



*U.S. Department of
Justice*

Civil Division

FY 2025 Budget & Performance Plans

March 2024

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I. Overview of the Civil Division

A. INTRODUCTION

The Civil Division (“Civil”) is the largest litigating component of the U.S. Department of Justice (“DOJ” or “the Department”). Each year, the Civil Division represents the United States and its agencies, Members of Congress, Cabinet Officers, and other federal employees in tens of thousands of matters. In total, the Civil Division litigates matters on behalf of over 100 different federal agencies. This litigation implicates a wide range of the Federal Government’s legal interests and includes cases relating to cyber and national security prerogatives and decisions; challenges to critical public-health measures, immigration policies and decisions, and Congressional enactments; contract disputes; efforts to combat fraud and abuse in federal programs; multi-million-dollar tort claims; consumer protection matters; alleged takings of property; and intellectual property disputes.

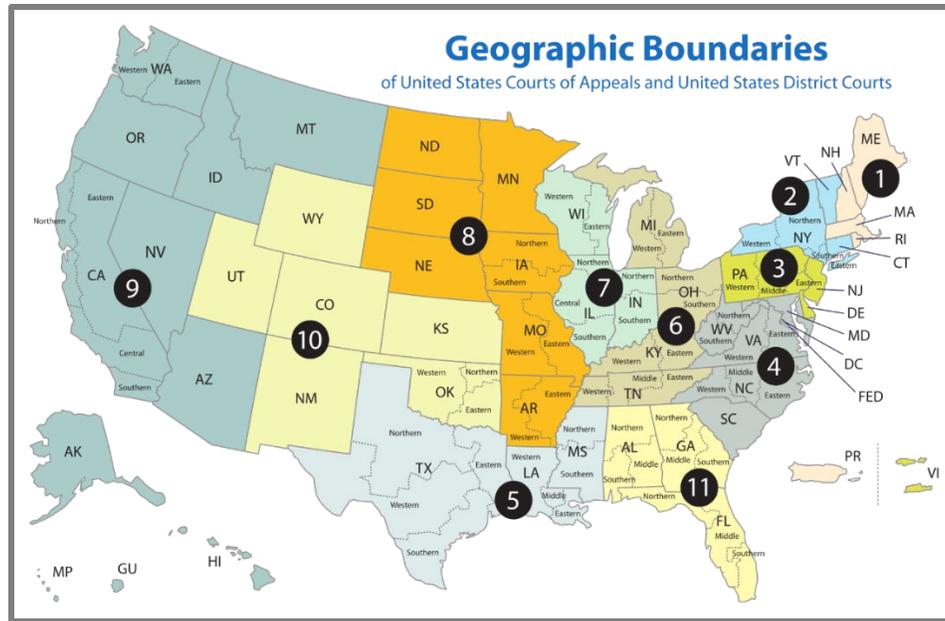
Electronic copies of the Department of Justice’s Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <https://www.justice.gov/doj/budget-and-performance>

Fiscal Year (FY) 2025 Full Program Costs

The FY 2025 Civil Division budget request provides for **\$400,410,000** and **1,281** positions, including **997** attorney positions. This request includes a program increase for Camp Lejeune PACT Act Litigation.

In addition to its litigating role, the Civil Division helps administer three compensation programs: the Vaccine Injury Compensation Program, the Radiation Exposure Compensation Act Program, and the September 11th Victim Compensation Fund.

The Civil Division defends the United States Treasury, works to ensure that the Federal Government speaks with one voice in its view of the law, defends laws enacted by Congress, and advances the credibility of the government before the courts. In these efforts, the Civil Division handles matters that are so significant in scope and span so many years that its caseload would overwhelm the resources and infrastructure of any individual field office. The Civil Division litigates matters in all Federal Judicial Circuits and the 94 Federal Districts across the country. The Civil Division also handles cases in the Court of Federal Claims and the Court of International Trade.



B. MISSION AND OBJECTIVES

The Civil Division’s litigation directly benefits the American people by protecting their safety, health, and economic security through defensive and affirmative litigation. The Division pursues fraud claims against those who seek to take advantage of the nation’s most vulnerable, as well as those who defraud federal health care programs, including by engaging in fraud related to COVID-19 or the distribution of opioids. Civil’s consumer litigation includes cases against those who market unsafe or fraudulent products and services, such as the sale and marketing of false, unapproved, misbranded, and counterfeit treatments and preventive therapies, and the improper prescribing of medications. Moreover, Civil litigates procurement fraud matters to ensure that government resources are not misused, as well as customs enforcement matters.

The Civil Division’s work also protects the health and integrity of the federal fisc. Year after year, the Civil Division recovers funds for the U.S. Treasury through cases involving health care, financial, and procurement fraud; bankruptcies; the underpayment of customs duties; and civil penalties. The largest recoveries typically occur under the False Claims Act; the Federal Food, Drug, and Cosmetic Act; or the Financial Institutions Reform, Recovery, and Enforcement Act. In FY 2023, the Civil Division returned over \$4 billion to the United States Treasury. Among other things, the Division is an expert in civil cyber-fraud enforcement and holds accountable entities and individuals that put U.S. information or systems at risk. The Civil Division also defends federal agencies in cases where other parties file monetary claims against the Federal Government. The most significant cases, in terms of dollars at issue, typically relate to contract disputes, procurement decisions, patent claims, accident and liability claims, data privacy, and constitutional takings claims. The Civil Division’s representation ensures that unmeritorious claims are not paid. The Federal Government’s potential exposure in these cases is hundreds of billions of dollars each year.

Civil Division in Action

In FY 2023, the Civil Division:

- **Returned** over \$4 billion to the United States Treasury.
- **Defeated** all or nearly all of the opposing party's claims in 91 percent of defensive cases.
- **Defended** cases in which opposing parties sought over a hundred billion dollars from the United States.
- **Defeated** thousands of challenges to laws, regulations, policies, and administrative decisions.

The Civil Division also plays a critical role in defending federal programs, laws, regulations, and agency decisions that are challenged in court. The Division defends—in district court and on appeal—a broad range of critical agency actions. Additionally, the Civil Division plays a vital role in the nation's immigration system, working to promote a fair and equitable system that reflects the nation's values. The Division also serves as a liaison and provides training to all of the government's immigration agencies and provides dependable counsel before the courts.

Overall, the Division's work reflects the diversity of the Federal Government's activities, and the Civil Division provides legal advice to agencies interpreting, modifying, or promulgating regulations or responding to novel requirements and crises.

C. EXTERNAL AND INTERNAL CHALLENGES

The Civil Division faces significant external and internal challenges affecting its ability to meet mission critical goals and objectives. These include, but are not limited to:

- Maintaining a strong cybersecurity posture;
- Transitioning to a more flexible workplace; and
- Providing reliable eLitigation resources to support Civil Division attorneys.

External Challenges

A variety of changes and events over the last several years, including the pandemic response and the rapid adaptations required, as well as more enduring changes to both private-sector and government work environments, policies, and strategies, have highlighted the importance of remote-access computing and collaboration. The new hybrid work environment presents both challenges as well as opportunities. One such challenge is cybersecurity modernization. But the flexibilities offered by the hybrid work environment increase the ability to better retain highly skilled personnel who are critical to the Division's work.

The Administration recognizes the importance of securing the virtual environment, having released an executive order boosting the Federal Government's cyber defenses,¹ and the Civil Division is committed to complying with these new guidelines. As the Division modernizes its cybersecurity systems, information technology (IT) costs are increasing, as is the need for qualified IT personnel to ensure the systems are operated with the protections necessitated by emerging threats. The Division is committed to these efforts and strives to be a leader in this arena while maintaining focus on its critical litigating mission, which such efforts help to enhance and secure.

Internal Challenges

The Civil Division is responding to an ever-increasing caseload that requires more complex investigations and litigation. In many cases, voluminous quantities of emails, internal corporate documents, text messages, and voicemails are exchanged between parties. Civil relies heavily on its Automated Litigation Support (ALS) Program to address these challenges.

The ALS Program is essential to the Division's success in litigation. Civil uses critical ALS tools and contractors to organize and control document collection and data, respond to requests for documents by opposing counsel, develop institutional memory, and provide access to case material. Increasingly, large-scale document collection and discovery are a feature of Civil's cases as they grow in size and complexity. The Civil Division has seen a rapid increase in the volume of documents produced by client agencies. It is not uncommon for a case to have a corpus of over two million documents. This increase reflects the 24 to 30 percent annual data volume growth the ALS Program has seen over the last several years. To address these challenges, the Civil Division relies on advanced analytical tools to organize, evaluate and identify potentially responsive documents that the Division is required to produce for the opposing counsel. In order to keep pace with the litigative needs of the attorneys, the Division has embraced predictive modeling, which scores documents on potential relevance to the case. Without these tools or specialized contractor support, it would not be possible for the Division to meet court deadlines in its larger cases. Such a failure would increase the risk of adverse judgments and potentially expose government litigators to sanctions from the courts.

One of the critical features of the ALS Program is Civil's ALS Labs, which are embedded in the Division's branches and provide essential onsite capability to streamline the processing and loading of data. The labs provide data-intake tracking, process and load documents from client agencies into software programs to perform document searches, offer review management, prepare productions and other deliverables, and provide discovery consultation services that are critical to the success of the Division's litigation efforts.

The Civil Division anticipates that there will be a pronounced shift on the horizon towards cloud-based eDiscovery solutions. The shift will be caused by two different influences: government policy and vendor cloud adoption. The Federal Government's Cloud First Policy strongly encourages the adoption of cloud-based tools. More importantly, many of the litigation review platforms are moving to a cloud offering. The Civil Division has seen a number of vendors who currently provide on-premise software for document review begin to offer cloud-based tools.

