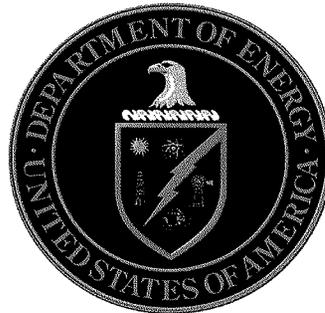


Office of Chief Counsel
Office of Science - Chicago Office

**Annual Performance Plan
Fiscal Year 2009**



Alan I. Handwerker
Chief Counsel

APPROVED

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**Alan I. Handwerker
Chief Counsel**

Executive Summary

The FY09 Office of Chief Counsel (OCC) Annual Performance Plan (APP) is a current best estimate of the level of legal and administrative services that OCC will need to provide to Office of Science (SC) and non-SC elements. This includes both General Law (GL) and Intellectual Property Law (IPL) support to other Operations and Field organizations. A large percentage of the FY09 Goals, Objectives and Measures are the same, or very similar to, those that OCC has been tracking for the past several years. This plan flows from and reflects the Goals, Objectives and Measures found in the SC Chicago Office (CH) FY 2009 Annual Performance Plan.

Once again, the biggest manpower demand is reflected in supporting the SC Site Offices in award and administration of Laboratory Management and Operating (M&O) Contracts. Other significant manpower demands are reflected in major SC-CH projects and activities that require OCC personnel support.

OCC Mission:

The mission of OCC is to provide a full range of timely and accurate legal services, to support the mission and responsibilities of SC and other customers. In addition, OCC provides complete intellectual property (IP) legal services to other DOE field elements, as assigned, and through the Freedom of Information Act Officer/Privacy Act Officer (FOIO/PAO), assures access to Government records consistent with national FOIA and Privacy Act requirements. OCC is composed of attorneys, paralegals, technicians, and administrative staff, who work together to achieve the mission and function of the Office. In SC-CH, the FOIO/PAO is a member of OCC. These personnel work proactively and collaboratively with customers, and to the maximum extent possible (consistent with their professional responsibilities) function as if they were an integral part of the DOE customer organization being provided the service.

I. Key Considerations

This APP is based on the following key considerations and assumptions.

1. The SC-Chicago Office (CH) is given responsibility to conduct (1) new (BNL) and conclude one (1) ongoing (PPPL) M&O Contract Source Evaluation Board (SEB) in FY09;
2. Other major actions that will require significant OCC support in FY09 include the ongoing Funding Opportunity Announcements (FOAs) for the Facility for Rare Isotope Beams (FRIB) and the Energy Frontier Research Centers (EFRC)
3. Sufficient travel funds are provided for business and training;
4. IPL can continue to utilize support services contracts for patent processing and drafting support.
5. OCC personnel are utilized in more than one area of the OCC organization as skills and experience are identified.
6. OCC will have full on-board strength of personnel in FY09 with no vacancies to fill.

II. Key Customers

The following are the principal external and internal customers of OCC:

EXTERNAL	INTERNAL
HQ General Counsel	The Manager/Office of the Manager
SC and Other HQ Elements	Office of Acquisition and Assistance (ACQ)
Other DOE Field Elements	Site Offices
Department of Justice (DOJ)	SC-CH Matrix Organizations
Freedom of Information Act//Privacy Act (FOIA/PA) Requesters	SC-CH employees (in their official capacities)

Site Offices: ASO, BHSO, BSO, FSO, PSO, AMSO and SSO

SC Laboratories: PNNL, LBNL, ANL, BNL, PPPL, FNAL, Ames Laboratory, SLAC

Non-SC Field Elements/Laboratories (IPL): ID, INL, RESL, EMCBC, GO, NETL (including Albany Research Center), NREL, Yucca Mountain Project Office, WAPA, BPA and ORP

Consistent with the SC-CH concept of "customer service," OCC personnel work proactively and collaboratively with SC-CH elements and other customers. This means that OCC personnel, to the maximum extent possible, consistent with their professional responsibilities, function as if they were an integral part of the SC-CH element being provided the service.

