employment law, administrative law, and appropriations law. SOL attorneys represent the Department in administrative hearings and work in conjunction with the Department of Justice in representing the Department in judicial proceedings in Federal, State and Tribal courts throughout the United States. The Office also provides legal assistance in drafting and reviewing regulations, contracts, memoranda of agreement, formal decisions, leases, rights-of-way, title documents, other legal instruments, and proposed legislation. In addition, SOL manages the Departmental Ethics Office and Departmental Freedom of Information Act (FOIA) Office.

The budget request provides the Secretary and the Department the legal services needed for the advancement of the Administration's goals and other operational priorities. The work of the Office impacts every program within the Secretary's jurisdiction. SOL attorneys actively engage in client counseling to ensure sound decision-making, including implementation of strategies that will decrease the likelihood of litigation and corrective post-litigation actions. SOL attorneys assist the Secretary, through the Departmental bureaus and offices, in responding to congressional direction in appropriations and substantive legislation, advising the bureaus and offices on legal options for streamlining processes and improving program management, and implementing plans to carry out Departmental goals. The Office also assists all Department components in responding to requests from the Office of the Inspector General, the Office of Special Counsel, Congress, the courts, administrative tribunals, and the public.

The budget request includes a Legal Services activity increase of \$3,225,000 for 13 FTE to maintain baseline capacity, a Legal Services activity increase of \$2,000,000 for 8 FTE to expand legal services capacity by approximately two percent, and a Legal Services activity increase of \$3,400,000 for non-discretionary office moves. The budget request also includes a General Administration activity increase of \$200,000 for 1 FTE for the administration's diversity, equity, inclusion and accessibility initiative.

Consistent with the 2022 President's Budget Request, the budget requests a continuation of appropriation availability for two years, enabling the Office to manage its resources more effectively, while continuing to provide essential legal and ethics services to the Secretary and the Department.

The budget request includes an internal transfer of \$1,860,000 from the Office of the Secretary to implement Phase Two of the Departmental FOIA Office (DFO). The DFO provides governance, oversight, and operational support to the Department's component FOIA offices to improve their FOIA request processing quality and capacity and ultimately reduce FOIA-related litigation.

The Office also expects to receive reimbursable funding to provide legal services related to the Department's Bipartisan Infrastructure Law activities.

Having sufficient attorney resources to handle filed litigation and provide timely counseling is critical to ensuring that litigation risks are properly managed and mitigated. With proactive counseling, decision-makers are provided the opportunity to weigh litigation risks and damages to program management and reputation by pursuing one decision over another. Front-end counseling is critical to realizing cost savings by either preventing litigation or narrowing the issues that might be challenged in litigation.

### **Good Accounting Obligation in Government Act Report**

The Good Accounting Obligation in Government Act (GAO-IG Act, P.L. 115-414) enacted January 3, 2019, requires that Agencies report the status of each open audit recommendation issued more than one year prior to the submission of the Agency's annual budget justification to Congress. The Act requires Agencies to include the current target completion date, implementation status, and any discrepancies on closure determinations.

The Department of the Interior takes audit follow-up very seriously and considers our external auditors, to include the Government Accountability Office (GAO) and Office of the Inspector General, valued partners in not only improving the Department's management and compliance obligations but also enhancing its programmatic and administrative operations. As stewards of taxpayer resources, the Department applies cost-benefit analysis and enterprise risk management principles in implementing recommendation decisions.

The Department's GAO-IG Act Report will be available at the following link: <https://www.doi.gov/cj>

## **LEGAL SERVICES WORKLOAD**

The work of the Office addresses and influences every program within the Secretary's jurisdiction. SOL attorneys actively engage in client counseling to ensure sound decision-making, including implementation of strategies that may decrease the likelihood of litigation and corrective post-litigation actions. SOL attorneys assist the Secretary, through the Department's bureaus and offices, in responding to congressional direction in appropriations and substantive legislation, advising the bureaus and offices on legal options for streamlining processes and improving program management, and implementing plans to carry out Departmental goals. The Office also assists the bureaus and offices in responding to requests from the Inspector General, the Office of Special Counsel, Congress, the courts, and the public.

SOL attorneys handle filed and anticipated litigation, resolve or mitigate potential legal challenges, and provide timely counseling, which is critical to ensuring litigation risks are properly managed. With proactive counseling, decision-makers are provided the opportunity to weigh litigation risks and potential costs by pursuing one decision over another. Front-end counseling is critical to realizing cost avoidance by either preventing litigation or narrowing the issues that might be challenged in court.

The Solicitor's Office devotes a substantial portion of its resources to the legal counseling that is essential for bureau and office program managers to plan for and reach defensible decisions that are closely scrutinized by various interested, and often litigious, constituencies. Other critical work the Office performs includes reviewing proposed regulations and proposed regulatory revisions, reviewing permits and land use planning documents, preparing and reviewing Secretary's Orders, participating in government-to-government relations with Indian Tribes, and advising on administrative functions, law enforcement and security. It is the work of the Office of the Solicitor that forms the legal foundation for

program decisions, risk analysis on a proposed course of action, and the development and review of the administrative records and evidence to support the program decision. In litigation, the Department of Justice relies on the expertise of SOL attorneys in the development of a litigation strategy to defend the Department of the Interior's actions, as well as to compile the administrative record; respond to discovery requests, including document production, privilege reviews, and identification of fact witnesses among the Department's approximately 70,000 employees; identify and prepare fact and expert witnesses for testimony; prepare litigation reports containing all relevant facts; and draft and review legal arguments. The Office's attorneys also play a critical role in settlement negotiations and mediations, and in evaluating the merits of seeking appeals from adverse court decisions, including appeals to the United States Supreme Court.

## **COUNSELING**

The Office's legal counseling services support every facet of the Department's wide-ranging mission, as indicated by the breadth of the counseling areas described above. Ensuring that high priority Administration and Secretarial initiatives receive proper legal review and counsel is critical to decreasing the likelihood of future litigation.

For example, the Department is playing an essential role in advancing national policy to promote environmentally responsible and safe development of our Nation's vast energy resources, while at the same time balancing regulatory requirements. The Department's energy portfolio includes oil, gas, coal, hydroelectric, wind, solar, geothermal, and biomass. On a strategic level, the Office reviews existing and proposed regulations and policy initiatives. On a project level, it reviews energy exploration, development, production, and transportation decisions or actions for compliance with the National Environmental Policy Act (NEPA) and other legal considerations.

Office attorneys provide a wide breadth of services, including giving advice to the review and drafting of key Departmental decisions, rulemakings, and planning documents. SOL attorneys help prepare and review massive administrative records that are the basis of the Department's defense in litigation. For example, land use planning and other decisions may require analysis under NEPA that will eventually form the basis of a final agency decision. Legal counseling at the beginning of the NEPA process is critical to ensuring cost effective management and potential narrowing of the issues that might arise as legal challenges to a bureau's proposed action.

In areas such as employment law, regular and timely counseling with management officials leads to better and more defensible personnel decisions, lowers the risk of employee complaints and litigation, and improves Department-wide morale and employee retention. Effective and timely counseling also furthers the Administration's efforts to ensure, promote, and protect diversity, equity, inclusion and accessibility throughout the Department.

## **LITIGATION**

The Office's expansive litigation portfolio includes: (1) defensive litigation in which Office attorneys work with the Department of Justice (DOJ) to defend the Secretary's actions and those of the various bureaus and offices; (2) affirmative litigation in which attorneys develop referrals and work with DOJ in prosecuting primarily civil legal actions to enforce and/or obtain compliance related to environmental, natural resource, and Indian laws overseen by the Department; (3) challenges to bureau decisions before administrative boards of appeals, such as the Interior Board of Land Appeals, the Interior Board of Indian

Appeals, and the Civilian Board of Contract Appeals; and (4) employment disputes such as those filed with the Merit Systems Protection Board and the Equal Employment Opportunity Commission. The vast majority of the Office's litigation is defensive in nature, requiring SOL's attorneys to assume responsibility over the matters or risk possible default judgment by the court, as well as sanctions. In the course of this responsibility, SOL attorneys work closely with DOJ at all judicial levels, including in Federal trial courts, State and Tribal courts, and appellate courts including the United States Supreme Court. The Office also exclusively handles hundreds of new administrative challenges each year.

The Office's litigation caseload involves matters in every judicial district throughout the Nation. SOL attorneys handle a broad spectrum of subject areas, with cases that include some of the most complex and time intensive in the entire court system. Many cases can last several years or even decades. Court-ordered discovery can involve review and production of thousands, or even millions, of documents. Claims for monetary relief can be in the millions, if not billions, of dollars.

As mentioned above, having sufficient attorney resources to handle both the filed litigation and to provide timely counseling is critical to ensuring that litigation risks are minimized.

