

*United States Trustee
Program
Fiscal Year 2009 Budget
Request*



January 30, 2008

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I. Overview for the United States Trustee Program (USTP)

- The U.S. Trustee Program's (USTP) FY 2009 request totals 1,374 permanent positions (347 attorneys), 1,344 workyears, and \$217,416,000. The request includes an increase of \$7,653,000 for base adjustments only. No program increases are being requested.
- The request includes \$167,730,000 in anticipated offsetting collections and \$49,686,000 from U.S. Trustee System Fund balances.

Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.usdoj.gov/jmd/2009justification/>.

Mission of the United States Trustee Program: The USTP mission is to promote integrity and efficiency in the nation's bankruptcy system by enforcing bankruptcy laws, providing oversight of private trustees, and maintaining operational excellence.

Introduction

The nation's bankruptcy laws are premised on the notion that honest, but needy debtors should be able to receive a fresh start and return to becoming productive members of society. The USTP's mission, as set forth in Strategic Objective 2.8 of the Department's Strategic Plan for Fiscal Years 2007-2012, buttresses these laws by ensuring that they are fairly enforced.

The President signed into law the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) of 2005 (P.L. 109-8) in April 2005. The BAPCPA took effect October 17, 2005, and provides important statutory tools that assist the USTP in identifying and civilly prosecuting misconduct by debtors and others who misuse the bankruptcy system.

The fraud and abuse provisions of the BAPCPA strengthened the USTP's enforcement efforts, including the National Civil Enforcement Initiative, which targets those who file false, misleading, or inaccurate bankruptcy papers; debtors who can repay creditors or whose wrongful conduct disqualifies them for a discharge; debtors who reorganize and fail to follow through with their obligations under Bankruptcy law; attorneys who do not satisfy their obligations in a case; bankruptcy petition preparers who do not comply with the law; and others, including creditors, who prey on vulnerable debtors using fraud and deceptive practices. The combined results of these efforts deter abuse, maximize the returns to creditors, and strengthen the laws to ensure that relief is appropriately granted.

In FY 2009, the USTP will continue its enforcement of BAPCPA, including the means testing, credit counseling, debtor education, and the small business and other chapter 11 provisions. No funding was provided in FY 2008 for debtor audits. The USTP plans to reprogram unobligated prior year balances to address debtor audits in FY 2008 and 2009.

Issues, Outcomes, and Strategies

The USTP's mission is included entirely in the Department of Justice's Strategic Goal 2.8: Protect the Integrity and Ensure the Effective Operation of the Nation's Bankruptcy System. The USTP's strategic objectives are listed below:

- ▶ *Enforce compliance with federal bankruptcy laws and take civil actions against parties who abuse the law or seek to defraud the bankruptcy system.*
- ▶ *Pursue violations of federal criminal laws pertaining to bankruptcy by identifying, evaluating, referring, and providing investigative and prosecutorial support of cases.*
- ▶ *Promote the effectiveness of the bankruptcy system by appointing and regulating private trustees who administer bankruptcy cases expeditiously and maximize the return to creditors.*
- ▶ *Ensure financial accountability, compliance with the Bankruptcy Code, and prompt disposition of chapter 11 bankruptcy cases.*

The USTP Strategic Plan includes three goals for the USTP that flow from the DOJ Strategic Plan: 1) Protect the integrity of the nation's bankruptcy system, 2) Promote effectiveness and efficiency within the nation's bankruptcy system, and 3) Maintain operational excellence that achieves desired results through continuous improvements in administration and services. The USTP's goals are linked to objectives and measures, which are contained in the performance tables of the budget.

In addition, the USTP invests in the development of information and decision support systems that enhance the USTP's e-government capacities and make operations more effective and efficient. The USTP's efforts in information technology are guided by its Information Technology Strategic Plan, incorporating the Information Technology Investment Management (ITIM) process and an Executive Resources Board to support informed decision-making.

