



**DEPARTMENT
of HEALTH
and HUMAN
SERVICES**

Fiscal Year

2011

Office for Civil Rights

*Justification of
Estimates for
Appropriations Committees*

Introduction

The FY 2011 Congressional Justification is one of several documents that fulfill the Department of Health and Human Services' (HHS) performance planning and reporting requirements. HHS achieves full compliance with the Government Performance and Results Act of 1993 and Office of Management and Budget Circulars A-11 and A-136 through the HHS agencies' FY 2011 Congressional Justifications and Online Performance Appendices, the Agency Financial Report, and the HHS Summary of Performance and Financial Information (formerly called the Citizens' Report). These documents are available at <http://www.hhs.gov/asrt/ob/docbudget/index.html>.

The FY 2011 Congressional Justifications and accompanying Online Performance Appendices contain the updated FY 2009 Annual Performance Report and FY 2011 Annual Performance Plan. The Agency Financial Report provides fiscal and high-level performance results. The HHS Summary of Performance and Financial Information (formerly called the Citizens' Report) summarizes key past and planned performance and financial information.



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Director
Office for Civil Rights
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Dear Reader:

I am pleased to present the Office for Civil Rights' (OCR) performance-based Fiscal Year 2011 Justification of Estimates for Appropriations Committees. This budget request provides support for the Administration's priority initiatives and reflects the goals and objectives in the Department's Strategic Plan. This justification includes the FY 2011 Annual Performance Plan as required by the Government Performance and Results Act of 1993, along with a direct link of the budget discussion with program performance.

OCR's requested budget will support our ability to protect the public's right to equal access and opportunity to participate in and receive services from all the Department of Health and Human Services' (HHS) programs without facing unlawful discrimination, and to protect the privacy and security of individuals with respect to their personal health information. OCR's performance objectives are in line with HHS' objectives for transforming the healthcare system, increasing access to high quality, effective health care; promoting the economic self-sufficiency and well-being of vulnerable families, children and individuals; and reducing disparities in ethnic and racial health outcomes.

Lastly, a 2005 program assessment demonstrated our continued commitment to use our human capital effectively and efficiently to achieve results in support of our non-discrimination and privacy compliance mission. OCR has made progress in achieving results to support HHS-wide initiatives to improve the health and well-being of the public. To ensure continued results, individual performance plans at all levels of OCR's leadership and staff are focused on achieving the goals and objectives set out in our organizational performance plan. In this way, all OCR staff are working together to achieve our shared objectives in protecting civil rights and the privacy and security of health information.

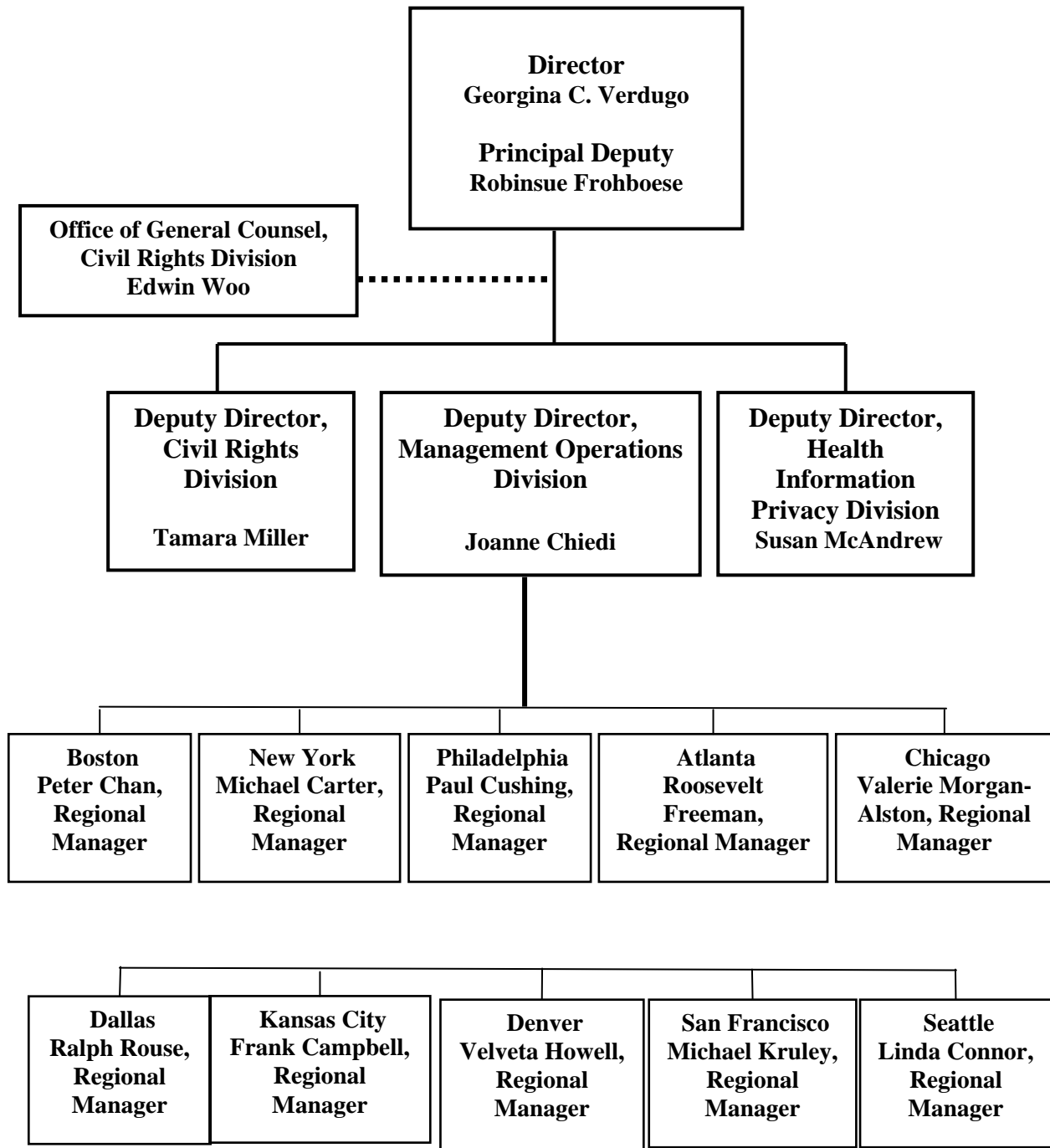
/s/

Georgina C. Verdugo
Director
Office for Civil Rights

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE FOR CIVIL RIGHTS (OCR)**

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Department of Health and Human Services Office for Civil Rights



**Department of Health and Human Services
Office for Civil Rights**

Executive Summary

Agency Mission

The Department of Health and Human Services (HHS), through the Office for Civil Rights (OCR), promotes and ensures that people have equal access to and the opportunity to participate in and receive services from all HHS-funded programs without facing unlawful discrimination, and that the privacy and security of their health information is protected. Through prevention and elimination of unlawful discrimination and by protecting the privacy and security of individually identifiable health information, OCR helps HHS carry out its overall mission of improving the health and well-being of all people affected by its many programs.

Vision

Through investigations, voluntary dispute resolution, enforcement, technical assistance, policy development and information services, OCR will protect the civil rights of all individuals who are subject to discrimination in health and human services programs and protect the health information privacy and security rights of consumers.

Meeting OCR's Mission and Vision

As the Department's civil rights and health privacy and security rights law enforcement agency, OCR promulgates regulations, develops policy, investigates complaints, conducts compliance reviews, and provides technical assistance and public education to ensure understanding of and compliance with Federal non-discrimination and health information privacy and security laws and regulations, including:

- Ensuring that the more than 500,000 recipients of Federal financial assistance comply with the nation's civil rights laws.
- Ensuring that the practices of several million health care providers, health plans, healthcare clearinghouses, and their business associates adhere to Federal privacy and security requirements under the Health Insurance Portability and Accountability Act (HIPAA).
- Implementing and enforcing new privacy protections under the Genetic Information Nondiscrimination Act of 2008 and the Health Information Technology for Economic and Clinical Health Act (HITECH) contained in the American Recovery and Reinvestment Act of 2009 (ARRA) and confidentiality restrictions under the Patient Safety and Quality Improvement Act of 2005.
- Annually resolving more than 10,000 citizen complaints alleging discrimination or a violation of HIPAA.
- Annually conducting reviews of more than 2,000 new Medicare provider applicants to determine their compliance with the nation's civil rights laws.

