



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

and Performance Information
Fiscal Year 2020

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.



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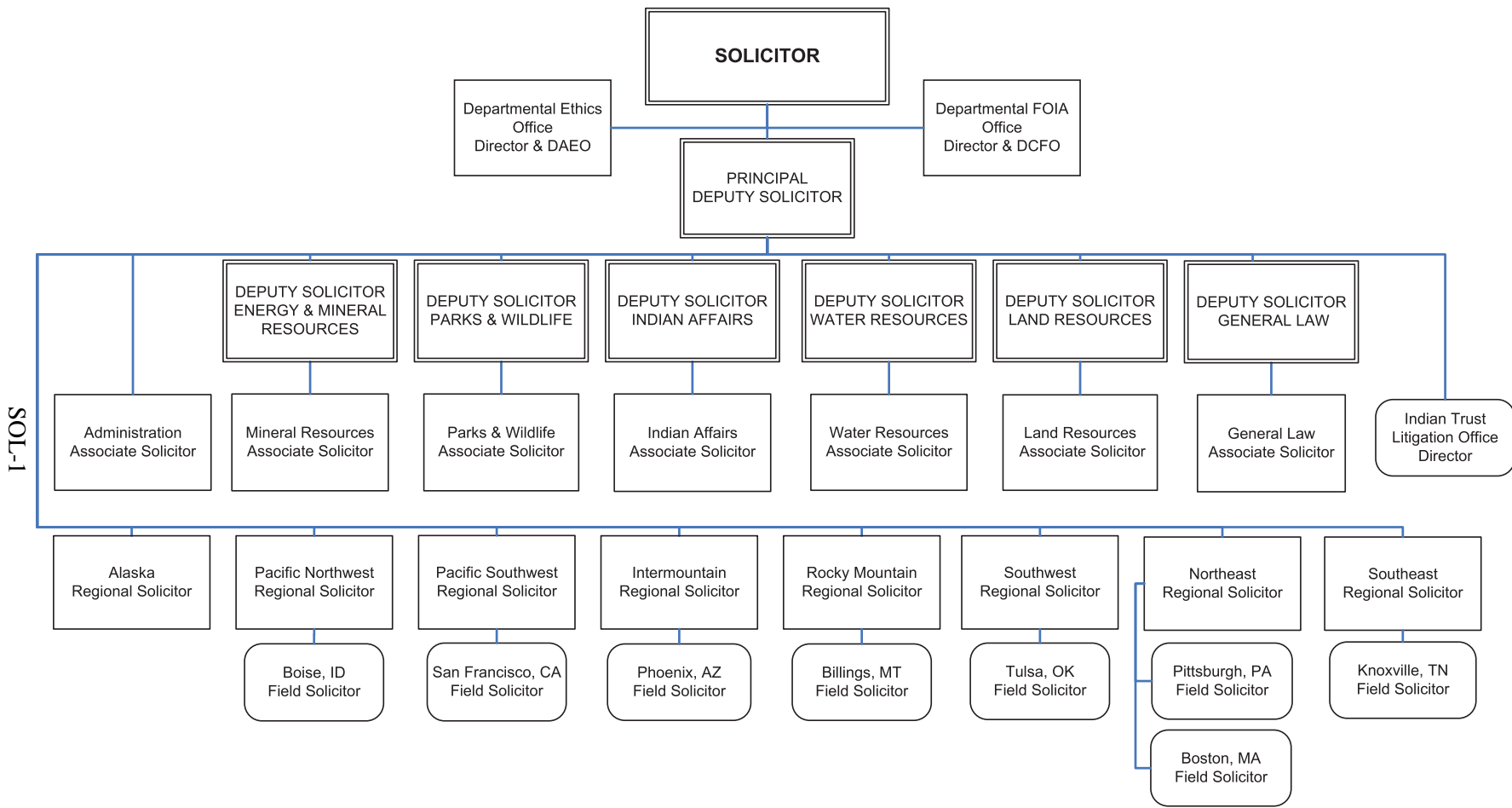
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DEPARTMENT OF THE INTERIOR OFFICE OF THE SOLICITOR ORGANIZATIONAL CHART



Work is underway in 2019 to plan implementation, conduct analysis, and identify areas of collaboration within the twelve unified regional structure the Department announced on August 22, 2018.

GENERAL STATEMENT

The Office of the Solicitor (SOL, Office) maintains the focal mission of providing legal counsel and advice to the Department and inspiring high ethical standards. The Office provides advice, counsel, and legal representation to the Immediate Office of the Secretary, the Assistant Secretaries, and all bureaus and offices overseen by the Secretary, ensuring that the Department's bureaus and other components carry out their responsibilities in accordance with the law. SOL provides legal representation across the entire spectrum of the Department's broad mission, requiring detailed knowledge of laws relating to a host of natural resource issues, administrative law, Indian law, contract law, tort law, employment 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 and State courts throughout the United States. SOL 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 Department's Ethics Office and Freedom of Information Act (FOIA) Office.

The budget request provides the Secretary and the Department the legal services needed for the advancement of priority goals and other mission areas. The FY 2020 budget request allows the Office to continue to improve management practices and to operate the Ethics Office for maximum effectiveness. The Department is committed to transforming and enhancing the ethics infrastructure. A functional and resilient ethics program that facilitates DOI's ability to fully embrace a culture of ethical compliance is critical. The budget request includes an increase of \$591,000 for three FTE in the Ethics Office to address program deficiencies and risks in the areas of financial disclosure and ethics training and education.

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 strategies that may decrease the likelihood of litigation and implement corrective post-litigation strategies. SOL attorneys assist the Secretary, through the Departmental bureaus and offices, in responding to congressional direction in appropriations and 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 in responding to requests from the Inspector General, the Office of Special Counsel, the Congress, the courts, and the public.

Having sufficient attorney resources to handle filed litigation, thwart potential legal challenges, and provide timely counseling is critical to ensuring that litigation risks are 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 preventing litigation or narrowing the issues that might be challenged in litigation.

Over many decades, the Department of the Interior experienced new bureaus becoming established on an ad hoc basis with their own unique regional organizations. This ultimately resulted in a complicated

series of 49 regional boundaries among 8 bureaus. This complexity led to the situation where bureau regional leadership was often focused on different geographic areas, did not have adequate and shared understanding of the needs and perspectives of regional stakeholders, and opportunities to share administrative capacity across bureaus were difficult to recognize and implement. Further, members of the public were often frustrated by problems in inter-bureau decision making where uncoordinated timelines and processes could lead to unnecessarily long delays in reaching a decision. The Department's reorganization is focused on making improvements across each of these areas.

On August 22, 2018, after working closely with stakeholders across the country on options to consolidate Interior's 49 different regions into common regions, the Department announced the designation of Interior's 12 new unified regions. As a result of Tribal consultation, BIA, BIE, and the Office of the Special Trustee for American Indians will not realign their regional field structure.