### **DEFENSIVE LITIGATION**

As would be expected for a large Cabinet-level agency with a diverse mission, the Department of the Interior is sued hundreds of times each year by a broad spectrum of individuals, organizations, businesses, and governments. As the defendant, the Office cannot control an aggrieved party's decision to file litigation against the Secretary, other officials, or the Department's bureaus and offices. Thus, defense of these cases is non-discretionary, and the Solicitor's Office must devote resources to all phases of the litigation. Failure to do so could result in the courts issuing default judgments against the Secretary and the Department, as well as contempt of court citations. Court-imposed deadlines drive the volume and pace of the work devoted to these cases.

These defensive suits arise from all aspects of agency decision-making. The suits include challenges to land management decisions; water use and operations; breach of contract claims; tort actions; alleged breaches of trust in dealing with Indian lands, resources, and monies; personnel and employment related matters; and numerous other issues. A few examples of resource intensive defensive litigation include challenges to oil and gas leasing and coal leasing decisions; bankruptcy cases in which SOL defends government interests; Endangered Species Act (ESA) reform regulations, consultations, and listing determinations; the constitutionality of the Indian Child Welfare Act; constitutional, Federal education statutes, and Administrative Procedures Act (APA) violation allegations for Bureau of Indian Education school programs; Bureau of Land Management land use plans for sage grouse conservation; and Indian, ESA, APA, Tribal trust, and takings claims relating to limited water resources in the western United States.

### **AFFIRMATIVE LITIGATION**

In affirmative litigation, the Office's goals are straightforward and critically important: ensure that Federal laws are followed through civil enforcement actions that provide credible deterrents against future violations; ensure that violators of criminal statutes are appropriately punished; collect debts owed to the government; ensure that those responsible for contamination pay for or conduct needed remediation; and obtain money to restore or replace natural resources damaged or destroyed by oil spills or other releases of hazardous substances into the environment.

While critically important, because affirmative litigation is discretionary – as opposed to defensive litigation – affirmative case referrals receive lower priority when the Office lacks the resources to address its non-discretionary workload. We have seen a 47 percent reduction in affirmative cases over the past five years, resulting in fewer civil enforcement actions, fewer criminal prosecutions, and fewer debts and penalties collected.

Nonetheless, the benefit derived from affirmative litigation continues to far outpace the cost. In affirmative litigation, the Office has an opportunity to recover the costs of environmental cleanups on Departmental lands, as well as economic damages for injuries to natural resources. The DOI Central Hazardous Materials Fund can then use those recovered funds to conduct additional environmental cleanups. In environmental cleanup actions, the Office recovered \$5.6 million in FY 2020 and \$1.7 million in FY 2021.

The Office also recovers settlement funds for natural resource restoration and recovery of past costs. Over the last five years, the Department's Restoration Fund has received an average of over \$411 million annually in restoration settlements and advanced or reimbursed cooperative damage assessment funds. Fiscal year 2022 receipts are estimated at more than \$600 million, with the increase largely due to the finalized settlement for natural resource impacts arising from the Deepwater Horizon oil spill in the Gulf of Mexico. Between 2017 and 2031, the settlement will deliver up to \$8.8 billion to the Restoration Fund in annual installments. None of this money would have been collected without intensive work by the Office of the Solicitor.

# FISCAL YEAR 2023 BUDGET REQUEST OVERVIEW

The FY 2023 President's Budget request for the Office of the Solicitor is \$102,050,000.

The Office's 2023 budget 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, ethics, and FOIA services to Interior.

The budget request includes a \$3.4 million program increase to fund the non-discretionary relocation of the Denver regional office. The relocation costs include records disposition, design to maximize space efficiency, construction, furniture suitable for downsized offices, and costs for moving equipment and files. The budget requests an increase of \$3,225,000 for 13 FTE to maintain baseline capacity and an increase of \$2,000,000 for 8 FTE to expand legal services capacity by approximately two percent. The budget request also includes a transfer of \$1,860,000 from the Office of the Secretary to implement Phase Two of the Departmental FOIA Office, which provides governance, oversight, and operational support to the Department's component FOIA offices to improve their FOIA request processing quality and capacity and reduce the risk and frequency of FOIA-related litigation. The budget request also includes \$200,000 for SOL as part of a Departmentwide Diversity, Equity, Inclusion and Accessibility initiative to address identified high priority needs in support of Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities through the Federal Government* (Jan. 25, 2021), and Executive Order 13988, *Preventing and Combatting Discrimination on the Basis of Gender Identity and Sexual Orientation* (Jan. 20, 2021). The budget requests an appropriation availability change from one year to two years, enabling the Office to manage its resources more effectively, while continuing to provide essential legal services to the Secretary and the Department.

The following table summarizes the 2021 Actual, the 2022 Continuing Resolution (CR), and the 2023 Request.

**Total 2023 Budget Request**  
*(Dollars in Thousands)*

<b>Budget Authority</b>	<b>2021 Actual</b>	<b>2022 CR</b>	<b>2023 Request</b>
<b>Appropriation Total</b>	86,813	86,813	102,050
<b>FTE Direct</b>	390	386	416
<b>FTE Reimbursable</b>	94	99	99
<b>FTE Allocation</b>	42	42	52
<b>FTE Total</b>	526	527	567

## BUDGET AT A GLANCE (Dollars in Thousands)

Appropriation: Office of the Solicitor	2021 Actual	2022 CR	Fixed Costs	Internal Transfers (+/-)	Program Changes (+/-)	2023 Request
<b>Legal Services</b>	59,765	59,765	+3,942		+8,625	72,332
Maintain Baseline Capacity					[+3,225]	
Expand Capacity for Legal Services					[+2,000]	
Office Moves					[+3,400]	
<b>General Administration</b>	5,713	5,713	+273		+ 200	6,186
Diversity, Equity, Inclusion and Accessibility Initiative					[+200]	
<b>Ethics Office</b>	19,475	19,475	+306			19,781
<b>FOIA Office</b>	1,860	1,860	+31	+1,860		3,751
Phase Two of FOIA				[+1,860]		
<b>Total</b>	<b>86,813</b>	<b>86,813</b>	<b>+4,552</b>	<b>+1,860</b>	<b>+8,825</b>	<b>102,050</b>

## SUMMARY OF REQUIREMENTS (Dollars in Thousands)

<b>Salaries &amp; Expenses</b>	2021 Actual Amount	2022 CR Total FTE	2022 CR Amount	Fixed Costs (+/-)	Internal Transfers (+/-)	Program Changes (+/-) FTE	Program Changes (+/-) Amount	2023 Request FTE	2023 Request Amount
Legal Services	59,765	270	59,765	+3,942		+21	+8,625	291	72,332
General Administration	5,713	24	5,713	+273		+1	+200	25	6,186
Ethics Office	19,475	84	19,475	+306		0	0	84	19,781
FOIA Office	1,860	8	1,860	+31	+1,860	+8	0	16	3,751
<b>TOTAL, SOL</b>	<b>86,813</b>	<b>386</b>	<b>86,813</b>	<b>+4,552</b>	<b>+1,860</b>	<b>+30</b>	<b>+8,825</b>	<b>416</b>	<b>102,050</b>

SOL-10

**JUSTIFICATION OF FIXED COSTS AND INTERNAL  
REALIGNMENTS  
(Dollars in Thousands)**

<b>Fixed Cost Changes and Projections</b>	<b>2022 Change</b>	<b>2022 to 2023 Change</b>	<b>Description</b>
Change in Number of Paid Days	+0	-292	This column reflects changes in pay associated with the change in the number of paid days between FY 2022 and FY 2023. The number of paid days in FY 2023 is one day less than FY 2022.
Pay Raise	+1,574	+3,041	The President's Budget for FY 2023 includes one quarter of a planned 2.7% pay raise for FY 2022 and three quarters of a planned 4.6% pay raise for FY 2023.
Employer Share of Federal Employee Retirement System	+552	+0	This column reflects no budgeted increase for the employer contribution to the Federal Employee Retirement System.
Departmental Working Capital Fund	+412	+897	The change reflects the final FY 2023 Central Bill approved by the Working Capital Fund Consortium.
Worker's Compensation Payments	+11	-10	The amounts reflect final chargeback 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.
Unemployment Compensation Payments	+0	+0	The amounts reflect 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.
Rental Payments	+676	+916	The amounts reflect changes in the costs payable to General Services Administration (GSA) and others 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. 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.

Fixed Cost Changes and Projections	2022 Change	2022 to 2023 Change	Description
Baseline Adjustments for O&M Increases	+0	+0	In accordance with space maximization efforts across the Federal Government, this adjustment captures the associated increase to baseline operations and maintenance requirements resulting from movement out of GSA or direct-leased (commercial) space and into Bureau-owned space. While the GSA portion of fixed costs will go down as a result of these moves, Bureaus often encounter an increase to baseline O&M costs not otherwise captured in fixed costs. This category of funding properly adjusts the baseline fixed cost amount to maintain steady-state funding for these requirements.

DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SOLICITOR  
APPROPRIATIONS LANGUAGE  
SALARIES AND EXPENSES

*For necessary expenses of the Office of the Solicitor, \$102,050,000, to remain available until September 30, 2024.*

Note.— A full-year 2022 appropriation for this account was not enacted at the time the Budget was prepared; therefore, the Budget assumes this account is operating under the Continuing Appropriations Act, 2022 (Division A of Public Law 117-43, as amended). The amounts included for 2022 reflect the annualized level provided by the continuing resolution.

DEPARTMENT OF THE INTERIOR

OFFICE OF THE SOLICITOR

JUSTIFICATION OF PROPOSED LANGUAGE CHANGES

**Appropriation: Office of the Solicitor, Salaries and Expenses**

1. Addition of the following wording:

*[to remain available until September 30, 2024]*

The Office of the Solicitor proposes a two-year appropriation. This type of funding allows SOL a degree of flexibility that will improve SOL's operations and management and enable it to better address large one-time costs such as office moves. This proposal is a technical no-cost adjustment. Benefits include:

- Sufficient time to complete procurement actions in years when operating under protracted continuing resolutions
- Allows for proper planning for office moves and construction projects within multi-year time parameters required by the General Services Administration
- Enables more efficient use of current space through funding of document scanning, file archiving and disposal, and renovation projects to right-size offices and maximize space productivity
- Ability to carry over unobligated balances to meet unexpected future expenses and cost increases
- Conformity with most DOI appropriations, including those for comparably sized and structured components

# APPROPRIATIONS 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)

	2021 Actual	2022 CR	2023			Change from 2022 (+/-)
			Fixed Costs & Related Changes (+/-)	Program Changes (+/-)	Budget Request	
<b>General Administration</b>	5,713	5,713	+273	+200	6,186	+473
<b>Direct FTE</b>	22	24	0	+1	25	+1
<b>Reimbursable FTE</b>	0	0	0	0	0	0
<b>Allocated FTE</b>	1	1	0	0	1	0

### Summary of 2023 Program Changes for General Administration

Request Component	(\$000)	FTE
<u>Program Changes:</u>		
Diversity, Equity, Inclusion and Accessibility Initiative	+200	+1
<b>TOTAL Program Changes</b>	<b>+200</b>	<b>+1</b>

### Justification of 2023 Program Changes

The 2023 budget request for the General Administration activity is \$6,186,000 and 25 FTE, a program change of +\$200,000 and +1 FTE from 2022.

**Diversity, Equity, Inclusion and Accessibility Initiative (+\$200,000/ +1 FTE)** – The SOL budget includes a \$200,000 program increase for one FTE as part of a Department-wide Diversity, Equity, Inclusion and Accessibility initiative to address identified high priority needs in support of Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities through the Federal Government*, and Executive Order 13988, *Preventing and Combatting Discrimination on the Basis of Gender Identity and Sexual Orientation*. As part of this initiative, the Department, bureaus and offices will jointly conduct a review of the Diversity, Equity, Inclusion and Accessibility program across Interior to identify gaps, challenges, best practices and examine Department and bureau roles, responsibilities, and governance.

### GENERAL ADMINISTRATION PROGRAM OVERVIEW

Division of Administration: Under the direction of an Associate Solicitor, the Division of Administration is responsible for providing and coordinating all management and administrative services needed by the Office. Responsibilities in the Division of Administration include: organizational, strategic, and performance planning; program evaluation; budget formulation, justification and execution; human resources and position and performance management; employee development and training; space and

property management; procurement of services, furnishings and equipment; information technology planning and services; management of administrative and legal support systems; continuity of operations and safety; communications; and FOIA response and records management.

# LEGAL SERVICES ACTIVITY

Activity: Legal Services  
(Dollars in Thousands)

	2021 Actual	2022 CR	2023			Change from 2022 (+/-)
			Fixed Costs & Related Changes (+/-)	Program Changes (+/-)	Budget Request	
<b>Legal Services</b>	59,765	59,765	+3,942	+8,625	72,332	+12,567
<b>Direct FTE</b>	287	270	0	+21	291	+21
<b>Reimbursable FTE</b>	89	94	0	+5	99	+5
<b>Allocated FTE</b>	40	39	0	+10	49	+10

## Summary of 2023 Program Changes for Legal Services

Request Component	(\$000)	FTE
<u>Program Changes:</u>		
Maintain Baseline Capacity	+3,225	+13
Expand Capacity for Legal Services	+2,000	+8
Office Moves	+3,400	0
<b>TOTAL Program Changes</b>	<b>+8,625</b>	<b>+21</b>

## Justification of 2023 Program Changes

The 2023 budget request for the Legal Services activity is \$72,332,000 and 291 FTE, a program change of +\$8,625,000 and +21 FTE from 2022.

**Maintain Baseline Capacity (+\$3,225,000 / +13 FTE)** – The 2023 budget includes important investments in programs needed to help strengthen America and be more competitive as the world continues to change. These investments include funding needed to maintain a strong, talented workforce and core capacity needed to continue to fulfill the Office’s mission. The budget request includes a program increase of \$3,225,000 for 13 FTE in the Legal services activity which reflects the incremental amount needed to cover the fixed costs associated with mission operations in FY 2022. This request in combination with the FY 2023 fixed costs amounts will allow the Office to sustain core capacity and avoid impacts to ongoing program activities.

**Expand Capacity for Legal Services (+\$2,000,000 / +8 FTE)** – The budget request includes a program increase of \$2,000,000 for 8 FTE to expand the Office’s capacity to deliver legal services to the Department. The proposed eight FTE will increase legal services capacity by approximately two percent. This request will mitigate, but not reduce, SOL’s expected need for additional funding of legal services by the Department’s bureaus and offices stemming from the Department’s proposed FY 2023 program increases.

**Office Moves (+\$3,400,000/ 0 FTE)** – The budget request includes a \$3,400,000 program increase to relocate the Denver regional office<sup>1</sup>. The relocation costs include records disposition, design to maximize space efficiency, construction, furniture for downsized offices, and moving costs for files and equipment. Extensive discussions have taken place with the General Services Administration (GSA) over the past several years and SOL expects that a relocation will be required. The relocated office would remain in the Denver metropolitan area. While SOL’s preference would be to remain in its current offices, all indications are that SOL cannot extend the lease beyond a short interim period.

#### LEGAL SERVICES PROGRAM OVERVIEW

The Office of the Solicitor consists of a headquarters organization in Washington, D.C., and offices in 16 locations throughout the United States. The Solicitor is the chief attorney for Interior and the principal legal adviser to the Secretary. The Solicitor is also designated as the Department’s Chief FOIA Officer and serves as the direct supervisor of the Department’s Designated Agency Ethics Official. 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 a Principal Deputy Solicitor and six Deputy Solicitors with subject matter oversight; the Departmental Ethics Office; the Departmental FOIA Office; six legal divisions; and an administrative division. Each legal division, as well as the administrative division, is managed by an Associate Solicitor who is directly responsible to the Solicitor and respective Deputy Solicitor.

The responsibility of the Legal Services program is to effectively manage the legal work to support the top priorities of the Secretary and the bureaus. Among these legal services are providing legal counsel and advice to the Secretary, other Department leadership, and the Department’s bureaus and offices; representation of the Secretary and the Department in judicial and administrative litigation; preparation of legal opinions; legal review of legislation, regulations, Congressional requests, contracts, land title documents, and other legal materials.

#### **HEADQUARTERS**

Immediate Office of the Solicitor

Departmental Ethics Office

Departmental FOIA Office

Indian Trust Litigation Office

Division of General Law

Division of Indian Affairs

Division of Land Resources

---

<sup>1</sup> SOL’s FY 2022 budget request included a different \$3,400,000 program increase to relocate the Intermountain Regional Office in Salt Lake City and the Tulsa Field Office.

Division of Mineral Resources

Division of Parks and Wildlife

Division of Water Resources

Division of Administration

## **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 general legal services, ensuring that Interior's bureaus and offices 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. Office attorneys represent Interior without assistance from DOJ in all administrative litigation.

The Office also provides everyday legal service assistance in drafting and reviewing legislation, proposed and final regulations, contracts, memoranda of agreement, final decisions, 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 government-wide statutes as the Administrative Procedure Act, FOIA, Privacy Act, Federal Advisory Committee Act, Federal Tort Claims Act, Civil Service Reform Act, Civil Rights Acts, and Rehabilitation Act, and various Constitutional provisions. Other questions arise from the hundreds of environmental and resource statutes and regulations applicable to Interior's program areas in which the Office's attorneys and paralegals have developed significant and specialized expertise.

