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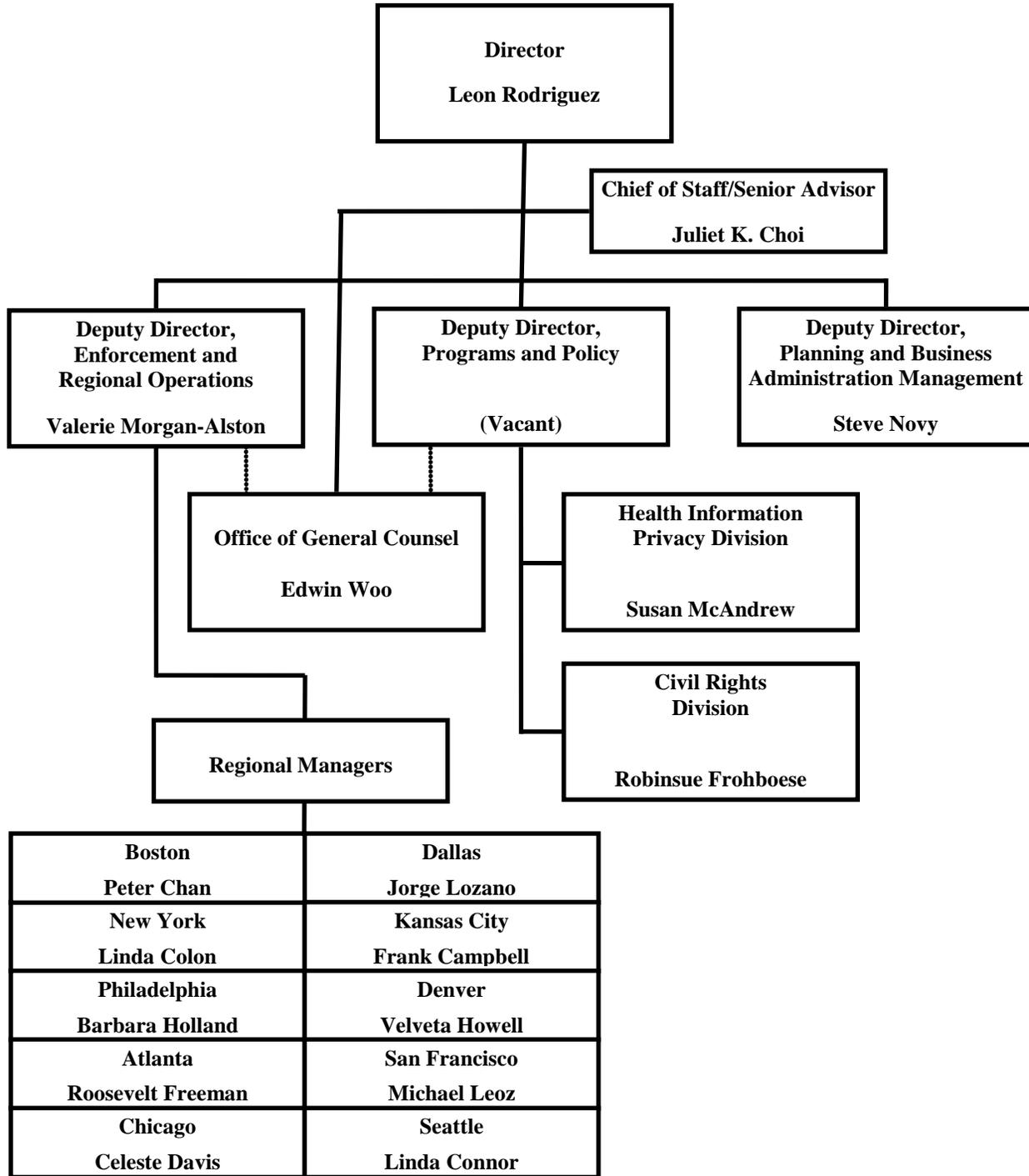
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**Organization Chart
(February 2013)**



Introduction and Mission

The Office for Civil Rights (OCR), a staff division of the U.S. Department of Health and Human Services (HHS), 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. In doing so, OCR helps carry out HHS' overall mission of improving the health and well-being of all people affected by its many programs and promotes integrity in the use of federal funds by removing discriminatory barriers to HHS funded services and programs. OCR annually resolves nearly 13,000 citizen complaints alleging discrimination or a health information privacy or security violation.

OCR 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.

Mission

- Ensure that the estimated 4.5 million recipients of HHS Federal financial assistance comply with our Nation's civil rights laws by enforcing civil rights protections that prevent discrimination on the basis of race, color, national origin (including limited English proficiency), disability, age, sex, and religion.
- Enforce new rights under the Affordable Care Act (ACA) which promote access to health care by prohibiting discrimination in health care programs or activities, provider conscience rights, which prohibit discrimination against those who decline to participate in abortions or sterilization procedures, and rights that ensure individuals with disabilities have options to live in their own communities rather than segregated facilities pursuant to the Supreme Court's *Olmstead* decision.
- Ensure the practices of an estimated 4 million health care providers, health plans, healthcare clearinghouses, and their business associates adhere to Federal privacy, security, and breach notification regulations through the investigation of citizen complaints, self reports of breaches, or compliance reviews and audits.
- Implement and enforce privacy, security, and breach notification regulations issued by the Secretary under the Health Insurance Portability and Accountability Act (HIPAA) as further amended by the Health Information Technology for Economic and Clinical Health (HITECH) Act contained in the American Recovery and Reinvestment Act (ARRA) of 2009; the privacy protections under the Genetic Information Nondiscrimination Act of 2008; and the confidentiality provisions of the Patient Safety and Quality Improvement Act of 2005.

Overview of Budget Request

The Office for Civil Rights' (OCR) budget request for FY 2014 is \$42,205,000, an increase of \$1,267,000 from the FY 2012 Enacted Level of \$40,938,000. This request 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 and the privacy and security protections for individually identifiable health information.

The FY 2014 request supports:

- Continued operations to further OCR's civil rights and health information privacy mission
- Civil rights enforcement enhancements; specifically, ensuring non-discriminatory access to health care under the ACA, reducing racial and ethnic health disparities and ensuring language access, and promoting the right of individuals with disabilities to live in their own communities, pursuant to the Supreme Court's *Olmstead* decision and the Secretary's Community Living Initiative
- Vital HIPAA Security Rule efforts to ensure continued program activities

Program increases:

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

In 2009, the Secretary delegated authority for the administration and enforcement of the Security Standards for the Protection of Electronic Protected Health Information (HIPAA Security Rule) to the Director of OCR.

Performance Overview

Both of OCR's overarching goals encompass multiple supporting objectives that align to the Department's Strategic Plan:

| OCR Goal | | OCR Supporting Objectives | | HHS Goal/Objectives* |
|----------|--|---------------------------|---|----------------------|
| 1 | Raise awareness, increase understanding, and ensure compliance of all federal laws requiring non-discriminatory access to HHS programs and protection of the privacy and security of personal health information | A | Increase access to and receipt of non-discriminatory quality health and human services while protecting the integrity of HHS federal financial assistance (Title VI enforcement, public education activities, access via TANF program, Section 504, ADA, <i>Olmstead</i> activities, HIV/AIDS access enforcement) | #1 E #3 A,B,C,E |
| | | B | Protect the privacy and security of personally identifiable health information for healthcare consumers (HIPAA rule activities and enforcement) | #1 E,F |
| | | C | Provide information and training to representatives of health and human service providers, other interest groups, and consumers (Civil rights and health information privacy mission activities) | #1 E #3 B |
| | | D | Increase the number of covered entities that take corrective action, including making substantive policy changes or developing new policies as a result of review and/or intervention | #1 E |
| 2 | Enhance operational efficiency | A | Advance human capital management (Provide training, develop and mentor subordinates, promote effectiveness) | #5 A |
| | | B | Improve financial management and the integration of budget and performance data (Increase resource management process oversight, strengthen internal controls, overhaul performance objectives) | #4 A,B,D |

[* As reflected on the "FY 2014 Budget by HHS Strategic Goal Table" included herein.]