Establishing unified regions across bureaus is the cornerstone of the reforms designed to improve Interior's service delivery to the public. Within each unified region, bureaus will focus work on the same resources and constituents and improve coordination across the Department. For the public, fewer regions make it easier to do business with Interior, particularly when the public interacts with several bureaus or jurisdictions. Interior will leverage the unified regional structure to improve and streamline business operations using shared services and best practices across the Department focusing primarily on human resources, information technology, and acquisition services. Work is underway in 2019 to plan implementation, conduct analysis, and identify areas for collaboration within the new regions.

Government Reform

President Trump signed an Executive Order to modernize and reform the executive branch and Interior is leading the way, developing and executing a program that will streamline processes and better serve the American people. The absolute first step in building a better and more efficient executive branch though is fostering a culture of ethics and respect amongst colleagues.

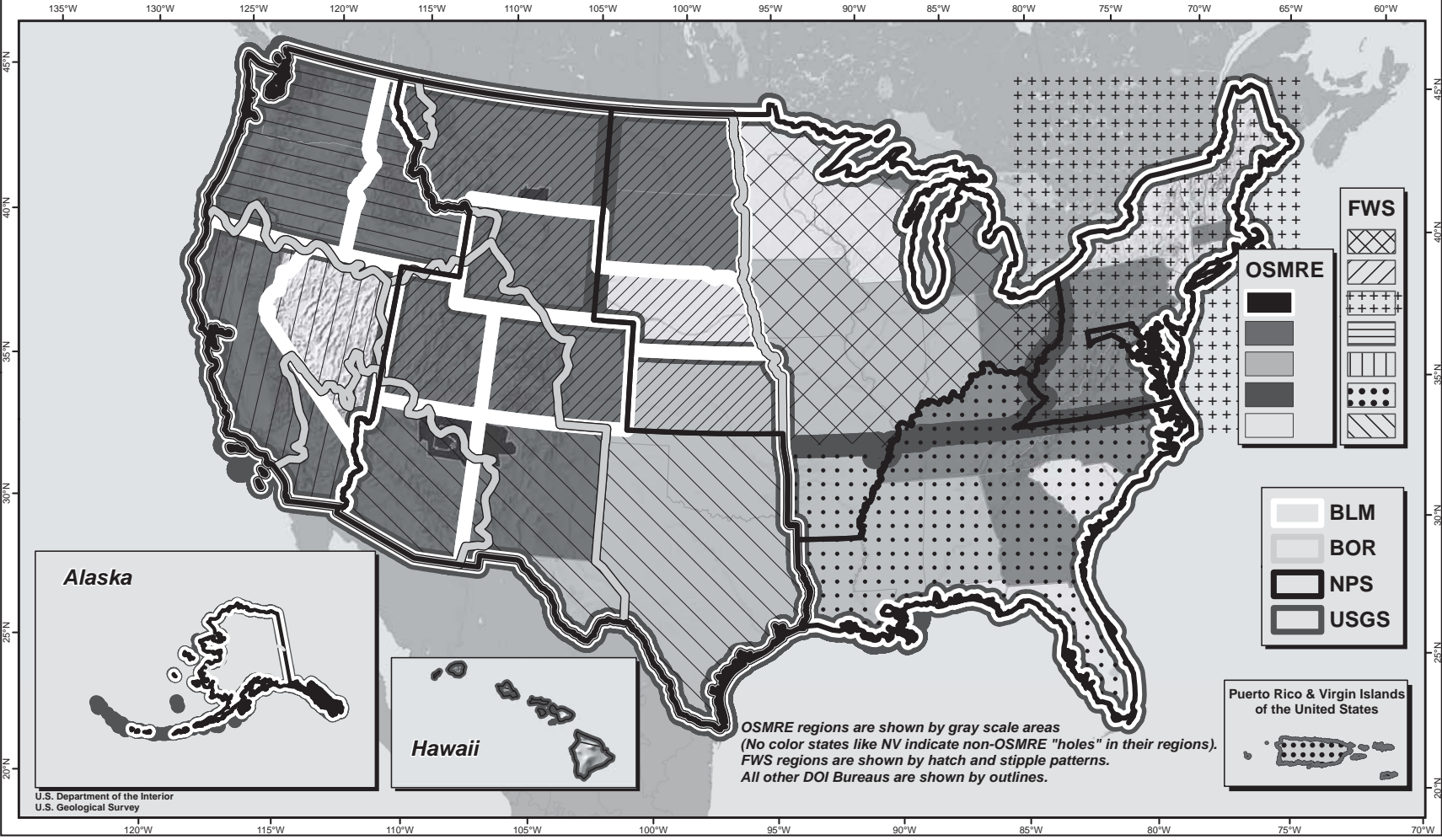
Interior has launched several top management objectives to better achieve Departmental goals and lead the agency moving forward. From day one of this Administration, Interior's leadership has made the work environment a priority. There is zero tolerance for any type of workplace harassment at Interior. The Department is instilling a culture change through clear management accountability, swift personnel actions, reporting procedures for harassment conduct, improved training, and substantive action plans.

In the area of anti-harassment efforts, each bureau and office has made significant headway in putting a diverse set of measures in place to prevent and address unacceptable conduct. Interior has also launched an internal Workplace Culture Transformation Advisory Council to include leadership from across the Department to keep a focus on Interior's commitment to the workplace environment. The Council will look at common issues raised in the Federal Employee Viewpoint Survey, ways to improve employee engagement, and building career paths which cross bureau silos; all with the goal to transform Interior's workplace culture for our employees, so they can realize their individual potential and be their most productive selves for the American people.

Another management priority is creating a strong ethical culture to ensure Interior employees honor the public's trust to manage taxpayer funds responsibly and avoid conflicts of interest. The expectations for appropriate employee conduct have been made clear. The Department has set goals and expectations for qualified ethics officials within Interior sufficient to ensure our operations are conducted ethically and ensure all employees have access to prompt, accurate ethics advice.

