

## D&CP – OFFICE OF THE LEGAL ADVISER

### *Resource Summary*

(\$ in thousands)

Appropriations	FY 2009 Actual	FY 2010 Enacted	FY 2011 Request	Increase / Decrease
Positions	255	265	269	4
Funds	51,225	55,803	57,015	1,212

### *Program Description*

The Office of the Legal Adviser (L) advises and represents the Department on all international and domestic legal policy issues arising in connection with U.S. foreign policy and the work of the Department.

L provides critical support for U.S. Government foreign policies – in particular, key initiatives in Iraq and Afghanistan, as well as initiatives to achieve democratic Israeli and Palestinian states living in peace. The Bureau helps to ameliorate and resolve political and humanitarian crises in Kosovo, Darfur, and other areas around the globe and is a key component of efforts to fight international terrorism and other threats to U.S. security. L is instrumental in other important areas of work of the Department, including nonproliferation, human rights, the environment, law enforcement, and the rule of law.

L is also an essential partner in supporting the Department's management by providing legal advice on a wide range of matters: the expenditure of assistance and operating funds; the provision of consular services; passport and visa operations and border security; buildings and acquisitions; Department authorities; U.S. diplomatic and consular operations abroad; personnel systems for employees, including the Foreign Service and Civil Service; security of personnel and information technology; privileges and immunities; regulations and directives; domestic and foreign litigation; ethics and financial disclosure; and information law. L manages the U.S. Treaty Program and is responsible for defending and representing the United States before international bodies, such as arbitrations under the North American Free Trade Agreement and cases before the International Court of Justice.

### *Priorities*

L's overarching priorities include:

- Providing timely, first-rate legal services on all legal issues, domestic and international, arising in the course of the Department's work. This includes focusing on key foreign policy objectives, as well as the pursuit of managerial and organizational excellence.
- Developing, conducting and managing the Treaty Program, extraditions, private international law, representing and defending the United States before international legal bodies, claims, and other programs for which L has lead responsibility so as to meet the highest standards of program management and best serve the foreign policy, security, and public interests of the United States.
- Promoting the development of international law and its institutions as a fundamental element of U.S. foreign policy and advancing the rule of law. The United States relies on international law as a means to secure a peaceful world. The rule of law will remain an essential component of U.S. foreign policy initiatives.

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Specific priority areas for FY 2011 will include:

- Developing and advocating for U.S. legal and legal policy positions, and presenting them to domestic and international audiences in order to advance U.S. interests.
- Continuing to perform a critical role in preventing and resolving humanitarian and political crises and conflicts.
- Supporting achievement of the Department's consular and management goals.
- Promoting global stability through robust counterterrorism initiatives, international law enforcement, and nonproliferation of weapons of mass destruction.
- Developing and defending an effective domestic and international legal framework to promote a healthy global economy and environment.
- Advocating for U.S. interests in domestic and international legal fora.

In support of international law priorities, L engages in a variety of activities including extraditions. The number of extradition and provisional arrest requests made by the Office of the Legal Adviser directly support the Department's Strategic Plan and in particular, the goal of Achieving Peace and Security. These extraditions materially support the development and maintenance of effective mutual legal assistance relationships with other countries and international organizations which counter transnational crime. In addition to aiding ongoing relationships with national and international criminal and law enforcement agencies, the extradition and arrests program is a sound measure of the effectiveness of legal advice and services that advance the strategic goals of the Department of State and the United States.

### *Justification of Request*

The Department's FY 2011 request of \$57.015 million for the Office of the Legal Adviser (L) includes an increase of \$0.680 million for current services to maintain the FY 2010 level of activity. Also included is an increase of \$0.532 million above the overall FY 2010 base to fund an additional four positions to support other international and domestic legal policy issues related to U.S. foreign policy and other important areas of work of the Department, including law of war, piracy and climate change, consular litigation and cyber security. The FY 2011 request includes:

#### **Law of War: \$114,000 including 1 position**

As a result of three Presidential Executive Orders, the Executive Branch currently is engaged in significant policy reviews in three critical areas of counter-terrorism operations. The first review has focused on the appropriate disposition of those detainees held at Guantanamo, in view of the fact that the President ordered Guantanamo closed. The second review is expected to make recommendations about the future of U.S. detention policies; and the third review has resulted in recommendations about the future of U.S. interrogation and rendition policies. In addition, the United States is facing hundreds of habeas corpus cases filed by detainees held at Guantanamo and elsewhere by the U.S. military. These and related issues are certain to dominate U.S. counterterrorism policy discussions for the foreseeable future. The Office of Political-Military Affairs (L/PM) currently devotes four attorneys to different aspects of these issues. The request provides for an additional attorney adviser position assigned to L/PM to conduct policy reviews on international legal guidance on all aspects of detention, interrogation, and armed conflict.