The following is a synopsis of current OCR performance measures:

| Measure | Most Results (Summary of Result) | FY 2014 Target | FY 2014 +/- FY 2012 Target |
|---|--|----------------|-------------------------------|
| 1.1.1 # Covered Entities taking corrective action as a result of OCR intervention / year (Outcome) | FY 2012: 4,807 Target: 4,300 (Target Exceeded) | 5,900 | +1,600 |
| 1.1.2 # Covered Entities making substantive policy changes as a result of OCR intervention / year (Outcome) | FY 2012: 1,172 Target: 2,800 (Target Not Met) | 3,600 | +800 |
| 1.1.3A % of closure for civil rights cases / cases received each year (Outcome) | FY 2012: 109% Target: 108% (Target Exceeded) | 86% | N/A |
| 1.1.3B % of closure for health information privacy cases / cases received each year (Outcome) | FY 2012: 96% Target: 108% (Target Not Met) | 66% | N/A |
| 1.1.3C % of closure for Medicare application reviews / reviews received each year (Output) | FY 2012: 112% Target: 108% (Target Exceeded) | 100% | N/A |
| 1.1.4 % CR cases and MED application reviews resolved per received per year | FY 2012: 110% Target: 105% (Target Exceeded) | 93% | N/A |

Office for Civil Rights

| | | | |
|--|--|---------|----------|
| 1.1.6 # individuals whom OCR provides information and training annually (Output) | FY 2012: 11,108 Target: 213,500 (Target Not Met) | 213,500 | Maintain |
| 1.1.7 % of civil rights complaints requiring formal investigation resolved within 365 days (Output) | FY 2012: 35% Target: 42% (Target not met) | 52% | +10% |
| 1.1.8 % of civil rights complaints not requiring formal investigation resolved within 180 days (Output) | FY 2011: 87% Target: 81% (Target Exceeded) | 100% | +19% |
| 1.1.9 % of health information privacy complaints requiring formal investigation resolved within 365 days (Output) | FY 2012: 68% Target: 52% (Target Exceeded) | 65% | +13% |
| 1.1.10 % of health information privacy complaints not requiring formal investigation resolved within 180 days (Output) | FY 2012: 78% Target: 72% (Target Exceeded) | 100% | +28% |

[1.1.5 eliminated as duplicative to 1.1.3B when 1.1.3 was expanded to category to A-C]

*Prior to FY 2013, the methodology for computing Measures 1.1.3A-C and 1.1.4 did not account for backlog. Beginning in FY 2013, targets were revised based on new methodology which captures total receipts (backlog in addition to complaints received).

OCR continues to make great strides in serving the American public when they encounter potential discrimination and health information privacy issues and violations. Despite increases in caseloads received of 12% and 4% in the past two years, OCR has made significant progress in reducing backlog, and in particular, closing stagnant cases (those open for 2-3 years). This concentration on older cases, however, has repercussions. In FY 2012, OCR exceeded seven out of the eleven performance goals. OCR has thus demonstrated less than anticipated improvement in areas such as the rate of closure for current cases and reviews as well as reduced outreach efforts. Additionally, significant improvements to OCR's case management reporting system have caused a learning curve that temporarily decreased timely entries of case data, thus inaccurately reflecting annual closure numbers.

Leadership is taking proactive steps to revamp and reinvigorate the performance management process and achieve a more representative picture of OCR's mission, goals, and accomplishments. In addition to the performance measures overall nearing completion, OCR is also focused on the constant improvement of its data management system that contains all case information.

In 2011, OCR completed major modification to its automated Performance Information Management System (PIMS) to strengthen the completeness, validity, and accuracy of the data captured and reported and has seen improvements in 2012. Additionally, OCR awarded a large-scale contract to further enhance PIMS by adding capability modules to allow for the capture and storage of additional information (compliance audits, breach notifications, etc) as well as the development of a management dashboard and reporting feature. This is a two-year effort that will further improve OCR's capability to gather, access, and report data and information.

The FY14 initiative and other enhancements contained herein will dramatically improve OCR's output and outcome measures by providing additional manpower in the form of civilian FTEs and contractor staff augmentation in combination with a streamlined complaint receipt process that allows current Equal Opportunity Specialist (EOS) staff to focus on investigative work and case resolution rather than administrative tasks. Although the requested FY14 level restores OCR's previous level of funding, OCR will face challenges in addressing its continually growing civil rights and health information privacy responsibilities in the long-term.

Budget by HHS Strategic Goal
(Dollars in Millions)

| HHS Strategic Goals | FY 2012 Enacted | FY 2013 CR | FY 2014 |
|--|--------------------|----------------|----------------|
| 1. Strengthen Health Care | \$ 21.3 | \$ 19.5 | \$ 20.4 |
| 1.A Make coverage more secure for those who have insurance, and extend affordable coverage to the uninsured | | | |
| 1.B Improve health care quality and patient safety | | | |
| 1.C Emphasize primary and preventive care linked with community prevention | | | |
| 1.D Reduce the growth of health care costs while promoting high-value, effective care | | | |
| 1.E Ensure access to quality, culturally competent care for vulnerable populations | \$ 11.3 | \$ 9.9 | \$ 10.8 |
| 1.F Promote the adoption and meaningful use of health information technology | \$ 10.0 | \$ 9.6 | \$ 9.6 |
| 2. Advance Scientific Knowledge and Innovation | \$ - | \$ - | \$ - |
| 2.A Accelerate the process of scientific discovery to improve patient care | | | |
| 2.B Foster innovation to create shared solutions | | | |
| 2.C Invest in the regulatory sciences to improve food and medical product safety | | | |
| 2.D Increase our understanding of what works in public health and human service practice | | | |
| 3. Advance the Health, Safety and Well-Being of the American People | \$ 19.6 | \$ 21.2 | \$ 21.0 |
| 3.A Ensure the safety, well-being, and healthy development of children and youth | \$ 1.8 | \$ 1.8 | \$ 1.9 |
| 3.B Promote economic and social well-being for individuals, families, and communities | \$ 17.8 | \$ 17.8 | \$ 17.4 |
| 3.C Improve the accessibility and quality of supportive services for people with disabilities and older adults | | \$ 1.3 | \$ 1.7 |
| 3.D Promote prevention and wellness | | | |
| 3.E Reduce the occurrence of infectious diseases | | \$ 0.3 | |
| 3.F Protect Americans' health and safety during emergencies and foster resilience in response to emergencies | | | |
| 4. Increase the Efficiency, Transparency, and Accountability of HHS Programs | \$ - | \$ 0.3 | \$ 0.5 |
| 4.A Ensure program integrity and responsible stewardship of resources | | \$ 0.1 | \$ 0.2 |
| 4.B Fight fraud and work to eliminate improper payments | | \$ 0.1 | \$ 0.1 |
| 4.C Use HHS data to improve the health and well-being of the American people | | | |
| 4.D Improve HHS environmental, energy, and economic performance to promote sustainability | | \$ 0.1 | \$ 0.2 |
| 5. Strengthen the Nation's Health and Human Service Infrastructure and Workforce | \$ - | \$ 0.2 | \$ 0.3 |
| 5.A Invest in the HHS workforce to meet America's health and human services needs today and tomorrow | | \$ 0.2 | \$ 0.3 |
| 5.B Ensure that the Nation's health care workforce can meet increased demands | | | |
| 5.C Enhance the ability of the public health workforce to improve public health at home and abroad | | | |
| 5.D Strengthen the Nation's human services workforce | | | |
| 5.E Improve national, state, local, and tribal surveillance and epidemiology capacity | | | |
| TOTAL | \$ 40.9 | \$ 41.2 | \$ 42.2 |

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Discretionary All Purpose Table
(Dollars in Thousands)

| Program | FY 2012 Actual | FY 2013 CR | FY 2014 President's Budget | FY 2014 +/- FY 2012 |
|--|-------------------|---------------|----------------------------------|---------------------------|
| Enforcement and Regional Operations | 26,908 | 27,073 | 27,180 | 272 |
| Programs and Policy | 9,217 | 9,273 | 10,162 | 945 |
| Planning and Business Administration Management | 4,813 | 4,843 | 4,863 | 50 |
| Total, Office for Civil Rights | 40,938 | 41,189 | 42,205 | 1,267 |

Office for Civil Rights

Appropriations Language

For expenses necessary for the Office for Civil Rights, [~~\$40,938,000~~] \$42,205,000.