III. Key Functions

OCC services comprise four key functional areas: (1) *Providing Legal Services to the Department of Energy*; (2) *Counseling Individual Employees (in their official capacities)*; (3) *Administering FOIA and Privacy Act Programs*; and (4) *Protecting the Intellectual Property Rights of the Government*. The OCC GL and IPL Functional Directories disclose the lead and backup attorneys responsible for various OCC functions.

1. FY 2009 Specific Goals, Objectives, Measures and Targets

The FY09 SC-CH APP lists under certain of its goals the following 13 measures of performance for 10 objectives applicable to the OCC organization, either through unique OCC functions or OCC-required contributions to overall SC-CH functions. OCC has assigned ownership for those 13 measures of performance in the following tables as well. For items that represent joint SC-CH and SC-OR objectives, OCC works with their SC-OR counterparts to achieve to the extent possible consistency between SC-CH and SC-OR functional efforts. Finally, as a service organization, OCC routinely contributes to the achievement of the other numerous goals and objectives of all other SC-CH elements.

NOTE: *Denotes Joint SC-CH and SC-Oak Ridge (OR) Objectives

Goal 1: Successfully exercise all authorities for the Chicago Office

Objective	Measure	Target	Owner
1.1. Ensure all authorities are successfully exercised*	1.1.4. Percentage of Legal Management audit findings and recommendations tracked and corrected.	100%	Chief Counsel Deputy for GL Jim Shelli

Goal 2: Deliver on the SC complex service needs by providing a wide range of services

Objective	Measure	Target	Owner
2.1. Implement effective and efficient service to the SC complex*	2.1.12. Number of patent applications filed on behalf of DOE	22 patent applications filed	Chief Counsel Deputy for IPL IPL Attorneys
	2.1.13. Number of inventions processed to final disposition	1050	Chief Counsel Deputy for IPL IPL Attorneys

Goal 3: Maintain the excellence of acquisition and assistance services provided to SC and other DOE Program Offices

Objective	Measure	Target	Owner
3.2. Maintain acquisition staff expertise	3.2.5. Percentage of CORs that met prescribed training requirements for assigned delegations by 09/30/09	100%	Deputy for GL Jim

Goal 4: Continuously improve the Integrated Support Center (ISC) Operations

Objective	Measure	Target	Owner
4.1. Improve operation of the ISC*	4.1.3. As an SC-CH organization, OCC conducts and reports a self-assessment of work unit process(es) by SC-CH due date	by 06/30/09	Chief Counsel, Deputies, Assistant Chiefs, and Mimi
4.2. Strengthen management controls by effectively planning, measuring and tracking organizational performance	4.2.1. As an SC-CH organization, submits FY 2010 APP Measures, Targets and Workload Indicators by SC-CH due date	by 07/29/09	Chief Counsel Deputies and Mimi
	4.2.3. Time limit for entering quarterly performance and workload data into MDSS	≤15 days after end of quarter	Chief Counsel Shelli
	4.2.5. Average time for entering data in Legal Action Tracking, Freedom of Information Act/Privacy Act (FOIA/PA), and Patents Management Information System (PATMIS)	≤ 10 business days of receipt of item	Deputies Shelli, Gwen, Mimi All IPL staff

4.3. Improve processes and achieve cost savings	4.3.1. As an SC-CH organization, OCC implements a process improvement based on results of its annual self-assessment	During FY09	Chief Counsel, Deputies, Assistant Chiefs, and Mimi
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Goal 6: Improve our customers' satisfaction, partners' appreciation and stakeholders' understanding

Objective	Measure	Target	Owner
6.1. Develop and communicate customer service standards	6.1.1. Percentage of established customer service standards met (see Customer Service Standards in Section 2 below)	85%	All
6.2. Further develop Communications products to explain ISC/SC-CH functions	6.2.1. Update of organizational websites	At least quarterly Within 10 days after personnel change	Chief Counsel, Deputies, Jim, and Dan
6.3. Enhance our understanding of Site Offices and labs	6.3.2. Percentage of served Site Offices visited.	100%	Chief Counsel, Deputies, Attorneys