Overview of Budget Request

The FY 2011 President’s Budget request for OCR is \$44,382,000 – an increase of \$3,283,000 above the FY 2010 enacted level. This budget supports OCR’s activities as the primary defender of the public’s right to nondiscriminatory access to and receipt of Federally funded health and human services. In addition, the budget supports OCR’s significantly expanded compliance responsibilities that protect individuals’ personal health information under the Privacy and Security Rules issued pursuant to the Health Insurance Portability and Accountability Act (HIPAA).

Program increases:

Regional Office Privacy Advisors (+\$1.6 million)

Section 13403(a) of the HITECH Act requires the Secretary of HHS to designate Privacy Advisors in each of OCR’s ten regional offices to offer guidance and education to covered entities, business associates, and individuals on their rights and responsibilities related to Federal privacy and security requirements for protected health information. An increase of \$1,600,000 and 10 FTE is requested to fund this responsibility.

Enforcement of the HIPAA Security Rule (+\$1 million)

This \$1 million increase will support OCR’s newly delegated authority for the administration and enforcement of the Security Standards for the Protection of Electronic Protected Health Information (HIPAA Security Rule). Combining the authority for administration and enforcement of the Federal standards for health information privacy and security called for in HIPAA will improve HHS’ ability to protect individuals’ health information.

Discretionary All-Purpose Table
(Dollars in Thousands)

	FY 2009 Enacted	FY 2009 ARRA	FY 2010 Enacted	FY 2010 ARRA	FY 2011 ARRA	FY 2011 Request
Civil Rights Compliance and Enforcement FTE	\$15,318 97	-- --	\$15,701 102	-- --	-- --	\$15,962 102
Health Information Privacy and Security Rule Compliance and Enforcement FTE	\$19,349 96	-- --	\$19,857 132	-- --	-- --	\$22,787 142
Operations FTE	\$5,432 34	-- --	\$5,541 36	-- --	-- --	\$5,633 36
Total FTE	\$40,099 227	-- --	\$41,099 270	-- --	-- --	\$44,382 280

Note: FTE levels include 3 reimbursable FTE in each of FY 2009, FY 2010 and FY 2011.

**Department of Health and Human Services
Office for Civil Rights**

Appropriations Language

For expenses necessary for the Office for Civil Rights, [~~\$37,785,000~~] \$44,382,000 [~~together with not to exceed \$3,314,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund~~]¹.

**Office for Civil Rights
Appropriations Language Analysis**

Language Analysis

Language Provision	Explanation
<p>¹“together with not to exceed \$3,314,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund”</p>	<p>HHS proposes that annual Trust Fund transfers from CMS be deleted from OCR (and GDM) appropriation language, and that the Trust Funds amount be replaced by regular Budget Authority, so that OCR’s bottom-line total is not reduced. The numerous accounting intricacies associated with these Trust Fund transfers now outweigh whatever benefit may have been present when the transfers were initiated years ago. HHS is not aware of any legislative requirement mandating these transfers, or of any prohibition against ending them. Deleting the transfers should also make appropriations scorekeeping easier for Congressional staff.</p>

**Office for Civil Rights
Amounts Available for Obligation**

	<u>FY 2009 Actual</u>	<u>FY 2010 Est.</u>	<u>FY 2011 PB</u>
<u>General Fund Discretionary Appropriation:</u>			
L/HHS, Office for Civil Rights.....	\$36,785,000	\$37,785,000	\$44,382,000
Across-the-board reductions	--	--	--
Subtotal, L/HHS, Office for Civil Rights.....	36,785,000	37,785,000	44,382,000
Rescission	--	--	--
Subtotal, adjusted appropriation.....	\$36,785,000	\$37,785,000	\$44,382,000
 <u>Trust Fund Discretionary Appropriation:</u>			
Appropriation Lines.....	\$3,314,000	\$3,314,000	--
Across-the-board reductions.....	--	--	--
Subtotal, L/HHS, Office for Civil Rights.....	3,314,000	3,314,000	--
Rescission.....	--	--	--
Subtotal, adjusted trust fund discr. appropriation....	\$3,314,000	3,314,000	--
 Total, Discretionary Appropriation.....	 \$40,099,000	 \$41,099,000	 \$44,382,000
 Unobligated balance, start of year.....	 --	 --	 --
Unobligated balance, end of year.....	\$195,000	--	--
Unobligated balance, lapsing.....	\$195,000	--	--
 Total obligations.....	 \$39,904,000	 \$41,099,000	 \$44,382,000

Excludes the following amounts for reimbursable activities carried out by this account:
FY 2009 \$367,490; FY 2010 \$1,400,000; FY 2011 \$400,000.

**Office for Civil Rights
Summary of Changes¹**

2010	Total estimated budget authority.....	\$41,099,000
2011	Total estimated budget authority.....	<u>\$44,382,000</u>
	Net Change.....	\$3,283,000

	2010 Estimate		Change from Base	
	<u>FTE</u>	<u>Budget Authority</u>	<u>FTE</u>	<u>Budget Authority</u>
Increases:				
A. Built-in:				
1. Annualization of January 2010 pay raise.....	270	\$31,571,000	--	\$149,000
2. Effect of Jan 2011 civilian pay raise of 2.1%.....	270	\$31,571,000	--	\$394,000
3. Effect of Jan 2011 military pay raise of 2.4%.....	270	\$31,571,000	--	\$2,000
4. Increase in rental payments to GSA and other common costs	<u>270</u>	<u>\$9,528,000</u>	<u>--</u>	<u>\$138,000</u>
Subtotal, Built-in Increases.....	270	\$41,099,000	--	\$683,000
A. Program:				
1. HIPAA guidance and education provided by Regional Office Privacy Advisors	270	\$41,099,000	10	\$1,600,000
2. HIPAA Security Rule enforcement	<u>270</u>	<u>\$41,099,000</u>	<u>--</u>	<u>\$1,000,000</u>
Subtotal, Program Increases.....			10	\$2,600,000
Total Increases.....			10	\$3,283,000
Total Decreases.....			--	--
Net Change.....			10	\$3,283,000

¹ Includes 3 FTE for reimbursable activities carried out by this account in FY 2009, FY 2010, and FY 2011. Excludes the estimated cost of reimbursable activities carried out by this account: FY 2009 \$367,490; FY 2010 \$1,400,000; FY 2011 \$400,000.

Office for Civil Rights
Budget Authority by Activity¹
(Dollars in Thousands)

	<u>2009</u>		<u>2010</u>		<u>2011</u>	
	<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>
Civil Rights Compliance.....	97	\$15,318	102	\$15,701	102	\$15,962
Health Information Privacy and Security Rule Compliance.....	96	19,349	132	19,857	142	22,787
Operations....	<u>34</u>	<u>5,432</u>	<u>36</u>	<u>5,541</u>	<u>36</u>	<u>5,633</u>
Total Budget Authority	227	\$40,099	270	\$41,099	280	\$44,382
General funds.....		\$36,785		\$37,785		\$44,382
HI/SMI trust funds.....		<u>3,314</u>		<u>3,314</u>		--
Total Budget Authority		\$40,099		\$41,099		\$44,382

¹ Includes 3 FTE for reimbursable activities carried out by this account in FY 2009, FY 2010, and FY 2011. Excludes the estimated cost of reimbursable activities carried out by this account: FY 2009 \$367,490; FY 2010 \$1,400,000; FY 2011 \$400,000.