AMOUNTS AVAILABLE FOR OBLIGATION

| | FY 2012 Actual | FY 2013 CR | FY 2014 President's Budget |
|-------------------------------------|---------------------------|-----------------------|---------------------------------------|
| <u>General Fund Discretionary</u> | | | |
| <u>Appropriation:</u> | | | |
| Appropriation (L/HHS) | \$41,016,000 | \$41,189,000 | \$42,205,000 |
| Across-the-board reductions (L/HHS) | -\$78,000 | \$0 | \$0 |
| Subtotal, appropriation (L/HHS) | \$40,938,000 | \$41,189,000 | \$42,205,000 |
| Unobligated balance lapsing | \$64,000 | \$0 | \$0 |
| Total Obligations | \$40,874,000 | \$41,189,000 | \$42,205,000 |

Summary of Changes

(Dollars in Thousands)

| | |
|----------------------------------|--------------|
| 2012 General funds appropriation | 40,938 |
| Total adjusted budget authority | 40,938 |
| 2014 Request - General funds | 42,205 |
| Total estimated budget authority | 42,205 |
| Net Changes | 1,267 |

| | FY 2012 Actual | | FY 2014 President's Budget | |
|--|----------------|----------|-------------------------------|---------|
| | FTE | Amount | Change From Base FTE | Amount |
| <u>Increases:</u> | | | | |
| <u>A. Built-In:</u> | | | | |
| 1. Costs of pay adjustments | 0 | \$0 | 0 | \$0 |
| 2. Other services | 0 | \$0 | 0 | \$0 |
| 3. Other purchases of goods and services from Government accounts | 0 | \$0 | 0 | \$0 |
| 4. Insurance claims and indemnities | 0 | \$0 | 0 | \$0 |
| 5. Full-Time Permanent | 225 | \$21,727 | 6 | \$1,401 |
| 6. Other than full-time permanent | 0 | \$554 | 0 | \$9 |
| 7. Other Personnel Compensation | 0 | \$574 | 0 | \$14 |
| 8. Military personnel | 1 | \$67 | 1 | \$1 |
| 9. Special personal services payments | 0 | \$0 | 0 | \$0 |
| 10. Civilian personnel benefits | 0 | \$5,072 | 0 | \$469 |
| 11. Military benefits | 0 | \$26 | 0 | \$0 |
| 12. Benefits for former personnel | 0 | \$21 | 0 | \$0 |
| 13. Travel and transportation of persons | 0 | \$340 | 0 | \$4 |
| 14. Transportation of things | 0 | \$20 | 0 | \$0 |
| 15. Rental payments to GSA | 0 | \$3,152 | 0 | \$74 |
| 16. Rental payments to others | 0 | \$0 | 0 | \$0 |
| 17. Communications, utilities, and miscellaneous charges | 0 | \$359 | 0 | \$2 |
| 18. Printing and Reproduction | 0 | \$50 | 0 | \$0 |
| 19. Advisory and Assistance Services | 0 | \$0 | 0 | \$0 |
| 20. Other services from non-Federal sources | 0 | \$2,747 | 0 | \$0 |
| 21. Other goods and services from Federal sources | 0 | \$3,061 | 0 | \$0 |
| 22. Operation and maintenance of facilities | 0 | \$1,246 | 0 | \$7 |
| 23. Research & Development Contracts | 0 | \$0 | 0 | \$0 |
| 24. Supplies and materials | 0 | \$250 | 0 | \$3 |
| 25. Equipment | 0 | \$75 | 0 | \$0 |
| 26. Land and Structures | 0 | \$0 | 0 | \$0 |
| 27. Investments and Loans | 0 | \$0 | 0 | \$0 |
| 28. Grants, subsidies, and contributions | 0 | \$0 | 0 | \$0 |

Office for Civil Rights

| | FY 2012 Actual | | FY 2014 President's Budget Change From Base | |
|---|----------------|------------------|---|-----------------|
| Subtotal, Built-In Increases | 226 | +\$39,341 | 7 | +\$1,984 |
| <u>B. Programs:</u> | | | | |
| Subtotal, Program Increases | | | 0 | \$0 |
| Total Increases | 226 | +\$39,341 | 7 | +\$1,984 |
| <u>Decreases:</u> | | | | |
| <u>A. Built-In:</u> | | | | |
| 1. Operation and maintenance of equipment | 0 | \$1,597 | 0 | -\$717 |
| Subtotal, Built-In Decreases | 0 | +\$1,597 | 0 | -\$717 |
| <u>B. Programs:</u> | | | | |
| Subtotal, Program Decreases | | | 0 | \$0 |
| Total Decreases | 0 | +\$1,597 | 0 | -\$717 |
| Net Change | 226 | +\$40,938 | 7 | +\$1,267 |

BUDGET AUTHORITY BY ACTIVITY - DIRECT

(Dollars in Thousands)

| | FY 2012 <u>Actual</u> | | FY 2013 <u>CR</u> | | FY 2014 <u>President's Budget</u> | |
|--|--------------------------|---------------|----------------------|---------------|--------------------------------------|---------------|
| | <u>FTE</u> | <u>Amount</u> | <u>FTE</u> | <u>Amount</u> | <u>FTE</u> | <u>Amount</u> |
| Enforcement and Regional Operations | 165 | \$26,908 | 163 | \$27,073 | 166 | \$27,180 |
| Programs and Policy | 40 | \$9,217 | 41 | \$9,273 | 44 | \$10,162 |
| Planning and Business Administration Management | 19 | \$4,813 | 18 | \$4,843 | 20 | \$4,863 |
| Subtotal, Budget Authority | 224 | 40,938 | 222 | 41,189 | 230 | 42,205 |
| Total, Budget Authority | 224 | 40,938 | 222 | 41,189 | 230 | 42,205 |

AUTHORIZING LEGISLATION

(Dollars in Thousands)

| | FY 2013 Amount Authorized | FY 2013 Appropriations Act | FY 2014 Amount Authorized | FY 2014 President's Budget |
|--------------------------|---------------------------------|----------------------------------|---------------------------------|----------------------------------|
| Office for Civil Rights: | Indefinite | \$41,189 | Indefinite | \$42,205 |
| Total: | | \$41,189 | | \$42,205 |

OCR Legal Authorities

- Social Security Act of 1934, Section 508 (Public Law 74-271) (42 USC 708)
- Public Health Service Act of 1944, Titles VI, Title XVI, Section 533, Section 542, Section 794, Section 855, Section 1908, Section 1947, as amended (42 USC 291 et seq, 42 USC 300 et seq, 42 USC 290dd-1, 42 USC 295m and 296g, 42 USC 300w-7, 43 USC 290cc-33, 43 USC 300x-57)
- Civil Rights Act of 1964, Title VI , as amended (Public Law 88-352) (42 USC 2000d et seq)
- Treatment and Rehabilitation Act of 1970 (Public Law 91-616)
- Comprehensive Health Manpower Training Act of 1971 (Public Law 92-157)
- Nurse Training Act of 1971 (Public Law 92-158)
- Drug Abuse Offense and Treatment Act of 1972 (Public Law 92-255)
- Education Amendments of 1972, Title IX, as amended (Public Law 92-318) (20 USC 1681)
- Rehabilitation Act of 1973, Section 504, Section 508, as amended (Public Law 93-112) (29 USC 794)
- Comprehensive Alcohol Abuse & Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 (Public Law 93-282)
- The Church Amendments (42 USC 300a-7)
- National Research Service Award Act of 1974 (Public Law 93-348)
- Health Care Professions Educational Assist Act of 1974 (Public Law 94-484)
- Age discrimination Act of 1975, Sections 301-8, as amended (Public Law 94-135) (42 USC 6101 et seq)
- Public Telecommunications Financing Act of 1978, Section 395 (Public Law 95-567)
- Omnibus Reconciliation Act of 1981 (Public Law 97-35)
- Americans with Disabilities Act of 1990, Title II (Public Law 101-336) (42 USC 12131)
- Improving America's Schools Act of 1994, Subpart E (Public Law 103-382)
- Small Business Job Protection Act of 1996, Sections 1807/1808c (Public Law 104-188) (42 USC 1996b)
- Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191)
- Patient Safety and Quality Improvement Act of 2005 (Public Law 109-41)
- Genetic Information Nondiscrimination Act of 2008 (Public Law 110-233)
- Health Information Technology for Economic and Clinical Health (HITECH) Act, American Recovery and Reinvestment Act of 2009 (Public Law 111-5)
- Patient Protection and Affordable Care Act of 2010, Section 1557 (Public Law 111-148)