In addition to this essential baseline of legal work, the Office engages in a significant number of special 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)

Bureau of Ocean Energy Management (BOEM)

Bureau of Safety and Environmental Enforcement (BSEE)

Bureau of Trust Funds Administration (BTFA)  
Fish and Wildlife Service (FWS)  
National Park Service (NPS)  
National Resource Damage Assessment and Restoration Program (NRDAR)  
Office of Natural Resources Revenue (ONRR)  
Office of Surface Mining Reclamation and Enforcement (OSMRE)  
United States Geological Survey (USGS)  
Office of Policy, Management and Budget (PMB)  
Appraisal and Valuation Services Office (AVSO)  
Office of Aviation Services (OAS)  
Office of Chief Information Officer (OCIO)  
Office of Collaborative Action and Dispute Resolution (CADR)  
Office of Diversity, Inclusion and Civil Rights (ODICR)  
Office of Environmental Policy and Compliance (OEPC)  
Office of Insular Affairs (OIA)  
Interior Business Center (IBC)  
Secretary's Indian Water Rights Office (SIWRO)  
Land Buy Back Program for Tribal Nations (LBBP)

## **ORGANIZATION DESCRIPTIONS**

The **Immediate Office of the Solicitor** includes the Solicitor, Principal Deputy Solicitor, six Deputy Solicitors, Counselors/Advisors, the Indian Trust Litigation Office, and supporting staff. The Immediate Office is responsible for directing the legal work of the Office.

The Indian Trust Litigation Office (ITLO) within the Immediate Office of the Solicitor provides legal counsel and defends litigation filed in Federal courts throughout the country against the Department by individual Indians and Indian Tribes. This litigation typically addresses the Secretary's trust duties with respect to trust fund accounting, trust fund management, and management of non-monetary natural resource trust assets. ITLO has primary responsibility for matters filed in the United States Court of Federal Claims seeking money damages under the Tucker Act and Indian Tucker Act, 28 U.S.C. § 1491

and 28 U.S.C. § 1505, for alleged breaches of fiduciary trust, and actions for declaratory and injunctive relief in district courts seeking to enforce compliance with a fiduciary trust duty.

The **Division of General Law** is responsible for administrative and general legal matters including, but not limited to, acquisition, information law, tort claims, insular areas, employment and labor law, legislative and appropriations issues and intellectual property. In addition, the Division provides legal assistance and counsel to the Assistant Secretary - Policy, Management and Budget, the Chief Information Officer, and to the Endangered Species Committee. The Division consists of an Associate Solicitor, an Assistant Solicitor for General Legal Services Branch, an Assistant Solicitor for the Acquisitions and Intellectual Property Branch, an Assistant Solicitor for the Torts Practice Branch, and the Director of the Employment and Labor Law Unit.

The Branch of General Legal Services has responsibility for legal matters and litigation related to Federal administrative law including budget and appropriations, financial management, FOIA litigation, FOIA appeals, Privacy Act appeals, records management, electronic data management/e-discovery, partnerships, the Federal Advisory Committee Act, the Privacy Act, and the Administrative Procedure Act. It addresses internal delegations of authority, departmental law enforcement policies, insular areas, information technology, scientific integrity, rulemaking, congressional oversight, and all other related and general matters not specifically the responsibility of any other branch or division. A portion of the practice of the Branch is devoted to providing early legal engagement, counseling, and review for clients from across all Department bureaus and offices, while ensuring consistency in Federal administrative law throughout the Office of the Solicitor.

The Branch of Acquisitions and Intellectual Property has responsibility for legal matters related to Interior acquisition functions, including all related claims, litigation, and bid protests; use of revolving and franchise funds; interagency agreements, grants and cooperative agreements; patents, copyrights, trademarks, rights in data, and other forms of intellectual property; legal support of high-priority contracting and assistance actions, such as information technology and supporting secretarial priorities; and support of Indian education and law enforcement programs and priorities. A portion of the practice of the Branch is devoted to providing early legal engagement, counseling and review for diverse clients, while ensuring consistency in legal advice throughout the Office of the Solicitor.

The Torts Practice Branch provides counseling and advice in handling all Federal Torts Claims Act (FTCA) matters, and Military Personnel and Civilian Employees Claims Act administrative matters filed against Department of the Interior and its agencies. It also supports the Department of Justice in all Federal judicial litigation involving tort claims against Interior components. The Branch also handles all lawsuits for money damages alleging negligent or wrongful acts, including law enforcement actions. In addition, Branch attorneys handle claims related to injury and damage to Government property.

The Employment and Labor Law Unit provides legal review of disciplinary and performance-based actions under Chapters 43 and 75 of Title 5 of the U.S. Code, and defends the agency against claims brought under 75 of Title 5 of the U.S. Code, Title VII and Title VI of the Equal Employment Opportunity Act, Rehabilitation Act, Age Discrimination in Employment Act (ADEA), Veterans Employment Opportunity Act, Uniformed Services Employment and Reemployment Rights Act, Whistleblower Protection Act, the Family Medical Leave Act (FMLA), and the Fair Labor Standards Act.

The **Division of Indian Affairs** is responsible for legal matters related to the programs and activities of the Bureau of Indian Affairs, Bureau of Indian Education, Land Buy Back Program for Tribal Nations,

and the Bureau of Trust Funds Administration. 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 supervised by an Assistant Solicitor.

The Branch of Environment and Lands advises the Department in carrying out its responsibilities toward federally recognized Indian Tribes and individual Indians related to the acquisition, management, and protection of land, reservation boundary issues, and the protection of the environment, including natural and cultural resources.

The Branch of Self-Governance and Economic Development has responsibility for legal matters related to Tribal economic development, gaming, and a wide range of Indian Affairs program activities including housing, social services, transportation, judicial services, law enforcement, Tribal contracting and compacting and consultation.

The Branch of Tribal Government Services provides legal advice on matters concerning Tribal status; the reorganization and functioning of indigenous and Tribal governments; and the scope, extent and exercise of Tribal governmental authority in internal and external relations. This subject matter includes questions of membership, the adoption and modification, under Federal statute, of Tribal constitutions and corporate charters, leadership disputes, Tribe-specific and Indian preference, the reorganization of the Native Hawaiian Community, the respective jurisdiction of Federal, Tribal and State governments, Indian Child Welfare Act matters, hunting and fishing rights, international issues, and Bad Man claims. The Branch also provides legal services to Bureau of Indian Education leadership in operating Federal schools for Indians and in providing contracts and grants to Tribal schools.

The Branch of Trust Services has responsibility for advising the Secretary in the Secretary's capacity as trustee over trust assets generated from the use of trust resources including the leasing and sale of such land and minerals. The Branch is responsible for legal matters related to the management of the trust assets, including Tribal and individual Indian money accounts, probate issues, the land title and records office, and the Land Buy Back Program for Tribal Nations.

The **Division of Land Resources** is responsible for legal matters related to the programs and activities of the Bureau of Land Management, other than legal matters concerning 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 - 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 two branches, each supervised by an Assistant Solicitor.

The Branch of Public Lands has responsibility for legal matters related to BLM land management functions, including land acquisitions, disposals, surveys, boundaries, withdrawals, national monuments, classifications, rights-of-way (current and historic), solar and wind development, trespass, land titles, land use planning, grazing, recreation, forest management, wildland fire issues, law enforcement, water rights, wild horses and burros, and wilderness.

The Branch of Environmental Compliance and Response has responsibility for legal matters related to implementation of response actions, cost recovery and cost avoidance involving cases funded from Interior's Central Hazardous Materials Fund and other matters addressing a response to a release or threatened release of hazardous substances on Department-managed lands. 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 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 Bureau of Ocean Energy Management, the Bureau of Safety and Environmental Enforcement, the Office of Surface Mining Reclamation and Enforcement, the U.S. Geological Survey other than those related to its Biological Research Division, and BLM's minerals programs. The Division provides legal assistance and counsel to the Assistant Secretary - Land and Minerals Management. The Division has an Associate Solicitor and four branches, each supervised by an Assistant Solicitor.

The Branch of Ocean Energy provides legal services to BOEM, including support for its mineral leasing, exploration and development plan administration, bonding, National Environmental Policy Act (NEPA) analysis, and renewable energy (including offshore wind, wave, and ocean current energy) functions. The branch also advises BOEM regarding international and domestic boundaries, international pollution and marine mineral matters, the Law of the Sea treaty, and the Convention on the Outer Continental Shelf.

The Branch of Offshore Safety and Enforcement provides legal support to BSEE in enforcing safety and environmental regulations and regulating field operations, including permitting, inspections, development of regulations to achieve safety and environmental protection, enforcement (including litigation of civil penalties or other sanctions), approval of suspensions and unitizations, oil spill preparedness and response, pipelines and rights of way, decommissioning, and environmental compliance functions.

The Branch of Onshore Minerals provides legal services to the minerals programs of BLM and USGS. It is responsible for legal matters related to Federal coal, oil and gas, locatable hardrock minerals, leasable solid minerals, mineral materials, and geothermal resources disposition, development and extraction, environmental regulation and protection, and reclamation and remediation. The Branch also assists BLM in its regulatory responsibilities on Indian trust and restricted lands.

The Branch of Surface Mining provides legal services to OSMRE. It is responsible for legal matters related to OSMRE 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 supervised by an Assistant Solicitor.

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.

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.

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 Water Resources** is responsible for water rights legal matters for BOR, BLM, NPS, FWS, BIA, and the USGS. In addition, the Division provides legal assistance and counsel to the Assistant Secretary – Water and Science and the Secretary's Indian Water Rights Office. The Division has an Associate Solicitor and two branches, each supervised by an Assistant Solicitor.