**Office for Civil Rights
Authorizing Legislation**

	<u>2010 Amount Authorized</u>	<u>2010 Appropriations Act</u>	<u>2011 Amount Authorized</u>	<u>2011 Pres. Budget</u>
Office for Civil Rights:				
P.L. 88-352;				
42 U.S.C. 300s;				
P.L. 91-616;				
P.L. 92-157;				
P.L. 92-158;				
P.L. 92-255;				
P.L. 93-282;				
P.L. 93-348;				
P.L. 94-484;				
P.L. 95-567;				
P.L. 97-35;				
P.L. 103-382;				
P.L. 104-188;				
P.L. 92-318;				
P.L. 93-112;				
P.L. 94-135;				
P.L. 101-336;				
P.L. 104-191;				
P.L. 109-41;				
P.L. 110-233;				
P.L. 111-5	Indefinite	\$41,099,000	Indefinite	\$44,382,000

Office for Civil Rights Appropriations History Table

	<u>Budget Estimate to Congress</u>	<u>House Allowance</u>	<u>Senate Allowance</u>	<u>Appropriation</u>
2002				
Appropriation	28,691,000	28,691,000	28,691,000	28,691,000
Rescission	---	---	---	-50,000
Rescission	---	---	---	-23,000
Rescission	---	---	---	-126,000
Transfer to GDM	---	---	---	-376,000
Trust Funds	3,314,000	3,314,000	3,314,000	3,314,000
2003				
Appropriation	30,328,000	---	30,328,000	30,328,000
Transfer to GDM	-385,000	---	-385,000	-385,000
Rescission	---	---	---	-219,000
Trust Funds	3,314,000	3,314,000	3,314,000	3,314,000
2004				
Appropriation	30,936,000	30,936,000	30,936,000	30,936,000
Rescission	---	---	---	-133,000
Rescission	---	---	---	-182,000
Trust Funds	3,314,000	3,314,000	3,314,000	3,314,000
Rescission	---	---	---	-14,000
Rescission	---	---	---	-19,000
2005				
Appropriation	32,042,000	32,042,000	32,042,000	32,043,000
Rescission	---	---	---	-61,000
Rescission	---	---	---	-255,000
Trust Funds	3,314,000	3,314,000	3,314,000	3,314,000
Rescission	---	---	---	-27,000
2006				
Appropriation	31,682,000	31,682,000	31,682,000	31,682,000
Rescission	---	---	---	-317,000
Trust Funds	3,314,000	3,314,000	3,314,000	3,314,000
Rescission	---	---	---	-33,000
CMS Transfer	---	---	---	-24,000
2007				
Appropriation	32,696,000	31,365,000	31,365,000	31,628,000
Trust Funds	3,314,000	3,281,000	3,281,000	3,281,000
2008				
Appropriation	33,748,000	33,748,000	33,748,000	31,628,000
Rescission	---	---	---	-553,000
Trust Funds	3,314,000	3,314,000	3,314,000	3,281,000
Rescission	---	---	---	-57,000
2009				
Appropriation	36,785,000	36,785,000	36,785,000	36,785,000
Trust Funds	3,314,000	3,314,000	3,314,000	3,314,000
2010				
Appropriation	37,785,000	37,785,000	37,785,000	37,785,000
Trust Funds	3,314,000	3,314,000	3,314,000	3,314,000
2011				
General Funds	44,382,000	---	---	---

**Department of Health and Human Services
Office for Civil Rights**

Budget Narrative

Civil Rights, Health Information Privacy and Security Rule Compliance, and Operations

	FY 2009 Enacted	FY 2009 ARRA	FY 2010 Enacted	FY 2010 ARRA	FY 2011 ARRA	FY 2011 Request
Civil Rights Compliance and Enforcement FTE	\$15,318 97	-- --	\$15,701 102	-- --	-- --	\$15,962 102
Health Information Privacy and Security Rule Compliance and Enforcement FTE	\$19,349 96	-- --	\$19,857 132	-- --	-- --	\$22,787 142
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Total FTE	\$40,099 227	-- --	\$41,099 270	-- --	-- --	\$44,382 280

Note: FTE levels include 3 reimbursable FTE in each of FY 2009, FY 2010 and FY 2011.

Authorizing Legislation:

P.L. 88-352, 42 U.S.C. 300s, P.L. 91-616, P.L. 92-157, P.L. 92-158, P.L. 92-255, P.L. 93-282, P.L. 93-48, P.L. 94-484, P.L. 95-567, P.L. 97-35, P.L. 103-382, P.L. 104-188, P.L. 92-318, P.L. 93-112, P.L. 94-135, P.L. 101-336, P.L. 104-191, P.L. 109-41, P.L. 110-233, P.L. 111-5

FY 2010 Authorization Indefinite

Allocation Method.....Direct Federal/Intramural

Program Description and Accomplishments

The Office for Civil Rights (OCR) is the primary defender of the public's right to privacy and security of protected health information and the public's right to non-discriminatory access to Federally-funded health and human services. Through prevention and elimination of unlawful discrimination and by protecting the privacy and security of individually identifiable health information, OCR helps HHS carry out its overall mission of improving the health and well-being of all people affected by the Department's many programs.

As HHS' civil rights and health privacy law enforcement agency, OCR's key priorities in FY 2010 and FY 2011 are: ensuring understanding of and compliance with the HIPAA Privacy and Security Rules; implementing statutory privacy protections for genetic information; promoting adequate privacy protections in the use of health information technology; enforcing the confidentiality protections afforded to patient safety information; increasing non-discriminatory access to quality health care and human services, including adoption, foster care, and TANF; promoting best practices for effective communication in hospital settings with persons who are deaf or hard of hearing and persons of limited English proficiency; strategically disseminating an OCR-developed Federal civil rights curriculum for medical schools to help narrow disparities in health care quality, access and patient safety; supporting appropriate services in the most integrated setting for persons with disabilities; and promoting non-discrimination and privacy protections in emergency preparedness and response activities.

Through these varied efforts, OCR promotes integrity in the expenditure of Federal funds by ensuring that these funds support programs which provide access to services free from discrimination on the basis of race, color, national origin, disability, age, religion and sex. OCR's efforts also promote public trust and confidence that the health care system will maintain the privacy of protected health information while ensuring access to care.

Civil Rights Compliance

OCR civil rights compliance staff provides the mission-critical function of conducting investigations to resolve complaints from the public concerning allegations of civil rights violations. The compliance staff also develops technical assistance tools and conducts public education events to prevent discrimination. In addition, OCR headquarters staff members provide significant input to the development of compliance and enforcement strategies as well as expert advice to regional staff in their formulation of investigative plans, letters of investigative findings, and resolution agreements following compliance reviews or complaint investigations.

OCR's Civil Rights Division oversees a nationwide civil rights pre-grant review program for new Medicare applicants to ensure their compliance with Federal civil rights laws, including Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.¹ Through this program, OCR provides technical assistance to Medicare applicants, reviews health care facilities' policies and procedures for civil rights compliance, and sends clearance letters to the facilities after they have demonstrated compliance. OCR also enters into civil rights corporate agreements with major health care corporations to develop model civil rights policies and procedures at all facilities under corporate ownership and control, extending their reach to facilities beyond the scope of Medicare Part A program requirements. In this way, OCR is achieving voluntary compliance with health care organizations on a large scale, maximizing its impact and civil rights compliance efforts within the Medicare provider community. Finally, OCR is the Departmental leader in ensuring the protection of the civil rights of persons with disabilities and other underserved populations in emergency preparedness and response activities.

¹ The HHS Centers for Medicare and Medicaid Services require that health care providers participating in the Medicare Part A program do not deny benefits or services to qualified persons based on race, color, national origin, disability, or age. OCR's pre-grant review process certifies civil rights compliance, as appropriate, and serves as an effective means of promoting voluntary compliance by health care providers, thus helping them prevent future civil rights compliance problems.

Highlights of OCR's civil rights compliance accomplishments over the last eighteen months include:

- More than 2,500 individuals with disabilities institutionalized in Georgia's seven public psychiatric and developmental disabilities facilities will have the opportunity to live in their home communities, with appropriate supports tailored to meet their individualized needs, as a result of a statewide agreement entered between the State of Georgia and OCR on July 1, 2008. The agreement resolves statewide complaints filed with OCR by four Georgia advocacy groups alleging that, in violation of the ADA, the State of Georgia failed to treat qualified individuals with developmental disabilities and mental health disabilities in the most integrated setting appropriate to their needs, in accordance with the *Olmstead* decision. The State has also committed to updating its State *Olmstead* Plan in order to develop adequate community services for all persons with disabilities in public and private institutions and at risk of institutionalization, offering new opportunities for qualified individuals to live in their home communities and have full access to community life.
- Following OCR's investigation and subsequent compliance review concerning a complaint alleging that the Hawaii Department of Human Services (HDHS) denied an interpreter to an individual with limited English proficiency, HDHS signed, in August 2008, a voluntary resolution agreement acknowledging that individuals with limited English proficiency need language assistance services to access and fully participate in programs and activities operated by HDHS. Serving a State population of more than 1.2 million individuals, HDHS provides benefits and services throughout the State of Hawaii, including: TANF; child and adult protective services; medical programs for low-income families, including Medicaid; and home and community-based services through its four divisions and 88 local offices located on five islands. Under the agreement, HDHS will, among other things, notify individuals with limited English proficiency of the availability of free language assistance, provide interpreters upon request, translate vital program documents, and train HDHS staff on policies and procedures for communicating with and serving persons with limited English proficiency. HDHS agreed to submit semi-annual progress reports to OCR for a period of three years.
- In June 2009, Medco, the nation's largest pharmacy benefit manager, dispensing more than one hundred million prescriptions a year through pharmacy, home delivery and mail order operations, took steps to implement a multi-faceted plan to improve services to individuals with limited English proficiency following OCR's investigation of a complaint filed on behalf of a Spanish-speaking member. Medco will expand its pool of bilingual customer service representatives who speak Spanish and redesign its referral system to more quickly link Spanish-speaking members to bilingual staff. Medco will continue to use a telephonic interpreter service available for more than 150 other languages to improve communication with other individuals who are limited English proficient and will make improvements to its internal computer systems to more quickly flag language preference and allow important written communications and outbound

telephone calls to be made in a member's primary language. Medco has also committed to developing an extensive evaluation process with respect to interpreter competency.