Goal 7: Implement human capital policies, programs and practices to meet SC mission and strategic goals and institutionalize strategic human capital management

Objective	Measure	Target	Owner
7.1 Align human capital management strategies with the SC mission, goals and organizational objectives	7.1.6 Preparation of annual Workforce Management Plan (a/k/a Workforce Staffing Plan) and submittal to HRS by SC-CH due date	by 06/19/09	Chief Counsel Deputies and Mimi

2. OCC FY 2009 Customer Service Standards based upon OCC Customer Service Plan

Standard	Measure	Target
I. Professionalism, customer responsiveness, and Timeliness		
OCC will meet deadlines and provide timely written and oral advice.	<ul style="list-style-type: none"> • Average IPL review of Work For Others Agreements, Cooperative Research and Development Agreements (CRADAs), and Joint Work Statements • Percentage of above IPL reviews under 3 days • Percentage of OCC-GL and IPL action items complete within 3 days or customer time limit, whichever is longer • Percentage of Office of Government Ethics Form 450 (Confidential Financial Disclosure Form) reviewed within 30 days of receipt of complete information • Percentage of ethics opinions issued within 14 days of request and receipt of complete information from requester • Percentage of litigation deliverables submitted within assigned time limit • Percentage of SC CH on-time FOIA responses • Percentage of SC CH overdue FOIA responses (within additional 20 business days of time limit) 	<p>less than 3 days</p> <p>90%</p> <p>90%</p> <p>100%</p> <p>100%</p> <p>100%</p> <p>90%</p> <p>90%</p>

II. Communication and Accessibility

- OCC staff will return telephone calls and e-mails promptly.
- OCC staff will listen to our customers' concerns, will be courteous, professional and treat our customers with respect.
- OCC staff will acknowledge our mistakes and prevent the same mistake in the future.
- OCC written and oral communications will be clear, accurate, and address our customer's problem or question.
- OCC staff will be accessible to our customers, whether face-to-face, by telephone or email.
- OCC staff will keep our customers informed of the status of ongoing issues.
- OCC will provide our customers with information regarding OCC services and who to contact if our customers have a question, problem, or concern.
- OCC staff will keep our customers informed of new developments and trends in various areas of the law.

III. Quality of OCC Services

- OCC will deliver quality products and services that meet or exceed our customers' needs and expectations.
- The knowledge and skill set of the OCC staff will meet or exceed the needs and expectations of our customers.
- The OCC staff will be open to new ideas.
- The OCC staff will provide creative problem solving for customer problems, create win-win solutions, provide viable alternative solutions, follow through, and learn from the experience.
- OCC staff will identify problem situations up-front and propose workable solutions or options to resolve those problems before they arise.
- The OCC staff will actively seek to understand our customers' business needs in order to serve them right the first time.
- OCC will provide the types of legal services our customers need.

- Percentage of OCC Customers satisfied or very satisfied (95%)
- Percentage of M&O and non-M&O Board/Panel Chairpersons satisfied or very satisfied with OCC support (100%)

3. FY 2009 Workload Indicators

A. FY 2009 Indicator/Measure Data Source and Correlation

Workload Indicators ¹	FY08	FY09 Target	Data Source	Data Code	Measures
Major M&O Prime Contract Actions		9	Action Tracking System (GL)	M&O	Chair Satisfaction
Other Major Actions		12		MAJ	Chair Satisfaction
Litigation/ Administrative Proceedings		12		LIT	% On-time
GL Procurement Action Reviews (including Locals)		244		LOC	% On-time
GL Directives/SCMS Reviews	56	56		DIR	
GL Other Reviews		396		REV	
GL 450 Reviews	180	184	Ethics Monitoring		% < 30 days
IP WFO Reviews	179	205	Action Tracking System (IPL)	WFO	<ul style="list-style-type: none"> • % On-time • Avg Rev Time • % < 3 days
IP CRADA Reviews	45	68		CRA	
IP Contract Agreement Close-outs	1,602	1,505		PCR	
IP Procurement Reviews	6,765	6,968		CR	
Copyrights	38	32		CYR	
Invention Disclosures Received	1,288	1,359	PATMIS		
Inventions Disposed	1,192	1,043			Inventions processed to final disposition
Patent Applications Filed	31	25			Patent applications filed on behalf of DOE
Patent Application Amendments Filed	44	41			
Confirmatory Licenses Submitted	357	487			