Appropriations History Table

| | Budget Estimate to Congress | House Allowance | Senate Allowance | Appropriation |
|------------------------------------|-----------------------------------|--------------------|---------------------|---------------|
| FY 2005 | | | | |
| <u>General Fund Appropriation:</u> | | | | |
| Base..... | 32,043,000 | 32,043,000 | 32,043,000 | 32,043,000 |
| Rescissions (P.L. 108-447).. | | | | (317,000) |
| Subtotal..... | 32,043,000 | 32,043,000 | 32,043,000 | 31,726,000 |
| <u>Trust Fund Appropriation:</u> | | | | |
| Base..... | 3,314,000 | 3,314,000 | 3,314,000 | 3,314,000 |
| Rescissions (P.L. 108-447).. | | | | (27,000) |
| Subtotal..... | 3,314,000 | 3,314,000 | 3,314,000 | 3,287,000 |
| FY 2006 | | | | |
| <u>General Fund Appropriation:</u> | | | | |
| Base..... | 31,682,000 | 31,682,000 | 31,682,000 | 31,682,000 |
| Rescissions (P.L. 109-148). | | | | (317,000) |
| Subtotal..... | 31,682,000 | 31,682,000 | 31,682,000 | 31,365,000 |
| <u>Trust Fund Appropriation:</u> | | | | |
| Base..... | 3,314,000 | 3,314,000 | 3,314,000 | 3,314,000 |
| Rescissions (P.L. 109-148).. | | | | (33,000) |
| Transfers (P.L. 109-148)..... | | | | (22,000) |
| Subtotal..... | 3,314,000 | 3,314,000 | 3,314,000 | 3,259,000 |
| FY 2007 | | | | |
| <u>General Fund Appropriation:</u> | | | | |
| Base..... | 32,969,000 | 32,969,000 | 32,969,000 | 31,628,000 |
| Subtotal..... | 32,969,000 | 32,969,000 | 32,969,000 | 31,628,000 |
| <u>Trust Fund Appropriation:</u> | | | | |
| Base..... | 3,314,000 | 3,314,000 | 3,314,000 | 3,314,000 |
| Rescissions (P.L. 110-5)..... | | | | (33,000) |
| Subtotal..... | 3,314,000 | 3,314,000 | 3,314,000 | 3,000 |
| FY 2008 | | | | |
| <u>General Fund Appropriation:</u> | | | | |
| Base..... | 33,748,000 | 33,748,000 | 33,748,000 | 31,628,000 |
| Rescissions (P.L. 110-161).. | | | | (553,000) |
| Subtotal..... | 33,748,000 | 33,748,000 | 33,748,000 | 31,075,000 |
| <u>Trust Fund Appropriation:</u> | | | | |
| Base..... | 3,314,000 | 3,314,000 | 3,314,000 | 3,281,000 |
| Rescissions (P.L. 110-161).. | | | | (57,000) |
| Subtotal..... | 3,314,000 | 3,314,000 | 3,314,000 | 3,224,000 |

Office for Civil Rights

FY 2009

General Fund Appropriation:

| | | | | |
|---------------|------------|------------|------------|------------|
| Base..... | 36,785,000 | 36,785,000 | 36,785,000 | 36,785,000 |
| Subtotal..... | 36,785,000 | 36,785,000 | 36,785,000 | 36,785,000 |

Trust Fund Appropriation:

| | | | | |
|---------------|-----------|-----------|-----------|-----------|
| Base..... | 3,314,000 | 3,314,000 | 3,314,000 | 3,314,000 |
| Subtotal..... | 3,314,000 | 3,314,000 | 3,314,000 | 3,314,000 |

FY 2010

General Fund Appropriation:

| | | | | |
|-------------------------------|------------|------------|------------|------------|
| Base..... | 37,785,000 | 37,785,000 | 37,785,000 | 37,785,000 |
| Transfers (P.L. 111-117)..... | | | | (6,000) |
| Subtotal..... | 37,785,000 | 37,785,000 | 37,785,000 | 37,779,000 |

Trust Fund Appropriation:

| | | | | |
|---------------|-----------|-----------|-----------|-----------|
| Base..... | 3,314,000 | 3,314,000 | 3,314,000 | 3,314,000 |
| Subtotal..... | 3,314,000 | 3,314,000 | 3,314,000 | 3,314,000 |

FY 2011

General Fund Appropriation:

| | | | | |
|--------------------------------|------------|------------|------------|------------|
| Base..... | 44,382,000 | 44,382,000 | 44,382,000 | 37,785,000 |
| Rescissions (P.L. 112-10)..... | | | | (76,000) |
| Subtotal..... | 44,382,000 | 44,382,000 | 44,382,000 | 37,709,000 |

Trust Fund Appropriation:

| | | | | |
|--------------------------------|--|--|--|-----------|
| Base..... | | | | 3,314,000 |
| Rescissions (P.L. 112-10)..... | | | | (7,000) |
| Subtotal..... | | | | 3,307,000 |

FY 2012

General Fund Appropriation:

| | | | | |
|--------------------------------|------------|------------|------------|------------|
| Base..... | 44,382,000 | 41,016,000 | 41,016,000 | 41,016,000 |
| Rescissions (P.L. 112-74)..... | | | | (78,000) |
| Subtotal..... | 44,382,000 | 41,016,000 | 41,016,000 | 40,938,000 |

FY 2013

General Fund Appropriation:

| | | | | |
|---------------|------------|--|------------|--|
| Base..... | 38,966,000 | | 38,966,000 | |
| Subtotal..... | 38,966,000 | | 38,966,000 | |

FY 2014

General Fund Appropriation:

| | | | | |
|---------------|------------|--|--|--|
| Base..... | 42,205,000 | | | |
| Subtotal..... | 42,205,000 | | | |

Summary of the Request

The U.S. Department of Health and Human Services (HHS) Office for Civil Rights (OCR) is the primary defender of the public's right to privacy and security of protected health information and 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. To most effectively accomplish this enormously important undertaking, OCR activities partner with government and private sector entities at the local, state, and national levels.

For FY 2014, OCR requests \$42,205,000, an increase of \$1,267,000 from the FY12 Enacted Level to fund its nation-wide health care anti-discrimination and health information privacy and security mission performed and supported by OCR's three activities.

- \$27,180,000 for Enforcement and Regional Operations – an increase of \$272,000
- \$10,162,000 for Programs and Policy – an increase of \$945,000
- \$4,863,000 for Planning and Business Administration Management – an increase of \$50,000

Enforcement and Regional Operations

(Dollars in Thousands)

| | FY 2012 Actual | FY 2013 CR | FY 2014 President's Budget | FY 2014 +/- FY 2012 |
|------------------|-------------------|---------------|----------------------------------|---------------------------|
| Budget Authority | 26,908 | 27,073 | 27,180 | 272 |
| FTE | 165 | 163 | 166 | 1 |

Program Description and Accomplishments

The Division of Enforcement and Regional Operations is charged with prevention and elimination of unlawful discrimination as well as protecting the privacy and security of individually identifiable health information. In fulfilling that mission, it supports the American public. The office consists of a small headquarters staff and personnel located at 10 regional HHS offices throughout the United States as indicated on the organization chart. The Deputy Director for Enforcement and Regional Operations is responsible for all aspects of the operations and performance of the regions and reports through the Chief of Staff to the Director of OCR.

The personnel in the ten regions spread across the nation are at the forefront of OCR's enforcement efforts and responsible for responding to complainants and investigation of alleged violations of civil rights and health information privacy laws. The regional manager in each of the ten Regions is responsible for operations within his/her geographical area of responsibility.

| <u>Region</u> | <u>Location</u> | <u>Satellite Office</u> | <u>Geographical Responsibility</u> |
|---------------|-----------------|-------------------------|------------------------------------|
| I | Boston | | CT,ME,MA,NH,RI,VT |
| II | New York | | NJ,NY,PR,Virgin Islands |
| III | Philadelphia | Washington, DC | DE,DC,MD,PA,VA,WV |
| IV | Atlanta | | AL,FL,GA,KY,MS,NC,SC,TN |
| V | Chicago | | IL,IN,MI,MN,OH,WI |
| VI | Dallas | | AR,LA,NM,OK,TX |
| VII | Kansas City | | IA,KS,MO,NE |
| VIII | Denver | | CO,MT,ND,SD,UT,WY |
| IX | San Francisco | Los Angeles | American Samoa,AZ,CA,Guam,HI,NV |
| X | Seattle | | AK,ID,OR,WA |

Since implementation of the Privacy Rule in 2003, the number of complaints filed with OCR per year has grown six-fold, from 1,948 in FY 2002 to approximately 16,000 in FY 2012. In an effort to keep pace with an ever increasing case workload, OCR instituted a number of efficiencies from FY 2002 through FY 2010, including a reorganization effort, improved staff skill sets, a centralized intake study, and ongoing improvements in case management techniques. These efficiency measures produced an increase in the number of cases resolved per FTE per year, although these measures did not fully offset the robust growth in complaint receipts.