- In collaboration with the American Hospital Association (AHA), OCR has accomplished significant outreach and technical assistance through its national initiative to provide technical assistance and share resources to help hospitals communicate effectively with individuals who are deaf or hard of hearing and individuals who have limited English proficiency. Currently, OCR is engaged in partnerships with 17 hospital associations in 16 states. Through this initiative, OCR has trained hospital administrators and staff in Arizona, Colorado, Idaho, Kentucky, Missouri, New York, Oklahoma, Rhode Island, Pennsylvania, Texas, Utah and Washington on applicable Federal anti-discrimination laws, and provided technical assistance to numerous hospitals on specific issues that they raised about their hospital language services programs. OCR also has developed a dedicated webpage that provides various resources and tools to facilitate effective communication between hospitals and the target populations. OCR collaborated with the AHA's Health Research and Educational Trust to provide each state hospital association with state-specific data regarding the target populations they serve and the language access services they offer. OCR also developed survey tools for Arizona, Colorado, Hawaii, Kentucky, Utah, and Washington member hospitals to gather data about the languages spoken and language assistance required in their states.
- OCR partnered with the National Consortium for Multicultural Education, comprised of 18 medical schools awarded five-year grants by the National Institutes of Health, to create and deploy a first of its kind, scenario-based curriculum on health disparities and cultural competency in medicine to educate health care providers, medical educators, and student physicians on their civil rights obligations under Title VI of the Civil Rights Act of 1964 and other civil rights laws. The curriculum ensures that medical students and other health care professionals understand that some aspects of "culturally competent" care, including access for individuals with limited English proficiency and non-discrimination in health care on the basis of race, color and national origin, are not only tools for effective medical practice, but also may be legally required. The curriculum has been presented at the American Association of Medical Colleges (AAMC) annual meeting in Washington, DC; Wake Forest University School of Medicine in Winston-Salem, North Carolina; the Health Resources Services Administration's Bureau of Health Professions All Programs Meeting in Washington, DC; and at the Office of Minority Health's Third National Leadership Summit on Eliminating Racial and Ethnic Disparities in Health, in National Harbor, Maryland.

Health Information Privacy and Security Rule Compliance

OCR's Health Information Privacy and Security compliance staff conducts investigations to resolve complaints from the public concerning allegations of HIPAA Privacy and Security Rules violations and develops technical assistance tools and conducts public education events to prevent privacy violations. In addition, OCR headquarters staff members provide significant input into the development of compliance and enforcement strategies as well as expert advice to regional staff in their formulation of investigative plans, letters of investigative findings, and resolution agreements following compliance reviews or complaint investigations. OCR's Health Information Privacy Division also monitors corrective action agreements, and engages in public

education and technical assistance activities as means of achieving compliance with Privacy and Security Rule requirements.

OCR headquarters' staff is responsible for policy development and rule-making activities, including analyzing the need for modifications to privacy and confidentiality regulations, proposing regulatory modifications when necessary, and promulgating regulations for new statutory authorities, such as the Genetic Information Nondiscrimination Act of 2008 (GINA) and the Health Information Technology for Economic and Clinical Health Act (HITECH) contained in the American Recovery and Reinvestment Act of 2009. OCR's Health Information Privacy Division is also responsible for national policy on the confidentiality of information related to patient safety events and for the enforcement of those confidentiality protections under the Patient Safety and Quality Improvement Act of 2005.

OCR plays a leading role in other health reform efforts, including patient safety and in personalized medicine based on genetic breakthroughs. For example, in FY 2008, OCR issued and implemented standards, policies, and regulations for enforcing the Federal privilege and confidentiality protections of the Patient Safety and Quality Improvement Act of 2005, and, during FY 2009 and FY 2010, is responsible for rulemaking and enforcement responsibilities under GINA. Finally, OCR is the Departmental leader in ensuring the appropriate flow of health information under the HIPAA Privacy and Security Rules in emergency preparedness and response activities.

Highlights of OCR's accomplishments in HIPAA Privacy and Security Rule compliance over the last eighteen months include:

- As a result of OCR and the Centers for Medicare and Medicaid Services (CMS) investigations under the HIPAA Privacy and Security Rules, HHS entered into a Resolution Agreement with Providence Health and Services of Seattle, Washington on July 15, 2008 to settle potential violations of the Privacy Rule by this health care provider. The investigations focused on Providence's failure to implement policies and procedures to safeguard protected health information of over 386,000 patients whose health information privacy was compromised after unencrypted media and laptops were removed from the premises and later stolen. Providence agreed to pay a \$100,000¹ settlement fee to the Federal government and to implement a corrective action plan that includes safeguards governing off-site handling of electronic media containing patient information, training workforce members on the safeguards, conducting audits and site visits of Providence facilities, and submitting compliance reports to HHS for a period of three years.
- Following up on media reports alleging that the CVS pharmacy chain had disposed of patient information in unsecured industrial trash containers, OCR conducted an investigation of CVS' compliance with the Privacy Rule. At the same time, the Federal Trade Commission (FTC) opened an investigation of CVS for potential violations of the FTC Act, making this the first case in which OCR has coordinated investigation and

¹ Prior to enactment of the American Recovery and Reinvestment Act of 2009 on February 17, 2009, OCR was not authorized to retain settlement agreement amounts. Therefore, this settlement amount was deposited into the Treasury General Fund.

resolution of a case with the FTC. The reviews by OCR and the FTC indicated that CVS had failed to implement adequate policies and procedures to appropriately safeguard patient information during the disposal process and had failed to adequately train employees on how to dispose of such information properly. As part of a Resolution Agreement reached in January 2009, CVS agreed to pay \$2.25 million¹ and to implement a robust correction action plan that requires Privacy Rule compliant policies and procedures for safeguarding patient information during disposal, employee training, and employee sanctions for noncompliance. In a coordinated action, CVS Caremark Corporation, the parent company of the pharmacy chain, signed a consent order with the FTC to settle consumer protection violations.

Recovery Act Responsibilities and Accomplishments

OCR has an important role under the Health Information Technology for Economic and Clinical Health Act (HITECH) contained in the American Recovery and Reinvestment Act of 2009 to strengthen HIPAA Privacy and Security protections, enhance enforcement efforts, and provide public education about privacy protections.

Section 13403 (a) of the HITECH Act requires that not later than six months after the date of the enactment of the Act, the Secretary shall designate an individual in each regional office of the Department to offer guidance and education to covered entities, business associates, and individuals on their rights and responsibilities related to Federal privacy and security requirements for protected health information. The Secretary delegated this responsibility to OCR on July 27, 2009 and this budget will enable OCR to hire regional office privacy advisors to meet this statutory requirement. In addition to performing as each regional office's expert on HIPAA privacy and security these regional privacy advisors will be critical contributors to OCR's mandated national public education initiative.

In addition to the regional office privacy advisors, section 13403(b) of the HITECH Act requires that not later than 12 months after enactment, OCR will develop and maintain a multi-faceted national education initiative to enhance public transparency regarding the uses of protected health information. The Act requires that the education initiative will be conducted in a variety of languages and will present information in a clear and understandable manner. To comply with the law, OCR must expand its existing public education program. In the FY 2009 appropriation OCR received \$331,000 to begin a national public education campaign focused on the covered entity community. The HITECH requirement not only expands the regulated community to include business associates but also mandates that OCR educate individuals about the potential uses of their protected health information, the effects of such uses, and the rights of individuals with respect to such uses. To meet this challenge, OCR is currently working with the Office of the National Coordinator for Health Information Technology (ONC) to use ARRA funding to design and role out the initial public education campaign during FY 2010 and FY 2011.

