

*Office of Chief Counsel*  
Office of Science - Chicago Office

**Annual Performance Plan  
Fiscal Year 2011**



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*Chief Counsel*

Approved: *Alan Handwerker*  
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OCC Revision History

**TITLE:** OCC Annual Performance Plan (APP)

**POINT OF CONTACT:** Gwendolyn Johnson, OCC

**SCMS MANAGEMENT SYSTEM:** Support for SC-CH – Quality Assurance and Oversight – SC Performance Planning and Evaluation, Procedure 1, Preparing and Reviewing the SC Annual Performance Plan (APP)

**TO BE UPDATED:** Annually

REVISION	DATE	REASON/DRIVER	DESCRIPTION
		Support for SC-CH Annual Plan	Prepare OCC organizational performance plan
		FY 2011 Annual Update	Update OCC organizational performance plan

**Executive Summary**

The FY11 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 FY11 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 FY 2011 Goals, Objectives and Measures of the SC Chicago Office (CH).

Once again, the biggest manpower demands are reflected in supporting the SC Site Offices in award and administration of Laboratory Management and Operating (M&O) Contracts and in supporting the Office of Acquisition and Assistance in awarding financial assistance and contract agreements. 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 provide legal review of major M&O contract modifications and to support any M&O source evaluation boards or extensions, if necessary;
2. Other major actions that will require significant OCC support in FY11 include the Long Baseline Neutrino Experiments (LBNE), the BP Solar Farm Project, and environmental issues at LBNL and other Laboratories.
3. Litigation and administrative proceedings will continue to consume from 1-2 FTE for at least the first half of FY11.
4. Sufficient travel funds are provided for business and training;
5. IPL can continue to utilize support services contracts for patent processing and drafting support.
6. The IPL move to the Bldg. 201 3<sup>rd</sup> floor will enable more efficient utilization of OCC staff in FY11.
7. OCC is continuing to operate in FY11 with one to two less FTEs than in the previous fiscal year.

**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

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

**Non-SC Field Elements/Laboratories (IPL):** ID, INL, RESL, EMCBC, GO, NETL (including Albany Research Center), NREL, 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 General Law (GL) and IPL Functional Directories disclose the lead and backup attorneys responsible for various OCC functions.

#### **1. FY 2011 Specific Goals, Objectives, Measures and Targets**

For FY11, SC-CH applies the following measures of performance for 10 objectives to the OCC organization, either through unique OCC functions or OCC-required contributions to overall SC-CH functions. OCC has assigned ownership for those 14 measures of performance in the following tables as well. Items that represent joint SC-CH and SC-OR objectives are reflected in the FY 2011 Integrated Support Center (ISC) Annual Plan, and OCC works with its SC-OR counterparts to achieve, to the extent possible, consistency between SC-CH and SC-OR functional efforts in that regard. Finally, as a service organization, OCC routinely contributes to the achievement of the other goals and objectives of all other SC-CH elements.

SC-CH FY11 Goal	OCC High Level Goals	OCC Measures	OCC Targets
<p>1. Effectively exercise all delegated authorities in support of the SC mission/goals</p>	<p>1.1 Provide effective legal representation to resolve judicial and administrative claims in the best interest of the Government</p>	<p>1.1.1 Percentage of litigation deliverables submitted within assigned deadline</p>	<p><b>100%</b></p>
	<p>1.2 Complete responses to FOIA and PA requests within statutory/ regulatory timeframes.</p>	<p>1.2.1 Percentage of SC CH on-time FOIA/PA responses (within 20 business days of receipt of valid FOIA request)</p>	<p><b>90%</b></p>
<p>2. Effectively deliver SC service complex needs in accordance with customer expectations and the ISC customer service policy</p>	<p>2.1 Satisfy established customer service standards.</p>	<p>2.1.1 Percentage of customer service standards met.<sup>1</sup></p>	<p><b>100%</b></p>
		<p>2.1.2 Frequency of offsite customer visits performed.</p>	<p><b>At least quarterly</b></p>
	<p>2.2 Protect the intellectual property interests of the Government.</p>	<p>2.2.1 Patent applications filed on behalf of DOE</p>	<p><b>25</b></p>
		<p>2.2.2 Inventions processed to final disposition</p>	<p><b>750</b></p>
<p>3. Facilitate overall procurement reform within DOE and seek improved procurement planning processes within the Office of Science</p>	<p>3.1. Facilitate overall procurement reform in DOE</p>	<p>3.1.1 Percentage of on-time ACQ reviews (locals) by customer deadline</p>	<p><b>90%</b></p>