The Branch of Water and Power has responsibility for legal matters related to the assertion and administration of water rights by all Bureaus within the Department other than water rights asserted on behalf of Tribes and individual Indians. The Branch provides legal advice on Reclamation law, including contracting for water delivery; repayment, and operation and maintenance; hydropower development; water research and technology; water policy and water rights. The Branch coordinates assertion and defense of all Bureau, State law-based and Federal reserved water rights. The Branch helps Bureaus resolve issues concerning major water resources such as the Colorado River and the Central Valley Project in California, as well as matters related to interstate compacts.

The Branch of Indian Water Rights 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 Federal Energy Regulatory Commission and hydroelectric power projects that affect Indian reservations and resources; and the operation and maintenance of BIA irrigation projects. The Branch also provides legal support to the Secretary's Indian Water Rights Office.

**Interior Regions, Regional Solicitors, and Field Offices.** The Office of the Solicitor has eight regional offices, each directed by a Regional Solicitor. Additionally, there are eight subordinate field offices, each supervised by a Field Solicitor. Each regional and field office is assigned a geographical area for which it provides legal services to the Department's bureau operations within that geographic area.

The **Regional Solicitor - Alaska** is responsible for legal matters for all DOI bureaus in Alaska except for OSMRE and USGS and legal matters involving the BIA for the Metlakatla Indian Community on the Annette Islands Reserve. With over two-thirds of the Nation's public lands, national parks, national wildlife refuges, wild and scenic rivers and wilderness areas located in Alaska, significant mineral as well as onshore and offshore energy resources, and 229 of the 574 federally recognized Indian Tribes, the legal issues handled in the Alaska Unified Region are broad in scope and of considerable national significance. In addition, the office addresses numerous unique issues of law arising from Alaska-specific statutes such

as of the Alaska National Interest Lands Conservation Act, the Alaska Native Claims Settlement Act, and the Native Allotment Act of 1906.

The **Regional Solicitor – Intermountain** is responsible for legal matters in Utah involving all Department bureaus except FWS and OSMRE, as well as legal matters in Arizona involving all bureaus except FWS, NPS, and OSMRE. In addition, the office is responsible for legal matters involving BOR located west of the Continental Divide in Colorado, New Mexico, Texas, and southwestern Wyoming (BOR Upper Colorado Basin Region) as well as in California and Nevada (BOR Lower Colorado Basin Region); and legal matters for BIA in Nevada (BIA Eastern Nevada Agency and Western Nevada Agency). The Office of the Regional Solicitor is located in the Salt Lake City, Utah, metropolitan area. A subordinate field office is supervised by a Field Solicitor under the direction of the Regional Solicitor and is located in the Phoenix, Arizona, metropolitan area.

The **Regional Solicitor - Northeast** 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 (OSMRE), Missouri (FWS), Nebraska (BIA), North Dakota (BIA), South Dakota (BIA), and Tennessee (OSMRE). The Regional Solicitor has offices located in Bloomington, Minnesota, and has field offices located in Boston, Massachusetts, and Pittsburgh, Pennsylvania.

The **Regional Solicitor – Pacific Northwest** 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 BOR extending into northwestern Montana, and for the FWS, it handles legal matters in the Pacific Islands Region. The Regional Solicitor is located in Portland, Oregon, and a Field Office is located in Boise, Idaho.

The **Regional Solicitor – Pacific Southwest** is responsible for legal matters involving all bureaus in California and Nevada (except for most BIA matters in Nevada and BOR matters related to the Colorado River); and legal matters involving specific bureaus in Alaska (OSMRE and USGS), Hawaii (NPS and USGS), Idaho (OSMRE), Oregon-Klamath Basin (BOR and FWS), Pacific Islands (NPS and USGS), and Washington (OSMRE and USGS). The Regional Solicitor is located in Sacramento, California, and a Field Office is located in San Francisco, California.

The **Regional Solicitor – Rocky Mountain** 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 Eastern Colorado Area Office including BOR located in Colorado, Wyoming, and Montana, and in Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, Texas; all legal matters involving FWS in Colorado, Montana, North Dakota, South Dakota, Utah, Nebraska, Kansas, 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 Interior Business Center (IBC Acquisition Services Directorate) in Alaska and Idaho; legal matters involving the NPS WASO Denver Service Center, NPS WASO in Colorado, the NPS in Arkansas, Iowa, Indiana, Illinois, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, NPS concessions contract matters for Regions 3, 4, 5, 6, 7 and 8; and all other legal matters involving the NPS

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; various legal matters involving the USGS; and all legal matters coordinated through OSMRE in the West. The Regional Solicitor is located in Lakewood (Denver), Colorado, and a Field Office is located in Billings, Montana.

The **Regional Solicitor - Southeast** is responsible for legal matters involving all bureaus in the States of 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 OSMRE), Connecticut (BIA), Illinois (OSMRE), Indiana (OSMRE), Iowa (OSMRE), Kansas (OSMRE), Maine (BIA), Massachusetts (BIA), Missouri (OSMRE), New York (BIA), Oklahoma (OSMRE), Rhode Island (BIA), Texas (OSMRE), and Virginia (BIA, BLM, and OSMRE); and legal matters for specific NPS programs in select states in the Region. The Regional Solicitor is located in Atlanta, Georgia, and a Field Office is located in Knoxville, Tennessee.

The **Regional Solicitor - Southwest** 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 (NPS, FWS, and OSMRE), Colorado (BIA), Illinois (OSMRE), Kansas (BIA, BLM, BOEM, and BSEE), Louisiana (BOEM and BSEE), and Missouri (BIA). The Southwest Regional Solicitor 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 Solicitor is located in Albuquerque, New Mexico, and a Field Office located in Tulsa, Oklahoma.

# ETHICS OFFICE

Activity: Ethics Office  
(Dollars in Thousands)

	2021 Actual	2022 CR	2023			Change from 2022 (+/-)
			Fixed Costs & Related Changes (+/-)	Program Changes (+/-)	Budget Request	
<b>Ethics Office</b>	19,475	19,475	+306	+0	19,781	+306
<b>Direct FTE</b>	77	84	0	0	84	0
<b>Reimbursable FTE</b>	0	0	0	0	0	0
<b>Allocated FTE</b>	1	1	0	0	1	0

## ETHICS OFFICE 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 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 accurate and timely counseling and technical assistance to help them with the ethics and conduct issues they may face as entrusted public servants. The DEO 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 ethics services to all Department employees, including the Immediate Office of the Secretary; the Assistant Secretary for Policy, Management and Budget; the Office of the Solicitor; as well as all political employees. Along with this program requirement, the DEO is responsible for providing supervision, oversight, and technical assistance to Interior’s eleven bureaus and offices to ensure that each of the bureau and office ethics programs is in compliance with all applicable ethics laws, executive orders, and regulations (5 C.F.R. § 2638.202). The DEO also manages a Hatch Act compliance program for Interior.

## REQUIRED FUNCTIONS

- Oversight and Technical Assistance to Bureaus: Regulations require that the DAEO administer a program for periodic evaluation of the ethics program and its components. The DEO has direct oversight and responsibility of administering ethics programs for all DOI bureaus and offices. The DEO also provides live training on topics important to the consistent management of the bureaus' ethics programs.
- Presidential Appointments: The DEO coordinates and ensures ethics compliance for all political appointees. In coordination with the White House Counsel's Office, and the United States Office of Government Ethics (OGE), the DEO plays a critical role in the clearance process of nominees to Presidentially Appointed-Senate Confirmed (PAS) positions. The DEO reviews all nominees to perform their duties without actual or apparent conflicts of interest. Additionally, the DEO works with Interior's Office of Congressional and Legislative Affairs to prepare nominees for committee hearings.
- Financial Disclosure: The DEO is responsible for ensuring that the public and confidential financial disclosure reporting requirements set out by regulation (5 C.F.R. § 2634.601-607, § 2634.901-909) are met. Department-wide, there are approximately 11,000 filers of financial disclosure forms every year, both public and confidential financial disclosures. The DEO is responsible for certifying all financial disclosure forms of all employees in the Department. Financial disclosure is the foundation of a Federal ethics program because the accurate reporting of assets and interests is required by law, and because this information is critical for ethics officials to provide timely and accurate advice to employees about potential conflicts of interest.
- Training: The DEO is responsible for providing relevant and engaging ethics training and education to 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.
- 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).
- 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.

- Policy and Compliance: The DEO develops and deploys ethics policies and procedures compliant with the Ethics in Government Act of 1978, other statutes with ethics provisions including criminal financial conflicts of interest statutes, the Standards of Ethical Conduct for Employees of the Executive Branch, and other government-wide ethics and political activity regulations promulgated by OGE.