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### **Piracy and Climate Change: \$114,000 including 1 position**

The Office of Oceans, International Environmental and Scientific Affairs (L/OES) is dedicating more time and resources to climate change – a presidential priority – which includes ongoing negotiations and initiatives, such as the December 2009 Copenhagen conference. L/OES has done a tremendous amount of work relating to the increased incidence of piracy off the coast of Somalia and the April 2009 Maersk Alabama incident, including supporting the Secretary’s personal engagement on the subject. Until the broader problem of instability in Somalia is addressed, it is expected that piracy will be an ongoing problem in the region. Finally, the work in the chemicals portfolio will expand as the United States has launched an inter-governmental negotiating committee to develop a legally-binding instrument on global mercury concerns. This request provides for an additional attorney adviser position assigned to L/OES to manage the growing demands for legal advice on maritime matters, as well as climate change and other international environmental and piracy issues.

### **Consular Litigation: \$114,000 including 1 position**

The Western Hemisphere Travel Initiative requires passports at the Canadian and Mexican borders. The Department faces a rapidly increasing number of resource intensive lawsuits challenging passport denials along with a steady stream of litigation regarding visa adjudications in FY 2011 and future years. With adequate manpower and associated administrative assistance, this request would assist the Office of Consular Affairs (L/CA) to more effectively support the Department of Justice and defend U.S. interests in these litigations. This request provides for an additional attorney adviser position assigned to L/CA to effectively defend the U.S. in consular litigation cases.

### **Cybersecurity: \$190,000 including 1 position**

The Office of the Legal Adviser (L) is expected to implement the Department’s commitment under the Comprehensive National Cybersecurity Initiative (CNCI) to work “with foreign countries and international organizations on international aspects of cyber security.” This international effort will include outreach to support development of a deterrence strategy and other cyber security related matters, such as the development of international standards for private sector internet providers and the telecommunications industry insofar as it is engaged in cybersecurity issues. This request provides for an additional attorney adviser position assigned to the Office of Management (L/M) to assist in the implementation of the Department’s international cybersecurity requirements.

### *Resource Summary*

	Positions			Funds (\$ in thousands)			
	American		FSN	Pos Total	Bureau Managed	American	Funds
	Domestic	Overseas				Salaries	Total
FY 2009 Actual	255	0	0	255	12,319	38,906	51,225
FY 2010 Estimate	265	0	0	265	16,325	39,478	55,803
<b>FY 2011 Built-in Changes</b>							
Annualization of FY 2010 COLA	0	0	0	0	4	184	188
Domestic Inflation	0	0	0	0	249	0	249
FY 2011 American COLA	0	0	0	0	17	226	243
<b>Total Built-in Changes</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>270</b>	<b>410</b>	<b>680</b>
FY 2011 Current Services	265	0	0	265	16,595	39,888	56,483

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	Positions			Funds (\$ in thousands)			
	American		FSN	Pos Total	Bureau Managed	American Salaries	Funds Total
	Domestic	Overseas					
FY 2011 Program Changes							
Law of War	1	0	0	1	12	102	114
Piracy and Climate Change	1	0	0	1	12	102	114
Consular Litigation	1	0	0	1	12	102	114
Cybersecurity	1	0	0	1	20	170	190
Total Program Changes	4	0	0	4	56	476	532
FY 2011 Request	269	0	0	269	16,651	40,364	57,015

### *Staff by Program Activity* (positions)

Office of the Legal Adviser	FY 2009 Actual	FY 2010 Enacted	FY 2011 Request	Increase / Decrease
<b>Conduct of Diplomatic Relations</b>	<b>224</b>	<b>234</b>	<b>238</b>	<b>4</b>
Legal Affairs	224	234	238	4
<b>Domestic Administrative Support</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>0</b>
Domestic Administrative Management	7	7	7	0
Domestic Financial Services	2	2	2	0
Domestic Personnel Services	3	3	3	0
<b>Information Resource Management</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>
Office Automation	1	1	1	0
<b>Policy Formulation</b>	<b>18</b>	<b>18</b>	<b>18</b>	<b>0</b>
Bureau Direction	18	18	18	0
<b>Total</b>	<b>255</b>	<b>265</b>	<b>269</b>	<b>4</b>

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### *Funds by Program Activity* ( \$ in thousands)

Office of the Legal Adviser	FY 2009 Actual	FY 2010 Enacted	FY 2011 Request	Increase / Decrease
<b>Conduct of Diplomatic Relations</b>	46,433	48,485	49,588	1,103
Legal Affairs	46,433	48,485	49,588	1,103
<b>Domestic Administrative Support</b>	2,394	4,465	4,530	65
Domestic Administrative Management	1,756	3,816	3,873	57
Domestic Financial Services	260	265	269	4
Domestic Personnel Services	378	384	388	4
<b>Information Resource Management</b>	1,744	2,179	2,214	35
Office Automation	1,744	2,179	2,214	35
<b>Policy Formulation</b>	654	674	683	9
Bureau Direction	654	674	683	9
<b>Total</b>	<b>51,225</b>	<b>55,803</b>	<b>57,015</b>	<b>1,212</b>