Highlights of recent civil rights enforcement accomplishments:

- As a result of a settlement agreement entered into between Citizen's Medical Center (CMC) in Victoria, Texas and OCR (Region VI) in March 2012, children with disabilities will now have the same rights as other American children to access child care programs. The settlement followed an OCR investigation into a complaint filed on behalf of a complainant's child who was denied an

opportunity to participate in a CMC child care program, based on the child's disability, autism spectrum disorder. OCR's investigation into the complaint revealed that CMC violated Section 504 and the ADA when it rejected the child for enrollment based on its perception that the child would need one-on-one care as a reasonable modification. The settlement agreement required CMC to establish a non-discrimination policy and provide notice to its staff and program participants of the policy. In addition, CMC agreed to staff receiving comprehensive training concerning their obligations to provide services without discrimination to qualified persons with disabilities and specific training on autism spectrum disorder; implement a patient grievance procedure; inform patients of their right to file a complaint with OCR; appoint a Section 504 Coordinator who will be responsible for CMC's efforts to comply with Section 504 and Title II of the ADA; and report to OCR for an 18 month period.

- In August 2011, OCR (Region VI) entered into a resolution agreement with the East Texas Medical Center Regional Healthcare System (ETMC) to ensure that deaf or hard of hearing patients receiving care will be screened and provided with sign language interpreter services when necessary for effective communication. After investigating the complaint of a deaf patient who alleged she had not been provided a sign language interpreter while receiving prenatal care at ETMC Crocket Hospital, OCR issued a letter of concern to ETMC stating that deficiencies in their policies could result in the provision of auxiliary aids and services to deaf patients in an arbitrary or inconsistent manner. Under Section 504 of the Rehabilitation Act of 1973, recipients of federal financial assistance must provide auxiliary aids and services to individuals who are deaf or hard of hearing.
- In January 2011, OCR (Region I) entered into a state-wide voluntary resolution agreement with the Rhode Island Department of Human Services (RIDHS) that provides limited English proficiency (LEP) clients improved access to RIDHS programs and services, including Medicaid and other social service programs. Under the agreement, RIDHS will ensure that the language access needs of its LEP clients are properly assessed and that appropriate language services are provided to clients in all RIDHS programs. RIDHS will improve its policies and procedures for assessing translation needs and ensure that current and new staff receives comprehensive training on providers' duties under Title VI of the Civil Rights Act of 1964.

Highlights of recent HIPAA Privacy and Security Rule enforcement accomplishments:

- Phoenix Cardiac Surgery (PCS) Monetary Settlement (Region X). In April of 2012, PCS agreed to pay \$100,000 and take corrective action to implement policies and procedures to safeguard the protected health information of its patients. The settlement with the physician practice follows an extensive investigation by the HHS Office for Civil Rights (OCR) for potential violations of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules. The incident giving rise to OCR's investigation was a report that the physician practice was posting clinical and surgical appointments for its patients on an Internet-based calendar that was publicly accessible. On further investigation, OCR found that PCS had implemented few policies and procedures to comply with the HIPAA Privacy and Security Rules, and had limited safeguards in place to protect patients' electronic protected health information (ePHI).
- Blue Cross Blue Shield of Tennessee (BCBST) Monetary Settlement (Region IV). In March of 2012, BCBST agreed to pay \$1,500,000 to settle potential violations of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules. BCBST has also agreed to a corrective action plan to address gaps in its HIPAA compliance program. The enforcement action is the first resulting from a breach report required by the Health Information Technology for Economic and Clinical Health (HITECH) Act Breach Notification Rule. The investigation followed a notice

submitted by BCBST to HHS reporting that 57 unencrypted computer hard drives were stolen from a leased facility in Tennessee. The drives contained the protected health information (PHI) of over 1 million individuals, including member names, social security numbers, diagnosis codes, dates of birth, and health plan identification numbers. OCR's investigation indicated BCBST failed to implement appropriate administrative safeguards to adequately protect information remaining at the leased facility by not performing the required security evaluation in response to operational changes. In addition, the investigation showed a failure to implement appropriate physical safeguards by not having adequate facility access controls; both of these safeguards are required by the HIPAA Security Rule.

- University of California at Los Angeles Health System (UCLAHS) Monetary Settlement (Region IX). In July of 2011, UCLAHS agreed to settle potential violations of the HIPAA Privacy and Security Rules for \$865,500 and has committed to a corrective action plan aimed at remedying gaps in its compliance with the rules. The resolution agreement resolves two separate complaints filed with OCR on behalf of two celebrity patients who received care at UCLAHS. The complaints alleged that UCLAHS employees repeatedly and without permissible reason looked at the electronic protected health information of these patients. OCR's investigation into the complaints revealed that from 2005-2008, unauthorized employees repeatedly looked at the electronic protected health information of numerous other UCLAHS patients. Through policies and procedures, entities covered under HIPAA must reasonably restrict access to patient information to only those employees with a valid reason to view the information and must sanction any employee who is found to have violated these policies.
- The General Hospital Corporation and Massachusetts General Physicians Organization, Inc. ("Mass General") Monetary Settlement (Region I). In February of 2011, Mass General agreed to pay \$1,000,000 to settle potential violations of the HIPAA Privacy Rule. Mass General, one of the nation's oldest and largest hospitals, signed a Resolution Agreement with HHS that requires it to develop and implement a comprehensive set of policies and procedures to safeguard the privacy of its patients. The settlement follows an extensive investigation by OCR. The incident giving rise to the agreement involved the loss of protected health information (PHI) of 192 patients of Mass General's Infectious Disease Associates outpatient practice, including patients with HIV/AIDS. OCR opened its investigation of Mass General after a complaint was filed by a patient whose PHI was lost. OCR's investigation indicated that Mass General failed to implement reasonable, appropriate safeguards to protect the privacy of PHI when removed from Mass General's premises and impermissibly disclosed PHI potentially violating provisions of the HIPAA Privacy Rule.
- Cignet Health of Prince George's County, MD (Cignet) Civil Monetary Penalty (CMP) (Region III). In February of 2011, HHS OCR issued a Notice of Final Determination finding that a covered entity, Cignet, violated the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HHS has imposed a civil money penalty (CMP) of \$4.3 million for the violations, representing the first CMP issued by the Department for violations of the HIPAA Privacy Rule. The CMP is based on the violation categories and increased penalty amounts authorized by Section 13410(d) of the Health Information Technology for Economic and Clinical Health (HITECH) Act. OCR found that Cignet violated 41 patients' rights by denying them access to their medical records. These patients, each of whom made a request to obtain their record between September 2008 and October 2009, individually filed complaints with OCR initiating investigations of each complaint. The HIPAA Privacy Rule requires that a covered entity provide a patient with a copy of their medical records within 30 (and no later than 60) days of the patient's request. The CMP for these violations is \$1.3 million. During the investigations, Cignet refused to respond to OCR's repeated demands to produce the records. Additionally, Cignet failed to cooperate with OCR's investigations of the complaints, including failure to produce the records in response to OCR's subpoena. OCR filed a

petition to enforce its subpoena in United States District Court and obtained default judgment against Cignet on March 30, 2010. On April 7, 2010, Cignet produced the medical records to OCR, but otherwise made no efforts to resolve the complaints through informal means. Covered entities are required under law to cooperate with the Department's investigations. OCR found that Cignet's failure to cooperate with OCR's investigations was due to willful neglect.

- In FY 2012, OCR collected an aggregate of \$3.6 million in monetary settlements and civil monetary penalties. OCR anticipates recovering \$5.5 million and \$6.5 million in FY 2013 and FY 2014, respectively.

Funding History

| | |
|---------|----------|
| FY 2013 | \$27,073 |
| FY 2012 | \$26,908 |
| FY 2011 | \$26,961 |
| FY 2010 | * |
| FY 2009 | * |

* An OCR reorganization occurred in 2010 so funding by activity is not available prior to FY 2011.

Budget Request

The FY 2014 request for Enforcement and Regional Operations (E&RO) is \$27,180,000 and reflects an increase of \$272,000 from the FY 2012 Enacted Level. The increase is for one additional FTE and additional contractors to carry out investigations and compliance reviews to enforce the HIPAA Security Rule.

Programs and Policy

(Dollars in Thousands)

| | FY 2012 Actual | FY 2013 CR | FY 2014 President's Budget | FY 2014 +/- FY 2012 |
|------------------|-------------------|---------------|----------------------------------|---------------------------|
| Budget Authority | 9,217 | 9,273 | 10,162 | 945 |
| FTE | 40 | 41 | 44 | 3 |

Program Description and Accomplishments

The Division of Programs and Policy is charged with prevention and elimination of unlawful discrimination as well as protecting the privacy and security of individually identifiable health information. In fulfilling that mission, it supports the American public. The Division consists of two components, Civil Rights and Health Information Privacy, with the vast majority of personnel working within the HHS headquarters in Washington, DC. The Deputy Director for Programs and Policy is responsible for all aspects of the operations and performance of this area and reports through the Chief of Staff to the Director of OCR.