¹ Executive Order on Improving the Nation's Cybersecurity May 12, 2021 <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/05/12/executive-order-on-improving-the-nations-cybersecurity/>

This move indicates a strong preference by the vendors to adopt a cloud model, as it provides a streamlined development environment, minimal up-front costs and additional revenue value for their products. Evaluation of current cloud-based offerings indicate that the expense to the government will be substantial.

Addressing the Civil Division's Challenges

The transition to hybrid work and cloud-based applications has been rapid over the past several years, and changes in those areas are expected to continue. The Civil Division makes every effort to be successful in the face of these challenges, leading the Department in information technology and eLitigation responses.

II. Summary of Program Changes

Item Name	Description	Pos.	FTE	Amount (\$000)	Page
Camp Lejeune PACT Act Litigation	Resources to support claims resulting from Section 804 of the “Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022” or the “Honoring our PACT Act of 2022” (PACT Act), Public Law 117–168.	20	10	\$9,205	32

III. Appropriations Language and Analysis of Appropriations Language

The FY 2025 Budget Request includes a proposed change in the Legal Activities, Salaries and Expenses, General Legal Activities appropriations language, which is explained below. New language is *italicized and underlined*, and language proposed for deletion is bracketed.

Proposed Change

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, [\$31,738,000] *\$36,378,000* to be appropriated from the Vaccine Injury Compensation Trust Fund and to remain available until expended.

Summary

The Vaccine Injury Compensation Program (VICP) continues to experience a heavy caseload. Over the last three fiscal years, the average number of annual claims filed is 1,417. Presently, more than 4,700 cases are pending in the VICP, and on average, a claim takes two to three years to resolve from the time of filing to final adjudication. The VICP has also received 329 cases relating to a class action lawsuit implicating the human papillomavirus (HPV) vaccine, with a large number of case filings still expected.

The VICP is anticipating further increases in workload due to the likely addition of the coronavirus (COVID-19) vaccines to the VICP Injury Table. Coverage for claims of injury arising from COVID-19 vaccines is expected to transition from the Countermeasures Injury Compensation Program (CICP) at the Department of Health and Human Services (HHS) to the VICP, likely by FY 2025.² Under current law, once COVID-19 vaccines are added to the VICP Injury Table, anyone who received a COVID-19 vaccine since the start of the pandemic in 2020 would be eligible to file a VICP claim. This would result from the Vaccine Act's "lookback" provision, which permits VICP claims for injuries occurring within eight years before the date that a new vaccine is added to the VICP. As a result, unless the existing "lookback" provision is eliminated by an Act of Congress,³ when the COVID-19 vaccine is added to the VICP, any individual would be able to assert an injury claim arising from any covered COVID-19 vaccine administered since the start of the pandemic, including those who have already filed under the

² COVID-19 vaccine is already on the path to be added to the VICP. The first statutory prerequisite for coverage of COVID-19 vaccine under the VICP occurred in February 2023, when the CDC recommended the routine administration of the COVID-19 vaccine for children and adolescents. Once Congress passes an excise tax and the VICP Injury Table is amended by HHS through administrative rulemaking, COVID-19 vaccines will be included in the VICP. The Vaccine Act requires HHS to amend the Table within two years after the CDC recommendation.

³ On July 20, 2023, the Senate's Committee on Health Education Labor and Pension favorably reported S.2333, legislation reauthorizing the Pandemic and All-Hazards Preparedness Act. S.2333 includes provisions that address the issues surrounding the transition of coverage of COVID-19 vaccines from the CICP to the VICP, including language that eliminates the lookback provision and ensures that the CICP remains the exclusive remedy for claims of injury from vaccines administered prior to their addition the Vaccine Injury Table. Civil strongly supports this provision.

CICP, or could have filed a claim with the VICP but did not. This would include the more than 9,393 claimants (as of November 1, 2023) who currently have pending claims with the VICP, as well as other potential claims arising from any of the estimated 676.7 million COVID-19 vaccines administered to date. This number will only increase, as the Centers for Disease Control (CDC) is recommending a COVID booster vaccine this fall and winter for all Americans aged six months and older.

In addition, HHS conservatively estimates that 1,559 COVID-19 vaccine claims could be filed in the VICP in the first year that COVID-19 vaccines are covered in the VICP. Together this would result in an influx of approximately 11,000 claims at the outset. Civil predicts this number will be much higher, as it is believed that many individuals held off filing claims under the VICP due to the more limited damages and lack of reimbursement for attorneys' fees in the VICP as compared with the VICP, believing that COVID-19 vaccine would eventually be covered under the VICP.⁴ With the anticipated addition of the COVID-19 vaccine to the VICP, and under the law as it currently stands, it is essential that the program receive the requested funding to successfully manage the current caseload, and be prepared for the potential significant number of new COVID-19 vaccine cases, assuming a full transition of coverage.⁵

The Civil Division is requesting a total reimbursement of \$36.7 million, an increase of \$5.0 million over the FY 2024 Continuing Resolution⁶. This funding level will allow the VICP to maintain its staffing level of 119 positions and effectively manage the current caseload. If COVID-19 vaccines transition to the VICP, the VICP will be positioned to begin processing the initial wave of cases that are expected to be filed, but future increased funding levels may be necessary depending on the scope of VICP coverage for COVID-19 vaccines—that is, whether it is prospective only, or is retrospective as well.

Funding for the VICP is unique in that Congress appropriates a reimbursement from the Vaccine Injury Compensation Trust Fund to HHS, the Civil Division, and the Office of Special Masters at the U.S. Court of Federal Claims. The Vaccine Injury Compensation Trust Fund, which has a current balance of more than \$4.4 billion, as of November 30, 2023, and is funded by an excise tax on vaccines, also pays compensation to petitioners, and funds petitioners' attorneys' fees and litigation costs. Providing the Civil Division with the necessary resources to maintain its attorney staff and hire quality litigation consultants with medical, scientific, and life-care expertise will enable the Division to appropriately litigate VICP cases and will prevent

⁴ As of August 8, 2023, the CDC's Vaccine Adverse Event Reporting System (VAERS) has received more than 1 million reports of adverse events following COVID-19 vaccine. While there are significant limitations with using VAERS as a benchmark for estimating the number of true adverse events—including that it is a voluntary reporting system that does not verify the accuracy or completeness of the information provided—the staggering number of reports suggests that HHS's prediction of approximately 1,559 VICP claims may be low.

⁵ As noted, Civil strongly supports elimination of the lookback provision, which if enacted, would limit potential COVID-19 claims to those arising from vaccines administered *after* COVID-19 vaccine is added to the VICP, not any previously administered vaccines.

⁶ Amounts included herein referring to the FY 2024 Continuing Resolution reflect an Annualized Continuing Resolution level.

potentially unmeritorious cases from receiving compensation and meritorious cases from being overcompensated.

Background

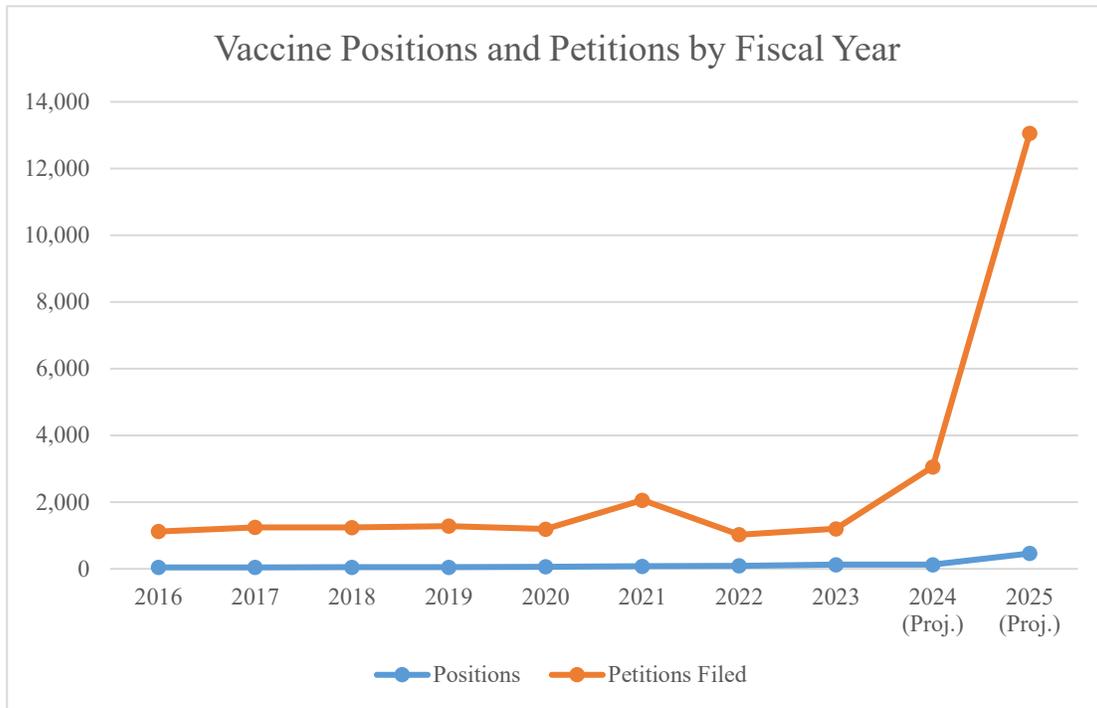
The National Vaccine Injury Compensation Program (VICP) is an alternative to the tort system for resolving certain claims arising from vaccine injuries. Whether a vaccine manufacturer or administrator is afforded liability protections under the program depends upon whether the vaccine is covered under the VICP.