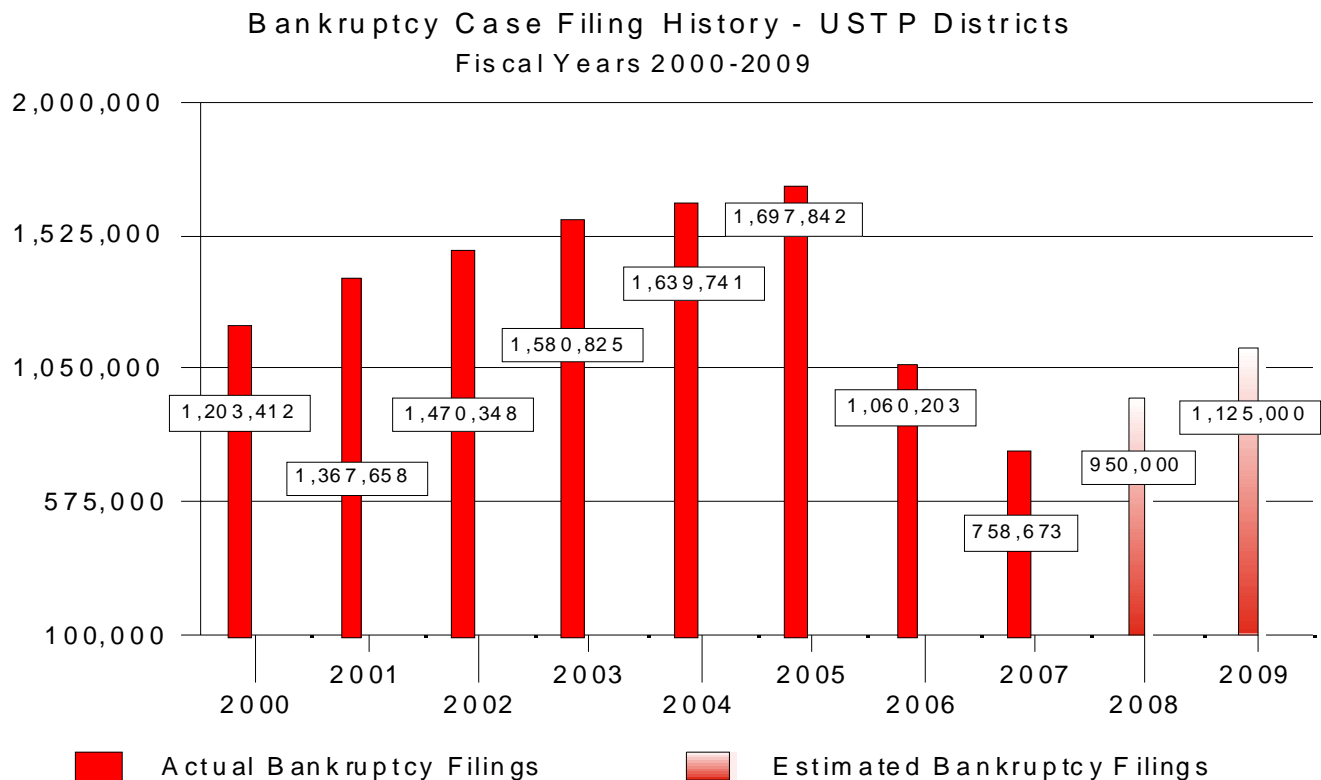
In January 2006, the Office of Management and Budget (OMB) completed its joint review of the USTP's operations under the Program Assessment Rating Tool (PART) and awarded the USTP its highest rating of "effective." The USTP's numerical score placed it among the top 15 percent of highly performing agencies in the Executive Branch. The OMB rating reflected the USTP's efforts over the past five years to adopt performance-based management systems, including better measurements of results achieved and tying programmatic success to budget formulation. The USTP completed its Fall Update Assessment in December 2007. The next full assessment is scheduled in FY 2009.

Full Program Costs

The USTP budget is contained in one decision unit, the Administration of Cases, which encompasses all operational activities and includes the direct cost of all outputs, indirect costs, and common administrative systems. There are two main Program activities: 1) enforcement and 2) case and trustee administration. The workyears and associated funding are allocated to these Program activities based upon the direct labor hours of the USTP staff performing enforcement and case and administration activities, as well as resources directly related to the performance of these activities. For example, the costs for chapter 7 trustee audits are attributed to the trustee oversight activity, as are hours for trustee supervision. Administrative and other overhead costs are allocated based upon the direct labor hours for the two Program activities.