S-105

DOI Bureaus - Historical Region Boundaries



DOI 12 Unified Regions

9-TOS



- Pacific Islands**
- Hawaii 12
 - Guam
 - Commonwealth of the Northern Mariana Islands
 - American Samoa

Puerto Rico and U.S. Virgin Islands (Region 2)

LEGAL SERVICES WORKLOAD

The Office of the Solicitor plays a highly specialized and multifaceted role in the Department. The Office provides expertise in natural resources and Indian law, as well as a considerable number of other substantive legal issues, including administrative, tort, procurement, and employment law. Office personnel develop expertise over decades of practice in highly technical statutory and regulatory schemes. As more fully described below, the Solicitor's Office spends a substantial portion of its time on the legal counseling needed for agency program managers to plan for and reach defensible decisions that are closely analyzed by various interested, and often litigious, constituencies. Some of the work the Office performs includes: reviewing proposed regulations and proposed regulatory revisions, reviewing permits, reviewing land use planning documents, advising on all administrative functions, law enforcement, security, preparing Secretarial Orders, and participating in government-to-government relations with Indian Tribes. The Office advises the Secretary and his designees through the bureau and office component structure. It is the work of the Solicitor's Office that forms the legal foundation for program decisions, risk analysis on a particular 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 lawyers to prepare the administrative record, respond to discovery requests, identify and prepare fact and expert witnesses for testimony, conduct extensive document productions (including privilege reviews), draft legal arguments, develop litigation strategy, and prepare a comprehensive defense of the agency's actions. Having attorney resources is a prerequisite to handling filed litigation and to providing the timely and effective counseling to enable the Department to make and implement defensible decisions.

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 Secretarial initiatives receive sufficient and thorough legal counsel is critical to decreasing the likelihood of future litigation.

For example, the Department is playing a critical role in advancing national policy to promote clean and safe development of our Nation's vast energy resources, while at the same time minimizing regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation. Nine of the Department's ten bureaus have significant energy programs, operations, and responsibilities. The Department's energy portfolio includes oil, gas, coal, hydroelectric, wind, solar, geothermal, and biomass. Exploration for and development of energy resources on public lands and on the outer Continental Shelf will lead to increased domestic energy production, provide alternatives to overseas energy resources, create jobs, and enhance the energy security of the United States. The Office's legal counseling services provide integral support to the Department's initiatives in furtherance of this important policy. The Office provides counseling both on a strategic level (reviewing old and proposed regulations and policy initiatives) and on a project level (reviewing agency actions that would authorize energy exploration, development, production, and transportation for compliance with the National Environmental Policy Act (NEPA) and other applicable laws) on a project-by-project basis.

The Office provides legal services across the broad spectrum of the Department's programs, helping to minimize legal risk and to enhance litigation success in the advancement of the Administration's priorities and legal obligations. Client counseling is essential to reaching sound and defensible program decisions and ensuring Departmental compliance with a broad array of legal requirements. Office attorneys provide a wide breadth of services, including giving advice to the review and drafting of key Departmental decisions, rulemakings, and planning documents in a broad spectrum of disciplines based on the diversity of the bureaus and offices. Our attorneys also help prepare and review massive administrative records that are the basis of our defense in litigation over Departmental decisions. For example, land use planning and other decisions may require analysis under NEPA to identify and analyze a variety of alternatives that will eventually form the basis of a final agency decision. Legal counseling from the beginning of a NEPA process is critical to ensuring cost effective management of the process and potentially narrows the issues that might arise as challenges to a bureau's proposed action.

The U.S. Department of the Interior touches hundreds of millions of people and plays an active role in western communities and the national economy – managing one-fifth of the land in the United States including our national parks, wildlife refuges, and the delivery of water and power in the West. As the stewards of this public trust, the Department manages America's public lands for multiple uses, ensuring these lands are available for recreation, job growth, and responsible energy development.

In FY 2020, the Office will continue legal services in established practice areas, such as the development of the National Outer Continental Shelf oil and gas leasing program, continued permitting of energy projects, administration of tribal and individual Indian resources, statutorily required decision-making under the Endangered Species Act, and a host of other land management programs. Additionally, in areas such as employment and labor law, regular and timely counseling with management officials leads to better and more defensible decisions, lowers the risk of arbitration, employee complaints, and litigation, and thus saves the agency time and money.

Litigation

The Office's litigation workload is primarily comprised of (1) defensive litigation in which SOL 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 SOL 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. Failure to do so would result in possible default judgment by the court, as well as sanctions. In the course of this work, SOL attorneys collaborate with DOJ at all judicial levels, including State and Federal trial courts, appellate courts, and the United States Supreme Court. The Office also internally handles administrative litigation matters.

With proactive counseling, decision-makers are provided the opportunity to weigh litigation risks and damages to program management 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.

Defensive Litigation

The Office has virtually no control over the number of defensive cases being filed against the Secretary and the Department. These cases are non-discretionary, meaning that the Solicitor's Office must participate in working with the Department of Justice in 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 schedules and deadlines drive the pace of the work and attorney time 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 allegations; alleged breaches of trust in dealing with Indian lands, resources, and monies; and personnel and employment related matters. For example, defensive litigation concerning how the Secretary fulfills fiduciary trust obligations to individual Indians and Tribes continues to be a resource-intensive effort. The Department has devoted significant resources towards defending decisions by the Secretary to take land into trust on behalf of Indian Tribes and the constitutionality of the Indian Child Welfare Act and the Department's implementing regulations in numerous court cases.

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 injured or destroyed by oil spills or releases of hazardous substances into the environment.

In affirmative litigation, the Office has an opportunity to recover costs incurred performing environmental cleanups on Departmental lands and economic damages for injuries to natural resources and to use those recovered funds and damages to conduct additional environmental cleanups and directly address harm to public resources. In environmental cleanup matters, the Office recovered \$3.4 million in FY 2017 and \$4.8 million in FY 2018. These funds are returned to the Department's Central Hazardous Materials Fund and used for cleanups at other sites on Departmental lands.

The Office also recovers settlement funds for natural resource restoration and recovery of past costs. Over the last seven years, the Department's Restoration Fund has received an average of more than \$196 million annually in restoration settlements and advanced or reimbursed cooperative damage assessment funds. Fiscal year 2019 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. The Office of the Solicitor is assisting the Assistant Secretary for Policy,

Management and Budget in developing strategies to spend available funds for restoration faster, more efficiently, and more effectively.

FISCAL YEAR 2020 BUDGET REQUEST OVERVIEW

The FY 2020 President's Budget request for the Office of the Solicitor is \$66,816,000.

The Office developed a 2020 budget that focuses on supporting the Department of the Interior's efforts to improve the efficiency and effectiveness of Department-wide programs by delivering the highest quality legal services to Interior.

The following table illustrates the 2018 Actual, the 2019 CR Baseline, and the 2020 Budget Request.

