

Congressional Submission

FOREIGN CLAIMS SETTLEMENT COMMISSION

U.S. Department of Justice

FY 2017 PERFORMANCE BUDGET

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I. Overview for the Foreign Claims Settlement Commission

1. Introduction

The Foreign Claims Settlement Commission (FCSC) is a small, independent, quasi-judicial agency organized for administrative purposes within the Department of Justice that has a high profile and important mission in FY 2017: distribute to U.S. victims of international terrorism monies paid to the United States by foreign governments. Currently, the FCSC is adjudicating the claims of U.S. victims of Iraqi actions during the Saddam Hussein era; referred to the Commission by the Department of State by letter dated October 7, 2014 (Iraq has already paid to the United States approximately \$400 million to satisfy these claims). Further, the Commission is continuing its adjudication of claims of U.S. victims of Libyan terrorism under a third referral from the Department of State dated November 27, 2013 pursuant to the Libya Claims Settlement Agreement. Based on the projected number of claims in both the Libyan and Iraqi programs and the complexity of issues associated with these claims, adjudication will continue through FY 2017. In addition, depending on the movement of events internationally, other, similar programs can be anticipated.

The Commission consists of a Chairman and two part-time Commissioners, who are appointed by the President and confirmed by the Senate, as well as legal and non-legal secretariat staff. The Chairman and the part-time Commissioners receive compensation at the Executive Level V rate of pay for performance of official business of the Commission. The work of adjudicating claims and awarding compensation is necessarily labor-intensive, requiring legal and factual research on the part of Commission staff, and adjudicatory work by the members of the Commission. The majority of the Commission's budget is necessary for personnel costs. The bulk of the remainder is for fixed costs, including rent and guard service. While the operating expenses of the Commission are appropriated from taxpayer funds, in virtually all instances, the legislation authorizing the adjudication of claims has provided for deduction of 5% of the funds obtained from foreign governments in settlement of the claims adjudicated by the Commission. This amount is deposited to the credit of miscellaneous receipts in the United States Treasury to defray administrative expenses. The Commission understands that approximately \$20 million has been so deposited into the Treasury from the funds obtained under the Libya Claims Program alone.

To date, the Commission has administered and completed 48 international and war-related claims programs involving claims against 19 countries: Yugoslavia, Panama, Bulgaria, Hungary, Romania, Italy, the former Soviet Union, the former Czechoslovakia, Poland, Cuba, China, the former German Democratic Republic, Vietnam, Ethiopia, Egypt, Iran, Albania, the Federal Republic of Germany, Libya, and Iraq.

The Commission is prepared to provide any further information about the background of the Commission, its existing programs, and congressional interest in these programs.

Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.justice.gov/02organizations/bpp.htm>

2. Issues, Outcomes, and Strategies

In FY 2017, the Commission plans to continue its administration of the Libya Claims Program. This program resulted from the President's Executive Order 13477 dated October 31, 2008, implementing the U.S.-Libya Claims Settlement Agreement of August 14, 2008, as well as the Libyan Claims Resolution Act (LCRA), passed by Congress and signed into law on August 4, 2008. Pursuant to this Agreement and the LCRA, the government of Libya paid \$1.5 billion to the United States in order to provide immediate and fair compensation to U.S. nationals with terrorism-related claims against Libya. The Commission has thus far completed its adjudication of claims referred by the Department of State Legal Adviser's referral letters of December 11, 2008 and January 15, 2009 pursuant to 22 U.S.C. § 1623 (a)(1)(C) and continues to adjudicate claims under the State Department's letter of referral dated November 27, 2013.

In FY 2017, the Commission also plans to continue its administration of the Iraq Claims Program. On June 21, 2011, the Department of State issued a press release announcing a settlement with the Government of Iraq in the amount of \$400 million to provide compensation for American nationals who were prisoners of war, hostages, or human shields during the first Gulf War, and for U.S. servicemen who were injured in the 1987 attack on the USS Stark. The Commission has thus far completed its adjudication of claims referred by the Department of State Legal Adviser's referral letter of November 14, 2012 pursuant to 22 U.S.C. § 1623 (a)(1)(C) and has now begun its adjudication of claims under the State Department's letter of referral dated October 7, 2014.

