

**United States Department of Justice
Administrative Review and Appeals**



**FY 2017 Performance Budget
Congressional Budget Submission**

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I. Overview of the Executive Office for Immigration Review

A. Introduction

EOIR's Mission and Strategic Objective: The primary mission of the Executive Office for Immigration Review (EOIR) is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws. Under delegated authority from the Attorney General, EOIR conducts immigration court proceedings, appellate reviews, and administrative hearings.

Budget Summary: To support the mission of the agency, EOIR requests a total of \$428,151,000 in direct budget authority, including 2,138 permanent positions and 1,832 full time equivalents (FTE). The request is offset by \$4,000,000 to be transferred to EOIR from the Department of Homeland Security's (DHS) Immigration Examination Fee Account. In the FY 2016 Enacted EOIR was provided an additional 55 Immigration Judge Teams. In FY 2017 EOIR expects to continue its focus on hiring up to its authorized levels of adjudicators and supporting staff. EOIR requests \$7,433,000 in program increases to make needed infrastructure improvements and to modernize mission critical case management and related systems.

EOIR consistently and strategically assesses caseload volumes, trends, and geographic concentration of cases to appropriately adjust resource allocations to ensure that mission requirements are met at the lowest possible cost to the U.S. taxpayer. In addition, EOIR is in frequent contact with DHS regarding enforcement activities so as to gauge the impact of these activities on the immigration courts and Board of Immigration Appeals. These discussions enable EOIR to adjust dockets and resource allocations as needed across the country. The FY 2017 budget request provides the appropriate resources to continue the execution of EOIR's mission into the future.

B. Program Overview

1. Organization of EOIR

EOIR administers the nation's immigration court system. EOIR primarily decides whether foreign-born individuals, who are charged by DHS with violating immigration law, should be ordered removed from the United States or should be granted relief or protection from removal and be permitted to remain in this country. To make these critical determinations, EOIR operates 57 immigration courts throughout the country and has a centralized Board of Immigration Appeals located at EOIR Headquarters. EOIR also adjudicates cases involving illegal hiring and employment eligibility verification violations, document fraud, and employment discrimination. EOIR Headquarters, located in Falls Church, VA, provides centralized operational, policy, and administrative support to EOIR immigration proceedings and programs conducted throughout the United States. Under the direction of the EOIR Director and Deputy Director, the following components conduct adjudicative proceedings:

1.1. Adjudicative Components

- Board of Immigration Appeals (BIA) – Under the direction of the Chairman, the BIA hears appeals of decisions of immigration judges and certain decisions of officers of the DHS in a wide variety of proceedings in which the Government of the United States is one party and the other party is an alien, a citizen, or a transportation carrier. The BIA is directed to exercise its independent judgment in hearing appeals for the Attorney General, and provides a nationally uniform application of the immigration laws. The majority of cases before the BIA involve appeals from orders of EOIR’s immigration judges entered in immigration proceedings.

Appeals of decisions of DHS officers, reviewed by the BIA, principally involve appeals from familial visa petition denials and decisions involving administrative fines on transportation carriers. The BIA also renders decisions on applications of recognition by organizations that have requested permission to practice before the BIA, the immigration judges, and DHS, and renders decisions on individual applications of accreditation by employees of such organizations. The BIA also issues decisions relating to the EOIR Attorney Discipline Program.

BIA decisions are binding on immigration judges and all DHS officers unless modified or overruled by the Attorney General or a federal court. Certain BIA decisions that the BIA designates as precedent decisions apply to immigration cases nationwide. Through precedent decisions, the BIA provides guidance to immigration judges, DHS, and the general public on the proper interpretation and administration of the immigration laws and regulations. The BIA is the highest administrative tribunal for interpreting and applying U.S. immigration law.

The BIA plays the major role in interpreting the immigration laws of the country in an area of law the courts have characterized as uniquely complex. Processing a high-volume caseload has been a challenging task in a time of constant federal court activity.

- Office of the Chief Immigration Judge (OCIJ) – The OCIJ oversees the administration of 57 immigration courts located throughout the United States and exercises administrative supervision over EOIR employees, including immigration judges, assigned to those courts. The OCIJ develops policies and procedures for immigration proceedings throughout the immigration court system. The IJs in OCIJ preside over administrative court proceedings, called removal proceedings, to determine whether foreign-born individuals, who are charged by DHS with violating immigration law, should be ordered removed from the United States or should be granted relief or protection from removal and be permitted to remain in this country. Generally, IJs determine removability and adjudicate applications for relief from removal such as cancellation of removal, adjustment of status, asylum, or waivers of removability. Custody redetermination hearings are held when an alien in DHS custody seeks a reduction in the bond amount set by DHS, or a release on his or her own recognizance.

With respect to criminal alien adjudications, the Institutional Hearing Program (IHP)¹ provides the framework for hearings to determine the immigration status of aliens convicted of offenses who are incarcerated in federal, state and local prisons across the United States. EOIR's IHP is designed to expedite the removal of criminal aliens and involves close coordination with DHS, the Bureau of Prisons, and state and local corrections authorities.

The Chief Immigration Judge provides overall program direction, articulates policy, and establishes priorities for the immigration judges located in 57 courts throughout the United States. The Chief Immigration Judge carries out these responsibilities with the assistance of Deputy and Assistant Chief Immigration Judges, and offices such as the Chief Clerk's Office and Language Services Unit assist with coordinating the management and operation of the immigration courts.

- Office of the Chief Administrative Hearing Officer (OCAHO) – The OCAHO adjudicates cases involving illegal hiring and employment eligibility verification violations (“employer sanctions”), document fraud and employment discrimination under the Immigration and Nationality Act. The OCAHO is headed by a Chief Administrative Hearing Officer (CAHO) who provides overall program direction, articulates policies and procedures, establishes priorities, and administers the hearing process presided over by Administrative Law Judges (ALJs). The CAHO also reviews decisions and orders issued by OCAHO ALJs in employer sanctions and document fraud cases, and may modify, vacate or remand those decisions and orders.

OCAHO employs ALJs appointed pursuant to 5 U.S.C. § 3105 to adjudicate cases arising under Sections 274A, 274B and 274C of the INA. Section 274A provides for sanctions (civil penalties and injunctive relief) against employers or entities who: (1) knowingly hire, recruit, or refer for a fee, or continue to employ, unauthorized aliens; (2) fail to comply with employment eligibility verification requirements; or (3) require the execution of an indemnity bond by employees to protect the employer or entity from potential liability for unlawful employment practices. Section 274B prohibits employment discrimination based on national origin or citizenship status and provides for civil penalties and various equitable remedies. Section 274C provides civil penalties for immigration-related document fraud. Adjudicative proceedings are initiated by complaints filed with OCAHO by DHS (in Section 274A and Section 274C cases), or the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) in the Civil Rights Division, and/or aggrieved private parties and entities (in section 274B cases). Cases are assigned to ALJs by the CAHO, who is also responsible for program management and policy development for the Office.

The CAHO is also authorized to conduct administrative reviews of ALJ decisions in INA Sections 274A and 274C cases, and may affirm, modify, vacate and/or remand such decisions. Unless the case is certified to the Attorney General, the CAHO's decision on review constitutes the final agency action with respect to these cases. The CAHO also certifies that ALJs who hear Section 274B cases have received the specialized training in employment discrimination matters that is required by statute.

¹ Note, the Department of Homeland Security refers to this same program as the “Institutional Hearing and Removal Program.”