TOTAL 2020 BUDGET REQUEST

(Dollars in Thousands)

Budget Authority	2018 Actual	2019 CR Baseline	2020 President's Budget
Appropriation Total	66,675	66,675	66,816
FTE Direct	287	307	304
FTE Reimbursable	89	89	106
FTE Allocation	30	30	30
FTE Total	406	426	440

Budget at a Glance

(Dollars in Thousands)

	2018 Actual	2019 CR Baseline	Fixed Costs	Program Changes	2020 President's Budget
Legal Services	59,951	59,951	+367	-1,078	59,240
Workforce Planning				[-1,078]	
General Administration	4,982	4,982	+47		5,029
Ethics Office	1,742	1,742	+214	+ 591	2,547
Ethics Office Enhancement				[+591]	
Total	66,675	66,675	+628	-487	66,816

Summary of Requirements for the Office of the Solicitor

(Dollars in Thousands)

	2018	2019 CR Baseline		Fixed Costs (+/-)	Program Changes (+/-)		2020 President's Budget		Change from 2019 (+/-)		
	Actual										
	Amount	Total <i>FTE</i>	Amount		<i>FTE</i>	Amount	<i>FTE</i>	<i>FTE</i>	Amount	<i>FTE</i>	Amount
Salaries & Expenses											
Legal Services	59,951	277	59,951	+367	-6	-1,078	271	59,240	-6	-711	
General Administration	4,982	21	4,982	+47	0	0	21	5,029	0	+47	
Ethics	1,742	9	1,742	+214	+3	+591	12	2,547	+3	+805	
TOTAL, SOL	66,675	307	66,675	+628	-3	-487	304	66,816	-3	+141	

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Office of the Solicitor
Justification of Fixed Costs and Internal Realignments
(Dollars In Thousands)

Fixed Cost Changes and Projections	2019 Total or Change	2019 to 2020 Change
Change in Number of Paid Days This column reflects changes in pay associated with the change in the number of paid days between 2019 and 2020.	+195	+185
Pay Raise The 2020 request reflects a pay freeze for civilian employees.	+257	+0
Employer Share of Federal Employee Retirement System The change reflects the directed 2.3% increase in the employer contribution to the Federal Employee Retirement System.	+0	+104
Departmental Working Capital Fund The change reflects expected changes in the charges for centrally billed Department services and other services through the Working Capital Fund. These charges are detailed in the Budget Justification for Departmental Management.	+3,059	+64
Worker's Compensation Payments The amounts reflect changes in the estimated costs of compensating injured employees and dependents of employees who suffer accidental deaths while on duty. Costs 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.	+373	-98
Unemployment Compensation Payments 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.	+19	-19
Rental Payments 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; which in the case of GSA space are paid to Department of Homeland Security (DHS). Costs of mandatory office relocations, i.e. relocations in cases where due to external events there is no alternative but to vacate the currently occupied space, are also included.	+6,861	+392
Baseline Adjustments for O&M Increases 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.	+0	+0

APPROPRIATION LANGUAGE

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, \$66,816,000, to remain available until September 30, 2021.

Note.—A full-year 2019 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, 2019 (Division C of P.L. 115–245, as amended). The amounts included for 2019 reflect the annualized level provided by the continuing resolution.

APPROPRIATION LANGUAGE CITATION

Appropriation: Salaries and Expenses

For necessary expenses of the Office of the Solicitor.

43 U.S.C. § 1455

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

1. to remain available until September 30, 2021.

The Office proposes the availability of funding for the Office of the Solicitor account to remain available for two years, in this case through September 30, 2021.

GENERAL ADMINISTRATION ACTIVITY

Activity: General Administration

(Dollars in Thousands)

	2018 Actual	2019 CR Baseline	2020			Change from 2019 (+/-)
			Fixed Costs & Related Changes (+/-)	Program Changes (+/-)	Budget Request	
General Administration	4,982	4,982	+47	0	5,029	+47
Direct FTE	23	21	0	0	21	0
Reimbursable FTE	1	1	0	0	1	0

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 and accounting; human resources management; employee development and training; space and property management; procurement services; IT planning and services; and records management. The Division is comprised of two branches, each of which is supervised by a Deputy Director: the Branch of Administrative Operations and Planning, and the Branch of Information Resource Management.

LEGAL SERVICES ACTIVITY

Activity: Legal Services

(Dollars in Thousands)

	2018 Actual	2019 CR Baseline	2020			Change from 2019 (+/-)
			Fixed Costs & Related Changes (+/-)	Program Changes (+/-)	Budget Request	
Legal Services	59,951	59,951	+367	- 1,078	59,240	- 711
Direct FTE	257	277	0	-6	271	-6
Reimbursable FTE	87	86	0	+3	89	+3
Allocated FTE	29	29	0	0	29	0

Summary of 2020 Program Changes for Legal Services

Request Component	(\$000)	FTE
<u>Program Changes:</u>		
Workforce Planning	-1,078	-6
TOTAL Program Changes	-1,078	-6

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 representation in litigation, both administrative and judicial; preparation of legal opinions; legal review of legislation, regulations, contracts, and other documents; and informal legal counsel to clients on a continual basis in a wide variety of circumstances.

Workforce Planning (-\$1,078,000/ -6 FTE) – The Office will coordinate with client-bureaus and offices to balance legal work demands and prioritize their requests for attorney involvement.

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 Freedom of Information Act (FOIA) Officer. 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, six Deputy Solicitors with subject matter oversight, the Departmental Ethics

Office, the Departmental FOIA Office, six legal divisions, and an administrative division as detailed below. Each legal division is headed by an Associate Solicitor who is directly responsible to the Solicitor and respective Deputy Solicitor. Attorneys under the supervision of Associate Solicitors render legal services for Interior's programs. The Departmental FOIA Office is headed by the Deputy Chief FOIA Officer. The field organization of the Solicitor's Office is divided into regions. Regional Solicitors are directly responsible to the Principal Deputy Solicitor.

HEADQUARTERS

Immediate Office of the Solicitor

Ethics Office

FOIA Office

Indian Trust Litigation Office

Division of Parks and Wildlife

Division of General Law

Division of Indian Affairs

Division of Land Resources

Division of Water Resources

Division of Mineral 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 agencies carry out their responsibilities in accordance with the law. In most judicial litigation, SOL attorneys actively assist or are co-counsel with attorneys from DOJ. In some judicial litigation and all administrative litigation, Office attorneys represent Interior without assistance from DOJ.

The Office also provides everyday legal service assistance in drafting and reviewing legislation, proposed and final regulations, contracts, memoranda of agreement, 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 generic statutes as the Administrative Procedure Act, FOIA, Privacy Act (PA), Federal Advisory Committee Act, Federal Tort

Claims Act, Civil Service Reform Act, the Civil Rights Acts, and the Rehabilitation Act, while other questions arise from the many specific statutes applicable to Interior's program areas in which the Office's attorneys and paralegals have developed significant expertise.