# FOIA OFFICE

Activity: FOIA Office  
(Dollars in Thousands)

	2021 Actual	2022 CR	Fixed Costs & Related Changes (+/-)	Internal Transfer (+/-)	Program Changes (+/-)	2023 Request	Change from 2022 (+/-)
<b>FOIA Office</b>	1,860	1,860	+31	+1,860	0	3,751	+1,891
<b>Direct FTE</b>	4	8	0	+8	0	16	+8
<b>Reimbursable FTE</b>	5	5	0	0	-5	0	-5
<b>Allocated FTE</b>	0	1	0	0	0	1	0

### Summary of 2023 Internal Transfers for FOIA Office

Request Component	(\$000)	FTE
<u>Internal Transfer:</u>		
Phase Two of Departmental FOIA Office	+1,860	+8
<b>TOTAL Internal Transfers</b>	<b>+1,860</b>	<b>+8</b>

### Justification of 2023 Program Changes

The 2023 budget request for the Legal Services activity is \$3,751,000 and 16 FTE, a program change of +\$1,860,000 and +8 FTE from 2022.

**Phase Two of Departmental FOIA Office (+\$1,860,000/ +8 FTE)** – The Office of the Solicitor requests an internal transfer from the Office of the Secretary of \$1,860,000 for 8 FTE. The Departmental FOIA Office (DFO) was established in January 2020 to implement Department-wide changes that improve the processing quality and capacity of the bureau FOIA offices and provide ongoing central governance and oversight. With strong Congressional support, the DFO made significant progress in completion of Phase One of its implementation in FY 2021 and is beginning to implement critical improvements to the Department’s FOIA program. This funding increase will enable the DFO to complete Phase Two of its implementation by converting five reimbursable FTEs to direct FTEs to continue serving on the FOIA Support Team, which provides targeted operational assistance to the component bureaus/offices to address backlogged, cross-cutting, or particularly complex FOIA requests; and hiring three compliance analysts to further develop and implement quality control procedures to ensure the FOIA offices are following legal and policy requirements and otherwise employing best practices. Full staffing will enable the DFO to reduce existing backlogs in the Department’s FOIA offices, which will in turn reduce future FOIA litigation. Achieving these results will require a sustained effort over the course of several years. Once backlogs and litigation are under control, the DFO’s activities will contribute to preventing the recurrence of backlogs and litigation by maintaining an efficient, effective, and resilient FOIA program through continual oversight, training, and updates to technology and best practices, as well as targeted operational assistance to address surges in incoming requests. The long-term tangible outcomes of this

request are lasting improvements to the Department's FOIA program, resulting in more efficient and effective request processing, faster response times, and reduced backlogs.

#### FOIA OFFICE PROGRAM OVERVIEW

The mission of the Departmental FOIA Office is to implement systemic changes that improve the processing quality and capacity of the component bureau/office FOIA offices and provide ongoing central governance, support, and oversight of the FOIA offices.

The Departmental FOIA Office is responsible for governance, oversight, and operational support to the Department's component FOIA offices to improve their FOIA request processing quality and capacity and ultimately reduce FOIA-related litigation. The Deputy Chief FOIA Officer (DCFO) serves as the Director of the DFO, managing all activities of the office and directing the activities of the FOIA program throughout the Department. The DFO carries out the following functions:

- **Policy and Operational Support:** The DFO promulgates Department-wide policies and guidance on FOIA processes and procedures to foster efficiency and consistency in FOIA processing. In addition, to achieve cost-savings and address existing resource shortages, the DFO leverages resources and expertise through its FOIA Support Team (FST). The FST consists of DFO personnel and in the future will also include rotating personnel detailed from FOIA offices in component bureaus/offices. The rotations will allow increased flexibility and provide valuable cross-training and career development experience to FOIA personnel at the bureau/office level. The FST will enable the coordination of cross-cutting requests and the strategic deployment of resources by assigning FOIA processors to assist bureaus/offices with large backlogs and particularly challenging requests (such as requests that are subject to litigation or are complex or voluminous in nature). Although the FST is not intended to be a substitute for properly staffing the FOIA offices in bureaus/offices, it enables the DFO to provide additional FOIA operational support to the bureaus/offices to address unexpected or significant FOIA demands by leveraging and strategically allocating resources.
- **Human Capital, Technology, and Communications:** The DFO has begun establishing appropriate FOIA program management elements to ensure uniformity in position descriptions and performance plans of Department FOIA personnel. The DFO has also begun approving hiring decisions and monitoring performance evaluations of staff in the bureaus/offices to ensure the highest quality hiring of, and performance by, bureau/office FOIA Officers. The DFO prepares in-depth workforce analyses of bureau/office FOIA offices to make data-driven recommendations to their leadership concerning staffing requirements, strategic alignment, and improved processing procedures. In addition, the DFO is responsible for the administration of modern and reliable technology to ensure efficient tracking and processing of FOIA requests by bureaus/offices.
- **Coordination and Oversight:** The DFO will design and implement an oversight program, with input from the bureau/office FOIA offices, to monitor and evaluate the operations of the FOIA offices and to coordinate statutorily mandated reporting. This will help to ensure that bureaus/offices properly track and process incoming FOIA requests, including requests subject to pending litigation, and issue legally justified responses. To begin working toward this goal, the DFO will assist the bureau/office FOIA offices in developing quality control procedures to reduce processing errors and will provide training to the FOIA offices on policy and best practices. The

DFO will also evaluate how it can best assist Department leadership in monitoring the timeliness of record custodians to ensure cooperation and responsiveness in the processing of FOIA requests and otherwise ensure compliance with Department policies and procedures and Government-wide requirements. The DFO also serves as the FOIA Public Liaison for the Department.

## DISCLOSURE OF ADMINISTRATIVE ASSESSMENTS

Public Law 116-260, Further Consolidated Appropriations Act, 2021, requires disclosure of program assessments used to support Government-wide, departmental, or agency initiatives or general operations.

SEC. 403. The amount and basis of estimated overhead charges, deductions, reserves, or holdbacks, including working capital fund and cost pool charges, from programs, projects, activities and subactivities to support government-wide, departmental, agency, or bureau administrative functions or headquarters, regional, or central operations shall be presented in annual budget justifications and subject to approval by the Committees on Appropriations of the House of Representatives and the Senate. 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.

<b>External Administrative Costs (Dollars in Thousands)</b>	
	<b>FY 2023 Request</b>
<b>Interior's Working Capital Fund</b>	
<b>Centralized Billings</b>	5,237
<b>Direct Billings</b>	3,130
<b>Total</b>	8,367

**Bureau Billing for Client Support** - Most client bureaus and offices within Interior require legal assistance beyond the level of services that this Office is able to provide with its current appropriation. Section 403 of the Department of the Interior appropriation authorizes the reimbursement for administrative services. The legal work provided by SOL falls within the meaning of this provision. In these instances, the Office typically hires one or more attorneys on temporary appointments and the Office enters into a reimbursable support agreement with the client to cover the cost.

The table below illustrates the indirect overhead costs for reimbursable attorney positions funded by clients. The indirect overhead costs reflect a pro rata portion of operating costs, which includes space, telecommunications, postage, courier services, supplies, printing, copying, computer equipment, performance recognition, office furnishings, technology services, automated legal research services, and external administrative costs.

<b>Bureau Billing for Client Support (Dollars in Thousands)</b>	<b>FY 2023 Request</b>
Attorney salaries and benefits	18,017
Reimbursable attorney overhead	4,540
Travel	460
<b>Total</b>	<b>23,017</b>

In addition to reimbursements for staff positions and some related expenses, client bureaus 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 (except for BTFA Indian Tribal trust litigation travel), but clients fund some travel for our attorneys to provide client training, attend meetings, and for other matters not involving core Office functions. The Office also receives budget allocations from Departmental Offices, including the Natural Resource Damage Assessment and Restoration Program, the Office of the Secretary's Working Capital Fund, and the Bureau of Trust Funds Administration for attorney salaries, benefits, and overhead.