<sup>1</sup> See Attachment 1

SC-CH FY11 Goal	OCC High Level Goals	OCC Measures	OCC Targets
4. Save money and improve efficiency	4.1. Save money and improve efficiency	4.1.1 Conduct and report a self-assessment of a function or process	<b>During FY11</b>
		4.1.2 Develop a corrective action plan and track completion of actions from annual self assessment	<b>During FY11</b>
5. Strengthen management controls by effectively planning, measuring and tracking organizational performance	5.1 Strengthen management controls	5.1.1. Enter quarterly performance and workload data into MDSS	<b>Within 15 days following the end of each quarter</b>
6. *Strengthen support to SC Site Offices	6.1 *Communication with ISC-supported Site Offices	6.1.1. *Formal discussions between the OR and CH Offices of Chief Counsel concerning recurring, important legal issues common among SC site offices	<b>Tri-annually</b>
7. *Eliminate inefficiencies and reduce our response times	7.1. *Eliminate inefficiencies and reduce our response times	7.1.1 *Identify and actively pursue three HQ authorities for delegation to the ISC to streamline and improve DOE-SC and M&O Contractor performance	<b>During FY11</b>

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

**2. OCC Workload Indicators, FY11 Projections, and FY05-FY10 Trending Chart**

	FY05	FY06	FY07	FY08	FY09	FY10	FY11 Projected
Major M&O Prime Contract Actions					*4	4	8
Other Major Actions					*37	25	35
Litigation and Administrative Proceedings					*18	19	15
GL Procurement Reviews					*290	321	300
GL Directives/SCMS Reviews	16	17	10	56	*15	7	10
GL Other Reviews					*171	265	250
GL 450 Reviews	198	187	187	180	172	179	180
IP WFO Reviews	244	254	183	179	205	149	150
IP CRADA Reviews	71	84	76	45	68	71	60
IP Contractual Agreement Close-outs	1730	1367	1547	1602	1555	949	1000
IP New Contractual Agreement and Mod Reviews	**7956	**6799	**7342	**6800	**6968	6687	6800
IP Procurement Reviews						**1021	1000
IP Copyrights	45	32	28	38	32	29	25
Invention Disclosures Received	1651	1409	1380	1288	1359	1360	1300
Inventions Disposed	961	1025	913	1192	1043	559	750

	FY05	FY06	FY07	FY08	FY09	FY10	FY11 Projected
Patent Applications Filed	25	22	22	31	25	34	25
Patent Application Amendments Filed			39	44	41	45	40
Confirmatory Licenses Submitted	526	514	591	357	487	368	375
Waiver Statements of Considerations Forwarded	99	46	20	23	29	50	50
SC-CH FOIA/PA Requests Received	42	54	35	54	48	64	55
SC-CH FOIA/PA Requests Processed	36	57	42	53	50	70	55

\*The FY09 and FY10 numbers and FY11 projections utilize the GL Workload Indicator and Action Tracking System Code descriptions set forth in the tables in Attachments 2&3. Because in FY08 and prior, different subject descriptions were applied to those Workload Indicators, trending no longer can be effective for those fiscal years and instead has commenced with FY09 for those categories.

\*\*For FY05 – FY09 the category “IP New Contractual Agreement and Mod Reviews” included IP procurement reviews. Beginning in FY10, “IP Procurement Reviews” became a separate workload indicator.