For a category of vaccines to be covered by the VICP, the category of vaccines must first be recommended for routine administration to children or pregnant women by the CDC (e.g., vaccines that protect against seasonal influenza), subject to an excise tax by federal law, and added to the VICP by the Secretary of Health and Human Services. There have been several proposed bills that have sought to facilitate movement of the COVID-19 vaccines from the VICP to the VICP. Although none have passed yet, there is demonstrated congressional interest in expanding the VICP to cover COVID-19 vaccine injuries. If Congress enacts an excise tax on these vaccines, the Civil Division anticipates that VICP coverage would begin shortly thereafter, as soon as HHS, through administrative rulemaking, adds the vaccine to the Vaccine Injury Table.

The ability of vaccine manufacturers to rely on the Vaccine Injury Compensation Program to insulate them from liability for alleged injuries resulting from currently covered vaccines administered in the United States has been, and continues to be, key to manufacturers' willingness to develop new vaccines.

Justification

There has been an increase in newly filed VICP cases in the past decade, and that would increase dramatically with coverage of the COVID-19 vaccines within the VICP. Caseloads would further balloon if petitioners file claims alleging COVID-19 vaccine injury arising from vaccines administered prior to the date COVID-19 vaccines are added to the VICP. This combination of factors, which the Civil Division thinks is likely under current law, would require that the program be sufficiently staffed in order to begin to manage a rapid influx of claims and continue to ensure the functioning of the program as Congress intended.



Impact on Performance

Funding will allow the VICP to manage its current increased caseload and be prepared to handle the possible coverage of COVID-19 vaccines within the program. This will enable the Civil Division to continue to properly litigate cases and prevent summary action being taken by the Court, which would be adverse to the government’s interests. It will also ensure that petitioners with meritorious claims receive compensation in a timely manner, prevent petitioners with pending claims from abandoning the VICP and filing civil lawsuits against vaccine manufacturers or administrators, and prevent failure of the VICP as a whole by ensuring its continued viability under these evolving circumstances. Funding for the VICP supports the Departmental objective of Protecting Vulnerable Communities.

IV. Program Activity Justification: Legal Representation

A. LEGAL REPRESENTATION

1. Program Description

Legal Representation	Direct Positions	Estimated FTE	Amount (\$000)
2023 Enacted ^{1/}	1,304	1,144	\$374,560
2024 Continuing Resolution	1,239	1,239	\$374,560
Adjustments to Base and Technical Adjustments	22	22	\$16,645
2025 Current Services	1,261	1,261	\$391,205
2025 Program Increases	20	10	\$9,205
2025 Request	1,281	1,271	\$400,410
Total Change 2024-2025	-42	32	\$25,850

Legal Representation-Information Technology Breakout (of Decision Unit Total)	Direct Positions	Estimated FTE	Amount (\$000)
2023 Enacted ^{1/}	31	31	\$44,842
2024 Continuing Resolution	31	31	\$45,616
Adjustments to Base and Technical Adjustments	0	0	\$7,201
2025 Current Services	31	31	\$52,817
2025 Program Increases	0	0	0
2025 Request	31	31	\$52,817
Total Change 2024-2025	0	0	\$7,201

^{1/} FY 2023 FTE is actual.

The Civil Division represents the United States in any civil or criminal matter within its scope of responsibility. The Civil Division is composed of six litigating branches (several of which have multiple sections) as well as an administrative office, the Office of Management Programs. The six litigating branches are listed below.



Appellate Staff



Commercial Litigation Branch

- Corporate and Financial Litigation Section
- Office of Foreign Litigation
- Fraud Section
- Intellectual Property Section
- National Courts Section



Consumer Protection Branch



Federal Programs Branch



Office of Immigration Litigation

- District Court Section
- Appellate Section



Torts Branch

- Aviation, Space and Admiralty Section
- Constitutional and Specialized Tort Litigation Section
- Environmental Tort Litigation Section
- Federal Tort Claims Act Litigation Section

Appellate Staff

The Civil Division’s Appellate Staff represents the interests of the United States in federal circuit courts of appeals and state appellate courts. The Appellate Staff’s cases involve complex, sensitive, and novel legal questions that often set far-reaching precedents. These cases include constitutional challenges to statutes passed by Congress, as well as challenges to federal regulations, Executive Orders, and other Executive Branch decisions when these matters are litigated in appellate courts. The Appellate Staff has also devoted significant resources to defending measures which were taken to respond to the COVID-19 pandemic, including efforts to provide relief to socially and economically disadvantaged communities, which were hardest hit by the pandemic. The Appellate Staff has defended the implementation of economic relief provided under the American Rescue Plan Act, the Paycheck Protection Program, and the Coronavirus Aid, Relief, and Economic Security Act.

The Appellate Staff has also defended actions intended to protect against wrongful discrimination and to ensure that all Americans receive equal treatment under the law. The Appellate Staff has worked to defend the government’s response to the immigration crisis at the border and its efforts to ensure that noncitizens, including unaccompanied noncitizen children, are treated humanely, receive appropriate care and shelter, and are given a fair, orderly, and safe way to seek relief under our immigration laws. Additionally, the Appellate Staff represents the United States in affirmative litigation, such as consumer protection cases and False Claims Act suits to recover money fraudulently obtained from the U.S. Treasury.

Commercial Litigation Branch

The Civil Division’s Commercial Litigation Branch has five sections: (1) Corporate/Financial Litigation, (2) Foreign Litigation, (3) Fraud, (4) Intellectual Property, and (5) National Courts.

Corporate/Financial Litigation Section

The Corporate/Financial Litigation Section protects the financial interests of the United States by handling unique nationwide matters that involve significant federal interests. The Section protects the federal fisc when highly regulated businesses, and those with large-dollar government contracts, loans, and grants, are in financial distress. The Section has a primary role in the United States' affirmative efforts to collect debts owed to the United States and to protect the fiscal integrity of federal lending and healthcare programs. It also has a long-standing role in pursuing recoveries that thwart healthcare fraud and abuse. The Section's cases, which are both affirmative and defensive, involve many different industries, including healthcare providers, drug manufacturers, insurers, communications companies, energy producers and suppliers, crypto currency, and commercial airlines.

As a result of the COVID-19 pandemic, the government initiated a wide range of financial programs involving billions of dollars. The ensuing litigation involving these programs, including efforts to collect misspent funds and amounts owed on defaulted loans and guaranties, will form a large portion of the Section's work for some time. In addition, it is anticipated that business failures that implicate federal financial interests will increase as government support related to pandemic relief has come to an end.

Office of Foreign Litigation

The Office of Foreign Litigation (OFL) represents government's interests in foreign courts. OFL currently has more than 1,660 cases in approximately 200 countries. As OFL attorneys are not licensed to practice law in foreign jurisdictions, the office retains and closely instructs foreign counsel to represent U.S. interests in foreign courts. Most OFL cases are defensive, representing the United States and its officials against claims arising from the U.S. Government's activities abroad. OFL also prosecutes affirmative litigation to counter fraud and other wrongs against the United States and represents the interests of the U.S. in foreign criminal proceedings. Cases span a wide range of subjects including data privacy, tax and revenue, intellectual property, employment, breach of contract, foreign aid, real property disputes, visa fraud, and national security. OFL also provides advice to other parts of the government concerning a wide range of international and foreign law matters. In its capacity as Central Authority for international treaties governing cross-border discovery, OFL assists foreign courts and U.S. agencies in service and evidence collection.



Fraud Section

The Civil Division’s Fraud Section recovers billions of dollars annually by investigating and litigating matters involving fraud against the Federal Government. The Fraud Section pursues fraudulent schemes impacting cybersecurity, federal health care programs, and any other types of fraudulent conduct that results in the waste and abuse of taxpayer funds. The Section has long been a leader in pursuing fraud cases involving IT and military contracts, deficient goods and services, and bribery and corruption. Over the last year, the office has seen its national security practice increase and expand in new ways, especially in the areas of cybersecurity and protecting intellectual property and scientific research. Much of the Fraud Section’s matters are pursued under the False Claims Act (FCA) and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). In FY 2023, the Department recovered more than \$4.1 billion in settlements and judgments under the FCA and FIRREA.

The False Claims Act whistleblower (or “qui tam”) provision allows individuals to file lawsuits alleging false claims on behalf of the government. If the government prevails, the whistleblower may receive up to 30 percent of the recovery. In FY 2023, over 700 new qui tam suits were filed, and \$2.7 billion in settlements and judgements were obtained. Whistleblower awards during the same period totaled \$347.0 million.

Intellectual Property Section

The Intellectual Property (IP) Section represents the United States in all intellectual property matters where a patent, copyright, or trademark is at issue. The IP Section enforces government-owned patents and trademarks through infringement suits and Uniform Domain-Name Dispute-Resolution Policy proceedings. It defends government agencies against claims of patent, copyright, and trademark infringement. It also defends the validity of government-owned patents and trademarks administrative tribunals of the United States Patent and Trademark Office. The IP Section also defends the Register of Copyrights and the Director of the Patent and Trademark Office in their respective administrative actions. Many of the cases handled by the IP Section involve complex technologies, such as pharmaceutical compositions and highly sophisticated electronic devices, as well as technologies to advance national security and protect critical infrastructure and communications networks. To meet the challenges presented by these cases, all attorneys assigned to the IP Section hold a degree in one of the physical sciences or in a field of engineering and each attorney must be eligible to register for practice before the U.S. Patent and Trademark Office.