Civil Rights Division:

The Civil Rights (CR) Division performs a wide variety of critical functions to support the Department's mission to promote the health and well-being of the American public. As the OCR component responsible for leading OCR's civil rights activities, CR provides strategic planning for national priorities and oversees OCR's nationwide program for civil rights enforcement, outreach, and policy development through headquarters and regional operations. In particular, CR provides direction and subject matter expertise to regional staff and assistance in their activities to ensure legal and policy coordination and consistency in OCR's formulation of investigative plans for complaints and compliance reviews, corrective action closure letters, voluntary compliance agreements, violation letters of finding, settlement agreements and enforcement actions. In addition, CR is responsible for all civil rights rulemaking and policy guidance in the Department's activities, including implementation of the civil rights mandates in the Affordable Care Act, and developing and overseeing national outreach efforts.

CR also 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. Through this program, CR provides technical assistance to new and existing Medicare providers, reviews health care facilities' policies and procedures for civil rights compliance, and sends clearance letters to the facilities after they have demonstrated compliance.

Through the pre-grant review program, CR also enters into civil rights settlement 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.

The Civil Rights Division is establishing three focused teams to implement the priority civil rights enforcement areas of Equal Access to Health Care under the Affordable Care Act (Section 1557),

Reducing Racial and Ethnic Health Disparities (Limited English Proficiency), and Community Living (Olmstead)

With the advent of the Affordable Care Act, OCR is charged with enforcing Section 1557, a nondiscrimination provision which ensures that all individuals have equal access to the benefits and services made available under the Act, without regard to their race, color, national origin (including limited proficiency in English (LEP)), disability, age, or sex. Significantly, this is the first time that sex discrimination in health care is prohibited by a national civil rights law. OCR is currently drafting a regulation and intends to issue an NPRM in 2013. During 2014, we will conduct listening sessions to enhance public participation in the rulemaking process and issue a final rule. We also intend to conduct outreach and provide technical assistance to educate stakeholders about the new obligations and rights under the law. Even without a regulation in place, OCR is currently receiving complaints under this provision and OCR investigates and resolves those complaints.

In the HHS Strategic Plan for 2010-2015, one of the key strategies for implementing the objective of providing quality, culturally and linguistically competent care to vulnerable populations is “the prevention and correction of discriminatory actions and practices.” OCR team personnel will implement this strategy by: addressing the language access issues identified in the HHS Disparities Action Plan; and rigorously enforcing Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color and national origin, including LEP populations, in programs receiving Federal financial assistance, which is an integral part of the ACA. Currently, OCR is conducting compliance reviews in ten states to ensure that Critical Access Hospitals in rural areas provide meaningful access to LEP persons. The team will initiate complaint investigations and compliance reviews in additional states and expand the reviews to other health care providers. Finally, they will work to ensure that underserved populations have equal access to health services and insurance as health reform is implemented and to identify ways to help recipients comply with their legal obligation to provide meaningful access by LEP persons to their programs and activities.

OCR will create a team to implement the Administration’s and Secretary’s priority to promote community living for persons with disabilities through vigorous enforcement of the Americans with Disabilities Act (ADA) as interpreted by the Supreme Court in the *Olmstead* case. This concept is an integral part of the ACA and the Secretary’s Initiative on Community Living. OCR must provide technical assistance, policy development, and enforcement of the ADA and Section 504 of the Rehabilitation Act and investigates complaints and initiates compliance reviews to determine if there are violations of these laws. Team personnel will collaborate with the Department of Justice, The Department of Housing and Urban Development, the Administration on Community Living, the Centers for Medicare and Medicaid Services and the Substance Abuse and Mental Health Services Administration. OCR will work with these agencies to develop policy and technical assistance opportunities for States, people with disabilities, and others.

Health Information Privacy Division:

The Health Information Privacy (HIP) Division is primarily responsible for leading OCR’s national privacy and security programs and performs a wide variety of mission critical functions to support healthcare organizations, OCR’s ten regional offices, and the American public. HIP is responsible for policy development, including proposing regulatory and legislative modifications to the HIPAA Privacy and Security Rules; rule making activities, including promulgating regulations for new statutory authorities; issuing guidance and developing compliance and training tools; providing public education; and raising awareness of privacy rights and protections. Through its efforts to promote robust privacy and security protections, HIP plays a leading role in other health reform efforts, including advancing the adoption and meaningful use of electronic health records, and assuring privacy and security concerns are

appropriately addressed by the new delivery mechanisms under the ACA and ARRA, in research and patient safety initiatives particularly those involving genetic breakthroughs, and in emergency preparedness and response activities. HIP staff also reviews settlement agreements and enforcement actions, provides subject matter expertise to regional staff on both privacy and security matters, and investigates violations of patient safety work product confidentiality.

Since September 2009, HIP staff has overseen a nationwide breach reporting system required by the HITECH Act enabling covered entities and business associates to electronically file reports with the Secretary of all breaches that create a significant risk to the confidentiality or integrity of protected health information. The covered entity is also required to provide prompt notification to the individuals affected by the breach. For breaches affecting 500 or more individuals, HIP also refers the breach report to the regional offices for validation and investigation, and is responsible for maintaining a listing of such breaches on the HHS web site. In addition, as required by the HITECH Act, HIP staff led the Department's efforts to design, test, and evaluate an audit function to measure compliance with privacy, security and breach notification requirements by healthcare entities and their business associates. The field testing and evaluation process will continue into FY2013.

HIP staff provides 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 or notices of the imposition of civil monetary penalties following compliance reviews or complaint investigations. As a result of the HITECH Act, civil money penalties for HIPAA violations have increased significantly, from \$100 per violation to up to \$50,000 per violation. OCR has leveraged these higher penalty amounts to strengthen and expand its compliance and enforcement program. In 2009, HIP expanded its enforcement scope to include the HIPAA Security Rule and has overseen the integration with OCR's ongoing privacy enforcement programs. HIP provides subject matter expertise to OCR's regional offices on Security Rule cases, thereby raising the quality of the corrective actions achieved through investigations. HIP also coordinates with the Department of Justice on criminal referrals under the HIPAA.

Highlights of recent civil rights accomplishments:

- CR partnered with CMS to ensure that the outreach and information provided to consumers about the ACA are accessible to underserved populations, including persons with disabilities and those with limited English proficiency. As a result, ACA regulations governing key aspects of health care reform ensure that the call center, websites, navigators, applications and notices will be accessible to people with disabilities and those with limited English proficiency.
- CR partnered with the Office on Disability and the Office of the National Coordinator (ONC) to improve accessibility of health information technology for people with disabilities to address complaints by disability advocates that materials were not accessible to individuals with vision impairments. CR provided technical assistance materials and information on civil rights laws and accessibility of electronic information to ONC. In the March 7, 2012 notice of proposed rulemaking on standards and certification criteria to support meaningful use, ONC noted in the preamble that it had worked with OCR and was proposing accessibility standards so patients with disabilities can view their health information online.
- CR also recently posted guidance on OCR's and ASPA's web pages on the intersection of Sections 504 and 508 of the Rehabilitation Act as applied generally to information technology.

- CR has continued to develop Civil Rights Corporate Agreements to increase the efficiency of the pre-grant program and to promote civil rights compliance among large groups of healthcare providers throughout the country. In the Agreements, the corporations and OCR develop, for the corporate facilities, model civil rights policies and procedures that demonstrate compliance with the civil rights statutes and regulations. As a result of CR's efforts, there are now 42 Agreements covering over 3,900 healthcare providers who serve more than 8.6 million patients.
- To respond to a series of complaints which found lack of communication with deaf and hard of hearing in hospitals as a widespread problem, CR recently identified and posted to OCR's website 20 promising practices for hospitals to communicate effectively with LEP individuals and deaf or hard of hearing individuals.
- In response to an OCR finding that a Dialysis Center in Maryland violated Section 504 of the Rehabilitation Act, OCR (Region III) initiated a technical assistance project with the Mid-Atlantic Renal Coalition (MARC) and the End Stage Renal Disease Network to ensure that these organizations understand their providers' Section 504 obligations to ensure effective communication with persons who are deaf or hard of hearing. As a result, MARC included information regarding the importance of providing effective communication in their monthly E-alert to their hundreds of providers throughout Maryland, Washington, D.C., Virginia, and West Virginia.
- The Civil Rights Division has worked with the Joint Commission to recently issue a publication that urges hospitals to create safe and inclusive environments to improve health care for LGBT patients and their families: *Advancing Effective Communication, Cultural Competence, and Patient-and Family-Centered Care for the Lesbian Gay, Bisexual and Transgender (LGBT) Community: A Field Guide*. For several years now, the CRD has worked cooperatively with the Joint Commission, serving on its expert advisory panel and collaboration of the Commission's publication: *Advancing Effective Communication, Cultural Competence and Patient- and Family-Centered Care: A Roadmap for Hospitals*. The *Roadmap's* law and regulations section was drafted by CRD staff.
- In April 2012, OCR (Region I) entered into a voluntary resolution agreement with the Town of Simsbury, Connecticut mandating that the town recreation department allow children with diabetes to attend its summer camp program. This agreement has served as a critical model to providers of public programs, services and activities that cannot screen out or exclude individuals because of disabilities, including diabetes.