# EMPLOYEE COUNT BY GRADE

(Total Employment)

Employee Count by Grade	2021 Actuals	2022 Estimate	2023 Estimate
Executive Level V .....	1	1	1
SES .....	24	24	25
<b>Subtotal</b> .....	<b>25</b>	<b>25</b>	<b>26</b>
SL - 00 .....	5	5	5
<b>Subtotal</b> .....	<b>5</b>	<b>5</b>	<b>5</b>
GS -15 .....	132	142	145
GS -14 .....	262	252	281
GS -13 .....	46	57	59
GS -12 .....	25	23	26
GS -11 .....	29	26	28
GS - 9 .....	3	4	4
GS - 8 .....	10	10	10
GS - 7 .....	7	5	5
GS - 6 .....	2	2	2
<b>Subtotal</b> .....	<b>516</b>	<b>521</b>	<b>560</b>
<b>Total employment (actuals &amp; estimates) .....</b>	<b>546</b>	<b>551</b>	<b>591</b>

# REIMBURSABLE POSITIONS

(Dollars in Thousands)

	FY 2020	FY 2021	FY 2022
<b>Bureau of Indian Affairs</b>			
Legal support, related to BIA water resources	46	0	0
Legal support, related to trust land, Tribal relations, fee-to-trust activities, and other BIA activities	151	184	193
Legal support, trust services	8	99	104
Legal support, irrigation and general Indian water rights	167	186	215
Legal support, title and fee-to-trust	195	78	202
Legal support, energy development, natural resource law, realty, and FOIA	113	150	158
Legal support, related to legislation, policy, and operations	163	192	202
Legal support, realty issues	373	223	234
Legal support, Osage matters	80	107	112
Legal support, BIA Navajo Region	85	96	101
Legal support, BIA OJS matters	393	312	328
Legal support, land and IBIA matters	59	131	198
Legal support, BIA Pacific Northwest Region	94	134	141
Legal support, employment issues	285	0	0
Ethics	404	0	0
ASIA detail	78	0	0
Subtotal	2,694	1,892	2,188
<b>Bureau of Indian Education</b>			
Legal support, BIE priority matters	223	232	244
Legal support, special needs claims, Indian education, and other BIE legal issues	437	386	405
Legal support, employment issues	59	0	0
Ethics	271	0	0
Subtotal	990	618	649
<b>Bureau of Land Management</b>			
Legal support, land and operations, NEPA, planning, realty, minerals, grazing, and renewable energy/DRECP issues	359	396	416
Legal support, special assistant US attorney assignments	314	222	233
Legal support, land and operations including NEPA, FOIA, land use planning, oil and gas, mineral trespass, wild horses, and grazing issues	176	187	196

	FY 2020	FY 2021	FY 2022
<b>Bureau of Land Management (continued)</b>			
Legal support, land and operations, NEPA, realty, planning, FOIA, oil and gas, hardrock minerals, wild horses, fire trespass, CERCLA and AML, and grazing issues	441	423	444
Legal support, California matters	0	95	100
Legal support, Utah State Office	0	36	188
Legal support, Montana/Dakotas State Office detail	0	7	7
Legal support, Nevada State Office detail	0	56	59
Legal support, fluid mineral program	212	162	170
Legal support, paralegal activities	56	58	61
Legal support, land and general law, including environmental law, NEPA, oil and gas, trespass, land use planning, realty, and grazing	127	134	141
Legal support, land use planning, Sage Grouse, Recreation, and NEPA	0	257	270
Legal support, AK land use planning, RDI, BLM Fire Service, and Navigability projects	173	222	233
Legal support, NHPA compliance, recordable disclaimers of interest, R.S. 2477, renewable energy, railroad rights-of-way, FLPMA, and other rights-of-way issues	252	186	195
Legal support, SNPLMA, land and resources occurring principally in southern Nevada	187	197	207
Legal support, R.S. 2477, land and mineral resources, grazing, renewable energy, NEPA, NHPA, land use planning, rights of way, and recreation	394	409	429
Legal support, FOIA	123	148	155
Legal support, Helium	198	203	213
Legal support, BLM Directorates and State Offices	0	0	0
Legal support, including procurement, agreements, and other legal support as necessary	576	468	491
Legal support, employment issues	480	0	0
Ethics	1,480	0	0
Subtotal	5,548	3,866	4,208
<b>Bureau of Ocean Energy Management</b>			
Legal support, offshore minerals and renewable energy issues	523	435	457
Legal support, rulemaking, renewable leases, seismic permits, marine mineral agreements, OCSLA, OPA, and FOIA	590	233	395
Legal support, offshore renewable energy issues	451	946	993

	FY 2020	FY 2021	FY 2022
<b>Bureau of Ocean Energy Management (continued)</b>			
Legal support, relating to Alaska issues	248	165	218
Legal support, employment issues	220	0	0
Detail to BOEM	0	39	0
Ethics	146	0	0
Subtotal	2,178	1,818	2,063
<b>Bureau of Reclamation</b>			
Legal support, Upper and Lower Colorado issues	241	249	261
Legal Support, Central Utah Project – Title II construction and Title III mitigation programs	221	234	246
Legal support, power and irrigation issues	198	209	219
Legal support, Lower Colorado River basin	246	208	218
Legal support, Boulder Canyon Project Act	210	216	227
Legal support, water rights, water quality, contracts for the CVP, and non-CVP projects in California and Nevada	259	278	292
Legal support, Great Plains Region water service contracts, land title, NEPA, Indian water rights settlements, and general water rights	218	226	237
Legal support, stream adjudication and water rights issues	179	187	196
Legal support, realty, land management, cultural resources, NEPA, ESA, CWA, and Washington BOR projects	121	136	143
Legal support, including procurement, agreements, and other legal support as necessary	119	248	260
Legal support, San Joaquin River Restoration	152	170	179
Legal support, New Mexico water project and operations	195	228	239
Legal support, Federal Columbia River Power System, Federal power issues, and irrigation diversion rate settings	206	216	227
Legal support, contracting, repayment issues, water supply issues in the western United, and the CVP	260	269	282
Legal support, Bay-Delta Area Office	138	164	202
Legal support, NEPA and ESA	192	220	231
Legal support, Indian water rights settlement implementation matters and agreements, contracts, and other legal document reviews related to CAP, Navajo project, and NGS extensions	224	141	148
Legal support, employment issues	222	0	0
Ethics	1,091	0	0
Subtotal	4,692	3,599	3,807

	FY 2020	FY 2021	FY 2022
<b>Bureau of Safety and Environmental Enforcement</b>			
Legal support, rulemaking initiatives, oversight of offshore operations, regulation under OCSLA and OPA, and FOIA	1,090	1,160	1,218
Legal support, oil and gas environmental and safety program	196	209	219
Legal support, employment issues	65	0	0
Ethics	209	0	0
Subtotal	1,560	1,369	1,437
<b>Bureau of Trust Funds Administration</b>			
Legal support, trust policy and procedure projects	456	471	495
Legal support, employment issues	16	0	0
Legal support, Indian trust litigation	[2,283]	[1,920]	[2,016]
Ethics	215	0	0
Subtotal	687	471	495
<b>Fish and Wildlife Service</b>			
Legal support, procurement, contracts, and concessions	28	172	181
Legal support, Farallon Islands National Wildlife Refuge	1	13	14
Legal support, National Wildlife Refuge System	0	98	103
Legal support, ESA, refuge, contracts, and grants	158	186	195
Legal support, ESA, realty, and records	42	163	171
Legal support, Office of Law Enforcement issues	162	95	185
Legal support, Region 3 matters	78	79	83
Legal support, Regions 5 and 7 matters	0	37	39
Legal support, employment issues	290	0	0
FWS detail	209	136	0
Ethics	2,343	0	0
Subtotal	3,311	979	971
<b>Interior Business Center</b>			
Legal support, IBC contractual and acquisition services	803	809	849
Legal support, employment issues	82	0	0
Ethics	277	0	0
Subtotal	1,162	809	849
<b>National Park Service</b>			
Legal support, property, and realty	89	184	193
Legal support, FOIA, partnership agreements, cultural resources, environmental remediation, water, and intellectual property	366	337	269

	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
<b>National Park Service (continued)</b>			
Legal support, including procurement, agreements, and other legal support as necessary	212	6	6
Legal support, concessions, leasing, and commercial services	0	188	222
Legal support, procurement, concessions, and agreements	56	119	125
Legal support, realty, contracting, and agreements	178	172	181
Legal support, related to Organic Act, NEPA, and FOIA	254	266	279
Legal support, Point Reyes and Golden Gate matters	91	58	61
Legal support, Southeast region matters	0	98	188
Legal support, employment issues	776	0	0
Ethics	1,217	0	0
Subtotal	3,239	1,428	1,524
<b>Office Natural Resource Revenue</b>			
Legal support, ONRR related matters	70	388	407
Legal support, ONRR royalty matters	216	226	237
Ethics services for ONRR	266	0	0
Subtotal	552	614	644
<b>Office of Surface Mining Reclamation and Enforcement</b>			
Legal support, OSM issues	229	235	247
Legal support, coal, regulatory, and reclamation operations	121	125	131
Legal support, employment issues	29	0	0
Legal support, regulatory and reclamation operations, enforcement and permit actions, FOIA, bankruptcy	77	364	382
Ethics	210	0	0
Subtotal	666	724	760
<b>United States Geological Survey</b>			
Legal support, employment issues	103	0	0
Ethics	1,046	0	0
Subtotal	1,149	0	0