Performance Challenges

External Challenges The USTP faces a number of external challenges, one of which is working cooperatively with the federal Judiciary to implement and administer bankruptcy law. For example, the USTP continues to work with the courts to expand the use of data enabled “smart” forms and schedules necessary for the means testing provisions of the BAPCPA. The USTP litigates challenges to the new statute, litigates issues of first impression, and carries out numerous administrative and other duties arising under the new bankruptcy reform law. The USTP also faces challenges in detecting evolving and innovative schemes of fraud and abuse that affect the bankruptcy system as it implements the BAPCPA. Finally, the USTP’s funding is entirely fee based, and as a result has been impacted by fluctuations in bankruptcy filings post BAPCPA. In the two weeks leading up to the October 17, 2005, BAPCPA effective date, 600,000 cases were filed. Following the implementation of the BAPCPA, bankruptcy filings fell immediately and dramatically and the USTP experienced a concomitant decrease in the level of revenue that was collected to support its operations. The number of cases filed post-BAPCPA has increased gradually, but filing rates are only about 50 percent of pre-BAPCPA levels. The following chart reflects actual and projected filings for the period FY 2000 through FY 2009:



Internal Challenges The USTP continues to face internal challenges resulting from the passage of the BAPCPA. In FY 2006, the USTP received a program enhancement specifically to address the provisions outlined in BAPCPA. At the same time, filings and revenues dropped, and draw-downs from the System Fund were necessary in FY 2006 and FY 2007 to fund the USTP’s operations. Although bankruptcy filings are slowly increasing, it is difficult to predict when filings will return to pre-BAPCPA levels. The decreased revenue stream creates a significant burden on

the USTP in terms of meeting its core mission and increased responsibilities under the BAPCPA. The USTP must attract, train and retain highly qualified staff to carry out its expanded responsibilities under the Act and also must refine and maintain information technology and data solutions to assist in enforcing provisions of the law. Finally, the USTP must ensure uniformity nationwide in enforcing the provisions of the new law.

II. Summary of Program Changes

Item Name	Description	Pos.	FTE	Dollars (000's)	Page
Adjustments to Base	Inflationary changes	...	...	\$7,653	Exhibit E

U.S. Trustee System Fund

The self-funding characteristics of the USTP were a feature of Public Law 99-554 enacted on October 27, 1986. Two categories of fees generate most of the revenue for the U.S. Trustee System Fund. The first category is the filing fee paid at the inception of each case for chapters 7, 11, 12 and 13, and the second category is the quarterly fee paid by chapter 11 debtors. The chapter 11 quarterly fees are determined by the cash disbursement levels of the debtor. All fees are deposited in the Fund as offsetting collections and are available to the USTP as specified in Appropriations Acts. Debt collection receipts, payment of excess percentage fees collected by chapter 12 or 13 trustees, and interest on invested funds also generate revenue for the Fund. Revenue in the Fund that is not needed for current expenses is invested in Treasury securities, and the income so earned accrues to the Fund.

Prior to FY 1997, the USTP's operations were funded through a combination of direct appropriations and offsetting collections. Beginning in FY 1997, the USTP's operations were funded solely from offsetting collections deposited into the U.S. Trustee System Fund. The annual revenue collected during the period FY 1997 through FY 2005, combined with continued operational efficiencies and effective case administration, provided sufficient resources to support the USTP's operations, making the need to supplement those revenues with direct appropriations unnecessary. As bankruptcy filings continued to increase during the period, approaching almost 1.7 million in FY 2005, the System Fund balance increased as well.

In FY 2006, bankruptcy filings fell dramatically following the effective date of the BAPCPA. Collections during the fiscal year were insufficient to support the USTP's operations, requiring a draw-down of about \$44 million from the U.S. Trustee System Fund. While bankruptcy filings have been slowly increasing, a drawdown of \$92 million was required in FY 2007 to enable the Program to operate at appropriated levels and, the USTP anticipates a further draw down of approximately \$50 million from the System Fund in FY 2009.

BAPCPA Implementation

The USTP's responsibilities in terms of implementing the provisions of BAPCPA have grown significantly. Although bankruptcy filings markedly decreased following implementation of the Act, the workload associated with the new provisions increased extensively. For example, the means testing provisions of the Act require that the USTP's field staff review each case to determine a debtor's eligibility for chapter 7 relief, collect supplementary information as needed from the debtor or other sources, draft and file pleadings, and prosecute civil actions in bankruptcy court. Field staff also must perform the recording and record keeping functions associated with means testing activities.

The USTP's staff time devoted to chapter 7 cases in general has increased substantially from pre-BAPCPA levels. Prior to BAPCPA, the USTP's staff spent about 45 to 50 minutes per chapter 7 case. This increased to an average of 1.5 to 3.0 hours per chapter 7 case, primarily because of the means testing requirements and subsequent actions that are considered and pursued, as appropriate. Workload associated with chapter 7 cases has actually increased under BAPCPA, despite the decrease in the number of chapter 7 filings.