Highlights of recent health information privacy accomplishments:

- HIP issued an Interim Final Rulemaking in October 2009 to implement the tiered penalty structure under the HITECH Act, significantly increasing the amount of civil money penalties that could be imposed for violations of the HIPAA Privacy and Security Rules. Since that time, OCR has imposed its first civil money penalty in February 2011, and has negotiated corrective active plans and monetary settlements in 6 cases, resulting in \$3.8 million to put towards furthering health information privacy and security enforcement efforts.
- Based on new authority in the HITECH Act, HIP launched a major initiative to design, test, and evaluate a program for the periodic audits to ensure compliance by covered entities and business associates with the HIPAA Privacy and Security Rules and their obligations under the HITECH Act. Comprehensive audit protocols were developed and tested in audits of 20 covered entities of

varying types and sizes. Based on feedback from this initial test, the remaining audits (up to a total of 115) will be conducted and the program and its results evaluated through FY 2013.

- In 2011, HIP completed a nation-wide training of State Attorneys General (SAG) on HIPAA and HITECH. The HITECH Act authorized State Attorneys General to bring civil actions to enforce the HIPAA Privacy and Security Rules. Training was provided to SAG staff at four sites across the country and copies of computed-based training materials were subsequently provided to each SAG office to facilitate continuous training of staff. OCR will continue to work with the State Attorneys General as they begin to pursue actions within their new jurisdiction.
- HIP has led extensive rulemaking efforts to implement the first statutorily mandated changes to the HIPAA Privacy, Security, and Enforcement Rules. A Notice of Proposed Rulemaking was issued in October 2009 under the Genetic Information Nondiscrimination Act to recognize genetic information as protected health information and to prevent its use by health plans for underwriting purposes. HIP also promulgated Interim Final Rules on two new authorities under the HITECH Act, a tiered and strengthened civil money penalty structure for HIPAA violations and breach notification obligations on HIPAA covered entities and business associates. In July 2010, HIP issued another Notice of Proposed Rulemaking to address most of the remaining changes from the HITECH Act, including extending privacy and security obligations and resulting liabilities to business associates of HIPAA covered entities, strengthening privacy protections in the areas of marketing, fundraising, requests for restrictions and electronic access, and prohibiting the sale of protected health information without authorization from the individual. HIP will be completing these extensive rulemaking activities in January of 2013.
- HIP has partnered with ONC and CMS to develop privacy and security protections for electronic health records that will promote their adoption and meaningful use and to embed privacy and security principles and functions in the regulatory certification criteria for health information technology and the meaningful use standards for Phase 1 and those proposed for Phase 2 and future phases.
- HIP also partnered with ONC to design and implement an initial public education campaign to increase the American public's awareness of and confidence in the privacy and security of their health information, particularly with electronic health records. As part of this effort, OCR launched its first privacy videos oriented toward the public on the internet and is otherwise improving and expanding its abilities to reach healthcare consumers across America.

Funding History

| | |
|---------|---------|
| FY 2013 | \$9,273 |
| FY 2012 | \$9,217 |
| FY 2011 | \$9,235 |
| FY 2010 | * |
| FY 2009 | * |

* An OCR reorganization occurred in 2010 so funding by activity is not available prior to FY 2011.

Budget Request

The FY 2014 request for Programs and Policy (P&P) is \$10,162,000 and reflects an increase of \$945,000 from the FY 2012 Enacted Level.

Program Increases:

Enforcement of the HIPAA Security Rule (+\$945,000)

On July 27, 2009, the HHS Secretary delegated authority for the administration and enforcement of the Security Standards for the Protection of Electronic Protected Health Information (HIPAA Security Rule) to the Director of OCR. Combining the authority for administration and enforcement of the Federal standards for health information privacy and security called for in HIPAA improves HHS' ability to protect individuals' health information. OCR has been conducting this activity for nearly three years without any added funding. OCR requests that funding be reflected in the HHS budget. Additional funding will be used to adequately staff the HIPAA security rule program, including a full-time permanent Program Manager to oversee and administer the program, and contractor support staff (2 subject matter experts). Funding will cover personnel costs and other indirect costs such as travel and supplies.

Planning and Business Administration Management

(Dollars in Thousands)

| | FY 2012 Actual | FY 2013 CR | FY 2014 President's Budget | FY 2014 +/- FY 2012 |
|------------------|-------------------|---------------|----------------------------------|---------------------------|
| Budget Authority | 4,813 | 4,843 | 4,863 | 50 |
| FTE | 19 | 18 | 20 | 1 |

Program Description and Accomplishments

The Division of Planning and Business Administration Management (PBAM) is focused on supporting the overall efforts of OCR's mission. The office consists of administration sections which are outlined below and provides direct support to the operations of OCR's other two activities (E&RO and P&P). All FTEs are located at HHS headquarters in Washington, DC. The Deputy Director for Planning, Business Administration Management is responsible for all aspects of the operations and performance of his/her sections and reports through the Chief of Staff to the Director of OCR.

| Section | Description |
|------------------------|---|
| Executive Secretariat | The Executive Secretariat Section is responsible for processing intra-HHS and external agency clearance requests, processing Congressional and other high-level correspondence, handling Freedom of Information Act (FOIA) requests, and other general administrative duties. |
| Human Resources | OCR operates in a dynamic environment which requires highly motivated and trained professionals to respond to citizen complaints involving complex circumstances. The Human Resources Section conducts the recruitment of all staff personnel as well as coordinating the personnel action support for all-board employees, both at the headquarters and throughout the Regions. The section's key responsibilities include coordination with the Office of Human Resources within the HHS Office of the Assistant Secretary of Administration, interpretation and application of human resources policy, and interfacing with the labor union. |
| Information Technology | With a wide dispersion of personnel spread across the nation, the Information Technology (IT) Section has the challenging task of ensuring that all operating locations receive superb and timely automation support to enable seamless operations. The Director of IT, with the assistance of three other personnel, performs a variety of tasks in support of that mission, including conducting inventories, trouble-shooting equipment, planning upgrades, reviewing invoices, letting contracts to support systems, monitoring interagency support services, administering the Performance Information Management System (PIMS), and acquiring replacement hardware. |
| Budget and Performance | The Budget and Performance Section is accountable for working with the OCR leadership to formulate requirements, both funding and personnel. Specific focus areas are: entering budget data into applicable systems, submitting budget justification exhibits, supporting overall headquarters and regional operations, contributing to the overall HHS Performance Appendix, monitoring budget execution spending and targets, setting and gauging progress on established performance measures, answering HHS and OMB data calls, and responding to all resource matters that affect ongoing OCR efforts to provide quality support to all citizens. |

Additional personnel include the Director of OCR and his immediate office staff as well as the Deputy Director of PBAM.

To facilitate accomplishment of the OCR mission, PBAM staff members are focused on continuous operational and process improvement to support OCR programs and staff. Key initiatives designed to

improve overall operational efficiency within the last two years include centralized complaint intake for Regions IV and V that eliminated the backlog and now provides timely assistance and responses to complainants, targeted hiring designed to close skill gaps across the organization, development of enhanced programmatic training, upgrades to OCR's proprietary case management system, and more focus on information security.