National Courts Section

One of the largest and oldest litigating sections in the Department, the National Courts Section (National Courts) handles matters in three Federal courts with nationwide jurisdiction: the U.S. Court of Appeals for the Federal Circuit, the U.S. Court of Federal Claims, and the U.S. Court of International Trade (CIT), as well as other Federal district and appellate courts. National Courts focuses on procurement and contract disputes, constitutional claims, pay claims, personnel appeals, and veterans’ benefit appeals. It is also responsible for defending challenges to the government’s customs and trade decisions, as well as prosecuting civil penalty and collection actions for customs violations, in the CIT, an Article III court. Additionally, National Courts handles appeals from the Court of Federal Claims, the CIT, and numerous other tribunals in the United States Court of Appeals for the Federal Circuit. Since 2019, citing national security concerns, the Executive Branch has taken numerous actions in the realm of customs and trade

that have dramatically increased National Courts' workload. National Courts' larger trial cases often last for years and involve large sums of money. In the National Courts' procurement practice, attorneys defend against a steadily growing number of lawsuits (referred to as bid protests), challenging agency contracting efforts. Since FY 2020, National Courts has received, and continues to receive, a massive influx of cases from the CIT relating to tariffs on Chinese imports. The COVID-19 pandemic also caused a significant, resource-intensive increase in litigation and requests for advice from agencies, with numerous class-action complaints raising constitutional and other claims being filed in the Court of Federal Claims. These cases are still a source of significant workload for the National Courts Section and are expected to likely remain so for some time.

Consumer Protection Branch

The Civil Division's Consumer Protection Branch (CPB) protects the health, safety, and economic security of American consumers through criminal prosecutions and civil enforcement actions. The Branch's workload encompasses cases involving pharmaceuticals and medical devices, deceptive trade practices and telemarketing fraud, consumer product safety, elder fraud, opioids, data privacy, and adulterated food and dietary supplements. In addition, the Branch defends agencies—including the Food and Drug Administration—in civil litigation before district courts. The Branch is unique within the Civil Division because it has both criminal and civil authority.

The Branch stands at the forefront of the Department's nationwide efforts to detect, deter, disrupt, and punish conduct harming American consumers. It spearheads efforts to protect at-risk populations—including older adults, veterans and servicemembers, and non-English speaking individuals—from fraudsters, including those perpetrating imposter scams, lottery frauds, and romance scams. The Branch is further engaged in a variety of efforts to protect children—one of the most vulnerable American populations—from harm in areas such as drugs and dietary supplements marketed to children; electronic nicotine delivery systems targeted to youth; sextortion schemes; and online privacy concerns. The Branch leads the Transnational Elder Fraud Strike Force, which works to prosecute foreign fraudsters targeting American consumers, as well as U.S.-based individuals and companies facilitating those schemes. In the ongoing fight against the opioid epidemic, the Branch is leading several criminal and civil investigations and enforcement actions involving prescription opioid manufacturers, distributors, and retail chain pharmacies, as well as several investigations into companies that are contributing to the manufacture and distribution of counterfeit pills laced with fentanyl. CPB brings both civil cases that seek to stop and remediate harmful conduct and criminal cases that seek to deter and punish those responsible for misconduct, and thereby help to ensure the safety of foods, drugs, and consumer products used by the American public.

Federal Programs Branch

The Federal Programs Branch has an active trial court practice, litigating on behalf of the President, Cabinet officers, other government officials, and almost 100 federal executive agencies. Branch attorneys handle some of the highest profile, most sensitive, and most significant litigation matters affecting the United States' interests, including defending against constitutional challenges to federal statutes, suits to overturn significant government policies and programs, and attacks on the legality of government decisions with broad ramifications. The

Branch also initiates litigation to enforce regulatory statutes, to remedy statutory and regulatory violations, and to challenge state and local laws that are pre-empted by federal law. The scope of its work is very broad and touches upon practically all aspects of the Federal Government. In addition to the Branch's active caseload, the COVID-19 pandemic and federal response affected much of the Federal Programs Branch's diverse practice. Since early 2020, Branch attorneys have litigated challenges to nearly every aspect of the Federal Government's COVID-19 response, from economic recovery legislation and programs to federal vaccine mandates, as well as provided advice to many federal agencies regarding their implementation of federal COVID policies. Although the volume has subsided since 2022, the Branch continues to handle a substantial amount of COVID-related litigation.

Office of Immigration Litigation

The Office of Immigration Litigation (OIL) attorneys defend the Federal Government's immigration laws and policies and handle challenges to the nation's immigration system.

District Court Section

The Office of Immigration Litigation's District Court Section (OIL-DCS) is a highly active litigation section that handles immigration-related lawsuits filed in federal courts against a number of departments and their agencies (*e.g.*, Departments of Justice, Homeland Security, State, Labor, Defense, Education, and Health and Human Services). The section litigates at the trial level in the 94 federal district courts and at the appellate level in 12 United States Courts of Appeals. OIL-DCS represents the executive branch in cases involving a wide range of complex immigration, nationality, detention, and border-security matters. This includes cases involving programmatic and class action challenges to agency policies and decisions on passports, visa applications, and consular processes; foreign worker, foreign investor, and temporary employment authorization programs; detention pending removal; military naturalization cases; and immigration matters with a national security nexus, including denaturalization cases against war criminals, individuals who committed (and failed to disclose) very serious felonies, and persons with established ties to terrorism.

Appellate Section

The Office of Immigration Litigation's Appellate Section (OIL-Appellate) defends the U.S. in immigration litigation before the federal appellate courts. OIL-Appellate attorneys handle removal cases in the Courts of Appeals and support the Office of the Solicitor General's immigration litigation efforts in the U.S. Supreme Court. These cases comprise challenges related to whether an individual is subject to removal from the U.S. or is eligible for some form of benefit, relief, or protection that would allow them to remain in the United States. In total, the workload of OIL-Appellate is approximately 10 percent of all the appellate litigation in the federal circuit courts. OIL-Appellate also handles related litigation in the district courts whenever citizenship issues are transferred by appellate courts in accordance with the immigration statute's judicial review rules, as well as detention challenges in district courts filed by individuals with pending circuit court review petitions. The caseload is almost entirely defensive and is directly tied to DHS enforcement efforts and the resulting removal adjudications by the Executive Office for Immigration Review.

Torts Branch

The Torts Branch is comprised of four litigating sections: (1) Aviation, Space and Admiralty, (2) Constitutional and Specialized Tort Litigation, (3) Environmental Tort Litigation, and (4) Federal Tort Claims Act Litigation. The Torts Branch is also home to the Division's compensation programs. The majority of the Torts Branch's workload involves defensive matters in which other parties have sued the Federal Government.

Aviation, Space, and Admiralty Section

The Aviation, Space, and Admiralty Litigation Section handles aviation and space tort litigation as well as a wide variety of admiralty matters. The Aviation caseload is largely comprised of defending the United States in wrongful death, serious personal injury, and extensive property damage actions arising from aircraft accidents. Federal activities giving rise to these lawsuits include air traffic control, military aviation operations, weather dissemination, charting of obstacles, operation of navigational aids, and certification of aircraft and air personnel. Major aviation clients include the Federal Aviation Administration, all branches of the U.S. military, the Department of Commerce, and agencies involved in aerial firefighting. Space cases may arise from accidents involving space launch or space vehicles, with the National Aeronautics and Space Administration (NASA) as the primary client agency. The Admiralty caseload involves the Federal Government's role as ship-owner, regulator, and protector of the nation's waterways. Cases relate to collisions involving government vessels, disputes over navigational markings, and challenges to the boarding of vessels on the high seas during national security activities. Affirmative admiralty actions seek compensation for the loss of government cargo and the costs associated with maritime pollution cleanups, including significant oil spills. The Aviation, Space, and Admiralty Section is currently engaged in litigation, among many other cases, resulting from the crash of TWA 800 and a fire on the passenger vessel Conception where 34 persons aboard the vessel perished.

Constitutional and Specialized Tort Litigation Section

The Constitutional and Specialized Tort Litigation Section consists of four groups: the Constitutional Torts Staff, the Office of Vaccine Litigation, the Radiation Exposure Compensation Act Program, and the September 11th Victim Compensation Fund. The staff focuses on cases with critical and sensitive Executive Branch functions, cutting-edge questions of law affecting the federal workforce, and difficult personal liability cases.

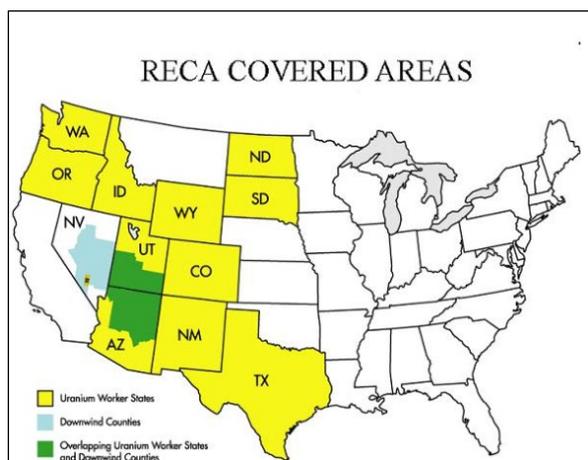
The Constitutional Torts Staff provides legal representation to federal employees in cases filed against them personally for actions performed as part of their official duties. Most cases seek monetary damages under the Supreme Court's decision in *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971). This personal-liability litigation is brought against federal employees, sometimes in retaliation for doing their jobs or as an attempt to indirectly challenge government actions or initiatives. In addition to litigating the most difficult cases directly, Constitutional Torts devotes significant staff, time, and resources toward assisting U.S. Attorneys' Offices on jointly handled cases, reviewing and approving representation requests from federal employees nationwide, and providing guidance to both federal agencies and Department components on legal and policy matters related to Department-provided representation of government officials. On average, the Staff processes requests for representation for over 125 federal employees each month, from all different agencies within each

of the three branches of government. While it would be impossible to list the variety of government activities that can give rise to litigation brought personally against government employees, common examples range from sensitive national security initiatives to enforcement and prosecution of criminal, environmental, and immigration laws and regulations. Providing a vigorous defense to federal employees who are sued personally for official acts is an important responsibility. If the federal workforce is hampered by the fear of personal liability in monetary damages, government employees will be reluctant to do their jobs, which could adversely impact important government action or initiatives as well as deter otherwise well qualified individuals from serving in public positions.