Finally, section 13411 of the HITECH Act requires the Secretary to provide for periodic audits to ensure that covered entities and business associates are in compliance with the law's

¹ Prior to enactment of the American Recovery and Reinvestment Act of 2009 on February 17, 2009, OCR was not authorized to retain settlement agreement amounts. Therefore, this settlement amount was deposited into the Treasury General Fund.

requirements. As the Secretary has delegated to OCR the responsibility for enforcing the privacy provisions of HIPAA, and with the re-delegation of the Security Rule responsibility, OCR will be required to develop an audit program to ensure compliance by covered entities and business associates. OCR is working with ARRA funding provided via ONC to conduct a study to determine the most effective means of performing these audits as well as to develop audit protocols to govern the audit program. Upon OCR's completion of these tasks, additional ARRA funding will be released for the initial round of audits in FY 2010 and FY 2011.

These activities directly support the President's goal of increasing the use of electronic health records and allow OCR to adhere to the statutory mandates of the HITECH Act. The mandated public education program (including regional office privacy advisors) coupled with audits of covered entities and business associates will increase Americans' confidence in the use of electronic health records and the privacy and security of their health information. The target population for the national public education campaign is all consumers of health care in this country, and the audit program will focus on the covered entity and business associate community. Further, OCR will work to increase the public's use of the web as the principal source for obtaining information about the potential uses of their protected health information, the effects of such uses, and their individual rights with respect to such uses.

Highlights of recent Recovery Act accomplishments include:

- In April 2009, in consultation with ONC and CMS, OCR published guidance on technologies and methodologies to secure protected health information from unauthorized persons and requested comments. The guidance was also posted on the OCR website to meet the HITECH Act requirement for issuance of guidance within 90 days of enactment.
- In August 2009, as required by the HITECH Act, OCR published Interim Final Rule Breach Notification provisions within 180 days of enactment. The Breach Notification provisions required covered entities for the first time to provide notice to individuals adversely affected by breaches of unsecured protected health information, and to report to the Secretary and the media when the breaches involve 500 or more individuals. These notifications must occur without undue delay and not longer than 60 days from discovery of the incident. Public comment closed October 23, 2009.
- In December 2009, OCR began Departmental clearances on a Notice of Proposed Rulemaking to address the HITECH Act provisions strengthening privacy and security protections which take effect in 2010 or 2011. These provisions include extending security and privacy rule liability to business associates, new limitations on marketing and fundraising communications, a prohibition on the sale of protected health information, stronger rights to electronic access and to request restrictions, and additional enforcement improvements, including investigation of allegations of willful neglect.

Operations

OCR operates as a Staff Division within the Office of the Secretary and serves as the primary defender of the public's right to privacy of protected health information and the public's right to non-discriminatory access to Federally-funded health and human services. Through prevention and elimination of unlawful discrimination and by protecting the privacy of individually

identifiable health information, OCR helps HHS carry out its overall mission of improving the health and well-being of all people affected by the Department's many programs.

To effectively achieve this mission, OCR's operations staff members are focused on continuous operational and process improvement. Several key initiatives designed to improve overall operational efficiency in FY 2010 and FY 2011 include centralized intake, targeted hiring designed to close skill gaps across the organization, development of enhanced programmatic training, along with upgrades to case management systems. With an emphasis on improving the level of service provided to the public these initiatives coupled with programmatic enhancements to HIPAA compliance and enforcement operations have enabled OCR to make solid gains in reducing the inventory of open complaints. The funding requested in the President's FY 2011 budget will allow OCR's compliance and enforcement operations to continue this renewed focus on being more responsive to the American public.

In addition to these process improvements, OCR continuously works to improve budget and performance integration and increase performance accountability. Results-oriented performance plans are established for all employees with goals cascaded down from OCR's organization-wide performance objectives. By continuously evaluating performance against established measures and goals, OCR works to achieve maximum resource efficiencies.

Performance

In support of its mission, OCR has as a primary strategic objective to ensure compliance, to increase awareness, and to increase understanding of Federal laws requiring non-discriminatory access to HHS programs and protection of the privacy of protected health information. Two outcome measures support this objective: (1) the number of covered entities that take corrective actions as a result of OCR intervention per year and (2) the number of covered entities that make substantive policy changes as a result of OCR intervention and/or review per year. OCR also has established a management objective of enhancing operational efficiency, represented by increasing over time the number of cases that can be resolved per assigned staff member.

OCR's performance efforts were reviewed in 2005. The program assessment findings concluded that OCR has strong purpose and design and is well-managed. Independent evaluations indicate that the organization is effective and achieving results. Through the program assessment process, OCR consolidated its performance measures in FY 2005, moving away from issue-specific goals that might be more subject to change from year to year, and adding two new outcome-related measures. OCR uses goals and measures developed as part of this program assessment to manage its resource allocations across the organization, using an internal scorecard and regular headquarters and regional teleconferences to track operational efficiency and to ensure alignment with performance goals. OCR holds staff accountable for supporting and achieving Departmental and organizational programmatic and management goals by cascading the Director's annual performance contract objectives, including OCR's program objectives, to all managers and program staff.

Key Performance Measures:

- The number of covered entities that take corrective actions as a result of OCR intervention per year is a key measure of OCR's impact in achieving compliance with

health information privacy and the public's right to non-discriminatory access to and receipt of Federally-funded health and human services. In FY 2009, the number of corrective actions that covered entities made as a result of OCR intervention was 3,562. This did not meet OCR's target of 4,000. The failure to achieve this goal was due in large part to a delay in the hiring of new staff associated with programmatic increases included in OCR's FY 2009 appropriation. This delay was a result of OCR being funded under a continuing resolution until February 2009. OCR has a related performance measure that tracks policy changes—a type of corrective action. The number of covered entities that made substantive policy changes as a result of OCR intervention and/or review was 2,314, which did not meet OCR's target of 2,650 covered entities. Meeting OCR's targets in the future depends upon the number of cases that OCR is able to resolve in a given year since corrective actions and policy changes are a direct result of OCR's compliance activities. OCR's target for corrective actions in FY 2011 is 4,200 and for policy changes it is 2,750.

- In FY 2009, OCR compliance staff resolved 10,353 civil rights and health information privacy complaints filed by the public, and completed 2,194 new Medicare application reviews, for a total of 12,547 cases resolved (resolved cases come from new cases received in FY 2009 as well as cases in the inventory at the start of the fiscal year). OCR's overarching program goal for FY 2009 was to resolve sufficient cases to be equivalent to 104 percent of the number of new cases received or initiated in the year. OCR exceeded this goal by 1.3 percentage points. OCR's supporting measure, "Percent of civil rights cases and new Medicare application reviews resolved per cases/reviews received," had an FY 2009 target of 110.5 percent. OCR achieved a resolution rate of 103.3 percent. OCR's other supporting measure, "Percent of privacy cases resolved per cases received," had an FY 2009 target of 100 percent, and OCR achieved a resolution rate of 106.6 percent. OCR continuously monitors case receipts and performance through the use of an internal monthly scorecard, which is one of the tools used to aid in the evaluation of investigators' successful performance in achieving OCR goals. Integration of new staff, along with continued efficiency gains, will allow OCR to continue to exceed its long-term measure of increasing the resolution rate of civil rights and privacy cases and new Medicare application reviews to 100 percent of new cases / reviews received per year. Building on the achievements in FY 2009, OCR expects to resolve 107 percent in FY 2011.
- OCR provided training and technical assistance to more than 95,000 individuals through its public education and compliance activities in FY 2009. However, this level fell just short of OCR's target of 95,400 individuals, but the number was an improvement over the more than 92,000 in FY 2008. Given the nature of OCR's mission, resources are devoted primarily to the resolution of citizen complaints and the active enforcement of the laws and regulations over which OCR has purview. To date, performance on this measure has shown satisfactory results. Public education activities are important to make people aware of their rights to protection against discrimination and privacy of their health information. In addition, health care providers and practitioners are educated on their responsibilities or learn about best practices in providing quality care that is free from discrimination and protects individuals' health information. Most recently, the HITECH Act of 2009 charged OCR to even more significantly expand its outreach efforts by implementing a comprehensive national education initiative to enhance public

transparency regarding the uses of protected health information and the rights of individuals with respect to those uses. At current funding levels, OCR believes that performance on this measure has shown good results. Beginning in FY 2011, OCR proposes revising this measure to the following: the number of people made aware of Federal laws requiring non-discriminatory access to HHS programs and protection of the privacy of protected health information through the provision of information and training to individuals per year. OCR has increased its target for this measure to 101,200 in FY 2011.