Furthermore, the Commission will continue to have authority under the International Claims Settlement Act of 1949, as amended, and the 1995 United States-Albanian Claims Settlement Agreement, to make awards in any additional claims against Albania that are filed. In addition, when appropriate, the Commission will continue to reopen and reconsider claims it had previously denied, taking into account the modification of the Albanian Claims Settlement Agreement effected in 2006.

Additionally, the Commission will research and respond to requests for information concerning properties expropriated by the Castro regime in Cuba, in support of the Department of State's continuing implementation of Title IV of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (the "Helms-Burton Act"). The Commission continues to maintain and update a computerized database of some 13,000 records containing specific information on all of the claims adjudicated in its Cuban Claims Program. This database enables the Commission to respond more quickly and accurately to requests for information from the State Department and the general public.

Moreover, under the War Claims Act of 1948, as amended, the Commission will also continue to have authority to award compensation to any previously uncompensated American servicemen held as prisoners of war in Southeast Asia during the Vietnam conflict, or their survivors, for inadequate rations and inhumane treatment while in captivity.

In addition, the Commission will continue to furnish information contained in its records pertaining to the 48 completed international and war related claims programs it has conducted, as requested by claimants, their heirs, attorneys, researchers, and other members of the public. It will also provide to other U.S. agencies technical advice on their policy determinations, participate in preliminary planning and evaluation of pending claims legislation, and coordinate

with congressional committees considering legislation for adjudication of additional types of claims.

3. Challenges

External Challenges

The Commission's external challenges include the necessity of being continuously prepared for a workload dictated almost exclusively by changing international events, current and future claims programs enacted by Congress or referred to the Commission by the Department of State, and by the number of claims filed. This may require expansion of its staffing to meet the requirements of new programs. Its external challenges also include the need to notify and assist U.S. nationals in a timely fashion with filing and documenting their claims; familiarize them with the claims process; and respond efficiently to all inquiries by the public, Congress, and other federal agencies about current and past programs.

Internal Challenges

The Commission's internal challenges include maintaining and focusing the skills, expertise, and experience of its staff to assist U.S. nationals with claims against foreign governments, as well as to provide technical assistance in this area to the Department of State and other federal agencies upon request. At the same time, the Commission must continue its claims records modernization effort by improving and updating the information in its databases and on its website. The Commission intends to also concentrate efforts on increasing its transparency, by increasing the availability of its decisions and records to the public, particularly through electronic media.

4. Performance Challenges

The Commission is an independent agency. Its budget is fully integrated with its own priorities and corresponds to the Department's Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law.

II. Summary of Program Changes

No Program Changes

III. Appropriations Language and Analysis of Appropriations Language

Appropriations Language

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by section 3109 of title 5, United States Code, [\$2,374,000] \$2,409,000.

Analysis of Appropriations Language

No substantive changes are proposed.

IV. Program Activity Justification

A. Foreign Claims

<i>Foreign Claims</i>	Direct Pos.	Estimate FTE	Amount
2015 Enacted	11	6	\$2,326
2016 Enacted	11	9	\$2,374
Adjustments to Base and Technical Adjustments		1	\$35
2017 Current Services	11	10	\$2,409
2017 Request	11	10	\$2,409
Total Change 2016-2017		1	\$35

1. Program Description

The Commission has a single Decision Unit, and its mission is to protect the rights of U.S. citizens abroad and to promote the international rule of law through adjudication of claims brought by United States citizens against foreign governments.