Under the credit counseling and debtor education provision of BAPCPA, the USTP is responsible for approving eligible providers of credit counseling and debtor education services and in a majority of cases also serves as the primary agency responsible for ensuring debtor compliance. During FY 2007, the Government Accountability Office (GAO) reviewed the USTP's implementation of the credit counseling provisions of the BAPCPA. In its final report, issued in April 2007, the GAO credited the USTP with developing a comprehensive and effective process for the approval of eligible credit counselors and debtor educators. In an effort to ensure the continued eligibility and performance of approved providers, the USTP, during FY 2007, conducted ten Quality Service Reviews (QSRs) of credit counseling agencies. The QSRs permit the Program to interview provider staff, review records on site, and observe counseling sessions. Debtor audits, as mandated by BAPCPA, require that the USTP contract with independent auditors to verify the financial information provided by debtors. In addition to the added costs for contracting, the USTP's staff must review and record the audit results and take appropriate actions on material misstatements and other items of interest. No funding has been appropriated for debtor audits, but the USTP is proposing to reprogram unobligated prior year balances to meet this statutory requirement in FY 2008 and 2009.

Oversight of private trustees has also increased to ensure that those responsible for implementing the provisions are appropriately trained and the provisions of the Act are enforced consistently and impartially.

BAPCPA provisions now require that the USTP's staff make determinations regarding chapter 11 cases and whether they fit the criteria to be classified as a small business case. An Initial Debtor Interview (IDI) must be conducted in all small business chapter 11 cases and should include a discussion of substantive financial and operating issues. In order to facilitate debtor reporting, the USTP developed a standardized monthly operating report (MOR) to be used in all small business cases. The BAPCPA modified the legal standards relating to the timely conversion or dismissal of cases, providing additional grounds for these actions which in turn, require additional review and analysis on the part of the USTP.

During the two years since BAPCPA implementation, the USTP has made great progress in enforcing and implementing the various provisions of the law, training Program staff, and educating various stakeholders on a variety of legal and administrative issues of first impression. The most significant impacts of the legislation are reflected in the decreased number of bankruptcy filings, the increased the USTP's workload and responsibilities, and the increase in successful civil enforcement activities.

USTP Revenue Estimates

While bankruptcy filings and quarterly fee projections for FY 2007 through FY 2009 reflect a gradual increase, the USTP anticipates the actual collections in each fiscal year will be insufficient to support its operations, requiring further draw-downs from the System Fund. The USTP anticipates that based on current projections, a draw down of approximately \$49.7 million from the System Fund will be required in FY 2009.

The following chart displays the actual revenue collected from FY 2005 through FY 2007, and the current revenue projections for FY 2008 and FY 2009.

Revenue Collected in FY 2005:

	<u>Amount</u>
Bankruptcy Fees:	
Filing Fees.....	\$73,870,863
Chapter 11 Quarterly Fees	110,721,232
Other	153,233
Interest earnings on investments	<u>4,871,457</u>
TOTAL DEPOSITS	189,616,785

Revenue Collected in FY 2006:

	<u>Amount</u>
Bankruptcy Fees:	
Filing Fees.....	\$57,862,173
Chapter 11 Quarterly Fees	100,458,286
Other	143,370
Interest earnings on investments	<u>9,085,026</u>
TOTAL DEPOSITS	167,548,855

Revenue Collected in FY 2007:

	<u>Amount</u>
Bankruptcy Fees:	
Filing Fees.....	\$51,643,037
Chapter 11 Quarterly Fees	69,069,915
Other	194,186
Interest earnings on investments	<u>10,256,949</u>
TOTAL DEPOSITS	131,164,087

Revenue Projections for FY 2008:¹

	<u>Amount</u>
Bankruptcy Fees:	
Filing Fees.....	\$70,397,500
Chapter 11 Quarterly Fees	83,554,670
Other	250,000
Interest earnings on investments	<u>4,000,000</u>
TOTAL DEPOSITS	158,202,170

Revenue Projections for FY 2009:

	<u>Amount</u>
Bankruptcy Fees:	
Filing Fees.....	\$82,903,500
Chapter 11 Quarterly Fees	80,577,040
Other	250,000
Interest earnings on investments	<u>4,000,000</u>
TOTAL DEPOSITS	167,730,540

¹ Revenue projections for FY 2008 and FY 2009 include a quarterly fee increase effective January 1, 2008.