1.2. Map of the Immigration Courts



1.3. Non-Adjudicative Components

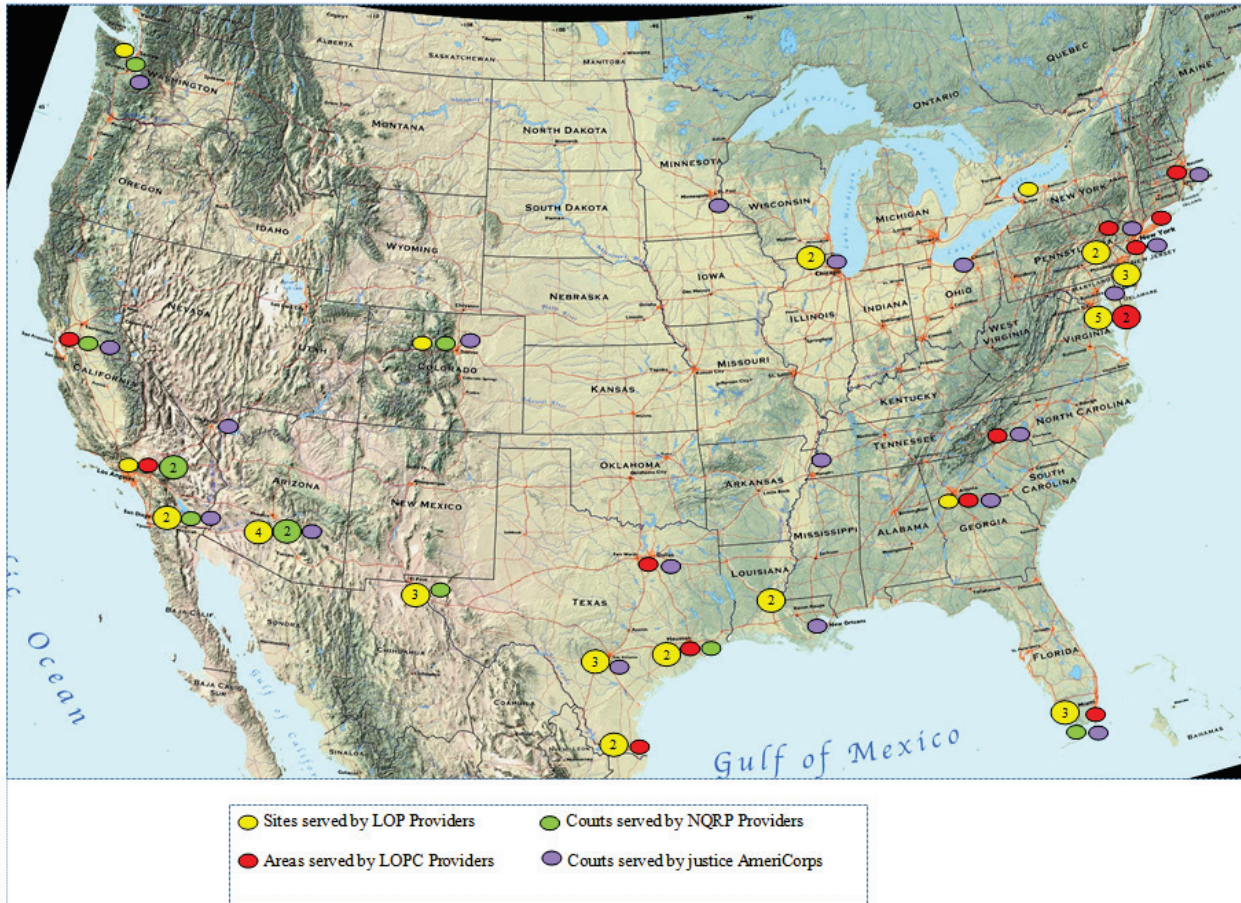
A number of other Headquarters offices also provide EOIR-wide mission support:

- Office of the Director – In addition to the Director, Deputy Director, and senior advisors, the Office of the Director includes the Office of Communications and Legislative Affairs, the Equal Employment Opportunity Office, the Office of Legal Access Programs (OLAP), and the Office of Planning, Analysis, and Statistics (OPAS).
 - OLAP oversees various programs and initiatives aimed at increasing access to legal services and information for indigent and low income individuals and improving the effectiveness of the agency’s adjudication processes. These programs include the Legal Orientation Program (LOP), Legal Orientation Program for Custodians of Unaccompanied Children (LOPC), as well as programs designed to reach other vulnerable populations.
 - ◆ The LOP is designed to assist detained individuals in making better informed decisions earlier in their immigration court proceedings, thereby improving access to basic legal services, especially for indigent and low income

individuals, while increasing the efficiency of the court hearing and detention processes. As of June 1, 2015, the LOP is operating at 30 sites, serving roughly 50,000 individuals per year. Non-governmental organizations carry out the LOP under contract with EOIR. These organizations work closely with local Immigration and Customs Enforcement (ICE) and EOIR personnel to provide group and individual orientations, self-help workshops, and pro bono referral services to detained individuals. Independent research has found the LOP to significantly reduce the average duration of individuals' detained removal proceedings before the immigration court as well as decrease their overall length of time spent in DHS detention.

- ◆ The goals of the LOPC are to improve the appearance rates of non-detained children at their immigration court hearings, and to protect children from mistreatment, exploitation, and trafficking by increasing access to legal and other services. As of June 1, 2015, the LOPC is operating in 14 cities, and in FY 2014 the LOPC served over 12,000 custodians for children who were released from the Department of Health and Human Services' Office of Refugee Resettlement (ORR) custody and scheduled for immigration court hearings. The LOPC also operates the national LOPC call center to provide LOPC scheduling assistance as well as basic legal information to custodians of children who cannot attend a live LOPC.
- ◆ Programs for Vulnerable Populations. EOIR has several programs aimed at improving the effectiveness and efficiency of immigration court proceedings involving unaccompanied alien children. EOIR, in partnership with the Corporation for National and Community Service (CNCS), which operates the AmeriCorps national service program, operate the justice AmeriCorps program to provide legal counsel to certain unaccompanied alien children. The National Qualified Representative Program was created as part of the DOJ and DHS' Nationwide Policy to provide enhanced procedural protections to certain unrepresented and detained respondents with serious mental disorders or conditions. EOIR also created two additional pilot projects to address issues concerning access to representation for children.

◆ The below map represents OLAP program locations as of January 2016.



- OPAS conducts EOIR's strategic and long-range planning, and maintains a focus on the outcome of such planning through monitoring the agency's annual performance plans. OPAS is responsible for the production of statistical reports, program analysis, and reporting on the mission-critical goals and objectives established by EOIR's senior management.
- The Office of the General Counsel (OGC) provides legal advice on a wide variety of matters involving EOIR and its employees in the performance of their official duties. OGC staff handle employee labor relations issues for the agency, review and prosecute complaints involving attorney misconduct, coordinate and respond to requests for assistance involving immigration fraud, coordinate the development of agency regulations and forms, provide litigation support to U.S. Attorneys, the Office of Immigration Litigation, and the Solicitor General's Office, coordinate inter-agency activities, and respond to all Freedom of Information and Privacy Act requests.
- The Office of Administration provides administrative and financial management support in the areas of appropriations, budget, contracts, financial management, human resources, and procurement.
- The Office of Management Programs manages several special emphasis and compliance programs, including Security, Logistics, and Space and Facilities Management.

- The Office of Information Technology (OIT) is responsible for the design, development, operations, and maintenance of the complete range of information technology systems supporting EOIR's day-to-day operations.

2. Adjudication of Immigration Cases

Immigration Court Proceedings Overview: DHS initiates virtually all cases before the immigration courts by charging an individual with potential grounds of removability and issuing a Notice to Appear (NTA) in Immigration Court. Section 240 of the Immigration and Nationality Act (INA) (8 U.S.C. 1229a).

Immigration judges are responsible for conducting formal immigration court proceedings. In removal proceedings, immigration judges determine whether an individual from a foreign country (an alien) should be allowed to enter or remain in the United States or should be removed. Immigration judges also have jurisdiction to consider various forms of relief from removal. If the immigration judge finds the individual to be removable, as charged, the individual can then request several different forms of relief from removal such as asylum and withholding of removal (including protection under the Convention Against Torture), cancellation of removal, voluntary departure, or other forms of relief from removal. Immigration judge decisions are administratively final unless appealed or certified to the BIA.