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

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

- Bureau of Indian Affairs (BIA)
- Bureau of Indian Education (BIE)
- Bureau of Land Management (BLM)
- Bureau of Reclamation (BOR)
- Fish and Wildlife Service (FWS)
- Bureau of Ocean Energy Management (BOEM)
- Bureau of Safety and Environmental Enforcement (BSEE)
- National Park Service (NPS)
- National Resource Damage Assessment and Restoration Program (NRDAR)
- Office of Surface Mining Reclamation and Enforcement (OSMRE)
- United States Geological Survey (USGS)
- Office of Policy, Management and Budget (PMB)
- Office of Aviation Services (OAS)
- Office of Chief Information Officer (OCIO)
- Office of Civil Rights (OCR)
- Office of Collaborative Action and Dispute Resolution (CADR)
- Office of Environmental Policy and Compliance (OEPC)
- Office of Historical Trust Accounting (OHTA)
- Office of Insular Affairs (OIA)
- Office of the Special Trustee (OST)
- Interior Business Center (IBC)
- Indian Arts and Crafts Board (IACB)
- Secretary's Indian Water Rights Office (SIWRO)

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

ORGANIZATION DESCRIPTIONS

The **Immediate Office of the Solicitor** includes the Solicitor, Principal Deputy Solicitor, six Deputy Solicitors, Counselors, the Indian Trust Litigation Office, the Departmental FOIA Office, the FOIA Appeals Office, and supporting staff. The Immediate Office is responsible for managing and directing all the legal work in the Office. The FOIA Appeals Office has responsibility for FOIA and PA appeals and coordinates and manages the Department's FOIA and PA appeals program. The Ethics Office program overview is located in the Ethics Office activity section of this budget justification.

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 implicates 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 Departmental FOIA Office is a new office within the Immediate Office of the Solicitor and is responsible for oversight of the Department's FOIA's program. Secretary's Order 3371, signed on November, 20, 2018, designated the Solicitor as the Department's Chief FOIA Officer, created the position of Deputy Chief FOIA Officer (DCFO), and established a reporting relationship between the DCFO and the Departmental FOIA Officer and Bureau FOIA officers. The organizational chart on page one reflects the new FOIA Office within SOL that will assume and expand the Department-wide FOIA policy setting functions previously carried out by the Office of the Executive Secretariat.

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 (ELLU).

- 1) 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, records management, electronic data management/e-discovery, partnerships, the Federal Advisory Committee Act, the Privacy Act, the Administrative Procedure Act, and employee travel and similar matters. 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.

- 2) 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 general legal services throughout the Office of the Solicitor.
- 3) The Torts Practice Branch provides counseling and advice in handling all Federal Torts Claims Act (FTCA), and the 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 filed against the United States, involving DOI agencies. The TPB also handles all suits for monetary damages alleging negligent or wrongful acts including law enforcement actions. In addition, TPB attorneys handle claims related to injury and damage to Government property.
- 4) The Employment and Labor Law Unit (ELLU) 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 (VEOA), Uniformed Services Employment and Reemployment Rights Act (USERRA), Whistleblower Protection Act (WPA), the Family Medical Leave Act (FMLA), and the Fair Labor Standards Act (FLSA).

The **Division of Indian Affairs** is responsible for legal matters related to the programs and activities of

- 1) 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.

- 3) 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 BIE leadership in operating Federal schools for Indians and in providing contracts and grants to Tribal schools.
- 4) 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 BLM, 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 headed by an Assistant Solicitor.

- 1) The Branch of Public Lands has responsibility for legal matters related to BLM land management functions, including land acquisitions, disposals, surveys, boundaries, withdrawals, national monuments, classifications, rights-of-way (current and historic), trespass, land titles, land use planning, grazing, recreation, forest management, wildland fire issues, law enforcement, wild horses and burros, and wilderness.
- 2) The Branch of Environmental Compliance 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 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 headed by an Assistant Solicitor.

- 1) 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.
- 2) 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.

The **Division of Mineral Resources** is responsible for legal matters related to the programs and activities of BOEM, BSEE, OSMRE, USGS (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.

- 1) The Branch of Offshore Resources provides legal services to BOEM and BSEE. It is responsible for legal matters related to Outer Continental Shelf mineral and renewable energy leasing and the regulation of operations on such leases; including preparation of a national oil and gas leasing program, establishing financial terms in leases and the grant of relief therefrom, and the requirement of bonds for the performance of lease obligations; enforcing environmental and safety regulations, including those relating to oil spill response planning for offshore facilities; and international issues relating to OCS mineral extraction, including establishment of U.S. maritime boundaries, and protecting the interests of the United States interests in bankruptcy proceedings and in legal challenges to Departmental rules and enforcement actions. The Offshore Resources Branch is also responsible for legal services pertaining to programs and activities of

the Department related to the Law of the Sea and other international law issues affecting marine minerals, pollution, and related matters.

- 2) 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.
- 3) The Branch of Surface Mining provides legal services to the 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 headed by an Assistant Solicitor.

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

Unified Regions, Regional Solicitors, and Field Offices. The twelve unified regions are served by several Regional Solicitors and their respective field offices. Actual areas served by the Regional Solicitors and Field Offices overlap to a considerable extent, with the result that more than one Regional or Field Solicitor may handle legal matters for different bureaus within a single State. In addition, Regional Solicitors and Field offices are responsible for legal matters arising in Interior's offices within their jurisdiction, including all elements of the Office of the Secretary, the Assistant Secretary – Policy, Management, and Budget, and organizations affiliated with Interior.

- A. The **Alaska Regional Solicitor** is responsible for legal matters for all DOI bureaus in Alaska. 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 573 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.
- B. The **Northeast Regional Solicitor** is responsible for legal matters involving all bureaus except BIA in the North Atlantic-Appalachian Unified Region (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 the Great Lakes Unified Region (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 Region has offices located in Bloomington (Twin Cities), Minnesota, Boston, Massachusetts, and Pittsburgh, Pennsylvania.
- C. The **Pacific Northwest Regional Solicitor** is responsible for legal matters involving all bureaus in Columbia-Pacific Northwest Unified Region (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 Unified Region. The Regional Solicitor is located in Portland, Oregon, and a Field Office is located in Boise, Idaho.
- D. The **Pacific Southwest Regional Solicitor** is responsible for legal matters involving several Unified Regions, including 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.
- E. The **Intermountain Regional Solicitor** is responsible for legal matters involving several Unified Regions, including all bureaus except FWS and OSMRE in Utah; legal matters involving all bureaus except FWS, NPS, and OSMRE in Arizona; legal matters for BOR in Nevada and California (BOR Lower Colorado Region) and Colorado, New Mexico, and Texas (BOR Upper Colorado Region); legal matters for BIA in Nevada (BIA Eastern Nevada Field Office and Western Nevada Agency) and New Mexico (BIA Navajo Regional Office shared with the Southwest Region); and legal matters for BLM in Nevada (shared with the Pacific Southwest

Region). The Regional Solicitor is located in Salt Lake City, Utah, and a Field Office is located in Phoenix, Arizona.