III. a. Appropriations Language and Analysis of Appropriations Language

The FY 2009 budget request includes proposed changes in the appropriations language indicated and explained below. New language is *italicized and underlined*, and language proposed for deletion is bracketed.

United States Trustee System Fund

For necessary expenses of the United States Trustee Program, as authorized, [\$209,763,000] *\$217,416,000* [of which \$20,000,000 shall be from prior year unobligated balances from funds previously appropriated,] to remain available until expended and to be derived from the United States Trustee System Fund: Provided, That notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: Provided further, That, notwithstanding any other provision of law, [\$184,000,000] *\$167,730,000* of offsetting collections pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and shall remain available until expended: Provided further, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year [2008] *2009*, so as to result in a final fiscal year [2008] *2009* appropriation from the Fund estimated at [\$763,000] *\$49,686,000*.

Analysis of Appropriation Language

No other substantive changes are proposed.

[III b. General Provision Language and Analysis of General Provision

[SEC. 212. (a) Section 589a of title 28, United States Code, is amended in subsection (b) by--

- (1) striking “and” in paragraph (8);
- (2) striking the period in paragraph (9) and inserting “; and”; and
- (3) adding the following new paragraph:

“(10) fines imposed under section 110(1) of title 11, United States Code.”.

(b) Section 110(1)(4)(A) of title 11, United States Code, is amended to read as follows:

“(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustees, who shall deposit an amount equal to such fines in the United States Trustee Fund.”.]

Sec. 213 (a). Section 1930(a) of title 28, United States Code, is amended in paragraph (6) by striking everything after “whichever occurs first”. and inserting in lieu thereof:

“The fee shall be \$325 for each quarter in which disbursements total less than \$15,000; \$650 for each quarter in which disbursements total \$15,000 or more but less than \$75,000; \$975 for each quarter in which disbursements total \$75,000 or more but less than \$150,000; \$1,625 for each quarter in which disbursements total \$150,000 or more but less than \$225,000; \$1,950 for each quarter in which disbursements total \$225,000 or more but less than \$300,000; \$4,875 for each quarter in which disbursements total \$300,000 or more but less than \$1,000,000; \$6,500 for each quarter in which disbursements total \$1,000,000 or more but less than \$2,000,000; \$9,750 for each quarter in which disbursements total \$2,000,000 or more but less than \$3,000,000; \$10,400 for each quarter in which disbursements total \$3,000,000 or more but less than \$5,000,000; \$13,000 for each quarter in which disbursements total \$5,000,000 or more but less than \$15,000,000; \$20,000 for each quarter in which disbursements total \$15,000,000 or more but less than \$30,000,000; \$30,000 for each quarter in which disbursements total more than \$30,000,000. The fee shall be payable on the last day of the calendar month following the calendar quarter for which the fee is owed.”.

(b) This section and the amendment made by this section shall take effect January 1, 2008, or the date of the enactment of this Act, whichever is later.]

Analysis of General Provision Language

The General Provision language of Section 212 as approved in the FY 2008 Consolidated Appropriations Act should be deleted.

IV. Decision Unit Justification

A. Decision Unit: Administration of Cases

Decision Unit Administration of Cases	Perm. Pos.	FTE	Amount
2007 Enacted with Rescissions	1,468	1,460	\$223,152
2008 Enacted	1,374	1,344	209,763
Adjustments to Base	...	...	7,653
2009 Current Services	1,374	1,344	217,416
2009 Program Increases	...	...	...
2009 Request	1,374	1,344	217,416
Total Change 2008-2009	...	...	7,653

Decision Unit: Administration of Cases- Information Technology Breakout	Perm. Pos.	FTE	Amount ¹
2007 Enacted with Rescissions	38	37	\$28,363
2008 Enacted	38	37	\$14,096
Adjustments to Base	...	...	176
2009 Current Services	38	37	\$14,272
2009 Program Increases	...	...	...
2009 Request	38	37	\$14,272
Total Change 2008-2009	...	...	176

1. Program Description

The USTP operates in 88 judicial districts through a system of 21 regions defined pursuant to 28 U.S.C. Section 581(a). Each region is headed by a U.S. Trustee whose basic authority is conferred under 28 U.S.C. Section 586. U.S. Trustees are appointed by the Attorney General to five-year terms, subject to removal by the Attorney General. Each U.S. Trustee maintains a small regional staff that typically consists of an administrative officer, computer specialist, and clerical assistant. They supervise a cadre of Assistant U.S. Trustees who head 95 field offices located in 46 states.