The Office of Vaccine Litigation was established to represent the Department of Health and Human Services (HHS) in cases arising under the National Childhood Vaccine Injury Act of 1986, which created a unique mechanism for adjudicating claims alleging injury from certain immunizations. Petitioners are represented by private counsel, and cases are filed in the U.S. Court of Federal Claims and adjudicated by the Office of Special Masters. The Program was designed to stabilize vaccine supply and encourage vaccine development by limiting the litigation risk to vaccine manufacturers. As a streamlined “no-fault” system, petitioners must establish causation but do not need to prove that a vaccine was defective, or that there was any degree of negligence in its administration, making the VICP an attractive alternative to civil litigation. As a result of the VICP, costly litigation has significantly decreased against drug manufacturers and health care professionals.

The VICP’s administrative costs are funded out of an annual reimbursement from the Vaccine Injury Compensation Trust Fund, which itself is funded by an excise tax on vaccines. Compensation awards and petitioners’ attorneys’ fees are paid from the Trust Fund as well. As of December 1, 2023, the program has awarded \$5.1 billion in compensation, including more than \$4.6 billion to 10,365 claimants who almost certainly would not have received compensation through traditional tort litigation, as well as nearly \$500 million in attorneys’ fees.

The Radiation Exposure Compensation Act Program is an administrative law system created



by the Radiation Exposure Compensation Act (RECA). The Act provides set awards for individuals who developed specified illnesses following the government’s failure to warn of possible radiation exposure resulting from atmospheric nuclear weapons tests, or from employment in certain uranium production industry occupations during the build-up to the Cold War. Since the Program commenced operations in April 1992 through December 31, 2023, the Act has compensated approximately \$2.6 billion in connection with over 41,200 approved claims for eligible individuals or their surviving beneficiaries. On June 7, 2022, the

RECA Extension Act was signed into law, providing a two-year extension to the RECA Trust Fund and the filing deadline for new claims from its date of enactment.

The September 11th Victim Compensation Fund (“VCF”) was created to provide compensation for any individual (or a personal representative of a deceased individual) who suffered physical harm or was killed as a result of the terrorist attacks of September 11, 2001, or the debris removal efforts that took place in the immediate aftermath of those attacks. The VCF is appropriated outside of the Civil Division’s annual account and provides compensation for economic and non-economic loss (less applicable offsets), and is administered by the Civil Division through a Special Master appointed by the Attorney General. As of December 31, 2023, the VCF, since it re-opened in October 2011, has awarded nearly \$12.8 billion in compensation to over 56,600 individuals who have suffered physical health conditions (including the families of just over 3,500 people who have died), as a result of their exposure to the terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania.

Environmental Torts Litigation Section

The Civil Division’s Environmental Torts Litigation (ETL) Section defends the United States in complex, high stakes civil litigation in federal courts nationwide. Its attorneys directly handle all aspects of wrongful death, personal injury, and property damage cases that often involve hundreds, even thousands, of plaintiffs. The cases typically stem from alleged exposure to environmental contaminants, such as biological agents, chemicals, and other substances. They also involve complex issues of causation, novel issues of federal and state law, and numerous expert witnesses. Given its unique expertise, the ETL Section has primary litigation responsibility for all suits brought against the United States under the Federal Tort Claims Act (FTCA) where the alleged injuries/damages are attributed to some form of environmental contaminant. Many of the ETL Section’s cases are litigated as mass torts or multi-district litigation matters. Recent and ongoing mass tort cases litigated by the ETL Section include: alleged damage to water systems and personal injury claims due to the military’s use of perfluorinated compounds in firefighting; personal injury claims stemming from the Environmental Protection Agency’s (EPA) oversight of state and local entities involved in the Flint water crisis; and Red Hill fuel spill litigation in Hawaii where 12 FTCA suits by more than 400 plaintiffs and more than 7,000 additional administrative claims have been filed that collectively seek over \$156 billion in personal injury and property damages. Complex jurisdictional questions, a need for creative case-management solutions, and overlapping issues of history, law, and science are often the norm.

The ETL Section has been significantly impacted by Section 804 (the “Camp Lejeune Justice Act of 2022” or CLJA) of the PACT Act, which was signed into law on August 10, 2022. The CLJA aims to compensate service members and others who were exposed to contaminated water at Camp Lejeune, North Carolina, between 1953 and 1987 and have developed cancer and other diseases that were at least “as likely as not” caused by exposure. The Agency for Toxic Substances Disease Registry estimates that as many as one million people were exposed to contaminated water at Camp Lejeune.

Federal Tort Claims Act Litigation Section

The Federal Tort Claims Act (FTCA) Section litigates complex and controversial cases under the Federal Tort Claims Act, which Congress passed in 1946 to waive the sovereign immunity of the United States with respect to claims for certain injuries and property damage caused by the negligence or wrongful conduct of federal employees. Today, FTCA litigation typically arises

from medical care, regulatory activities, law enforcement, and maintenance of federal lands and buildings. The FTCA Section makes appeal recommendations on all adverse judgments entered in FTCA cases and provides comments on FTCA-related legislation that may have an impact on taxpayer liability. Further, the FTCA Section is responsible for the administrative adjustment of tort claims arising out of DOJ activities.

Office of Management Programs

The Office of Management Programs (OMP) supports the Civil Division's attorneys in all aspects of their work. OMP provides the Division's Human Resources (HR), Training, Budget, Finance, Procurement, Information Technology, Litigation Support, eDiscovery, Freedom of Information Act (FOIA), Facilities, Security, and Information Management functions. Whether helping an employee prepare a presentation for trial, maintaining and updating discovery software, selecting a health insurance plan, or developing Civil's annual budget, OMP's staff of HR specialists, budget analysts, accountants, attorneys, and information technology specialists provide the technological, analytical, and litigation tools necessary for Civil's attorneys to compete against the best law firms in the world. As such, OMP is critical in supporting the Civil Division's mission overall and has been integral to supporting the Civil Division's return to the office and transition to a hybrid work model.

2. Performance Tables

Performance and Resources Tables												
Decision Unit: Civil Division - Legal Representation												
RESOURCES (\$ in thousands)			Target		Actual		Target		Changes		Requested (Total)	
			FY 2023		FY 2023		FY 2024		Current Services Adjustments and FY 2025 Program Changes		FY 2025 Request	
Total Costs and FTE			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
(reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)			1,362	374,560	1,220	374,560	1,362	374,560	32	25,850	1,394	400,410
				[91,738]		[45,556]		[91,738]		[5,000]		[96,738]
Type	Strategic Objective	Performance	FY 2023		FY 2023		FY 2024		Current Services Adjustments and FY 2025 Program Changes		FY 2025 Request	
Key Performance Indicator	2.6	1. Number of relationships established with state and local law enforcement, either directly or through state Police Officer Standards and Training councils or commissions, to communicate elder justice best practices	10		3		7		0		7	
Key Performance Indicator	4.1	2. Percent of Consumer Protection Branch cases favorably resolved	85%		97%		85%		N/A		85%	
Workload Measure	4.2	3. Number of cases pending beginning of year	42,253		35,196		42,232		9,387		51,619	
Workload Measure	4.2	4. Number of cases received during the year	12,899		15,223		20,162		-2,494		17,668	
Workload Measure	4.2	5. Total Workload	55,152		50,419		62,394		6,893		69,287	
Workload Measure	4.2	6. Number of cases terminated during the year	8,193		8,187		10,775		64		10,839	
Civil Division Performance (Excludes VICP and RECA)												
Performance Measure	4.2	7. Percent of civil cases favorably resolved	80%		96%		80%		N/A		80%	
Performance Measure	5.1	8. Percent of federal denaturalization dispositions favorably resolved	80%		88%		80%		N/A		80%	

Performance and Resources Tables

Decision Unit: Civil Division - Legal Representation

RESOURCES			Target	Actual	Target	Changes	Requested (Total)
			FY 2023	FY 2023	FY 2024	Current Services Adjustments	FY 2025 Request
Civil Division Performance (Excludes VICP and RECA)							
Performance Measure	4.2	9. Percent of defensive cases in which at least 85 percent of the claim is defeated	80%	91%	80%	N/A	80%
Performance Measure	4.2	10. Percent of affirmative cases in which at least 85 percent of the claim is recovered	60%	95%	60%	N/A	60%
Performance Measure	4.2	11. Percent of favorable resolutions in non-monetary trial cases	80%	89%	80%	N/A	80%
Performance Measure	4.2	12. Percent of favorable resolutions in non-monetary appellate cases	85%	89%	85%	N/A	85%
Vaccine Injury Compensation Program Performance							
Performance Measure	2.6	13. Percentage of cases in which judgment awarding compensation is rejected and an election to pursue a civil action is filed	0%	0%	0%	N/A	0%
Performance Measure	2.6	14. Percentage of cases in which settlements are completed within the court-ordered 15 weeks	92%	100%	92%	N/A	92%

Performance Measure Table						
Strategic Objective	Decision Unit: Civil Division - Legal Representation					
	Performance Measures		FY 2023	FY 2023	FY 2024	FY 2025
			Target	Actual	Target	Target
2.6	Key Performance Indicator	1. Number of relationships established with state and local law enforcement, either directly or through state Police Officer Standards and Training councils or commissions, to communicate elder justice best practices	10	3	7	7
4.1	Key Performance Indicator	2. Percent of Consumer Protection Branch cases favorably resolved	85%	97%	85%	85%
4.2	Workload Measure	3. Number of cases pending beginning of year	42,253	35,196	42,232	51,619
4.2	Workload Measure	4. Number of cases received during the year	12,899	15,223	20,162	17,668
4.2	Workload Measure	5. Total Workload	55,152	50,419	62,394	69,287
4.2	Workload Measure	6. Number of cases terminated during the year	8,193	8,187	10,775	10,839
Civil Division Performance (Excludes VICP and RECA)						
4.2	Performance Measure	7. Percent of civil cases favorably resolved	80%	96%	80%	80%
5.1	Performance Measure	8. Percent of federal denaturalization dispositions favorably resolved	80%	88%	80%	80%