	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
<b>Other Offices and Programs</b>			
Legal support, Land Buy-Back Program for Tribal Nations	173	207	217
Legal support, OCIO	359	187	196
Legal support, OS employment issues	197	0	0
Legal support, Great American Outdoors Act	0	0	800
Legal support, OS FOIA	865	831	873
ASIA detail	280	185	194
Ethics services for OS	1,183	0	0
Indian Water Rights Office detail	132	137	144
Legal support, OS issues reflecting cross-cutting matters arising from all DOI bureaus	273	286	300
Legal support, DOJ assignment	186	227	238
Legal support, FOIA Appeals	[550]	[587]	[587]
Legal support, WCF torts practice branch	[1,720]	[1,286]	[1,286]
WCF ethics	[352]	[190]	[200]
Legal support, WCF employment law	[0]	[2,074]	[2,178]
Legal support, WCF litigation hold program	[0]	[90]	[95]
WCF FOIA technology	[0]	[0]	[205]
Legal support, NRDAR	[1,048]	[611]	[642]
Legal support, HAZMAT compliance	[1,189]	[1,642]	[1,724]
Subtotal	3,648	2,060	2,962
<b>TOTAL REIMBURSEMENTS</b>	<b>32,076</b>	<b>20,247</b>	<b>22,557</b>

## FY 2021 EQUAL ACCESS TO JUSTICE ACT PAYMENTS

Case Name	Bur	Judge	Type	Amount	Hourly Rates	Venue	Citation	Appeal Status	Payment Date	Payee/Plaintiff's Attorney
Center for Biological Diversity v. Leverette	BLM	Dabney L. Friedrich	Court Settlement	\$3,571.43	\$-\$	D.D.C.	1:20-cv-02132-DLF		6/8/21	Center for Biological Diversity
Citizens for a Healthy Community v. BLM	BLM	Lewis Babcock	Court Settlement	\$56,000.00	\$355-\$455	D. Colo.	17-cv-2519		1/7/21	Western Environmental Law Center
Katherns v. Zinke	BLM	Michael Mosman	Court Settlement	\$165,215.00	\$265-\$675	D. Or.	3:18-cv-01691		2/23/21	Virginia Sue Katherns
Native Ecosystems Council and Alliance for Wild Rockies v. BLM	BLM	Susan Watters	Court Settlement	\$27,727.00	\$270-\$370	D. Mont.	1:20-cv-00019		3/17/21	Tom Bechtold and Kristine Ackland
Oregon Natural Desert Ass'n v. McDaniel (Steen TMP)	BLM	Paul Papak	Court Settlement	\$1,360,000.00	\$130-\$540	D. Or.	09-cv-369-PK	Merits appeal is complete; plaintiff successfully appealed district court EAJA ruling.	9/10/21	Oregon Natural Desert Association
Rocky Mountain Helium v. United States	BLM	Lettow	Court Settlement	\$519,000.00	\$-\$	Fed. Claims	1:15-cv-00336-CFL		8/20/21	Bryant Baner of Neel, Hopper, and Baner.

SOL-43

44-SOL-44

Case Name	Bur	Judge	Type	Amount	Hourly Rates	Venue	Citation	Appeal Status	Payment Date	Payee/Plaintiff's Attorney
WildEarth Guardians, Montana Environmental Information Center et al v. BLM	BLM	Brian Morris	Court Settlement	\$170,000.00	\$270-\$330	D. Mont.	CV 18-73-GF-BMM		1/12/21	David Katz, Bonnie Martinell, and Jack Martinell
Helena Hunters and Anglers Assoc. v. Marten	FWS	Christensen	Court Settlement	\$92,047.00	\$250-\$370	D. Mont.	CV 19-47-M-DLC		5/5/21	Kristen Akland
In Re Public Employees for Environmental Responsibility	NPS	Karen LeCraft Henderson; David S. Tatel; Thomas Griffith	Court Settlement	\$7,329.00	\$206-\$206	D.C. Cir.	19-1044		12/2/20	Paula Dinerstein
WildEarth Guardians et al. v. Bernhardt et al., 1:19-cv-01920-RBJ (D. Colo.)	OSM	R. Brooke Jackson	Court Settlement	\$50,950.00	\$220-\$220	D. Colo.	1:19-cv-01920-RBJ		11/17/20	WildEarth Guardians
<b>Total</b>				<b>\$2,451,839.43</b>						

## FY 2021 ENDANGERED SPECIES ACT PAYMENTS

Case	Venue	Citation	Amount	Payee	Payment date
Center for Biological Diversity v. Leverette	D.D.C.	1:20-cv-02132-DLF	\$21,428.57	Center for Biological Diversity	5/26/21
Alliance for the Wild Rockies v. Burman (bull trout)	D. Mont.	CV-20-22-GF-KLD	\$39,000.00	Timothy Bechtold	2/19/21
Center for Biological Diversity and EPIC v. Bernhardt, Skipwith, and USFWS (Coastal Marten)	N.D. Cal.	No. 4:20-cv-03037	\$8,000.00	Center for Biological Diversity and EPIC	2/8/21
Alliance for the Wild Rockies v. United States	D. Mont.	CV-17-123-M-DLC	\$175,000.00	Rebecca Smith, Geiszler Steele LLC, Bell Law Firm	1/25/21
Center for Biological Diversity and Maricopa Audubon Society v. FWS	D. Ariz.	4:20-cv-00525-LCK	\$3,513.00	Center for Biological Diversity	5/3/21
Center for Biological Diversity and Maricopa Audubon Society v. USFWS	D. Ariz.	4:19-cv-00354-JAS	\$8,310.00	Earthjustice	3/15/21
Center for Biological Diversity and Maricopa Audubon Society v. Bernhardt; FWS; FS	D. Ariz.	4:20-cv-00075-JGZ	\$28,000.00	Marc Fink	3/31/21
Center for Biological Diversity and Taylor McKinnon v. Bernhardt et al	D. Colo.	16-cv-01932-MSK-STV	\$140,000.00	Neil Levine and John Buse	4/1/21
Center for Biological Diversity et al. v. Bernhardt et al. (eastern black rail)	E.D. La.	2:20-cv-00943	\$5,000.00	Stephanie Kurose	1/21/21

SOL-45

Case	Venue	Citation	Amount	Payee	Payment date
Center for Biological Diversity et al. v. Bernhardt et al., (7 Pangolins)	D.D.C.	20-cv-00165-TNM	\$16,000.00	Center for Biological Diversity (CBD), Humane Society International (HSI), Humane Society of the United States (HSUS), Born Free USA, and Natural Resources Defense Council, Inc. (NRDC)	11/13/20
Center for Biological Diversity v. Bernhardt (Houston Toad)	D.D.C.	1:20-cv-00529-TNM	\$16,064.00	Center for Biological Diversity	3/26/21
Center for Biological Diversity v. Bernhardt (red wolf recovery plan)	E.D.N.C.	2:19-cv-00040 (E.D.N.C.)	\$14,000.00	Collette Adkins	10/2/20
Center for Biological Diversity v. Bernhardt, A-S and Mouse Recovery Plan	D. Ariz.	4:20-cv-75-SHR	\$22,726.00	Marc Fink and Brian Segee	3/17/21
Center for Biological Diversity v. Haaland, et al. (Rountail Chub DPS listing)	D. Ariz.	No. CV-18-00404-TUC-JGZ	\$83,750.00	Ryan Shannon and Brian Segee	6/11/21
Center for Biological Diversity v. USFWS and USFS, (Upper gila)	D. Ariz.	4:20-cv-00020-DCB	\$47,500.00	Brian Segee	8/23/21
Crow Indian Tribe v. United States	D. Mont.	CV-17-89-M-DLC	\$132,804.00	Jeff Rasmussen, T Fredericks, K Frayler	3/26/21
EPIC et al. v. USFWS (northern spotted owl uplist petition)	N.D. Cal.	3:20-cv-08657-LB	\$0.00	Tom Wheeler	3/31/21
Friends of Animals v. Haaland (90d state-notification reg challenge)	9th Cir.	997 F.3d 1010	\$85,000.00	Michael Harris	10/27/21

SOL-47

Case	Venue	Citation	Amount	Payee	Payment date
Humane Society of the United States and Fund for Animals v. United States	D. Mont.	CV 17-117-M-DLC	\$175,000.00	Nicholas Arrivo, Anna Frostic, Ralph Henry, Laura Smythe	1/25/21
Pacific Northwest Regional Carpenters Council et al. v. Bernhardt (Northern spotted owl critical habitat)	D.D.C.	1:13-cv-00361-RJL	\$615,000.00	AFRC plaintiffs, Welti; County plaintiffs: Law Offices of Susan Drummonds	7/12/21
Sierra Club v. US FWS	N.D. Cal.	No. 3:19-cv-0049	\$5,000.00	Brian Gaffney	5/17/21
WildEarth Guardians v. Bernhardt (Sonoran Desert Tortoise)	D. Ariz.	4:19-cv-00441-CKJ	\$27,000.00	Western Environmental Law Center	12/15/20
WildEarth Guardians v. USFWS and USFS, (6 MSO biops)	D. Ariz.	13-151-RCC	\$350,000.00	Steve Sugarman	5/28/21
Total ESA Payments			\$2,018,095.57		

Note: As directed by the House of Representatives Report 112-151 accompanying the FY 2012 Department of the Interior, Environment, and Related Agencies Appropriation Bill, SOL has included DOI's information related to "all Equal Access to Justice Act fee payments awarded as a result of litigation against any of the Department" and "for litigation relating to the Endangered Species Act".