- F. The **Rocky Mountain Regional Solicitor** is responsible for legal matters involving several Unified Regions and 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 located east of the Continental Divide in Colorado, Wyoming, and Montana, and in Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, Texas; all legal matters involving FWS in Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming; legal matters involving the Office of Natural Resources Revenue (ONRR) and legal matters involving BOEM and BSEE in Colorado; legal matters involving the Interior Business Center (IBC) in Colorado; legal matters involving the NPS 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 several Unified Regions; 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.
- G. The **Southeast Regional Solicitor** is responsible for legal matters involving all bureaus in several Unified Regions including, 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.
- H. The **Southwest Regional Solicitor** also serves several Unified Regions, and 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)

	2018 Actual	2019 CR Baseline	2020			Change from 2019 (+/-)
			Fixed Costs & Related Changes (+/-)	Program Changes (+/-)	Budget Request	
Ethics Office	1,742	1,742	+214	+ 591	2,547	+805
Direct FTE	7	9	0	+ 3	12	+3
Reimbursable FTE	1	2	0	+ 14	16	+14
Allocated FTE	1	1	0	0	1	0

Summary of 2020 Program Changes for the Ethics Office

Request Component	(\$000)	FTE
<u>Program Changes:</u>		
Ethics Office Enhancement	+591	+3
TOTAL Program Changes	+591	+3

Ethics Office Enhancement (+\$591,000 / +3 FTE) – The Department has taken action to address program deficiencies and risks in the areas of financial disclosure and ethics training and education. Additional resources are needed to ensure a legally compliant and exemplary ethics program at DOI. The request for 3 FTEs in FY 2020 will assist with:

- Office of the Secretary (OS) and Office of the Solicitor compliance with ethics laws and standards, including participating in the Secretary’s scheduling conferences; and reviewing proposed events, trips, and meetings of the Secretary
- Assist the DEO’s overall responsibility for monitoring and assisting the various ethics programs of DOI’s bureaus and offices for compliance with Federal standards in ethics program management
- Conduct substantive and robust program reviews of each bureau’s ethics program at least every two years
- Assist with managing the DEO’s financial disclosure program that requires thousands of DOI employees to file either public or confidential financial disclosure reports as a condition of employment in order to determine compliance with criminal conflict of interest laws and the standards of conduct
- Assist with developing best practices and policies at the Departmental level
- Support the financial disclosure program portion of the DEO reviews of the bureau ethics programs

- Assist with ensuring OS and SOL employees receive the mandatory initial and annual ethics training as required by law
- Assist bureaus with their training and education needs
- Develop best-in-class Federal Ethics training products and services compliant with OGE requirements

PROGRAM OVERVIEW

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

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

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

The DEO provides direct services to all employees within the Immediate Office of the Secretary; the Assistant Secretary for Policy, Management and Budget; within SOL; as well as all political employees. Along with this program requirement, the DEO is responsible for providing oversight and technical assistance to Interior's ten bureaus to ensure that each of the bureaus' ethics programs are in compliance with all applicable ethics laws, executive orders, and regulations (5 C.F.R. § 2638.202). The DEO also manages a Hatch Act compliance program.

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

REQUIRED FUNCTIONS

- **Oversight and Technical Assistance to Bureaus:** Not only is the DEO responsible for performing ethics functions for a broad spectrum of employees, it is also responsible for ensuring that Interior's bureaus are properly administering their ethics programs. The regulations require that the DAEO administer a program for periodic evaluation of the ethics program and its components. Currently, the DEO meets this responsibility by convening monthly meetings with the bureaus' headquarters ethics contacts to ensure consistency in the management of the program. Additionally, the DEO has utilized contract services to perform program reviews of the bureaus. The DEO provides live workshop training on topics important to the consistent management of the bureaus' ethics programs.
- **Presidential Appointments:** The DEO plays a critical role in the clearance process of nominees to Presidentially Appointed-Senate Confirmed (PAS) positions. The DEO reviews financial documents, consults with the nominees, and recommends and drafts appropriate recusals or authorizations to allow the nominees to perform their duties without actual or apparent conflicts of interest. Key in this process is the coordination with the White House Counsel's Office, and the United States Office of Government Ethics (OGE). Additionally, the DEO works with Interior's Office of Congressional and Legislative Affairs to prepare nominees for their committee hearings and assists in the drafting of responses to any questions committee members may have. In a Presidential transition year, additional time is spent coordinating and ensuring compliance with the financial disclosure requirements for all political appointees, training these employees, and providing individual counseling on a range of ethics topics essential to the appropriate performance of their official duties.
- **Financial Disclosure:** The DEO is responsible for ensuring that the public and confidential financial disclosure reporting requirements are met. Both levels of financial disclosure require the administration of tracking systems for the collection, review, and certification of the forms in accordance with the time frames set out by regulation (5 C.F.R. § 2634.601-607; § 2634.901-909). Additionally, any remedial action required as a result of review and certification of these forms must be administered by the DEO or respective bureau ethics program. Such remedial actions include divestiture, recusals, or authorization, all of which require a determination in accordance with criminal statutes and administrative regulations. Department-wide, there are approximately 10,500 filers of financial disclosure forms. All forms require technical as well as more stringent financial conflict of interest review and certification. The DEO is responsible for certifying all financial disclosure forms of employees in the Immediate Office of the Secretary, under the Assistant Secretary for Policy, Management and Budget, employees in the Office of the Solicitor and all Interior political employees. PAS employees' financial disclosure forms are certified by the DAEO and forwarded to OGE for final certification.

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

SECTION 403 COMPLIANCE

Public Law 115-141, the 2018 Consolidated Appropriations Act, 2018, 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 Committee on Appropriations for approval.

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

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

External Administrative Costs			
(Dollars in Thousands)			
	FY 2018 Actual	FY 2019 Estimate	FY 2020 Estimate
Interior's Working Capital Fund			
Centralized Billings	3,056	3,048	3,123
Direct Billings	2,589	2,778	1,758
Total	5,646	5,826	4,881

- **Bureau Billing for Client Support** - A number of 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 time-limited 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 reflects a pro rata portion of operating costs which includes space,

telecommunications, postage, courier services, supplies, printing, copying, computer equipment, law books, IT services, automated legal research services, and external administrative costs.

Bureau Billing for Client Support			
(Dollars in Thousands)			
	FY 2018	FY 2019	FY 2020
	Actual	Estimate	Estimate
Attorney salaries and benefits	13,973	13,135	16,500
Reimbursable attorney overhead	3,412	4,243	4,026
Travel	485	445	485
Total	17,870	17,823	21,011

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, 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 like the Natural Resource and Damage Assessment and Restoration Program, the Office of the Secretary's Working Capital Fund, and the Office of the Special Trustee for American Indians for attorney salaries, benefits, and overhead.