**OCC Customer Service Standards from OCC Customer Service Plan**

Standard	Measure	Target
<b>I. Professionalism, customer responsiveness, and Timeliness</b>		
<p>OCC will meet deadlines and provide timely advice, both written and oral.</p>	<ul style="list-style-type: none"> <li>• Average IPL review of Work For Others Agreements, Cooperative Research and Development Agreements (CRADAs), and Joint Work Statements</li> <li>• Percentage of above IPL reviews under 3 days</li> <li>• Percentage of OCC-GL and IPL action items complete within 3 days or customer time limit, whichever is longer</li> <li>• Percentage of Office of Government Ethics Form 450 (Confidential Financial Disclosure Form) reviewed within 30 days of receipt of complete information</li> <li>• Percentage of ethics opinions issued within 14 days of request and receipt of complete information from requester</li> <li>• Percentage of litigation deliverables submitted within assigned time limit</li> <li>• Percentage of SC CH on-time FOIA/PA responses (within 20 business days of time limit)</li> </ul>	<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><b>II. Communication and Accessibility</b></p> <ul style="list-style-type: none"><li>-OCC staff will return telephone calls and e-mails promptly.</li><li>-OCC staff will listen to our customers' concerns, will be courteous, professional and treat our customers with respect.</li><li>-OCC staff will acknowledge our mistakes and prevent the same mistake in the future.</li><li>-OCC written and oral communications will be clear, accurate, and address our customer's problem or question.</li><li>-OCC staff will be accessible to our customers, whether face-to-face, by telephone or email.</li><li>-OCC staff will keep our customers informed of the status of ongoing issues.</li><li>-OCC will provide our customers with information regarding OCC services and who to contact if our customers have a question, problem, or concern.</li><li>-OCC staff will keep our customers informed of new developments and trends in various areas of the law.</li></ul> <p><b>III. Quality of OCC Services</b></p> <ul style="list-style-type: none"><li>-OCC will deliver quality products and services that meet or exceed our customers' needs and expectations.</li><li>-The knowledge and skill set of the OCC staff will meet or exceed the needs and expectations of our customers.</li><li>-The OCC staff will be open to new ideas.</li><li>-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.</li><li>-OCC staff will identify problem situations up-front and propose workable solutions or options to resolve those problems before they arise.</li><li>-The OCC staff will actively seek to understand our customers' business needs in order to serve them right the first time.</li><li>-OCC will provide the types of legal services our customers need.</li></ul>	<ul style="list-style-type: none"><li>• Percentage of OCC Customers satisfied or very satisfied (95%)</li><li>• Percentage of M&amp;O and non-M&amp;O Board/Panel Chairmen satisfied or very satisfied with OCC support (100%)</li></ul>
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**FY 2011 Indicator/Measure Data Source and Correlation**

<b>Workload Indicators</b>	<b>Data Source</b>	<b>Data Code</b>	<b>Measures</b>
Major M&O Prime Contract Actions	<b>Action Tracking System (GL)</b>	<b>M&amp;O</b>	<b>Chair Satisfaction</b>
Other Major Actions		<b>MAJ</b>	<b>Chair Satisfaction</b>
Litigation/ Administrative Proceedings		<b>LIT</b>	<b>% On-time</b>
GL Procurement Action Reviews (including Locals)		<b>LOC</b>	<b>% On-time</b>
GL Directives/SCMS Reviews		<b>DIR</b>	
GL Other Reviews		<b>REV</b>	
GL 450 Reviews	<b>Ethics Monitoring</b>		<b>% &lt; 30 days Opinions &lt; 14 days</b>
IP WFO Reviews	<b>Action Tracking System (IPL)</b>	<b>WFO</b>	<ul style="list-style-type: none"> <li>• % On-time</li> <li>• Avg Rev Time</li> <li>• % &lt; 3 days</li> </ul>
IP CRADA Reviews		<b>CRA</b>	
IP Procurement Reviews		<b>CR</b>	
Copyrights		<b>CYR</b>	
Invention Disclosures Received	<b>PATMIS</b>		
Inventions Disposed			<b>Inventions processed to final disposition</b>
Patent Applications Filed			<b>Patent applications filed on behalf of DOE</b>
Patent Application Amendments Filed			
Confirmatory Licenses Submitted			
Waiver Statements of Consideration Forwarded			
SC-CH FOIA/PA Requests Received	<b>FOIA Xpress Tracking System</b>		<b>% On-time</b>
SC-CH FOIA/PA Requests Processed			

**OCC-GL Action Tracking Codes**

	<b>Code</b>	<b>Workload Indicator</b>	<b>Subject Description:</b>
<b>Ongoing/Long-Term Actions</b>	<b>M&amp;O</b>	Major M&O Prime Contract (PC) Actions	PC-Related Source Evaluation Boards (SEBs) PC Extensions Major PC Modifications (Mods) Other Major PC-related Actions
	<b>MAJ</b>	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
	<b>LIT</b>	Litigation/ Administrative Proceedings	Equal Employment Opportunity (EEO) Merit Systems Review 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

<b>One-Time/Short-Term Actions</b>	<b>LOC</b>	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)
	<b>DIR</b>	Directives/ SCMS Reviews	Directives (O, M, N, or P) Regulations SCMS Procedures
	<b>REV</b>	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