Some removal proceedings are conducted in prisons and jails as part of the Institutional Hearing Program. In coordination with DHS and correctional authorities across the country, immigration judges conduct hearings to adjudicate the immigration status of alien inmates while they are serving sentences for criminal convictions.

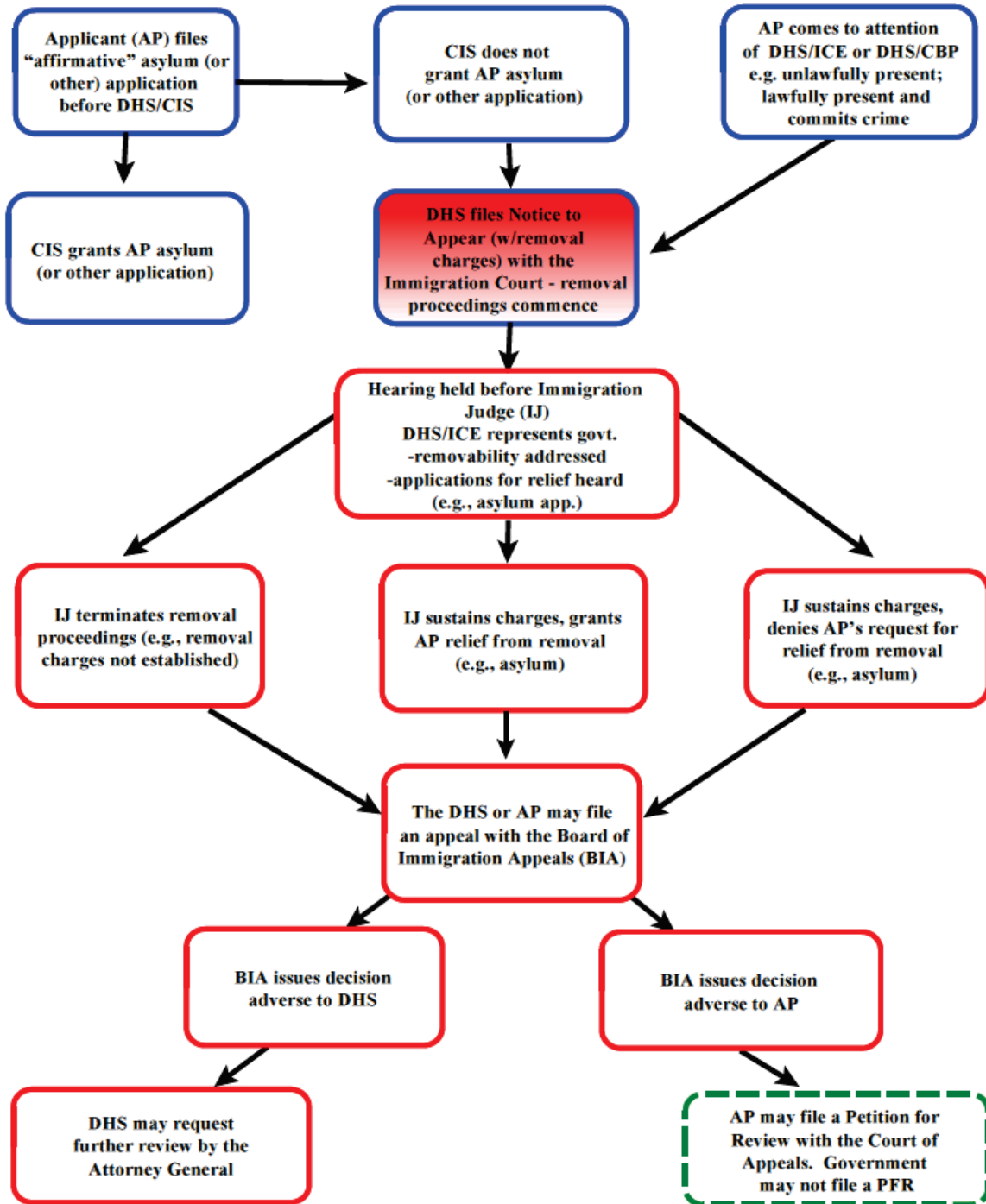
Appellate Review: In most appeals to the BIA, the process begins with the filing of a notice of appeal challenging an immigration judge's decision. The appeal can be filed either by the alien or the Government (which is represented by DHS's Immigration and Customs Enforcement).

When an appeal is filed by either party, the BIA acknowledges receipt of the appeal, transcribes the proceedings (where appropriate), and sets a briefing schedule to allow both parties to present their arguments. Once briefing concludes, the appeal is adjudicated by a panel of one, three, or all Board Members.

If the decision is not published, the decision is binding only on the parties. If the BIA elects to publish the decision, it becomes legal precedent and is binding nationwide. The BIA's decision will stand unless and until modified or overruled by the Attorney General, a federal court, or the BIA itself pursuant to a motion.

The following flowchart details examples of paths to and through removal proceedings.

EXAMPLES OF PATHS TO AND THROUGH REMOVAL PROCEEDINGS



OCAHO Administrative Hearings: OCAHO cases begin with the filing of a complaint, either by the DHS, Immigration and Customs Enforcement, in employer sanctions and document fraud cases under INA §§ 274A and 274C, respectively, or by private individuals or entities and/or the DOJ, Office of Special Counsel for Immigration Related Unfair Employment Practices, Civil Rights Division, in immigration-related employment discrimination cases under INA § 274B. After the complaint is filed, the respondent is given an opportunity to file an answer. Following the answer, the parties typically file prehearing statements, undertake discovery, and participate in one or more telephonic prehearing conferences with the ALJ. Parties may also engage in settlement negotiations and file dispositive motions with the ALJ. Cases that are not resolved or dismissed proceed to a formal evidentiary hearing, typically held near where the parties reside or the alleged violation(s) occurred. Final decisions and orders issued by the ALJ in employer sanctions and document fraud cases are reviewable by the CAHO and/or the Attorney General. Once a final agency decision has been issued, a party may file an appeal with the appropriate federal circuit court of appeals. Final ALJ decisions in immigration-related employment discrimination cases are not reviewable by the CAHO or the Attorney General; rather, these decisions may be appealed directly to the appropriate federal circuit court of appeals.

C. EOIR's 2017 Budget Strategy

EOIR's immigration courts represent the Department's front-line presence with respect to the application of immigration law. EOIR does not initiate any immigration case. Rather, our cases start when DHS files charging documents with the immigration courts seeking the removal of undocumented immigrants from the United States. It remains critically important that EOIR have sufficient adjudicative resources to keep pace with DHS's enforcement efforts.

The largest challenge facing the immigration courts is the growing pending caseload. At the end of FY 2015, there were more than 457,000 cases pending in immigration courts around the country, by far the largest pending caseload before the agency. The agency's FY 2017 strategy is a sustained focus on increasing our adjudicative capacity in order to meet EOIR's mission to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws.

EOIR's strategy includes three major areas. First, EOIR is examining and updating, as necessary, its adjudicative priorities in order to best use its resources. In accordance with the President's directives, in FY 2014 EOIR set the adjudication of cases of recent border crossers that fall into the following DHS-identified groups as its top priority: unaccompanied children; adults with children in detention; and adults with children released on "alternatives to detention." Hearings for individuals in detention continue to be processed expeditiously, as they were prior to the announcement of the newly defined priority groups. EOIR is scheduling these cases on the shortest timelines possible without jeopardizing due process. The focus of EOIR's resources on the priority case groups has had an impact on the non-detained, non-priority cases awaiting adjudication, and some of those non-priority cases have been delayed.