**Office of the Solicitor
Employee Count By Grade**

	FY 2018	FY 2019	FY 2020
	Actual	Estimate	Estimate
Executive Level IV	0	1	1
SES	19	26	26
SL - 00	3	3	3
Subtotal	22	30	30
GS-15	80	110	112
GS-14	223	215	217
GS-13	24	26	30
GS-12	12	15	15
GS-11	16	16	20
GS-9	6	5	5
GS-8	12	13	13
GS-7	6	7	7
GS-6	2	2	2
GS-4	1	0	1
Subtotal	382	409	422
Total employment (actual & estimates)	404	439	452

REIMBURSABLE POSITIONS
(Dollars in Thousands)

	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Bureau of Indian Affairs			
Legal support, related to BIA water resources	40	41	41
Legal support, related to trust land, Tribal relations, fee-to-trust activities, and other BIA activities	154	110	164
Legal support, employment issues	70	86	295
Legal support, BIE priority matters	159	207	201
Legal support, trust and general Indian matters	79	0	0
Legal support, trust services	200	209	212
Legal support, irrigation and general Indian water rights	67	107	103
Legal support, title and fee-to-trust	122	126	145
Legal support, Twin Cities paralegal	122	146	75
Legal support, BIA CADR issues	84	0	0
Legal support, Utah and Nevada BIA issues	42	0	70
Legal support, related to legislation, policy, and operations	148	162	175
Legal support, probate and AIPRA issues	137	155	75
Legal support, enforcement and Carcieri opinions	135	161	165
Legal support, Osage matters	85	137	96
Legal support, BIA Navajo Region	177	84	190
Legal support, BIA OJS matters	412	428	218
Legal support, land and IBIA matters	138	123	75
Legal support, BIE contracting and labor relations	200	202	200
Legal support, special needs claims, Indian education, and other BIE legal issues	172	182	179
HR detail	12	0	0
Subtotal	<u>2,755</u>	<u>2,666</u>	<u>2,679</u>
Bureau of Land Management			
Legal support, land and operations, NEPA, planning, realty, minerals, grazing and renewable energy/DRECP issues	398	413	422
Legal support, SNPLMA and other assignments	38	36	75
Legal support, natural resources, realty, procurement, and general law matters	167	169	75
Legal support, land and operations including NEPA, FOIA, land use planning, oil and gas, mineral trespass, wild horses, and gazing issues	82	140	145
Legal support, employment issues	101	184	346
Legal support, land and operations, NEPA, realty, planning, FOIA, oil and gas, hardrock minerals, wild horses, fire trespass, CERCLA and AML, and grazing issues	427	443	450

REIMBURSABLE POSITIONS
(Dollars in Thousands)

	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Bureau of Land Management (continued)			
Legal support, land and general law, including environmental law, NEPA, oil and gas, trespass, land use planning, realty, and grazing	125	125	125
Legal support, land use planning, Sage Grouse, Recreation, and NEPA	170	185	75
Legal support, AK land use planning, RDI, BLM Fire Service, and Navigability projects	0	0	150
Legal support, NHPA compliance, recordable disclaimers of interest, R.S. 2477, renewable energy, railroad rights-of-way, FLPMA, and other rights of way issues	214	226	232
Legal support, SNPLMA, land and resources occurring principally in southern Nevada	200	205	223
Legal support, special assignments on behalf of BLM	114	0	0
Legal support, R.S. 2477, land and mineral resources, grazing, renewable energy, NEPA, NHPA, land use planning, rights of way, and recreation	258	342	350
Legal support, FOIA	0	26	200
Legal support, Helium	0	0	150
Legal support, BLM Directorates and State Offices	0	0	150
Legal support, including procurement, agreements, and other legal support as necessary	237	211	255
Subtotal	<u>2,531</u>	<u>2,705</u>	<u>3,423</u>
Bureau of Ocean Energy Management			
Legal support, offshore minerals and renewable energy issues	421	440	447
Legal support, rulemaking, renewable leases, seismic permits, marine mineral agreements, OCSLA, OPA, and FOIA	793	902	295
Legal support, relating to offshore renewable energy issues	209	218	221
Legal support, relating to Alaska issues	215	222	75
Subtotal	<u>1,638</u>	<u>1,782</u>	<u>1,038</u>
Bureau of Reclamation			
Legal support, Upper and Lower Colorado issues	148	210	209
Legal Support, Central Utah Project – Title II construction and Title III mitigation programs	199	203	212
Legal support, employment issues	33	59	240
Legal support, water rights	56	0	0
Legal support, intellectual property	31	34	0
Legal support, power and irrigation issues	104	177	179
Legal support, water contracts, water rights issues, Klamath project issues, NEPA, and NHPA	187	9	0

REIMBURSABLE POSITIONS
(Dollars in Thousands)

	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Bureau of Reclamation (cont.)			
Legal support, Lower Colorado River basin	158	129	193
Legal support, water and Klamath project issues	95	0	0
Legal support, Bay Delta Conservation Plan and other Reclamation legal matters	0	0	75
Legal support, Boulder Canyon Project Act	146	192	195
Legal support, water rights, water quality, and contracts for the CVP, non-CVP projects in California and Nevada	232	239	243
Legal support, Great Plains Region water service contracts, land title, NEPA, Indian water rights settlements, and general water rights	193	201	203
Legal support, stream adjudication and water rights issues	155	167	170
Legal support, general law and realty	172	180	182
Legal support, realty, land management, cultural resources, NEPA, ESA, CWA, and Washington BOR projects	109	114	116
Legal support, including procurement, agreements, and other legal support as necessary	272	134	100
Legal support, New Mexico water project and operations	176	183	185
Legal support, Federal Columbia River Power System, Federal power issues, and irrigation diversion rate settings	182	189	371
Legal support, contracting, repayment issues, water supply issues in the western United, and the Central Valley Project	225	238	242
Legal support, Indian water rights settlement implementation matters and agreements, contracts, and other legal document reviews related to CAP, Navajo project, and NGS extensions	205	207	211
Subtotal	<u>3,078</u>	<u>2,865</u>	<u>3,326</u>
Bureau of Safety and Environmental Enforcement			
Legal support, rulemaking initiatives, oversight of offshore operations, regulation under OCSLA and OPA, and FOIA	934	1,032	900
Legal support, employment law	160	96	75
Legal support, oil and gas environmental and safety program	165	195	199
Subtotal	<u>1,259</u>	<u>1,323</u>	<u>1,174</u>
Fish and Wildlife Service			
Legal support, high priority refuge and ESA issues	68	0	0
Legal support, employment issues	102	184	272
Legal support, procurement, contracts, and concessions	0	0	50
Legal support, ESA, refuge, contracts, and grants	0	72	57
Legal support, high priority realty issues	49	23	57
Legal support, Office of Law Enforcement issues	304	363	250
Subtotal	<u>523</u>	<u>642</u>	<u>686</u>