Strategic Objective	Performance Measure	FY 2023	FY 2023	FY 2024	FY 2025	
		Target	Actual	Target	Target	
Civil Division Performance (Excludes VICP and RECA)						
4.2	Performance Measure	9. Percent of defensive cases in which at least 85 percent of the claim is defeated	80%	91%	80%	80%
4.2	Performance Measure	10. Percent of affirmative cases in which at least 85 percent of the claim is recovered	60%	95%	60%	60%
4.2	Performance Measure	11. Percent of favorable resolutions in non-monetary trial cases	80%	89%	80%	80%
4.2	Performance Measure	12. Percent of favorable resolutions in non-monetary appellate cases	85%	89%	85%	85%
Vaccine Injury Compensation Program Performance						
2.6	Performance Measure	13. Percentage of cases in which judgment awarding compensation is rejected and an election to pursue a civil action is filed	0%	0%	0%	0%
2.6	Performance Measure	14. Percentage of cases in which settlements are completed within the court-ordered 15 weeks	92%	100%	92%	92%

3. PERFORMANCES, RESOURCES, AND STRATEGIES

Performance Plan and Report for Outcomes

The Civil Division's work contributes to four of the Department of Justice's efforts to achieve its strategic goals: Strategic Goal 1, Uphold the Rule of Law; Goal 2, Keep Our Country Safe; Goal 4, Ensure Economic Opportunity and Fairness for All; and Goal 5, Administer Just Court and Correctional Systems. Within those goals, the Civil Division's workload is directly tied to seven of the Department's Strategic Objectives, as outlined below. Civil has prioritized investigating cybersecurity matters, the unlawful diversion of opioids, the Elder Justice Initiative and efforts to prevent victimization, and enhancing the integrity of the immigration system, while continuing its successful efforts in affirmative and defensive, monetary and non-monetary litigation.

The Civil Division Promotes Good Government (Strategic Objective 1.2)

The Civil Division continually improves its operations and processes in order to best serve the United States and the American people. For example, the Division successfully pivoted to increased remote work and telework during the COVID-19 pandemic, and it is now adapting to longer-term hybrid work environments. The Division's information technology staff has worked tirelessly to ensure that needed equipment is available and to offer upgraded and adjusted processes, software, and critical cybersecurity protections, while the human resources and personnel staff have worked throughout the process to ensure appropriate adjustments to and enforcement of rules and regulations. Other sections—including but not limited to the Division's budget and accounting personnel, ALS personnel, and all of its litigating sections—have also closely evaluated their operations and the best path forward to ensure effective and efficient operations through innovative solutions and adjustments where appropriate. For example, the Division modernized storage capabilities for case files, migrating over three petabytes from a legacy system to a modern storage system, and the Division's e-discovery platform was also modernized, resulting in improved speed and reliability and increased security. The Division also built and rolled out a hoteling solution for hybrid work.

The Civil Division Enhances Cybersecurity and Fights Cybercrime (Strategic Objective 2.4)

Malicious cyber activity threatens the health and safety of the American people, as well as the national and economic security of our country. The Deputy Attorney General launched a Civil Cyber-Fraud Initiative to leverage the Department's False Claims Act experience to combat new and emerging cyber threats. The Department is working with its agency partners to pursue contractors, grantees and others who knowingly misrepresented their information security, violated cybersecurity requirements, and/or submitted to the government false payment claims. The implementation of the Initiative is being led by the Commercial Litigation Branch's Fraud Section, and it has resulted in enhanced collaboration across government and significant recoveries for the public fisc. For example, Comprehensive Health Services LLC, a company providing health services to United States servicemembers, diplomats, officials and contractors working and receiving medical care in Iraq and Afghanistan paid \$930,000 to resolve allegations that it falsely represented compliance with contract requirements. The company allegedly failed to consistently store patients' medical records on a secure system and instead saved and left scanned copies of some records on an internal network drive, which was accessible to non-clinical personnel.

The Civil Division’s Consumer Protection Branch is also heavily involved in cybersecurity efforts and has focused its efforts on ensuring consumers’ data privacy and identity integrity, as well as other areas in which malicious cyber actors have targeted Americans. As a result of CPB’s efforts, a Cameroonian national was extradited from Romania and sentenced to 21 months in prison for his role in a scheme to trick consumers into paying fees for pets that were never delivered and for using the COVID-19 crisis as an excuse to extract higher fees from victims. Desmond Fodje Bobga conspired with others to offer pets for sale on internet websites. Following each purchase, Bobga and his co-conspirators claimed that a transportation company would deliver the pet. They then posed as the transportation company and claimed the transport of the pet was delayed and victims would need to pay additional fees for delivery, telling some victims that more money was needed because the pet had been exposed to coronavirus. The Branch also successfully prosecuted a case in which Jon J. Kahen, the Chief Executive Officer and owner of a gateway VoIP carrier, pled guilty to money laundering after admitting that he knew his telecommunications services were being used by India-based VoIP providers to transmit fraudulent calls. Kahen’s company offered various services, including a calling platform and domestic direct inward dial, toll-free, and call termination services, that introduced foreign phone traffic into the U.S. telephone system. The calls carried by Kahen were originally placed by fraudsters who intended to deceive U.S. consumers into believing a government agency was requiring them to pay money.

Additionally, the Civil Division seeks to deter and thwart malicious cyber actors who might attempt to target the Division itself; ensuring that all employees complete annual Cybersecurity Awareness Training (CSAT). The Division’s Office of Information Technology continually seeks to maintain and improve cybersecurity and resilience, recently hiring an experienced Chief Information Security Officer (CISO) and a cybersecurity investigator. OIT has fully deployed endpoint detection and response sensors across all desktops and servers, is conducting focused remediation of critical vulnerabilities, is reducing privileged access to systems, and improving overall system level security and protection of DOJ information to ensure secure business operations.

The Civil Division Combats Drug Trafficking and Prevents Overdose Deaths (Strategic Objective 2.5)

In 2022, more than 107,081 Americans died from drug overdoses, the overwhelming majority involving opioids.⁷ Rates of death attributed to prescription opioids remain unacceptably high, and the Civil Division is involved in efforts to detect, limit, and deter opioids-related fraud and the illegal prescription, distribution, and diversion of opioids.

The Division’s Consumer Protection Branch has played a leading role in the Prescription Interdiction Litigation (PIL) Task Force, coordinating investigative and prosecutorial efforts with numerous agencies and offices. It also established and currently maintains training materials and resources for use throughout the Department in an effort to utilize available criminal and civil enforcement remedies to ensure that prescription opioids are distributed lawfully under the Controlled Substance Act (CSA) and other statutes, like the Food Drug and Cosmetic Act. The

⁷ Kariisa M, O’Donnell J, Kumar S, Mattson CL, Goldberger BA. Illicitly Manufactured Fentanyl–Involved Overdose Deaths with Detected Xylazine — United States, January 2019–June 2022. *MMWR Morb Mortal Wkly Rep* 2023;72:721–727. DOI: <http://dx.doi.org/10.15585/mmwr.mm7226a4>.

Branch has led working groups established through the PIL Task Force to investigate possible CSA violations by national chain pharmacies. One of those working groups is now litigating against Walmart, seeking civil penalties for its alleged misconduct as a dispenser and distributor of controlled substances. Additionally, in *United States v. Bacaner, et al.* (M.D. Fla.) the United States obtained permanent injunctive relief and civil penalties against a physician, clinic, and two owners based on allegations that the defendants used the clinic's operations to unlawfully prescribe controlled substances, where the United States alleged that drug toxicity played a role in the deaths of several individuals who received controlled substances from the defendants. The court order required the clinic to permanently close and barred the defendants from being involved with controlled substances.

The Civil Division Protects Vulnerable Communities (Strategic Objective 2.6)

The Civil Division's work on behalf of the United States and its people contributes to the protection and support of all communities, including the most vulnerable segments of the population. The Division has focused particular efforts on elder justice. For example, the Division's Consumer Protection Branch spearheads the Department's efforts to combat elder fraud. From the period July 1, 2022 to June 30, 2023, nearly 300 criminal and civil actions were brought against more than 650 defendants who collectively stole more than \$1.5 billion from over 2.4 million victims. These matters included tech support fraud, romance scams, and telemarketing scams.

The Civil Division also engages in efforts to encourage and enhance elder justice collaborative efforts. For example, it has elevated the profile of these efforts with a key performance indicator (KPI) on the number of formal relationships established with State, county, and local law enforcement, either directly or through state Police Officer Standards and Training councils or commissions, to communicate elder justice best practices.

Working with the National Center on Elder Abuse and the National White Collar Crime Center, the Elder Justice Initiative, which is housed in the Civil Division, helped to develop the Elder Abuse Guide for Law Enforcement (EAGLE) Online Training. This free virtual training has been certified by the International Association of Directors of Law Enforcement Standards and Training's National Certification Program, which means that law enforcement officers in 36 states can receive continuing education training credit for taking the course. Over 2,000 law enforcement (LE) officers have taken the online EAGLE training, and from January 1, 2022 through October 31, 2022, almost 800 LE officers or personnel participated in EAGLE training. Those individuals were surveyed and of those who responded, 90 percent indicated they would be likely to apply the skills and knowledge learned and would recommend the course to others. Similarly, the Department has conducted more than 400 elder justice training and outreach events to train state and local prosecutors, law enforcement, and elder justice professionals on how to identify, prevent, and combat elder abuse, neglect and financial exploitation.