Second, EOIR will continue discussions with DHS to gauge the impact of enforcement activities upon the immigration courts and to adjust dockets and resource allocations accordingly. EOIR anticipates that these discussions combined with an increase in resources will allow EOIR to manage its caseload more effectively.

Finally, given the size of the current case backlog EOIR will continue hiring up to authorized levels to fill immigration judge positions and other positions that provide support to the immigration courts in order to achieve more timely adjudication of cases and to systemically reduce the backlog of pending cases.

To implement EOIR's strategy, the request includes program increases totaling \$7.4 million to modernize mission critical systems and to provide for infrastructure improvements.

D. Challenges

1. *Internal Challenges*

EOIR faces challenges associated with reaching its newly authorized adjudicative capacity of 374 IJs. The agency was impacted by the Department-wide hiring freeze between January 2011 and February 2014, as well as by normal attrition. As a result the immigration judge corps was reduced from a high of 272 in December 2010 to 235 in April 2015. At the same time that EOIR lost personnel critical to the adjudication of cases, DHS enforcement funding increased, putting more of a strain on EOIR's immigration courts across the country. Additionally, at this time, over half of the immigration judge corps is eligible to retire. Although EOIR has been able to hire additional immigration judges, including 20 who entered on duty in FY 2015, hiring must continue unabated to backfill existing vacancies and to fill new positions.

Although EOIR is intently focused on hiring, the immigration judge hiring process is complex and multifaceted. Since IJ appointees carry the Attorney General's delegated authority to exercise her discretion independently in the cases that come before them, EOIR and the Department must exercise the due diligence required to identify and appoint highly capable immigration judges. In addition to our need to ensure that candidates are well qualified in terms of their familiarity with immigration law and possess necessary character traits to make them a good fit, we also must vet them through a careful and thorough process, which includes a Deputy Attorney General panel and background check prior to the Attorney General appointment. Consequently, the time it takes to hire an IJ from announcement to entrance on duty often does not occur within a single fiscal year. However, EOIR has taken steps to reduce the time to hire by streamlining processes and providing the necessary support staff.

2. *External Challenges*

Continued growth in EOIR's caseload represents an additional challenge. EOIR receives virtually all of its workload in the form of cases brought by DHS seeking the removal of aliens from the United States. It remains critically important to balance EOIR's adjudicative resources with DHS's enforcement efforts.

The number of cases pending adjudication rose from 298,088 at the end of FY 2011 to 457,106 at the end of FY 2015, an increase of more than 159,000 cases. This represents a nearly 65 percent increase in cases pending adjudication in five years. In addition, the cases generated by the border surge in the summer of 2014 greatly impacted EOIR's pending caseload. In response to the 2014 Southwest border crisis, EOIR realigned its resources to prioritize the cases of recent

border crossers, including unaccompanied children and adults with children, along with its existing focus of detained cases. As a result, non-priority cases have been delayed.

The pending caseload remains the key challenge for EOIR as its courts continue to receive hundreds of thousands of cases for adjudication each year. Additionally, the BIA's sustained level of approximately 30,000 appeals per year is an extremely large volume for any appellate body.

Overview for the Office of the Pardon Attorney

For FY 2017, the Office of the Pardon Attorney (OPA) requests a total of \$9,293,000, 52 FTE, and 60 positions, of which 34 are attorneys, to help achieve its mission of advising and assisting the President in the exercise of the pardon power conferred on him by Article II, Section 2 of the Constitution. This request includes a program increase of \$1,163,000, 7 FTE, and 14 positions, of which 7 are attorneys, to help support and accomplish the goals of the Clemency Initiative announced by the Deputy Attorney General in April 2014. The Initiative focuses consideration on commutation applications from low-level, non-violent offenders who have served at least 10 years in prison, have demonstrated good conduct in prison, have no history of violence and no significant criminal history or ties to gangs or large-scale criminal organizations, and if convicted today of the same offenses, would likely receive substantially lower sentences than those they are serving.

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>

1. Introduction

For over 100 years, the President has requested and received the assistance of the Attorney General and his/her designees in the Department of Justice in exercising his clemency power with regard to persons who have committed offenses against the United States. Within the Department, OPA is the component assigned to carry out this function under the direction of the Deputy Attorney General. The long-standing role of Department officials advising the President on clemency matters is reflected in various public record documents dating to the late 19th century. Moreover, since at least 1898, Presidents have adopted advisory rules to describe their programs for processing clemency applications and their directions to the Attorney General in carrying out the Department's clemency advisory functions. The rules, which govern OPA's work but do not bind the President, are approved by the President and published by the Attorney General. The current version of the administrative rules was promulgated in October 1993 and amended in August and September 2000. They are published in 28 C.F.R. §§ 1.1 to 1.11 and are also available on OPA's web site at <http://www.justice.gov/pardon/clemency.htm>.

The two principal forms of clemency sought by applicants are pardon after completion of sentence and commutation (reduction) of a sentence being served. The traditional standards by which clemency applications are evaluated in connection with the preparation of the Department's letters of advice to the President have been utilized for decades and are publicly available on OPA's web site at <http://www.justice.gov/pardon/petitions.htm>. The criteria for commutation consideration under the Clemency Initiative is also available on the Office's web site at <http://www.justice.gov/pardon/clemency-initiative>.

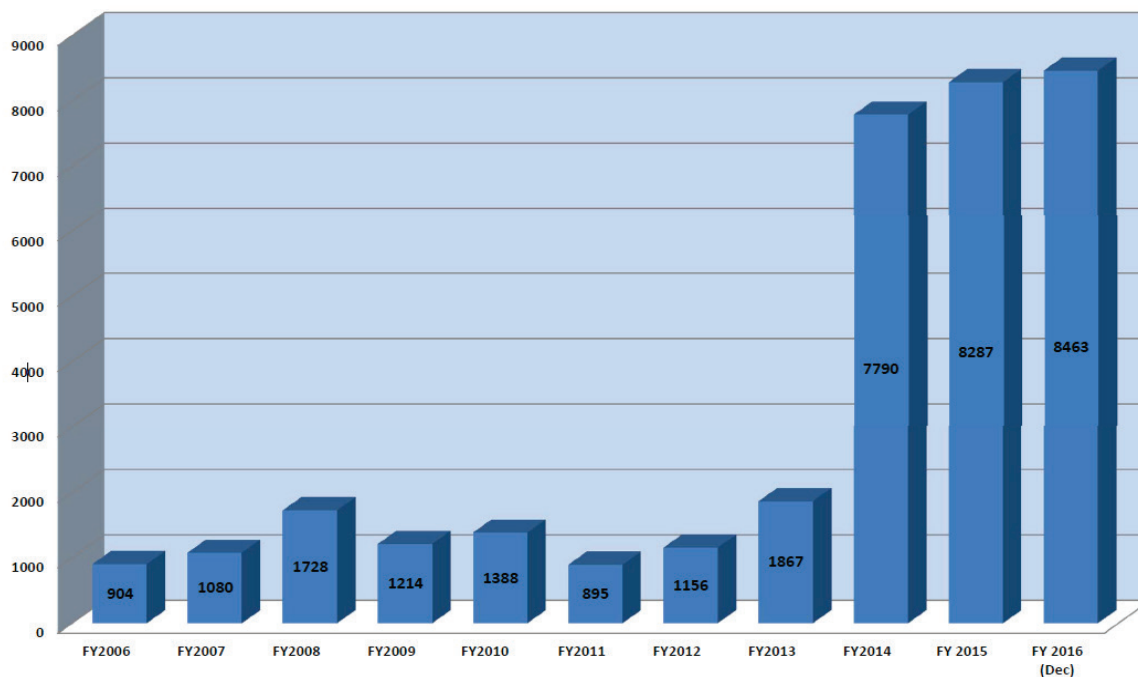
2. Program Description

The primary function of OPA is to receive, evaluate, and investigate clemency applications and prepare the recommendation of the Department of Justice as to the appropriate disposition of each application for the signature of the Deputy Attorney General. In addition, OPA responds to inquiries concerning executive clemency petitions and the clemency process from applicants, their representatives, members of the public, Members of Congress, and various federal, state, and local officials and agencies; prepares all necessary documents to effect the President's decision to grant clemency; and notifies each clemency applicant of the President's decision concerning his or her clemency request. When asked to do so, OPA also provides general advice to the White House concerning executive clemency procedures and the historical background of clemency matters.