The Commission currently pursues the following organizational goals:

- Issue well-reasoned and timely decisions in all claims against foreign governments adjudicated by the Commission.
- Provide notice to U.S. citizens of opportunities to enforce their rights against foreign governments under the Commission's authority and provide timely guidance and assistance in pursuing their claims.
- Certify all awards to the Department of State in a timely and accurate fashion to ensure prompt payment within the statutory guidelines set forth in the Commission's authorizing statutes.
- Ensure that the decisions of the Commission are widely available and accessible to, *inter alia*, researchers, international legal scholars, and government officials.
- Ensure readiness to administer, upon enactment of authorizing legislation or referral to the Commission by the Secretary of State, future programs for claims against foreign governments; and to advise Congress and other agencies concerning policy determinations relating to the settlement of international claims as well as potential future claims programs.
- Upon request, assist the Department of State in negotiations for the settlement of claims against foreign governments.

2. Performance and Resources Tables

PERFORMANCE AND RESOURCES TABLE												
Decision Unit: Foreign Claims												
RESOURCES			Target		Actual		Projected		Changes		Requested (Total)	
			FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			8	\$2,326	6	\$1,992	9	\$2,374	1	\$35	10	\$2,409
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
Program Activity			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
	2.6	Adjudication of Claims	8	\$2,326	6	\$1,992	9	\$2,374	1	\$35	10	\$2,409
Performance Measure: Output												
Performance Measure: Efficiency												
Performance Measure: Outcome												

Data Definition, Validation, Verification, and Limitations: **INFORMATION REQUIRED:** Use this section to discuss data terms, data sources, how the information is collected, how the information is verified, and data limitations to include how well the indicator measures performance in this area.

PERFORMANCE MEASURE TABLE										
Decision Unit:										
Strategic Objective	Performance Report and Performance Plan Targets		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015		FY 2016	FY 2017
			Actual	Actual	Actual	Actual	Target	Actual	Target	Target
2.6	Performance Measure		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Performance Measure									
	Performance Measure									
	Efficiency Measure									
	OUTCOME Measure									
N/A = Data unavailable										

3. Performance, Resources, and Strategies

The Commission is an independent agency. Its budget is fully integrated with its own priorities and corresponds best to the Department's Strategic Goal 2: Protect the Rights of the American People, and Enforce Federal Law.

a. Performance Plan and Report for Outcomes

The Commission's activities are not included in the Department of Justice's performance plans or reports. However, in addition to its principal function of adjudicating claims of United States nationals against foreign governments, the Commission provides continuing informational services to claimants (and, where applicable, their legal successors) with regard to the 48 international and war claims programs it has concluded. It also provides advice to other Federal agencies on their policy determinations, preliminary planning, and evaluation of proposed legislation intended to authorize adjudication of claims of new categories of claimants, and liaison with congressional committees considering such legislation.

b. Strategies to Accomplish Outcomes

In FY 2017, the Commission will continue its administration of the Libya Claims Program which resulted from the President's Executive Order 13477 which implements the U.S.-Libya Claims Settlement Agreement and the Libyan Claims Resolution Act (LCRA).

Additionally, the Commission will continue to adjudicate categories of claims referred to it by the Department of State within the scope of the Claims Settlement Agreement Between the Government of the United States of America and the Government of the Republic of Iraq, signed on September 2, 2010, including claims for compensation for American nationals who were prisoners of war, hostages, or human shields during the first Gulf War.

Under the International Claims Settlement Act of 1949, as amended, and the 1995 U.S.-Albanian Claims Settlement Agreement and the 2006 modification of that agreement, the Commission will continue to have authority to make awards in any additional claims against Albania that may be filed.

The Commission will also research and respond to requests for information concerning properties expropriated by the Castro regime in Cuba, in support of the Department of State's Continuing implementation of Title IV of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (the "Helms-Burton Act"). In addition, the Commission will continue to engage in preliminary planning for a possible future program relating to Guam. The Commission will also provide, upon request, technical assistance to the Department of State in conducting government-to-government claims settlement negotiations.

Under the War Claims Act of 1948, as amended, the Commission will continue to have authority to award compensation to any previously uncompensated American servicemen held as prisoners of war in Southeast Asia during the Vietnam conflict, or their survivors, for inadequate rations and inhumane treatment while in captivity.