The Civil Division Reinforces Antitrust Enforcement and Protects Consumers, as well as Combats Corruption, Financial Crime, and Fraud (Strategic Objectives 4.1 and 4.2)

Deterring corruption, financial crime, and other wrongful civil acts protects consumers, ensures the health and safety of individuals, preserves the safety and integrity of the economic system, and protects the public fisc. The Civil Division achieves this through both affirmative and

defensive, as well as monetary and non-monetary cases. The Department has recognized the critical nature of these efforts with a KPI on the percentage of Consumer Protection Branch (CPB) cases favorably resolved; in FY 2023, 97 percent of such cases were favorably resolved.

For example, CPB brought civil and criminal actions that put an end to an international scheme that debited consumers' bank accounts without authorization. The scheme also deceived banks by artificially manipulating return rates associated with the scheme's bank accounts, which reduced bank scrutiny and lowered the risk banks would close the accounts. In FY 2022, Harold Sobel pled guilty for his role in helping the scheme obtain bank accounts and writing a script that scheme participants used when victims called to complain about the unauthorized debits. In a related civil case, CPB secured permanent injunctions against seven individuals and sixteen companies, preventing the scheme from continuing and resuming operation.

The Branch also obtained convictions for eight individuals and three companies for their roles in a scheme to illegally distribute synthetic steroids as muscle-building dietary supplements. According to court documents, Blackstone Labs LLC, its founders Phillip Braun and Aaron Singerman, and other co-conspirators intentionally distributed unapproved controlled substances for muscle growth. Many of the products sold by the defendants were anabolic steroids that were controlled substances under the Designer Anabolic Steroid Control Act. The defendants continued selling these products despite knowing about the law and its impact on legality of their products. Singerman and Braun pleaded guilty and were each sentenced to 54 months in prison. Blackstone's lead salesman, James Boccuzzi, was convicted by a jury in November 2021 and sentenced to 51 months in prison.

Another matter pursued by CPB involved individuals and companies participating in a large scheme to defraud health insurers and pharmacy benefit managers. The defendants used telemarketers to sell bogus prescriptions to consumers that the defendants filled using a series of pharmacies they owned; the defendants then billed private health insurance companies for those prescriptions at significant markups. One of the individual defendants, Peter Bolos, was sentenced to 14 years in prison and ordered to pay nearly \$25 million in restitution. Five corporate defendants were also ordered to pay \$25 million in restitution, another was ordered to pay \$21 million in restitution, and the final corporate defendant was ordered to pay \$5 million in restitution.

The Civil Division Administers an Equitable and Efficient Immigration Court System (Strategic Objective 5.1)

The Civil Division's Office of Immigration Litigation (OIL) plays a pivotal role in ensuring that the United States immigration system enforces the law fairly, equitably, and efficiently. For example, during FY 2022, the Civil Division's OIL – Appellate Section engaged in a series of outreach efforts, along with members of the private immigration bar, to improve the accessibility of circuit court mediation programs to litigants, including those who are not represented by counsel. These efforts culminated in a series of webinars hosted by chief circuit mediators in the First, Seventh, Ninth, and Tenth Circuits, in which OIL officials and private attorneys discussed their perspectives on the role of mediation in immigration cases and answered practical questions posed by private attorneys less familiar with such programs and how they might benefit potential clients. These webinars provided attendees direct access to the

OIL – Appellate Section’s Director to facilitate meaningful dialogue about mediation benefits and remand processes. This outreach and engagement with the private bar and non-profit organizations was the first of its kind for OIL, and the webinars were well-received by both the mediation offices and the attendees, with everyone expressing appreciation for OIL’s participation.

The Section also made public the remand criteria it has long used to determine whether to seek remand in a case for further consideration by the Executive Office for Immigration Review (EOIR) by including the criteria in the Justice Manual at <https://www.justice.gov/jm/jm-4-7000-immigration-litigation>. When the Section’s attorneys are assigned cases in the federal courts, attorneys consider whether there may be a reason to return or “remand” the case to EOIR’s Board of Immigration Appeals (“Board”) or, when appropriate (for reinstatement or other orders), to the relevant component of DHS. Making the remand criteria public promotes transparency and provides noncitizens and their counsel with a better understanding of what goes into the Section’s decision to seek remand.

Strategies to Accomplish Outcomes

The Civil Division strives to use the best strategies to achieve its outcomes. It is focused on efficiently using its resources, leveraging the most advanced technology, and recruiting and training dedicated public servants. By utilizing these strategies, the Civil Division ensures that the Federal Government will have the best possible legal representation.

Civil Coordinates with Other Government Actors to Achieve Outcomes

The Civil Division works closely with partners at all levels of government. For example, the Division’s Fraud Section and Consumer Protection Branch work together on cases involving health care fraud. Within the Department of Justice, the Civil Division routinely jointly handles cases with U.S. Attorneys and also works with the Executive Office for Immigration Review. In investigations, the Civil Division frequently collaborates with other agencies. When seeking to recover funds defrauded from Federal and State governments, the Civil Division collaborates with state prosecutors. This collaboration ensures efficiency as information is quickly exchanged and multiple agencies can share costs. The Division likewise coordinates or collaborates with State and local government agencies, particularly with regards to the Elder Justice Initiative and efforts to ensure state and local prosecutors, law enforcement, and elder justice professionals can identify, prevent, and combat elder abuse, neglect, and financial exploitation of elders.

Civil Employs New Innovative Technologies to Detect Criminal Activities

The Civil Division constantly strives to be innovative in investigations and litigation. For example, in the fight against the opioid epidemic, the Civil Division is leading several multi-district criminal and civil investigations of prescription opioid distributors and retail chain pharmacies. While working with the Drug Enforcement Administration (DEA), Civil’s Consumer Protection Branch designed and contracted for an analytical platform to utilize the DEA’s Automation of Reports and Consolidated Orders System (ARCOS) data and other information to help identify suspicious distributor and pharmacy practices meriting investigation.

Civil Engages, Educates, and Collaborates with Industries

The Civil Division aims to coordinate with industry leaders to prevent and detect criminal activities. As previously mentioned, the Civil Division is leading the efforts in the Department's Transnational Elder Fraud Strike Force to support and coordinate the Department's enforcement and programmatic agendas in combatting elder financial fraud and scams that target our nation's seniors. Civil leads regular meetings between law enforcement and the banking industry to exchange information about trends and patterns of unlawful activity in the elder fraud context. The meetings also provide a platform for financial institutions to exchange information with one another about how best to prevent elder fraud from harming their customers and affecting their accounts.

Civil Supports and Optimally Distributes its Workforce

The Civil Division's greatest asset is its high-quality workforce. The Civil Division consistently recruits the best and brightest attorneys who are committed to public service and the mission of the U.S. Department of Justice. Civil ensures that its attorneys and support staff have the tools needed to succeed in litigation. Investments are made in training programs, professional development and leadership opportunities, and mentorship and coaching programs, as well as in programs and policies that support employee work-life balance, aiming to ensure a wide range of Americans are able to succeed in bringing their unique talents to the Division. Ultimately, these tools allow attorneys to be fully prepared to represent the United States in litigation. The Civil Division continuously monitors internal workload measures and performance metrics to ensure Civil attorneys are allocated amongst the Branches to best serve the Administration's priorities.

Priority Measures

Combat Pandemic Fraud

Given the breadth of its experience and subject matter expertise combatting fraud on government programs, the Fraud Section will continue to lead and coordinate the Department's affirmative civil enforcement efforts relating to fraud in connection with the trillions of dollars in relief programs provided by the CARES Act and the American Rescue Plan Act. The Fraud Section has been pursuing—and will continue to pursue and litigate—a substantial volume of cases involving fraud in connection with pandemic programs, including but not limited to, fraud in connection with Small Business Administration loans under the Paycheck Protection Program and Economic Injury Disaster Loan Program, payment advances and grants to healthcare providers during the pandemic, false claims for healthcare services and diagnostic testing, and inflated pricing and defective equipment in connection with the government's procurement of goods and services arising from the pandemic. The Fraud Section is devoting significant attorney and staff resources to these matters.

Reinvigorate Antitrust Enforcement and Consumer Protection

The Consumer Protection Branch (CPB) enforces consumer protection laws to end dangerous practices that harm America's most vulnerable populations, such as the sick and the elderly. Among its top priorities are pursuing cases against those who market unsafe pharmaceuticals and medical devices that endanger the health and safety of patients. In the fight against the opioid epidemic, CPB is leading several criminal and civil investigations of prescription opioid distributors and retail chain pharmacies. Additionally, CPB works closely with the Commercial

Litigation Branch's Fraud Section, U.S. Attorneys' Offices, the Food and Drug Administration, and other law enforcement partners on a wide range of health care fraud cases, including those involving the promotion and distribution of unapproved and adulterated drugs and medical devices. CPB also has been heavily involved in pursuit of those who peddled ineffective or potentially harmful products in connection with the COVID-19 pandemic. Under the Department's regulations, the CPB is the primary component charged with enforcement of the Food, Drug, and Cosmetic Act in the federal court system. In FY 2023, CPB investigated and resolved numerous cases involving harmful practices that endanger the public health, employing novel tools to prosecute wrongdoers who sell unsafe pharmaceuticals and medical products to the American public.

Improve the Administration of Immigration Courts

The Civil Division is the last but vital line in the nation's immigration system. Any attempt to foster a fair and equitable immigration system that reflects the nation's values must include the Civil Division. The Civil Division's Office of Immigration Litigation (OIL) defends the government's immigration laws and policies and handles challenges to the nation's immigration system. OIL also serves as a liaison and provides training to all of the government's immigration agencies, supports efforts at and within the nation's borders, and provides dependable counsel before the courts.