Highlights of recent PBAM accomplishments:

- Currently leading an OCR-wide project to identify new performance measures that more accurately gauge OCR's overall performance across the entire organization
- Managed a centralized intake pilot study that demonstrated two key findings: a possible 53% decrease in the amount of time it takes to close complaints and discovery that transferring case workload between regional offices could result in a 78% reduction in overall case workload backlogs
- Completed Certification & Accreditation (C&A) of Program Information Management System (PIMS) and attained renewed Authority To Operate (ATO) that had expired in 2008. Also, established an alternate processing site for PIMS as well as an increased information security awareness throughout OCR
- Implemented a PIMS modernization plan to streamline the administrative burden associated with the regional casework, thereby allowing Equal Opportunity Specialists to dedicate additional time to complainant response
- Reconfigured PIMS to more accurately reflect performance thereby providing additional capability to leaders in managing their operations
- Established a comprehensive IT inventory control plan to more efficiently safeguard all OCR equipment
- Completed a Continuity of Operations Plan (COOP) ensuring that, in the event of an emergency, OCR will continue to perform its critical mission functions

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. Funding at the requested level will allow OCR's compliance and enforcement operations to continue this renewed focus on being more responsive to the American public.

Funding History

| | |
|---------|---------|
| FY 2013 | \$4,843 |
| FY 2012 | \$4,813 |
| FY 2011 | \$4,821 |
| FY 2010 | * |
| FY 2009 | * |

* An OCR reorganization occurred in 2010 so funding by activity is not available prior to FY 2011.

Budget Request

The FY 2014 request for Planning and Business Administration Management (PBAM) is \$4,863,000 and reflects an increase of \$50,000 from the FY 2012 Enacted Level. Funding will allow PBAM to provide administrative guidance and support to the program and enforcement staff (i.e. supplies, travel, printing services, etc.).

Budget Authority by Object Class
(Dollars in Thousands)

| | FY 2012 Actual | FY 2013 CR | FY 2014 President's Budget |
|---|-------------------|---------------|----------------------------------|
| Personnel compensation: | | | |
| Full-time permanent (11.1) | 21,727 | 22,062 | 23,128 |
| Other than full-time permanent (11.3) | 554 | 557 | 563 |
| Other personnel compensation (11.5) | 574 | 577 | 588 |
| Military personnel (11.7) | 67 | 67 | 68 |
| Special personal services payments (11.8) | 0 | 0 | 0 |
| Subtotal, Personnel compensation | 22,922 | 23,263 | 24,347 |
| Civilian personnel benefits (12.1) | 5,072 | 5,185 | 5,541 |
| Military benefits (12.2) | 26 | 26 | 26 |
| Benefits for former personnel (13.0) | 21 | 21 | 21 |
| Total Pay Costs | 28,041 | 28,495 | 29,935 |
| Travel and transportation of persons (21.0) | 340 | 341 | 344 |
| Transportation of things (22.0) | 20 | 20 | 20 |
| Rental payments to GSA (23.1) | 3,152 | 3,171 | 3,226 |
| Rental payments to others (23.2) | 0 | 0 | 0 |
| Communications, utilities, and miscellaneous charges (23.3) | 359 | 361 | 361 |
| Printing and reproduction (24.0) | 50 | 50 | 50 |
| Other Contractual Services: | | | |
| Advisory and assistance services (25.1) | 0 | 0 | 0 |
| Other services from non-Federal sources (25.2) | 2,747 | 2,728 | 2,747 |
| Other goods and services from Federal sources (25.3) | 3,061 | 2,836 | 3,061 |
| Operation and maintenance of facilities (25.4) | 1,246 | 1,253 | 1,253 |
| Research and development contracts (25.5) | 0 | 0 | 0 |
| Operation and maintenance of equipment (25.7) | 1,597 | 1,607 | 880 |
| Subtotal, Other Contractual Services | 8,651 | 8,424 | 7,941 |
| Supplies and materials (26.0) | 250 | 252 | 253 |
| Equipment (31.0) | 75 | 75 | 75 |
| Land and Structures (32.0) | 0 | 0 | 0 |
| Investments and Loans (33.0) | 0 | 0 | 0 |
| Grants, subsidies, and contributions (41.0) | 0 | 0 | 0 |
| Insurance claims and indemnities (42.0) | 0 | 0 | 0 |
| Total Non-Pay Costs | 12,897 | 12,694 | 12,270 |
| Total Budget Authority by Object Class | 40,938 | 41,189 | 42,205 |

Office for Civil Rights

Salaries and Expenses
(Dollars in Thousands)

| | FY 2012 Actual | FY 2013 CR | FY 2014 President's Budget |
|---|-------------------|---------------|----------------------------------|
| Personnel compensation: | | | |
| Full-time permanent (11.1) | 21,727 | 22,062 | 23,128 |
| Other than full-time permanent (11.3) | 554 | 557 | 563 |
| Other personnel compensation (11.5) | 574 | 577 | 588 |
| Military personnel (11.7) | 67 | 67 | 68 |
| Subtotal, Personnel compensation | 22,922 | 23,263 | 24,347 |
| Civilian personnel benefits (12.1) | 5,072 | 5,185 | 5,541 |
| Military benefits (12.2) | 26 | 26 | 26 |
| Benefits for former personnel (13.0) | 21 | 21 | 21 |
| Total Pay Costs | 28,041 | 28,495 | 29,935 |
| Travel and transportation of persons (21.0) | 340 | 341 | 344 |
| Transportation of things (22.0) | 20 | 20 | 20 |
| Communications, utilities, and miscellaneous charges (23.3) | 359 | 361 | 361 |
| Printing and reproduction (24.0) | 50 | 50 | 50 |
| Other Contractual Services: | | | |
| Other services from non-Federal sources (25.2) | 2,747 | 2,728 | 2,747 |
| Other goods and services from Federal sources (25.3) | 3,061 | 2,836 | 3,061 |
| Operation and maintenance of facilities (25.4) | 1,246 | 1,253 | 1,253 |
| Operation and maintenance of equipment (25.7) | 1,597 | 1,607 | 880 |
| Subtotal, Other Contractual Services | 8,651 | 8,424 | 7,941 |
| Supplies and materials (26.0) | 250 | 252 | 253 |
| Total Non-Pay Costs | 9,670 | 9,448 | 8,969 |
| Total Salaries and Expenses | 37,711 | 37,943 | 38,904 |

| DETAIL OF FULL-TIME EQUIVALENT (FTE) EMPLOYMENT | | | | | | | | | |
|--|---------------------------|-----------------|--------------|-----------------------|-----------------|--------------|---------------------------------------|-----------------|--------------|
| | FY 2012 Actual | | | FY 2013 CR | | | FY 2014 President's Budget | | |
| | Civilian | Military | Total | Civilian | Military | Total | Civilian | Military | Total |
| Direct: | 223 | 1 | 224 | 220 | 2 | 222 | 228 | 2 | 230 |
| Reimbursable: | 2 | 0 | 2 | 3 | 0 | 3 | 3 | 0 | 3 |
| FTE Total | 225 | 1 | 226 | 223 | 2 | 225 | 231 | 2 | 233 |

Detail of Positions

| | FY 2012 Actual | FY 2013 CR | FY 2014 President's Budget |
|------------------------------|---------------------------|-----------------------|---|
| Executive level I | | | |
| Executive level II | 4 | 4 | 4 |
| Executive level III | 4 | 4 | 4 |
| Executive level IV | 1 | 1 | 1 |
| Executive level V | | | |
| Subtotal | 9 | 9 | 9 |
| Total - Exec. Level Salaries | \$1,452,097 | \$1,459,357 | \$1,472,587 |
| | | | |
| SES | | | |
| ES-6 | | | |
| ES-5 | | | |
| ES-4 | | | |
| | | | |
| GS-15 | 25 | 26 | 26 |
| GS-14 | 30 | 29 | 28 |
| GS-13 | 39 | 39 | 42 |
| GS-12 | 76 | 76 | 76 |
| GS-11 | 14 | 14 | 14 |
| GS-10 | | | |
| GS-9 | 7 | 7 | 7 |
| GS-8 | 3 | 4 | 4 |
| GS-7 | 19 | 19 | 19 |
| GS-6 | 5 | 5 | 5 |
| GS-5 | 3 | 2 | 2 |
| GS-4 | 7 | 6 | 5 |
| GS-3 | | | |
| GS-2 | | | |
| GS-1 | | | |
| Subtotal | 228 | 227 | 228 |
| Total - GS Salary | \$20,212,991 | \$20,314,056 | \$20,489,826 |
| | | | |
| Total Positions | 237 | 236 | 237 |
| Total FTE | 225 | 223 | 231 |
| | | | |
| Average ES salary | \$161,344 | \$162,151 | \$163,621 |
| Average GS grade | 12/7 | 12/8 | 12/9 |
| Average GS Salary | \$88,653 | \$89,489 | \$89,868 |

*Excludes OCR's one military employee, "Other personnel compensation (11.5)," and "Civilian personnel benefits (12.1)." Includes reimbursable FTEs for FY 2013 and 2014.