3. Challenges

OPA's workload has increased significantly since FY 2007, which was the last fiscal year when its total of new cases received numbered fewer than approximately 2,000. In the eight fiscal years between FY 2008 and FY 2015, OPA received a total of more than 24,797 new petitions for processing, of which 21,563 were petitions for commutation of sentence. The case filings in FY 2014, consisting of 273 pardon applications and 6,561 commutation applications, constituted a historic total of 6,834 new filings in a fiscal year. Throughout this period, OPA's authorized staffing level was 15 positions and 14 FTE—a level that was established for the office in the mid-1990s, when OPA received approximately 600 new cases per fiscal year. Resources provided in recent appropriations and requested in the FY 2017 budget will allow OPA to address the significant backlog in case processing that developed as a result of its greatly increased workload over successive years.²

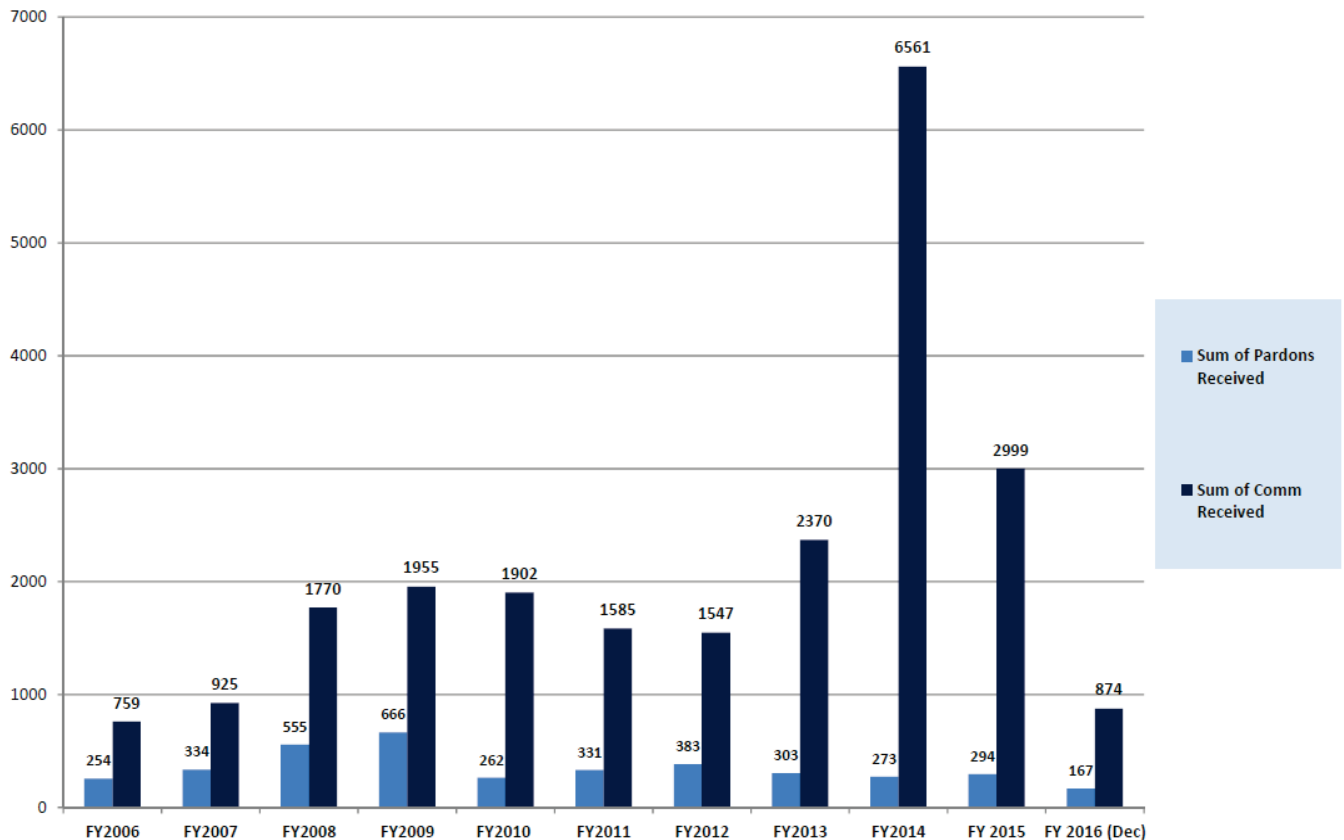
Clemency Petitions Pending in OPA at the end of a Fiscal Year or Current Fiscal Year



² The chart entitled **Clemency Petitions Pending in OPA at the end of a Fiscal year or Current Fiscal Year** shows the backlog of cases OPA had on the last day of each fiscal year for the past ten years and through end of calendar year 2015. This data is unavailable prior to FY 2006.

The announcement of the Department’s Clemency Initiative in FY 2014 has resulted in an exponential increase in new case filings for OPA. As of the end of January 2014, when the Deputy Attorney General first outlined plans for the Initiative in a speech to the New York Bar Association, OPA had received only 676 clemency applications for the fiscal year, including 608 commutation petitions. By the end of July 2014, that number had multiplied nearly 10 times to 6,105 clemency petitions, of which 5,916 were commutation requests. Given that trend, OPA expected that its new filings would meet or exceed 7,000 petitions by the end of that fiscal year, driven principally by the submission of requests for commutation of sentence. At the end of FY 2014, OPA’s estimation was only short by 166 petitions. Moreover, based on the fact that over 30,000 federal inmates have requested the assistance of pro bono counsel in order to file commutation petitions for consideration under the Initiative, there can be no doubt that OPA will receive many thousands of additional clemency petitions for processing in FY 2016. The office is obliged to process, analyze, and make recommendations on all applications it receives, regardless of whether they are from persons who are eligible to seek executive clemency from the President, and thus has no control over the size of its caseload. The impact of this massive influx of new cases will continue to be felt by the office for many years to come and the additional staff and resources requested for FY 2017 are essential to enable OPA to continue to address the significantly increased workload.³

Clemency Petitions Received from FY 2006 to FY 2016



³ The chart entitled **Clemency Petitions Received from FY 2006 to FY 2016** shows the successive increase of commutation petitions received over the past ten years, including the huge influx after the Department’s announcement of the 2014 Clemency Initiative.

II. Summary of Program Changes – Executive Office for Immigration Review

Item Name	Description				Page
	Executive Office for Immigration Review	Pos.	FTE	Dollars (\$000)	
Modernization of Mission Critical Systems	Funding to modernize mission critical case management and related systems and reduce maintenance costs through the phased elimination of paper filings, processing, and retaining documents in electronic form.	0	0	1,706	26
Infrastructure Improvements	Funding for infrastructure improvements and associated building costs to prepare immigration court space for immigration judges and supporting staff.	0	0	5,727	28
Total, EOIR		0	0	\$7,433	

Summary of Program Changes – Office of the Pardon Attorney

Item Name	Description				Page
	Office of the Pardon Attorney	Pos.	FTE	Dollars (\$000)	
Clemency Initiative	To fund the hiring of additional staff to address the important mission of the Clemency Initiative by advising and assisting the President in the exercise of the executive clemency power.	14	7	\$1,163	30
Total, OPA		14	7	\$1,163	

III. Appropriations Language and Analysis of Appropriations Language

The FY 2017 budget request includes proposed changes in the appropriations language set forth and explained below. Language proposed for deletion is bracketed. New language is italicized and underlined.