OCR anticipates that continued operational efficiency efforts will result in an increase in the number of cases resolved per FTE assigned.

- In FY 2009, OCR resolved 55.9 cases per FTE, which was short of its target of 66 cases per FTE. Results in FY 2009 were significantly impacted by delays in hiring new investigators. Due to the inherent learning curve facing new employees, new investigators coming on-board in the fourth quarter of FY 2009 did not reach their highest levels of productivity by the end of FY 2009, resulting in a downward impact on the average number of cases resolved per FTE. The impact of this learning curve will be largely alleviated in early FY 2010 and future results will reflect the additional capacity provided by these investigators. OCR's management objective of enhancing operational efficiency is critical for achieving each of the previously discussed performance goals. In the past several years, OCR has employed numerous strategies to increase efficiency, including managing caseloads across regional lines. In FY 2010, OCR will complete the centralization of its complaint intake process with an eye toward balancing workload and maximizing capacity across the entire organization. OCR expects a return to pre-FY 2009 efficiency levels in FY 2010 and modest efficiency gains, to 67 cases in FY 2011 as new staff are trained and integrated into operations.

OCR continues to improve responsiveness to the public. OCR added new measures, with baselines established in 2008, where the percentage of complaints that require a formal investigation are resolved within 365 days of receipt, and the percentage of complaints that do not require a formal investigation are resolved within 180 days of receipt. OCR's long-term goal is to resolve 90 percent of complaints that require a formal investigation within 365 days of receipt and to resolve 90 percent of complaints that do not require a formal investigation within 180 days of receipt. It is anticipated that results will be modest in the initial years of these measures as OCR continues to focus on resolving a number of older cases in its inventory. These measures have been incorporated into OCR investigative staff's performance plans and results will be measured through OCR's monthly scorecards.

- OCR established a baseline of 30 percent for the percentage of civil rights complaints that require formal investigation that are resolved within 365 days in FY 2008. OCR achieved a rate of 31 percent in FY 2009, which missed the target of 33 percent, but was an improvement over the base year. OCR's target is 40 percent in FY 2011.
- OCR established a baseline of 79.6 percent for the percentage of civil rights complaints that do not require formal investigation that are resolved within 180 days in FY 2008. OCR achieved a rate of 84 percent in FY 2009, which exceeded the target of 80 percent. Results are expected to diminish over the next two years as OCR concentrates on

significantly reducing its inventory of open complaints. As a result, OCR's target is 79 percent in FY 2011.

- OCR established a baseline of 42.3 percent for the percentage of privacy complaints that require formal investigation that are resolved within 365 days in FY 2008. OCR achieved a rate of 53 percent in FY 2009, which significantly exceeded the target of 45 percent. OCR's target is 50 percent in FY 2011.
- OCR established a baseline of 67 percent for the percentage of privacy complaints that do not require formal investigation that are resolved within 180 days in FY 2008. OCR achieved a rate of 67 percent in FY 2009, which exceeded the target of 66 percent. OCR's target is 69 percent in FY 2011.

Funding History

The following table displays OCR's actual funding levels from FY 2006 through FY 2010, factoring in transfers and rescissions as appropriate.

FY 2006	\$34,622,000
FY 2007	\$34,909,000
FY 2008	\$34,299,000
FY 2009	\$40,099,000
FY 2010	\$41,099,000

Budget Request

The Office for Civil Rights requests \$44,382,000 in FY 2011, an increase of \$3,283,000 over the President's Budget Request of \$41,099,000.

Programmatic enhancements to HIPAA compliance and enforcement operations funded through OCR's FY 2009 appropriation increased OCR's projected FTE level from 228 in FY 2008 to a projected 251 FTE in FY 2009, providing the resources necessary to reduce the inventory of open complaints. Funding requested in the President's FY 2010 budget request will annualize this increase in resources to 267 FTE, allowing OCR to continue to improve its responsiveness to the public by focusing on the timeliness of resolving complaints, as reflected in the performance measures found in the Outputs and Outcomes Table on page 25 (measures 1.1.7 through 1.1.10). The funding level for OCR at the FY 2011 request level will allow OCR's compliance and enforcement operations to continue this renewed progress in being more responsive to the American public.

The FY 2011 request will enable OCR to continue to address key non-discrimination issues, including ADA and *Olmstead* compliance to integrate persons with disabilities in communities instead of institutions; Title VI compliance to reduce disparities in health care access and quality for racial and ethnic minorities and other underserved populations, and to improve language access for persons with limited English proficiency; and the inclusion of persons with disabilities and other members of special needs populations in planning for national emergencies, while continuing to improve responsiveness to the public's questions about, and allegations of non-compliance with, the HIPAA Privacy and Security Rules.

In FY 2011 OCR will continue to develop regulations and guidance, as required under Subtitle D of the HITECH Act, for the purpose of strengthening and enhancing protections of the HIPAA Privacy and Security Rules. OCR will also play a vital role in promoting access for underserved populations in health information technology initiatives by serving as an expert resource for the Secretary and other HHS components regarding equal access to health information technology, providing consultation on health information technology policy and programmatic initiatives to promote civil rights and ensure accessibility for individuals with disabilities and limited English proficiency, and enforcing compliance with applicable Federal civil rights laws by recipients of HITECH funding through complaint investigations, compliance reviews, technical assistance, and education.

Fostering adoption of electronic records – HITECH Act mandated Regional Office Privacy Advisors - \$1.6 M

OCR requests \$1,600,000 and 10 FTE to meet a statutory requirement of the HITECH Act. Section 13403 (a) of the HITECH Act requires that not later than six months after the date of the enactment of the Act, the Secretary shall designate an individual in each regional office of the Department to offer guidance and education to covered entities, business associates, and individuals on their rights and responsibilities related to Federal privacy and security requirements for protected health information. OCR will need to hire regional office privacy advisors to meet the statutory requirement. In addition to performing as each regional office's expert on HIPAA privacy and security these regional privacy advisors will be critical contributors to OCR's mandated national public education initiative. This initiative directly supports the President's goal of increasing the use of electronic health records and allows OCR to adhere to the statutory mandates of the HITECH Act.

Enforcement of HIPAA Security Rule Compliance - \$1 M

On July 27, 2009, the Secretary delegated authority for the administration and enforcement of the Security Standards for the Protection of Electronic Protected Health Information (Security Rule) from CMS to OCR. This action will improve OCR's ability to protect individuals' health information by combining the authority for administration and enforcement of the Federal standards for health information privacy and security called for in HIPAA. Combining the enforcement authorities will facilitate improvements by eliminating duplication and increasing the efficiency of investigations and resolutions of failures to comply with both rules. Moreover, combining the administration of the Security Rule and the Privacy Rule is consistent with the health care industry's increasing adoption of electronic health records and the electronic transmission of health information. The FY 2011 President's Budget request to Congress for OCR includes \$1 million to carry out the re-delegated authority for enforcement of the HIPAA Security Rule.

Marginal Cost Analysis

Below is a marginal cost summary for OCR's performance goals.

Performance without marginal investment					
Budget Scenario (\$000)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Total Base Appropriation¹	\$40,099	\$41,099	\$42,782	\$43,852	\$44,948
Performance Goal	Case Resolution Rate				
Rate of closure for civil rights and privacy cases and new Medicare application reviews per cases/review received	105.3	106.0	107.0	108.0	109.0
Percent of civil rights cases and new Medicare application reviews resolved per cases/reviews received	103.3	104.0	105.0	106.0	107.0
Percent of privacy cases resolved per cases received	106.6	107.00	108.00	109.00	110.00
The number of individuals who are or represent health and human service providers, other interest groups, and consumers to whom OCR provides information and training annually	95,400	98,200	101,200	104,200	107,400
Performance with marginal investment					
Budget Scenario (\$000)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Base Appropriation	\$40,099	\$41,099	\$42,782	\$43,852	\$44,948
Marginal Increase	NA	NA	\$1,600	\$7,657	\$8,169
Base + Marginal Increase	\$40,099	\$41,099	\$44,382	\$51,509	\$53,117
Performance Goal	Case Resolution Rate				
Rate of closure for civil rights and privacy cases and new Medicare application reviews per cases/review received	105.3	106.0	107.0	108.0	109.0
Percent of civil rights cases and new Medicare application reviews resolved per cases/reviews received	103.3	104.0	105.0	106.0	107.0
Percent of privacy cases resolved per cases received	106.6	107.00	108.00	109.00	110.00
The number of individuals who are or represent health and human service providers, other interest groups, and consumers to whom OCR provides information and training annually	95,400	98,200	201,200	211,200	221,200
The number of Privacy and Security website hits ²	2,500,000	3,000,000	8,000,000	10,000,000	10,000,000
The number of new Privacy and Security Compliance Audits ³	--	25	25	25	25

¹ Base appropriation assumes a 2.5% increase per fiscal year for inflation.