Waiver Statements of Consideration Forwarded	23	29			
SC-CH FOIA/PA Requests Received	54	48	FOIA/ PA Tracking System		% On-time % Overdue < +20 days
SC-CH FOIA/PA Requests Processed	53	50			

¹For FY09, some of the GL codes and corresponding Workload Indicator subject descriptions in the OCC Action Item Tracking System have been modified to more accurately reflect workload in those areas, as follows:

	Code	Workload Indicator	Subject Description:
Ongoing/Long-Term Actions	M&O	Major M&O Prime Contract (PC) Actions	PC-Related Source Evaluation Boards (SEBs) PC Extensions Major PC Modifications (Mods) Other Major PC-related Actions
	MAJ	Other Major Actions	M&O Contractor Subcontracts (incl. related IRBs/CRBs) Local Contract-Related SEBs Local Contract Terminations Source Evaluation Panels (SEPs) Funding Opportunity Announcements (FOAs) Environmental Assessments (EAs) Site Lease Renewals and Mods Alternative Financing of Facilities Long-term Real Estate Transactions

	LIT	Litigation/ Administrative Proceedings	Equal Employment Opportunity (EEO) Merit Systems Protection Board (MSPB) Security Administrative Reviews (AR) Federal Tort Claims (FTCA) Support to U.S. Attorney on Litigation Contract Disputes/Protests Discovery Freedom of Information Act (FOIA) Appeals
One-Time/Short-Term Actions	LOC	Procurement Action Reviews (including Locals)	Contracts and Mods Financial Assistance Agreements and Mods Non-major M&O Procurement Actions Independent Review Boards (IRBs) (Non M&O) Contract Review Boards (CRBs) (Non-M&O)
	DIR	Directives/ SCMS Reviews	Directives (O, M, N, or P) Regulations SCMS Procedures
	REV	Other Reviews	User Agreements Other Agreements Short-Term Real Estate Transactions Memoranda of Understanding (MOUs) Interagency Agreements (IAGs) Legal Opinions and Issue Memoranda Other One-Time/Short-Term Reviews

²The FY08 numbers provided are not the MDSS numbers, but a recounting of actual action items using the FY09 codes and definitions.

B. FY 2009 Indicator/Measure Trending Chart

	FY04	FY05	FY06	FY07	FY08	FY09 Projected
Major M&O Prime Contract Actions						*9
Other Major Actions						*12
Litigation and Administrative Proceedings						*12
GL Procurement Reviews						*244
GL Directives/SCMS Reviews		16	17	10	56	56
GL Other Reviews						*396
GL 450 Reviews	187	198	187	187	180	184
IP WFO Reviews	187	244	254	183	179	205
IP CRADA Reviews	89	71	84	76	45	68
IP Contractual Agreement Close-outs	1264	1730	1367	1547	1602	1555
IP Procurement Reviews	7438	7956	6799	7342	6765	6968
IP Copyrights	16	45	32	28	38	32
Invention Disclosures Received	1282	1651	1409	1380	1288	1359

	FY04	FY05	FY06	FY07	FY08	FY09 Projected
Inventions Disposed	913	961	1025	913	1192	1043
Patent Applications Filed	21	25	22	22	31	25
Patent Application Amendments Filed				39	44	41
Confirmatory Licenses Submitted	398	526	514	591	357	487
Waiver Statements of Considerations Forwarded	53	99	46	20	23	29
SC-CH FOIA/PA Requests Received	38	42	54	35	54	48
SC-CH FOIA/PA Requests Processed	38	36	57	42	53	50

*The FY09 projected numbers represent the anticipated FY09 workload for these categories based on the new GL Workload Indicator subject descriptions set forth in the table in Footnote 1 of Section 3.A. above. Because in FY08 and prior, different subject descriptions were applied to those Workload Indicators, trending is no longer effective for those fiscal years and instead will commence with FY09 for these categories.