Appropriations Language:

Administrative Review and Appeals (Including Transfer of Funds)

For expenses necessary for the administration of pardon and clemency petitions and immigration-related activities, [\$436,893,000] *\$437,444,000*, of which \$4,000,000 shall be derived by transfer from the Executive Office for Immigration Review fees deposited in the “Immigration Examinations Fee” account. *Provided*, that, of the amount available for the Executive Office for Immigration Review, not to exceed \$15,000,000 shall remain available until expended.

IV. Program Activity Justification

A. Executive Office for Immigration Review (EOIR)

<i>Executive Office for Immigration Review</i>	Direct Pos.	Estimate FTE	Amount (\$\$\$)
2015 Enacted	1,793	1,349	347,154
2016 Enacted	2,138	1,667	420,283
Adjustments to Base and Technical Adjustments	0	165	435
2017 Current Services	2,138	1,832	420,718
2017 Program Increases	0	0	7,433
2017 Request	2,138	1,832	428,151
Total Change 2016-2017	0	165	0
<i>Executive Office for Immigration Review- Information Technology Breakout (of Decision Unit Total)</i>	Direct Pos.	Estimate FTE	Amount (\$\$\$)
2015 Enacted	23	23	46,372
2016 Enacted	39	39	54,606
Adjustments to Base and Technical Adjustments	0	0	0
2017 Current Services	39	39	48,382
2017 Program Increases	0	0	0
2017 Request	39	39	48,382
Total Change 2016-2017	0	0	-6,224

1. Program Description

The primary mission of the Executive Office for Immigration Review (EOIR) is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws. Under delegated authority from the Attorney General, EOIR conducts immigration court proceedings, appellate reviews, and administrative hearings.

2. Performance and Resources Tables

PERFORMANCE AND RESOURCES TABLE												
Decision Unit: Executive Office for Immigration Review												
RESOURCES			Target		Actual		Projected		Changes		Requested (Total)	
			FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
Workload:			292,000		311,882		364,451				364,451	
Immigration Court Proceedings Received ¹			35,500		28,888		29,723				29,723	
Appeals Received at BIA			384,000		435,393		477,245				477,245	
Immigration Court Proceedings Pending												
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
			1,460	347,154	1,349	347,154	1,667	420,283	165	7,868	1,832	428,151
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
		3.7 Adjudicate Immigration Cases	1,460	347,154	1,349	347,154	1,667	420,283	165	7,868	1,832	428,151
Performance Measure: Output		Immigration Courts										
		Total Matters Completed ²	285,000		262,293		380,268		33,000		413,268	
		Total Proceedings Completed ³	203,000		198,887		370,525		33,000		403,525	
		IHP Completions Detained Completions	4,870 63,500		2,911 50,460		4,876 52,521		NA NA		4,876 52,521	
Performance Measure: Efficiency		Board of Immigration Appeals										
		Total Appeals Completed Detained Completions	38,500 4,760		34,244 4,398		37,222 4,765		5,000 NA		42,222 4,765	
Performance Measure: Outcome		Immigration Courts										
		% IHP Cases within Time Goal	85%		79%		85%				85%	
		Detained Cases with Time Goal	80%		71%		80%				80%	
		Board of Immigration Appeals										
		% Detained Cases Adjudicated with Time Goal	90%		95%		90%				90%	
<p>Definition: The Executive Office for Immigration Review (EOIR) has identified two types of immigration court cases (Institutional Hearing Program (IHP) and detained cases) and one type of Board of Immigration Appeals (BIA) case (detained appeals) as case types for performance measurement. The IHP is a collaborative effort between EOIR, the Department of Homeland Security (DHS) and various federal, state, and local corrections agencies. The IHP permits immigration judges to hold removal hearings inside correctional institutions prior to the alien completing his or her criminal sentence.</p> <p>Data Validation, Verification, and Limitations: Data are collected from the Case Access System for EOIR (CASE), a nationwide case-tracking system at the trial and appellate levels. Court staff nationwide enters data, which are electronically transmitted and stored at EOIR headquarters, allowing for timely and complete data collection. Data are verified by on-line edits of data fields. Headquarters and field office staff use routine daily, weekly, and monthly reports that verify data. Data validation is also performed on a routine basis through data comparisons between EOIR and DHS databases. There are no data limitations known at this time.</p>												

¹ For an explanation of these terms, please reference our statistical yearbook.

² Prior to FY 2014, EOIR captured the following information as part of “total matters completed”: all proceeding completions (if a case moved from one court to another court a completion was counted at each court), all bond completions, and all motion to reopen or motion to reconsider completions. In FY 2014 EOIR changed the way it counts this workload measure. For the numbers reflected in this table “total matters completed” includes all case completions, all bond completions, and motion to reopen, motion to reconsider, and motion to recalendar completions that were not granted. Changes of venue and transfers are no longer counted.

³ Prior to FY 2014, if an individual changed venue or was transferred, the court would count a completion. In FY 2014 EOIR changed the way it counts this workload measure. For the numbers reflected in this table, EOIR counts initial proceeding completions as well as subsequent proceeding completions. Changes of venue and transfers are no longer be counted

PERFORMANCE MEASURE TABLE										
Strategic Objective	Decision Unit:		Executive Office for Immigration Review							
	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*
3.7	Performance Measure	Total Matters Completed	393,387	382,062	390,000	248,078	285,000	262,293	380,268	413,268
	Performance Measure	Total Proceedings Completed	302,577	289,405	294,846	184,322	203,000	198,887	370,525	403,525
	Performance Measure	IHP Completions ⁴	3,782	3,670	3,678	4,232	4,870	2,911	4,876	4,876
	Performance Measure	Detained Completions ⁵	112,154	89,350	94,868	57,842	63,500	50,460	52,521	52,521
	Performance Measure	Total Appeals Completed	35,271	36,381	36,000	30,822	38,500	34,244	37,222	37,222
	Performance Measure	Detained Completions ⁶	4,212	4,659	4,646	4,677	4,760	4,398	4,765	4,765
	Efficiency Measure	The measures above also serve as EOIR's efficiency measures								
	OUTCOME Measure	% IHP Cases w/in Time Goal	88%	87%	85%	79%	85%	79%	85%	85%
	OUTCOME Measure	% Detained Completions	88%	86%	85%	74%	80%	71%	80%	80%
	OUTCOME Measure	% Detained Appeals adjudicated within Time Goal	94%	97%	90%	93%	90%	95%	90%	90%

N/A = Data unavailable

⁴ All institutional Hearing Program cases completed during the time period.

⁵ All initial case completions for detained individuals. This does not include change of venue or transfers. In addition, it does not include cases that have been reopened or remanded from the Board of Immigration Appeals.

⁶ All appeals completed for detained individuals.

*Numbers below concerning completions represent estimated numbers completions.

3. Performance, Resources, and Strategies

EOIR's adjudication functions are part of the government's broader immigration and border control programs. As such, EOIR's ability to adjudicate cases involving individuals housed in DHS detention space in a timely fashion allows EOIR to aid in the efficient utilization of DHS detention space. The guarantee of fairness and due process, including for those individuals in detention, remains a cornerstone of our judicial system, and EOIR's role in granting relief from removal in meritorious cases, and in the denial of relief from removal in others, helps assure the integrity of the overall process.

a. Performance Plan and Report for Outcomes

For the immigration courts, EOIR chose two priority case types as performance measures and set the following goals:

- 85% of Institutional Hearing Program (criminal aliens) cases completed before release from incarceration; and
- 80% of detained cases completed within 60 days.

In FY 2015, the immigration courts did not meet these two priority targets but continue to reallocate resources to strive to complete these priority cases in a timely fashion. The goal in FY 2017 will remain the same for both of these measures.

The performance measure for the BIA is:

- 90% of detained appeals adjudicated within 150 days.