² Increases in website hits are associated with OCR's HITECH mandated public education activities. In FY 2010 and FY 2011 these activities will be funded by ARRA.

³ HIPAA audits are a new HITECH requirement that will begin in FY 2010. In FY 2010 and FY 2011 these audits will be funded by ARRA.

**Office for Civil Rights
Performance Measures Table**

Program: Performance Detail

Long Term Objective: To ensure compliance, to increase awareness, and to increase understanding of Federal laws requiring non-discriminatory access to HHS programs and protection of the privacy of protected health information

Measure	Most Recent Result	FY 2010 Target	FY 2011 Target	FY 2011 +/- FY 2010
<u>1.1.1:</u> The number of covered entities that take corrective actions as a result of OCR intervention per year (<i>Outcome</i>)	FY 2009: 3,562 (Target: 4,000)	4,100	4,200	+100
<u>1.1.2:</u> The number of covered entities that make substantive policy changes as a result of OCR intervention and/or review per year (<i>Outcome</i>)	FY 2009: 2,314 (Target: 2,650)	2,700	2,750	+50
<u>1.1.3:</u> Rate of closure for civil rights and privacy cases and new Medicare application reviews per cases/review received (<i>Output</i>)	FY 2009: 105.3% (Target: 104%)	106%	107%	+1
<u>1.1.4:</u> Percent of civil rights cases and new Medicare application reviews resolved per cases/reviews received (<i>Output</i>)	FY 2009: 103.3% (Target: 110.5%)	104%	105%	+0.5
<u>1.1.5:</u> Percentage of privacy cases resolved per cases received (<i>Output</i>)	FY 2009: 106.6% (Target: 100%)	107%	108%	+3
<u>1.1.6:</u> Number of people made aware of Federal laws requiring non-discriminatory access to HHS programs and protection of the privacy of protected health information through the provision of information and training to individuals per year (<i>Output</i>)	FY 2009: 95,191 (Target: 95,400)	98,200	101,200	+3,000
<u>1.1.7:</u> Percentage of civil rights complaints that require formal investigation, resolved within 365 days (<i>Output</i>)	FY 2009: 31% (33%)	30%*	40%	+10
<u>1.1.8:</u> Percentage of civil rights complaints that do not require formal investigation, resolved within 180 days (<i>Output</i>)	FY 2009: 84% (80%)	74%*	79%	+5
<u>1.1.9:</u> Percentage of privacy complaints that require formal investigation, resolved within 365 days (<i>Output</i>)	FY 2009: 53% (45%)	40%*	50%	+10

Measure	Most Recent Result	FY 2010 Target	FY 2011 Target	FY 2011 +/- FY 2010
<u>1.1.10</u> : Percentage of privacy complaints that do not require formal investigation, resolved within 180 days (<i>Output</i>)	FY 2009: 67% (66%)	63%*	69%	+6

*An emphasis on resolving the older or more complex cases in OCR's open inventory in FY 2010 may result in a short-term increase in the average time required to resolve cases. This will result in a corresponding decrease in the timeliness targets in measures 1.1.7 – 1.1.10.

Long Term Objective: To enhance operational efficiency

Measure	Most Recent Result	FY 2010 Target	FY 2011 Target	FY 2011 +/- FY 2010
<u>1.2.1</u> : Rate of closure for civil rights and privacy cases and new Medicare application reviews per FTE (<i>Output</i>)	FY 2009: 55.9 cases (Target: 66 cases)	66.5 cases	67 cases	+0.5 cases

**Office for Civil Rights
Budget Authority by Object**

	2010 Estimate	2011 Estimate	Increase or Decrease
<u>Personnel compensation:</u>			
Full-time permanent (11.1).....	24,395,000	25,630,000	1,235,000
Other than full-time permanent (11.3).....	593,000	604,000	11,000
Other personnel compensation (11.5).....	575,000	575,000	--
Military personnel (11.7).....	67,000	69,000	2,000
Special personnel services payments (11.8).....	--	--	--
Subtotal personnel compensation.....	25,630,000	26,878,000	1,248,000
Civilian benefits (12.1).....	5,894,000	6,240,000	346,000
Military benefits (12.2).....	26,000	27,000	1,000
Benefits to former personnel (13.0).....	21,000	21,000	--
Total Pay Costs.....	31,571,000	33,166,000	1,595,000
Travel and transportation of persons (21.0).....	410,000	510,000	100,000
Transportation of things (22.0).....	26,000	26,000	--
Rental payments to GSA (23.1).....	2,870,000	3,340,000	470,000
Communication, utilities, and misc. charges (23.3)..	245,000	255,000	10,000
Printing and reproduction (24.0).....	77,000	100,000	23,000
<u>Other Contractual Services:</u>			
Advisory and assistance services (25.1).....	--	--	--
Other services (25.2).....	500,000	1,344,000	844,000
Purchase of goods and services from government accounts (25.3).....	2,280,000	2,451,000	171,000
Operation and maintenance of facilities (25.4)....	945,000	959,000	14,000
Research and Development Contracts (25.5).....	--	--	--
Medical care (25.6).....	--	--	--
Operation and maintenance of equipment (25.7)..	1,600,000	1,831,000	231,000
Subsistence and support of persons (25.8).....	--	--	--
Subtotal Other Contractual Services.....	5,325,000	6,585,000	1,260,000
Supplies and materials (26.0).....	500,000	300,000	(200,000)
Equipment (31.0).....	75,000	100,000	25,000
Land and Structures (32.0).....	--	--	--
Investments and Loans (33.0).....	--	--	--
Grants, subsidies, and contributions (41.0).....	--	--	--
Interest and dividends (43.0).....	--	--	--
Refunds (44.0).....	--	--	--
Total Non-Pay Costs.....	9,528,000	11,216,000	1,688,000
Total Budget Authority by Object Class.....	41,099,000	44,382,000	3,283,000

Note: This Budget Authority by Object Class table excludes the following amounts to reimbursable activity carried out by this account: 1.4M in FY 2010 and .4M in FY 2011.

**Office for Civil Rights
Salaries and Expenses**

	2010 Estimate	2011 Estimate	Increase or Decrease
<u>Personnel compensation:</u>			
Full-time permanent (11.1).....	24,395,000	25,630,000	1,235,000
Other than full-time permanent (11.3).....	593,000	604,000	11,000
Other personnel compensation (11.5).....	575,000	575,000	--
Military personnel (11.7).....	67,000	69,000	2,000
Special personnel services payments (11.8).....	--	--	--
Subtotal personnel compensation.....	25,630,000	26,878,000	1,248,000
Civilian benefits (12.1).....	5,894,000	6,240,000	346,000
Military benefits (12.2).....	26,000	27,000	1,000
Benefits to former personnel (13.0).....	21,000	21,000	--
Total Pay Costs.....	31,571,000	33,166,000	1,595,000
Travel and transportation of persons (21.0).....	410,000	510,000	100,000
Transportation of things (22.0).....	26,000	26,000	--
Rental payments to others (23.2).....	--	--	--
Communication, utilities, and misc. charges (23.3)..	245,000	255,000	10,000
Printing and reproduction (24.0).....	77,000	100,000	23,000
<u>Other Contractual Services:</u>			
Advisory and assistance services (25.1).....	--	--	--
Other services (25.2).....	500,000	1,344,000	844,000
Purchase of goods and services from government accounts (25.3).....	2,280,000	2,451,000	171,000
Operation and maintenance of facilities (25.4).....	945,000	959,000	14,000
Research and Development contracts (25.5).....	--	--	--
Medical care (25.6).....	--	--	--
Operation and maintenance of equipment (25.7)..	1,600,000	1,831,000	231,000
Subsistence and support of persons (25.8).....	--	--	--
Subtotal Other Contractual Services.....	5,325,000	6,585,000	1,260,000
Supplies and materials (26.0).....	500,000	300,000	(200,000)
Total Non-Pay Costs.....	6,583,000	7,776,000	1,193,000
Total Salaries and Expenses.....	38,154,000	40,942,000	2,788,000
Direct FTE.....	267	277	10

Note: The Salaries and Benefits table, compared to the Budget Authority by Object table on the previous page, does not include GSA Rent and Equipment. This Salaries and Benefits table excludes the following amounts for reimbursable activities carried out by this account: \$1.4M in FY 2010 and \$.4M in FY 2011.