### *Program Activities*

Office of the Legal Adviser (L)	Positions			Funds (\$ in thousands)			
	American			Pos	Bureau	American	Funds
	Domestic	Overseas	FSN	Total	Managed	Salaries	Total
<b>Conduct of Diplomatic Relations</b>	238	0	0	238	11,171	38,417	49,588
Legal Affairs	238	0	0	238	11,171	38,417	49,588
<b>Domestic Administrative Support</b>	12	0	0	12	3,067	1,463	4,530
Domestic Administrative Management	7	0	0	7	3,014	859	3,873
Domestic Financial Services	2	0	0	2	22	247	269
Domestic Personnel Services	3	0	0	3	31	357	388
<b>Information Resource Management</b>	1	0	0	1	2,089	125	2,214
Office Automation	1	0	0	1	2,089	125	2,214
<b>Policy Formulation</b>	18	0	0	18	324	359	683
Bureau Direction	18	0	0	18	324	359	683
<b>Total</b>	<b>269</b>	<b>0</b>	<b>0</b>	<b>269</b>	<b>16,651</b>	<b>40,364</b>	<b>57,015</b>

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### *Staff by Domestic Organization Unit* (positions)

Office of the Legal Adviser	FY 2009 Actual	FY 2010 Enacted	FY 2011 Request	Increase / Decrease
African and Near Eastern Affairs	4	4	4	0
Buildings and Acquisitions	7	7	7	0
Consular Affairs	12	14	15	1
Deputy Legal Advisers	14	14	14	0
Diplomatic Law and Litigation	9	9	9	0
East and South Asian Affairs	5	5	5	0
Economic and Business Affairs	10	10	10	0
Employment Law	22	24	24	0
European Affairs	3	3	3	0
Executive Director	13	13	13	0
General Management	12	12	13	1
Human Rights and Refugees	11	12	12	0
International Claims and Investment Disputes	39	41	41	0
Law Enforcement and Intelligence	13	15	15	0
Legal Adviser	4	4	4	0
Legislation and Foreign Assistance	6	6	6	0
Non Proliferation and Verification	12	12	12	0
Oceans, International Environmental & Scientific Affairs	10	10	11	1
Political-Military Affairs	10	11	12	1
Private International Law	5	5	5	0
Public Diplomacy and Public Affairs	7	7	7	0
Treaty Affairs	16	16	16	0
United Nations Affairs	6	6	6	0
Western Hemisphere Affairs	5	5	5	0
<b>Total</b>	<b>255</b>	<b>265</b>	<b>269</b>	<b>4</b>

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### *Funds by Domestic Organization Unit*

(\$ in thousands)

Office of the Legal Adviser	FY 2009 Actual	FY 2010 Enacted	FY 2011 Request	Increase / Decrease
African and Near Eastern Affairs	1,043	1,060	1,072	12
Buildings and Acquisitions	1,249	1,269	1,284	15
Consular Affairs	2,142	2,218	2,346	128
Deputy Legal Advisers	2,559	2,599	2,629	30
Diplomatic Law and Litigation	1,732	1,759	1,779	20
East and South Asian Affairs	714	726	734	8
Economic and Business Affairs	1,614	1,640	1,659	19
Employment Law	3,596	4,305	4,360	55
European Affairs	531	539	546	7
Executive Director	2,739	3,868	3,931	63
General Management	2,577	2,974	3,181	207
Human Rights and Refugees	1,554	2,062	2,089	27
International Claims and Investment Disputes	11,789	12,099	12,287	188
Law Enforcement and Intelligence	2,516	3,204	3,246	42
Legal Adviser	701	713	721	8
Legislation and Foreign Assistance	903	919	929	10
Non Proliferation and Verification	1,773	1,802	1,823	21
Oceans, International Environmental & Scientific Affairs	1,724	1,751	1,873	122
Political-Military Affairs	2,441	2,485	2,618	133
Private International Law	1,578	1,612	1,636	24
Public Diplomacy and Public Affairs	1,084	1,102	1,114	12
Treaty Affairs	2,556	2,597	2,627	30
United Nations Affairs	1,255	1,632	1,654	22
Western Hemisphere Affairs	855	868	877	9
<b>Total</b>	<b>51,225</b>	<b>55,803</b>	<b>57,015</b>	<b>1,212</b>

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### *Funds by Object Class*

(\$ in thousands)

<b>Office of the Legal Adviser</b>	<b>FY 2009 Actual</b>	<b>FY 2010 Enacted</b>	<b>FY 2011 Request</b>	<b>Increase / Decrease</b>
1100 Personnel Compensation	28,995	29,424	30,091	667
1200 Personnel Benefits	10,437	10,591	10,831	240
2100 Travel & Trans of Persons	360	371	377	6
2300 Rents, Comm & Utilities	645	764	801	37
2400 Printing & Reproduction	204	210	213	3
2500 Other Services	4,676	5,359	5,444	85
2600 Supplies and Materials	116	169	188	19
3100 Personal Property	63	3,013	3,075	62
4100 Grants, Subsidies & Contrb	5,729	5,902	5,995	93
<b>Total</b>	<b>51,225</b>	<b>55,803</b>	<b>57,015</b>	<b>1,212</b>