In FY 2015, the BIA exceeded this target by 5%. This performance measure will continue through FY 2016 and FY 2017.

To summarize, the FY 2017 target is to complete EOIR's priority adjudications within established timeframes.

b. Strategies to Accomplish Outcomes

Case adjudication is the performance indicator for EOIR. Performance measures (the number of cases completed) have been established for several high priority case types.

EOIR has established case completion goals for the various types of cases that the immigration courts adjudicate. In addition, in accordance with Presidential directives, EOIR will continue to reallocate existing resources to the adjudication of priority cases including the four new priorities resulting from the recent influx of juveniles, adults with children, and recent border crossers. This includes adjusting court dockets to consolidate the amount of hearing time devoted to detained cases and to quickly scheduling first hearings for the cases of unaccompanied children and adults with children.

EOIR is moving ahead with its plans to transition from paper to electronic records. When fully implemented, this initiative will improve efficiency throughout the adjudication process. For

example, data from electronically filed documents will be automatically uploaded to EOIR's database, thus decreasing data entry time; electronic Records of Proceedings (ROPs) will be available for immediate access by staff who need to use them, eliminating the time spent waiting for files; and digitally recorded hearings can be made available to transcribers instantly rather than mailing audio tapes back and forth.

B. Office of the Pardon Attorney

<i>Office of the Pardon Attorney</i>	Direct Pos.	Estimated FTE	Amount
2015 Enacted	22	18	3,918
2016 Enacted	46	33	6,508
Adjustments to Base and Technical Adjustments	0	12	1,622
2017 Current Services	46	45	8,130
2017 Program Increases	14	7	1,163
2017 Request	60	52	9,293
Total Change 2016-2017	14	19	2,785

1. Program Description

The primary function of OPA is to receive, evaluate, and investigate clemency applications and prepare the recommendation of the Department of Justice as to the appropriate disposition of each application for the signature of the Deputy Attorney General. In addition, OPA responds to inquiries concerning executive clemency petitions and the clemency process from applicants, their representatives, members of the public, Members of Congress, and various federal, state, and local officials and agencies; prepares all necessary documents to effect the President's decision to grant clemency; and notifies each clemency applicant of the President's decision concerning his or her clemency request. When asked to do so, OPA also provides general advice to the White House concerning executive clemency procedures and the historical background of clemency matters.

2. Performance and Resource Tables

TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Program Activity	2.6	Processing clemency petitions	18	3,918	18	3,918	33	6,508	19	2,785	52	9,293
Performance Measure: Output		Number of petitions processed	1,700		2,781		3,500				4,000	
Performance Measure: Outcome		Number petitions pending at OPA	6,800		8,287		7,000				6,500	
Performance Measure: Outcome		Number of correspondence responses	N/A		N/A		2,400				2,500	

Data Definition, Validation, Verification, and Limitations: OPA's automated case tracking and processing system is updated daily and used extensively to track the status of clemency petitions and correspondence. Performance data derived therefrom are cross-referenced with internal reports to ensure accuracy.

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	Clemency petitions processed	2,409	1,669	1,962	1,079	1,700	2,781	3,500	4,000
	Performance Measure	Correspondence processed	N/A	N/A	N/A	N/A	N/A	N/A	2400	2500
	Efficiency Measure	Performance measure is efficiency measure								
	OUTCOME Measure	Petitions pending at OPA	895	1,156	1,867	7,790	6,800	8,287	7,000	6,500

NOTE: The FY 2015 Petitions Pending at OPA Target was revised at time of enactment from the level of 10,000 stated in the FY 2016 President's Budget to a target of 6,800. The revised target more accurately reflected the rate of petitions received from the Clemency Project 2014 and the plan to reduce pending petitions in FY 2015.

3. Performance, Resources, and Strategies

a. Performance Plan and Report for Outcomes

Because OPA's sole mission is to assist the President in the exercise of the clemency power, its performance measure is the number of clemency petitions it processes during a given fiscal year. Likewise, the Office's outcome measure is the number of clemency petitions that remain pending at the end of the fiscal year. In FY 2009, OPA set its annual targets for both measures at 1,500 cases, and it consistently exceeded both targets through FY 2012. In FY 2013, OPA exceeded its target for petitions processed, but it missed the target for petitions pending at the end of the fiscal year due to the uncommonly large number of new filings it received (2,673 total applications). In light of that historic number of filings, OPA increased its petitions pending target to 1,800 cases for FY 2014. However, the Office was unable to meet its outcome measure target for cases pending at the end of the fiscal year. The degree to which the Office will be able to meet its annual cases-pending outcome target will depend significantly on the volume of new petitions filed in upcoming fiscal years and how quickly OPA can bring new staff on board to work through the high cumulative number of petitions filed in the last few fiscal years.

OPA's ability to achieve its targets has been adversely affected by the cumulative effect of the uncommonly large number of petitions it received in FY 2013 and, especially, by the influx of commutation petitions submitted in FY 2014 as a result of the announcement of the Clemency Initiative. As OPA's existing staff has discovered, expending the substantial resources required simply to manage such a volume of clemency requests significantly decreases those available for analyzing and evaluating the merits of individual applications and preparing the appropriate letters of advice to inform the President. This problem will become substantially more acute in FY 2016, as more and more commutation petitioners file applications in the expectation that they will be decided before the end of the current Administration. Given the many thousands of inmates (over 30,000) who already have requested legal assistance from the consortium of defense attorneys formed to provide pro bono representation to potential applicants under the Initiative, there can be no doubt that the numbers of commutation petitions filed by the end of FY 2016 will be extraordinary and that the cumulative effect of such filings will be especially challenging in FY 2017.

Accordingly, OPA's need for additional resources in FY 2017 is essential. The number of petitions the Office can reasonably expect to process to completion during FY 2017 depends critically upon the number of additional staff OPA ultimately is able to hire in FY 2016 and how quickly they can be brought on board and trained in commutation evaluation.

b. Strategies to Accomplish Outcomes

Building upon the resources enacted in FY 2016, which includes an additional 16 attorneys, 5 paralegals, and 3 administrative support staff members, OPA's request for FY 2017 includes an additional 7 attorneys, 6 paralegals, and 1 administrative staff. Once they are onboard, these additional personnel will bring OPA's total staffing complement to 60, including 34 attorneys and 26 non-attorneys.

Because of the electronic case processing and tracking system OPA uses to manage its workload, paralegal and administrative staff are crucial to the efficient processing of clemency petitions.

The myriad tasks they fulfill include opening cases and scanning files; obtaining necessary records from outside agencies such as the Bureau of Prisons and United States Probation Offices and adding them to electronic case files; flagging substantive issues for attorneys; assisting with the production and dissemination of requests for comments from United States Attorneys and sentencing judges, tracking and responding to mail and e-mail inquiries from petitioners, their representatives, third parties, and government entities; preparing packages of letters of advice for transmittal to the Office of the Deputy Attorney General and the White House; continuously updating electronic case files and tracking cases from beginning to end; preparing notices of decision after the President has acted; closing case files; preparing and cross-checking caseload reports; managing Freedom of Information Act requests and responses; drafting responses to White House mail on clemency related inquiries for the signature of the Pardon Attorney; and maintaining clemency statistics.

The additional attorney positions requested for FY 2017 are essential to OPA's effort to make substantial progress on the enormous caseload that has developed since the announcement of the 2014 Clemency Initiative and will grow over the next fiscal year. Many of these cases will raise complex legal issues, since the Clemency Initiative criteria require the determination of whether a petitioner's sentence would be different if imposed under current law. Given the volume of cases OPA is expected to receive and process under the Initiative, it is extremely important that the office have on staff as large a cadre of experienced clemency attorneys as possible to evaluate the merits of incoming petitions and draft cogent, legally correct letters of advice to assist the President's decision-making.