REIMBURSABLE POSITIONS
(Dollars in Thousands)

	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Interior Business Center			
Legal support, IBC contractual & acquisition services	705	1,036	1,036
Legal support, employment law	11	19	104
Legal support, including procurement, agreements, and other legal support as necessary	<u>247</u>	<u>242</u>	<u>586</u>
Subtotal	963	1,297	1,726
National Park Service			
Legal support, employment, property, and realty	66	110	94
Legal support, FOIA, partnership agreements, cultural resources, environmental remediation, water, and intellectual property	237	248	253
Legal support, employment law	394	612	774
Legal support, intellectual property	48	46	0
Legal support, including procurement, agreements, and other legal support as necessary	368	199	200
Legal support, concessions, leasing, and commercial services	232	105	245
Legal support, procurement, concessions, and agreements	156	284	95
Legal support, related to Organic Act, NEPA, and FOIA	<u>248</u>	<u>242</u>	<u>248</u>
Subtotal	1,749	1,846	1,909
Office of the Special Trustee for American Indians			
Legal support, Office of Special Trustee for American Indians	193	203	206
Legal support, trust policy and procedure projects	198	210	213
Legal support, Office of Special Trustee for American Indians	<u>[2,245]</u>	<u>[2,228]</u>	<u>[2,855]</u>
Subtotal	391	413	419
Office of Surface Mining Reclamation and Enforcement			
Legal support, OSM issues	208	214	215
Legal support, employment issues	6	10	23
Legal support, coal, regulatory, and reclamation operations	<u>120</u>	<u>115</u>	<u>116</u>
Subtotal	334	339	354
United States Geological Survey			
Legal support, intellectual property	45	51	0
Legal support, employment issues	<u>23</u>	<u>38</u>	<u>73</u>
Subtotal	68	89	73

REIMBURSABLE POSITIONS
(Dollars in Thousands)

	FY 2017	FY 2018	FY 2019
Other Offices and Programs			
Legal support, ONRR ethics program administration	148	191	180
Legal support, ONRR royalty matters	153	206	209
Legal support, ONRR related matters	326	306	250
Legal support, Land Buy-Back Program for Tribal Nations	207	182	75
Legal support, OCIO	0	140	150
Legal support, employment issues	14	13	161
Legal support, DOJ assignment	21	109	200
Legal support, Inter-American Foundation legal issues	5	0	0
Legal support, EPA detail	57	0	0
Legal support, FOIA Appeals	[231]	[235]	[205]
Legal support, Indian Water Rights Office detail	258	26	0
Legal support, Departmental management	158	0	0
Legal support, WCF torts practice branch	0	[1,640]	[1,652]
Legal support, WCF issues	[302]	[215]	[191]
Legal support, WCF issues reflecting cross-cutting matters arising from all DOI bureaus	208	238	[234]
Legal support, NRDAR	[520]	[636]	[577]
Legal support, HAZMAT compliance	[1,487]	[1,393]	[1,396]
Subtotal	1,555	1,411	1,225
TOTAL REIMBURSEMENTS	16,844	17,378	18,032

FY 2018 Endangered Species Act (ESA) Payments - Department of the Interior

Case	Venue	Citation	Amount	Payee	Payment date
American Federation of Aviculture, Inc. v. FWS	D.D.C.	1:17-cv-01444-EGS	\$470	Jonathan Wood and Christina Martin	12/5/17
Center for Biological Diversity and EPIC	N.D. Cal.	3:15-cv-05754-JST	\$183,123	Center for Biological Diversity	6/5/18
Center for Biological Diversity, Defenders of Wildlife	D. Ariz.	4:14-cv-02506-RM	\$200,000	Meyer Glitzenstein & Eubanks LLP	7/30/18
Rocky Mountain Wild	D. Colo.	CV-15-cv-0615-WJM	\$175,000	EarthJustice	5/31/18
Save our Cabinets: Challenge to Montanore Mine ESA Section 7	D. Mont.	CV 15-69-M-DWM	\$190,000	EarthJustice	7/23/18
Total ESA Payments			\$748,592		

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FY 2018 Equal Access to Justice Act (EAJA) Payments - Department of the Interior

Case Name	Bur	Judge	Type	Amount	Hourly Rates	Venue	Citation	Appeal Status	Payment Date	Payee/Plaintiff's Attorney
Downs v. United States	BIA	Margaret Sweeney	Court Settlement	\$24,839	\$225-\$225	Fed. Claims	15-cv-00650-MMS		5/17/18	Rochanne and Martin Scott Downs C/O Ziontz Chestnut IOLTA Account
Center for Biological Diversity and Los Padres Forest Watch	BLM	Michael Fitzgerald	Court Settlement	\$165,483	\$400-\$650	C. D. Cal.	2:15-cv-04378		10/13/17	Earthjustice; Greg Loarie
Center for Biological Diversity v. Bureau of Land Management	BLM	Andrew Gordon	Agency Settlement	\$120,000	\$193-\$425	D. Nev.	2:14-cv-0026-APG-VCF		7/24/18	Mark D. Fink
Friends of Animals	BLM	Nancy Freudenthal	Court Settlement	\$22,400	\$100-\$180	D. Wyo.	16-cv-199-NDF	Appeal Dismissed	10/11/17	Michael Harris
Great Basin Resource Watch and Western Shoshone Defense Project	BLM	Judges Graber, Murguia, Bennett	Court Settlement	\$186,500	\$192-\$700	9th Cir.	14-16812		2/13/18	Roger Flynn, Western Mining Action Project
Aderholt, et al. v. BLM	BLM	Reed O'Connor	Court Settlement	\$200,703	\$150-\$198	N.D. Tex.	7:15-cv-00162-O		9/19/18	Kenneth Aderholt, William Lalk, Kenneth Patton, Barbara Patton, Jimmy Smith, Kevin Hunter
Klamath Siskiyou Wildlands Center	BLM	Mark D. Clarke	Court Settlement	\$9,000	\$200-\$400	D. Or.	1:18-cv-00683		9/17/18	Dave Bahr Law Office
Oregon Natural Desert Assoc.; Audubon Society of Portland	BLM	Michael Mosman	Court Settlement	\$573,514	\$60-\$475	D. Or.	3:12-cv-596		9/14/18	Oregon Natural Desert Assoc.
Concerned Friends of the Winema, et al.	FWS	Mark D. Clarke	Court Settlement	\$68,239	\$190-\$415	D. Or.	1:14-cv-00737		4/25/18	Lauren Rule; Elizabeth Potter; Olivia Brumfield
Montana Environmental Information Center	OSM	Donald W. Molloy	Court Decision	\$122,000	\$210-\$270	D. Mont.	9:15-cv-106-DWM		4/6/18	Western Environmental Law Center
Total				\$1,492,679						