V. Program Increases by Item

A. CAMP LEJEUNE PACT ACT LITIGATION

Budget Decision Unit(s): Legal Representation

Organizational Programs: Civil Division, Torts Branch, Environmental Torts Litigation Section

Program Increase: Positions 20; Atty 7; FTE 10; Dollars \$9,205,442

Description of Item:

The “Camp Lejeune Justice Act of 2022” (CLJA), Pub. L. No. 117-168, § 804, 136 Stat. 1802, 1802-04 (2022), was signed into law on August 10, 2022, as part of the “Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022” or the “Honoring our PACT Act of 2022” (PACT Act). This statute aims to provide “appropriate relief” to service members and others who were exposed to contaminated water at Camp Lejeune, North Carolina, between 1953 and 1987, and developed cancer or another disease that was at least “as likely as not” caused by the exposure. The Agency for Toxic Substances Disease Registry (ATSDR) estimates that as many as one million people were exposed to contaminated water at Camp Lejeune.

For nearly twenty years, the Civil Division’s Environmental Torts Litigation Section (ETL) has been litigating Federal Tort Claims Act (FTCA) cases seeking compensation for harm alleged to have resulted from exposure to contaminated water at Camp Lejeune. The CLJA restarts the statute of limitations for Camp Lejeune suits and lowers the standard of proof to demonstrate that contaminants in the Camp Lejeune water caused harm to those exposed. Individuals who previously filed suits that were dismissed under the FTCA will be able to file new cases under the CLJA.

For FY 2025, the Civil Division requests seven additional attorneys, 10 paralegals, three management information specialists, and eight contractors given the developments in the cases-to-date. These positions will also provide the resources to engage in comprehensive litigation and settlement discussions, coordinate the review of Elective Option claims, create a shared database, and maintain office space in the Eastern District of North Carolina.

Justification:

The CLJA seeks to make recovery easier for claimants, a majority of whom are Veterans. Before a claimant can file a complaint in court, they must first submit an administrative claim with the United States Department of the Navy (Navy). Since the enactment of the CLJA, over 147,000 administrative claims have been submitted to the Navy. Several law firms have also notified ETL that they each have from 50,000 to 100,000 administrative claims ready for submission once the Navy’s new database, which is in the testing phase, goes live in January 2024. Additionally, over 1,470 lawsuits have been filed in the U.S. District Court for the Eastern

District of North Carolina. Because of the administrative process and the complexity of the cases, each case could take several years from the time of the initial claim to resolution. Further complicating matters, because only two of the six water sources at Camp Lejeune were contaminated, it is expected that many people who were not exposed to the contaminated water may file claims and cases. Thus, even the cases involving individuals who were not exposed to contaminated water will require effort and resources to evaluate and resolve.

As part of their efforts to handle CLJA claims, the Navy and the Department of Justice announced the Elective Option (EO) on September 6, 2023. The EO is a voluntary framework to evaluate and potentially settle claims brought under the CLJA that are pending administratively or that were filed in court by October 6, 2023. The EO allows claimants to resolve certain CLJA claims more quickly and more efficiently than in litigation, which might otherwise require resolution of uncertain legal and factual issues through potentially burdensome discovery, motions practice, and bellwether trials. The EO is available to certain claimants with qualifying injuries who resided or worked at Camp Lejeune for at least 30 days. Administering the EO continues to be an arduous process, and ETL anticipates needing substantial resources to complete this endeavor.

ETL has been handling CLJA matters via a three-prong approach: litigating the more than 1,470 lawsuits that have been filed in court; in partnership with the Navy, administering the EO; and working with the Plaintiff Leadership Group on finalizing a questionnaire for a Global Settlement Matrix in an attempt to resolve the remaining cases. However, resolving the remaining cases will take substantial time (likely years) because court rulings will be necessary to finalize the matrix. The resources in this request will support each aspect of ETL's CLJA work.

The Eastern District of North Carolina (E.D.N.C.) has coordinated the cases assigned to all four judges and appointed a magistrate judge to handle discovery matters for the expected hundreds of thousands of cases. ETL is currently in discovery. According to the Case Management Order governing this discovery, ETL attorneys must complete over 300 depositions for the first track of plaintiffs (Track One Plaintiffs) in 90 days. Track Two Plaintiffs' discovery (including approximately 300 depositions) begins after discovery closes for Track One Plaintiffs. Track Three Plaintiffs' discovery (including approximately 300 depositions) begins after Track Two Plaintiffs' discovery ends. The Court has also stated that trials will be conducted for Track One Plaintiffs in 2024. During an April 5, 2023, Status Conference, Judge Dever directed the parties to *In Re: World Trade Center*, 598 F.Supp.2d 498 (S.D.N.Y. 2009), as a model for managing the CLJA cases, and recommended that the parties seriously consider a Judge Hellerstein-type shared database. Pursuant to the Hellerstein approach, funding is also requested for a shared database with appropriate IT security safeguards.

Before the passage of the CLJA, ETL was a small office of approximately 23 attorneys and four support staff, with modest office space. Since the enactment of the CLJA, ETL has been forced to adjust its customary team approach to handling large complex litigation matters. To ensure smooth collaboration and rapid, comprehensive responses to CLJA cases, the request also includes resources for ETL to maintain office space in a federal building in Raleigh, NC.

While the EO is an alternative to the normal administrative claims process or litigation—so that those impacted can quickly receive relief—before ETL can approve the administrative settlement recommendations, each claim must still be evaluated, requiring individual review and analysis. ETL thus requires additional resources to administer the EO. In addition, the handling of CLJA matters in litigation may require case-by-case litigation of thousands of claims, each requiring multiple attorneys to handle. And even though the litigation is being coordinated by the four district court judges, substantial resources are still required for multiple tasks including: conducting discovery on hundreds of individual bellwether cases; managing expert witness discovery and legal challenges to opinions; creating and managing the global settlement database; and trying cases. Litigation in most cases is estimated to last between two and five years, and the overall workload is expected to continue for at least a decade.

Impact on Performance:

The PACT Act is historic legislation, providing Veterans and others affected an avenue to seek justice for harms that were caused by contaminated water at Camp Lejeune during the time they served there. The Department of Veterans Affairs is encouraging all Veterans who believe they may be entitled to benefits to apply now. In order to timely process and litigate all claims filed, and to provide due process and justice to the impacted parties, ETL will require an additional 20 new positions (seven attorneys), corresponding contract support, funding for a shared database, and office space.

Funding

1. Base Funding

<i>FY 2023 Enacted</i>				<i>FY 2024 Continuing Resolution</i>				<i>FY 2025 Current Services</i>			
Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)
<u>36</u>	<u>27</u>	<u>36</u>	<u>\$14,000</u>	<u>36</u>	<u>27</u>	<u>36</u>	<u>\$14,000</u>	<u>36</u>	<u>27</u>	<u>36</u>	<u>\$14,000</u>

2. Personnel Increase Cost Summary

Type of Position/Series	FY 2025 Request (\$000) ⁸	Positions Requested	Full Year Modular Cost per Position (\$000)	Annualizations (\$000)			
				2 nd Year	3 rd Year	FY 2026 (net change from 2025)	FY 2027 (net change from 2026)
Attorneys (0905)	\$958	7	\$255	\$149	\$0	\$1,043	\$3
Paralegals / Other Law (0900-0999)	\$713	10	\$124	\$66	\$42	\$664	\$420
Info Technology Mgmt GS-14 (2210)	\$270	2	\$251	\$147	\$0	\$294	\$1
Info Technology Mgmt GS-15 (2210)	\$155	1	\$290	\$127	\$0	\$127	\$0
Total Personnel	\$2,095	20				\$2,128	\$424

3. Non-Personnel Increase Cost Summary

Non-Personnel Item	FY 2025 Request (\$000)	Unit Cost (\$000)	Quantity	Annualizations (\$000)	
				FY 2026 (net change from 2025) ⁹	FY 2027 (net change from 2026)
Automated Litigation Support	\$74	\$4	17	\$77	\$3
Contractor Support	\$638	\$638	1	\$665	\$27
Space	\$786	\$786	1	\$17	\$17
IT/Electronic Claims Management System	\$5,612	\$5,612	1	-\$4,112	\$45
Total Non-Personnel	\$7,110			-\$3,354	\$92

⁸ Totals may not add due to rounding.

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4. Justification for Non-Personnel Annualizations

Base automated litigation support is included for each new attorney and paralegal. Additionally, contract law clerks to provide support to PACT Act cases would also be required. These costs are lapsed in FY 2025. The annualization in FY 2026 provides additional funding for a full year of support. In FY 2027, 2.1 percent inflation is applied to account for increases in contract costs. The increased number of personnel and contractors also necessitates funding for space costs; this cost is not lapsed in FY 2025, however in both FY 2026 and FY 2027, 2.1 percent inflation is applied to account for cost increases. A shared database with appropriate IT security safeguards would need to be developed, operated, and maintained; this cost is not lapsed in FY 2025. In FY 2026, system costs are reduced relative to FY 2025 due to the transition from development to operation and maintenance; in FY 2027, three percent inflation is applied to account for cost increases.

5. Total Request for this Item

Category	Positions			Amount Requested (\$000)			Annualizations (\$000)	
	Count	Agt/Atty	FTE	Personnel	Non-Personnel	Total	FY 2026 (net change from 2025)	FY 2027 (net change from 2026)
Current Services	36	27	36	\$7,600	\$6,400	\$14,000		
Increases	20	7	10	\$2,095	\$7,110	\$9,205	-\$1,226	\$516
Grand Total	56	34	46	\$24,406	\$23,890	\$48,296	-\$1,226	\$516

6. Affected Crosscuts

N/A