V. Program Increases by Item

Item Name: **Modernization of Mission Critical Systems**

Budget Decision Unit: Executive Office for Immigration Review

Strategic Goal & Objective: 3.7: Adjudicate all immigration cases promptly and impartially in accordance with due process.

Organizational Program: Immigration Adjudications

Program Increase: Positions 0 Agt/Atty 0 FTE 0 Dollars \$1,706,000

Description of Item

This increase will provide EOIR with needed funds to modernize mission critical case management and related systems.

Justification

EOIR is undertaking a multi-year effort to modernize the current case management and related electronic systems that support EOIR in achieving its mission. The EOIR Court and Appeals Systems program has been established to modernize these systems and reduce maintenance costs through the phased elimination of paper filings, processing, and retaining all records and documents in electronic form. By leveraging industry best practices, EOIR will work to build a next-generation Web-based system that tracks, displays, and manages immigration-related records; routes immigration-related documents for the appropriate approvals/decisions; provides improved access to select immigration data; allows for electronic filing and payment; delivers statistics and reports for enhanced court management; and allows for the intergovernmental secure transfer of data. These modernizations will, when implemented, improve internal management tools and create external efficiencies for respondents and government attorneys alike. Increased funding would allow EOIR to speed the timeline to develop and implement the new systems and realize the associated improvements and efficiencies.

Impact on Performance (Relationship of Increase to Strategic Goals)

This initiative ties directly to Strategic Objective 3.7 and to Congress and the Administration's immigration priorities.

**Modernization of Mission Critical Systems
Funding**

Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
0	0	0	0	0	0	0	\$800	0	0	0	\$800

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization
Total Personnel				

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization
Modernization of Mission Critical Systems			\$1,706	
Total Non-Personnel			\$1,706	

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total	FY 2018 Net Annualization
Current Services	0	0	0	0	\$800	\$800	
Increases	0	0	0	0	1,706	1,706	
Grand Total	0	0	0	0	\$2,506	\$2,506	

Item Name: **Infrastructure Improvements**

Budget Decision Unit: Executive Office for Immigration Review

Strategic Goal & Objective: 3.7: Adjudicate all immigration cases promptly and impartially in accordance with due process.

Organizational Program: Immigration Adjudications

Program Increase: Positions 0 Agt/Atty 0 FTE 0 Dollars \$5,727,000

Description of Item

This increase will provide EOIR with needed funds to complete necessary infrastructure improvements and associated building costs.

Justification

EOIR requests an increase in funding in FY 2017 to complete facility and courtroom expansion for judges and staff associated with the additional 55 immigration judge (IJ) teams provided in the FY 2016 Appropriation. Courtroom space has unique and specific building requirements, particularly associated with the public seating area and the litigation area. Specifically, each courtroom must have sufficient square footage to accommodate seating for the public as well as a security gate to separate the two areas, and the litigation area must have a raised dais for the IJ, a witness stand, and tables for the respondent and government representative. In addition to courtroom space, the court function also requires typical office space for the IJs and work space for supporting staff, as well as other typical office needs (*e.g.*, open and closed file rooms and internal break and restroom facilities). Without this necessary physical space for hearings, EOIR cannot accommodate the members of the public who must appear before our judges, nor will it adequately support the immigration judges and support staff entering on duty through current hiring. EOIR expects to undertake the planning and acquisition process for these infrastructure improvements during FY 2016. The requested funding in FY 2017 will allow EOIR to prepare immigration court space where these facilities are most needed to best meet the agency mission to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws.

Impact on Performance (Relationship of Increase to Strategic Goals)

This initiative ties directly to Strategic Objective 3.7 and to Congress and the Administration's immigration priorities.

**Infrastructure Improvements
Funding**

Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
0	0	0	0	0	0	0	0	0	0	0	0

*Base resources specific to the FY 2017 infrastructure enhancement request do not exist.

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization
Total Personnel				

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization
Infrastructure Improvements			\$5,727	
Total Non-Personnel			\$5,727	

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total	FY 2018 Net Annualization
Current Services	0	0	0	0	0	0	
Increases	0	0	0	0	\$5,727	\$5,727	
Grand Total	0	0	0	0	\$5,727	\$5,727	

Item Name: Clemency Initiative

Budget Decision Unit: Office of the Pardon Attorney

Strategic Goal: Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law

Strategic Objective: Objective 2.6: Protect the federal fisc and defend the interests of the United States

Organizational Program: Executive clemency advisory program

Program Increase: Positions 14 Agt/Atty 7 FTE 7 Dollars \$1,163,000

Description of Item

This request includes funding for 14 additional positions, consisting of 7 attorneys, 6 paralegals, and 1 administrative support position to enhance OPA’s effort to review and prepare recommendations concerning the Clemency Initiative announced by the Deputy Attorney General in 2014.

Justification

The requested program increase for FY 2017 is essential to OPA’s effort to meet the challenging task set by the Department’s implementation of the 2014 Clemency Initiative. Given the historic numbers of commutation applicants who have already applied for clemency and who have indicated their desire to do so with the assistance of pro bono counsel, OPA will be unable to keep pace with the expected influx of petitions during the next fiscal year unless it receives the requested additional resources. OPA is obliged to process all clemency petitions it receives from persons who are eligible to seek clemency from the President. Even with the benefit of the additional resources appropriated in FY 2016, the Office will require additional staff to manage the expected increase in the commutation caseload, conduct the necessary review of petitions, and supervise the preparation of recommendations for the thousands of petitions that will be filed. This enhancement will fund the Office’s attorney and paralegal resources required to identify and present for the President’s consideration candidates for commutation of sentence who meet the criteria of the Initiative.

Impact on Performance

OPA’s mission supports Strategic Goal 2.6, which encompasses the Department’s responsibility “to support the Attorney General in her role as legal adviser to the President” including “advising the President concerning the appropriate disposition of applications for executive clemency.” As of the end of FY 2015, OPA is faced with a backlog of over 8,000 cases that undoubtedly will grow. During the past two administrations, the President’s final year in office witnessed a significant spike in the numbers of clemency petitions filed. The same effect is certain to be seen in FY 2016 as thousands of commutation petitioners seek consideration under the Clemency Initiative. These factors will inevitably lead to a continuing backlog of cases. The size of the backlog by the end of FY 2017 depends in great part on the level of resources made available to OPA to meet this challenge.

OPA will continue to track its performance by monitoring the number of petitions it processes and the number of petitions that remain pending, which still need to be reviewed and analyzed for recommendations to be written. With additional attorney and paralegal resources, the office expects to be able to increase significantly its productivity and efficiency in processing petitions. Once all of the requested additional positions are filled and new personnel are fully trained, OPA projects that it would be able to increase its case processing target to 4,000 cases for FY 2017. It will take many years, however, to work through the backlog that will only increase as the tens of thousands of inmates who have been notified that they will not receive pro bono legal assistance begin submitting their clemency petitions directly to OPA for consideration.

**Clemency Initiative
Funding**

Base Funding

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
22	11	18	3,918	46	27	33	6,508	46	27	45	8,130

Personnel Increase Cost Summary

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	2 nd Year Annualization	2 nd Year FY 2018 Net Annualization (change from 2017) (\$000)
Clerical and Office Services (0300-0399) (GS-11)	\$56	3	\$168	\$67	\$184
Attorneys (0905) (GS-14)	\$93	7	\$651	\$86	\$605
Paralegals / Other Law (0900-0999) (GS-9)	\$47	4	\$190	\$51	\$206
Total Personnel		14	\$1,009	\$216	\$995

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Build out			\$154	-\$154
Total Non-Personnel			\$154	-\$154

Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Current Services	46	27	45	\$8,130	\$0	\$8,130	\$995
Increases	14	7	7	\$1,009	\$154	\$1,163	-\$154
Grand Total	60	34	52	\$9,139	\$154	\$9,293	\$841

VI. EXHIBITS