**Office for Civil Rights
Detail of Full Time Equivalents (FTE)**

	2009 Actual Civilian	2009 Actual Military	2009 Actual Total	2010 Est. Civilian	2010 Est. Military	2010 Est. Total	2011 Est. Civilian	2011 Est. Military	2011 Est. Total
Headquarters:									
Office of the Director and Principal Deputy Director..									
Direct.....	5	---	5	5	---	5	5	---	5
Reimbursable.....	---	---	---	---	---	---	---	---	---
Total.....	5	---	5	5	---	5	5	---	5
Office of the General Counsel (Civil Rights).....									
Direct.....	8	---	8	9	---	9	9	---	9
Reimbursable.....	---	---	---	---	---	---	---	---	---
Total.....	8	---	8	9	---	9	9	---	9
Civil Rights Division.....									
Direct.....	23	---	23	24	---	24	24	---	24
Reimbursable.....	---	---	---	---	---	---	---	---	---
Total.....	23	---	23	24	---	24	24	---	24
Health Information Privacy Division.....									
Direct.....	13	---	13	25	---	25	25	---	25
Reimbursable.....	3	---	3	3	---	3	3	---	3
Total.....	16	---	16	28	---	28	28	---	28
Management Operations Division.....									
Direct.....	20	---	20	22	---	22	22	---	22
Reimbursable.....	---	---	---	---	---	---	---	---	---
Total.....	20	---	20	22	---	22	22	---	22
Regional Offices.....									
Direct.....	154	1	155	181	1	182	191	1	192
Reimbursable.....	---	---	---	---	---	---	---	---	---
Total.....	154	1	155	181	1	182	191	1	192
OCR FTE Total.....	226	1	227	269	1	270	279	1	280
Recovery Act FTE Total.....	---	---	---	5	---	5	---	---	---

Office of the General Counsel: Increase of 1 FTE from FY 2009 to FY 2010 represents filling an existing vacancy.

Civil Rights Division: Increase of 1 FTE from FY 2009 to FY 2010 represents filling an existing vacancy.

Health Information Privacy Division: Increase of 12 FTE from FY 2009 to FY 2010 represent on-going efforts to fill existing vacancies and vacancies created as a result of funded initiatives in FY 2009 to improve public understanding of privacy rights (public education) and to improve citizen experience (complaint processing).

Management Operations Division: Increase of 2 FTE from FY 2009 to FY 2010 represents filling existing vacancies.

Regional Offices: Increase of 27 FTE from FY 2009 to FY 2010 represent on-going efforts to fill existing vacancies and vacancies created as a result of the funded initiative in FY 2009 to improve citizen experience (complaint processing). The increase of 10 FTE from FY 2010 to FY 2011 is associated with the initiative to add Regional Office Privacy Advisors in accordance with the HITECH Act.

Recovery Act FTE: The 5 FTE in FY 2010 represent the initial hiring of the Regional Office Privacy Advisors. These positions will be funded with Recovery Act money during FY 2010 and will be transferred to direct budget authority pending enactment of the President's FY 2011 Budget Submission.

Average GS Grade

FY 2006.....	12/07
FY 2007.....	12/09
FY 2008.....	13/04
FY 2009.....	13/05
FY 2010.....	13/04

**Office for Civil Rights
Detail of Positions**

	2009 <u>Actual</u>	2010 <u>Estimate</u>	2011 <u>Estimate</u>
Executive Level I.....	---	---	---
Executive Level II.....	---	---	---
Executive Level III.....	---	---	---
Executive Level IV.....	---	---	---
Executive Level V.....	---	---	---
Subtotal.....	---	---	---
Total - Executive Level Salaries.....	---	---	---
Total - SES.....	6	6	6
Total - SES Salaries.....	<u>\$892,117</u>	<u>\$1,031,452</u>	<u>\$1,072,710</u>
GS-15.....	24	27	27
GS-14.....	38	39	39
GS-13.....	36	52	62
GS-12.....	80	67	67
GS-11.....	6	7	7
GS-10.....	---	---	---
GS-9.....	27	57	57
GS-8.....	2	2	2
GS-7.....	20	15	15
GS-6.....	3	3	3
GS-5.....	7	5	5
GS-4.....	6	5	5
GS-3.....	2	2	2
GS-2.....	---	---	---
GS-1.....	---	---	---
Subtotal ¹	<u>251</u>	<u>281</u>	<u>291</u>
Total - GS Salaries.....	\$20,349,944	\$24,023,548	\$25,230,290
<hr/>			
Average SES salary.....	\$166,751	\$171,909	\$178,785
Average GS grade.....	13/5	13/4	13/4
Average GS salary.....	\$91,576	\$91,344	\$92,419
Average Special Pay categories.....	---	---	---

¹ Reflects the number of positions encumbered as of the end of FY 2009, and projections of the number of positions anticipated to be encumbered as of the end of FY 2010 and FY 2011. Excludes object classes for “other personnel compensation” and benefits, as well as amounts for reimbursable activities carried out by this account.

**Office for Civil Rights
Programs Proposed for Elimination**

No programs are being proposed for elimination.

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FY 2011 HHS Enterprise Information Technology and Government-Wide E-Gov Initiatives

STAFFDIV Allocation Statement:

The OCR will use \$71,890 of its FY 2011 budget to support Department-wide enterprise information technology and government-wide E-Government initiatives. Staff Divisions help to finance specific HHS enterprise information technology programs and initiatives, identified through the HHS Information Technology Capital Planning and Investment Control process, and the government-wide E-Government initiatives. The HHS enterprise initiatives meet cross-functional criteria and are approved by the HHS IT Investment Review Board based on funding availability and business case benefits. Development is collaborative in nature and achieves HHS enterprise-wide goals that produce common technology, promote common standards, and enable data and system interoperability.

Of the amount specified above, \$4,785 is allocated to developmental government-wide E-Government initiatives for FY 2011. This amount supports these government-wide E-Government initiatives as follows:

FY 2011 Developmental E-Gov Initiatives*	
Line of Business – Geospatial One-Stop	\$45
Line of Business - Human Resources	\$522
Line of Business - Financial	\$925
Line of Business - Budget Formulation and Execution	\$623
Disaster Assistance Improvement Plan	\$2,670
FY 2011 Developmental E-Gov Initiatives Total	\$4,785

* Specific levels presented here are subject to change, as redistributions to meet changes in resource demands are assessed.

Prospective benefits from these initiatives are:

Lines of Business-Geospatial: Promotes coordination and alignment of geospatial data collection and maintenance among all levels of government: provides one-stop web access to geospatial information through development of a portal; encourages collaborative planning for future investments in geospatial data; expands partnerships that help leverage investments and reduce duplication; and, facilitates partnerships and collaborative approaches in the sharing and stewardship of data. Up-to-date accessible information helps leverage resources and support programs: economic development, environmental quality and homeland security. HHS registers its geospatial data, making it available from the single access point.

Lines of Business-Human Resources Management: Provides standardized and interoperable HR solutions utilizing common core functionality to support the strategic management of Human Capital. HHS has been selected as a Center of Excellence and will be leveraging its HR investments to provide services to other Federal agencies.

Lines of Business –Financial Management: Supports efficient and improved business performance while ensuring integrity in accountability, financial controls and mission effectiveness by enhancing process improvements; achieving cost savings; standardizing business processes and data models; promoting seamless data exchanges between Federal agencies; and, strengthening internal controls.

Lines of Business-Budget Formulation and Execution: Allows sharing across the Federal government of common budget formulation and execution practices and processes resulting in improved practices within HHS.

Disaster Assistance Improvement Plan (DAIP): The DAIP, managed by Department of Homeland Security, assists agencies with active disaster assistance programs such as HHS to reduce the burden on other federal agencies which routinely provide logistical help and other critical management or organizational support during disasters.

In addition, \$39,345 is allocated to ongoing government-wide E-Government initiatives for FY 2011. This amount supports these government-wide E-Government initiatives as follows:

FY 2011 Ongoing E-Gov Initiatives*	
E-Rule Making	\$34,413
Integrated Acquisition Environment	\$4,932
FY 2011 Ongoing E-Gov Initiatives Total	\$39,345

* Specific levels presented here are subject to change, as redistributions to meet changes in resource demands are assessed.