The USTP's Executive Office is headed by the Office of the Director, which provides comprehensive policy and management direction to the U.S. Trustees and their staff, and directly supervises the operations of the Executive Office for U.S. Trustees (EOUST). The Office of the Director also has the primary responsibility for liaison with the Department, Congress, the bankruptcy courts, private trustee organizations, and other stakeholders in the bankruptcy system (e.g., professional associations and debtor and creditor bar representatives). EOUST also includes the Office of General Counsel, the Office of Review and Oversight, the Office of Research and Planning, and the Office of Administration.

The President signed P.L. 109-8, the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) of 2005 on April 20, 2005. The Act provided the USTP with new tools to enhance the integrity and efficiency of the bankruptcy system for the benefit of all parties and in the public interest. Despite the difficulties presented by the unprecedented surge in filings in the four weeks leading up to the implementation of the BAPCA, the USTP has made great progress implementing and enforcing the new law's important provisions. The USTP has seen an increase in its litigation activities as bankruptcy courts are called upon to interpret new statutes for the first time. The BAPCPA provided

¹ Information Technology costs include personnel salaries and benefits.

substantial new responsibilities to the USTP primarily, but not exclusively, in five major areas: means testing; credit counseling and debtor education; business chapter 11s; debtor audits; and studies and data collection.

Means Testing

The means testing provisions of the BAPCPA provide an objective approach for assessing a debtor's eligibility for chapter 7 relief. Under the means test, debtors with income above their State median income are presumed abusive if they have a certain level of disposable income after the deduction of expenses allowed under a statutory formula. The United States Trustees are the primary enforcers of the law. Among other things, United States Trustees must file a statement within ten days after conclusion of the section 341 meeting of creditors if the case is presumed abusive. Thereafter, within thirty days, the UST must file a motion to dismiss the case or provide an explanation as to why such a motion is not warranted.

The USTP worked extensively with the Judicial Conference's Advisory Committee on Bankruptcy Rules in the development of necessary official forms and accompanying rules to perform the means test. In addition, the USTP developed its own partially automated system to expedite calculations of debtor information under the statutory means testing formula. Moreover, the USTP made a major investment in training field personnel to perform the means test, including exercising appropriate discretion in deciding whether to file a motion to dismiss a case under the "presumed abuse" standard.

Credit Counseling and Debtor Education

The credit counseling and debtor education provisions of the reform law provide protections for consumer debtors by helping ensure that debtors enter bankruptcy with full knowledge of their options and exit with knowledge to help them avoid future financial calamity. The USTP is charged with responsibility to approve eligible providers of credit counseling and debtor education services. BAPCPA requires individual debtors to seek credit counseling from approved providers as a condition of filing for bankruptcy. It also requires debtors to receive debtor education from an approved provider to receive a discharge of debts. Although enforcement practices differ according to local rules, the USTP's offices often are the primary agency ensuring debtor compliance.

Since BAPCPA implementation, the USTP has approved more than 163 credit counseling agencies covering 88 judicial districts for pre-bankruptcy counseling. In addition to offering Internet and telephonic access, the companies have over 852 walk-in locations for credit counseling. For post-bankruptcy debtor education, the USTP has approved over 304 debtor education providers covering 88 judicial districts. In addition to debtor education providers offering internet and telephonic access, there were over 1,091 walk-in locations. The USTP has received over 1,660 applications and reapplications since the process began. The USTP completed ten Quality Service Reviews of credit counseling agencies in FY 2007 to assess the quality of services provided by credit counselors and agencies' compliance with statutory requirements and regulations.

In April 2007, the Government Accountability Office (GAO) issued a study pertaining to the credit counseling and debtor education requirements of the BAPCPA. The study explores the details about the new law's financial education mandates, devotes substantial attention to the USTP's implementation efforts, and provides excellent recommendations for future action. The GAO made an extremely positive assessment of the USTP's performance, concluding that the USTP established an effective process to screen out unqualified counselors, and that approved providers offer the required services to debtors at a reasonable cost.

Chapter 11 Cases

The small business provisions of the BAPCPA establish new deadlines and greater uniformity in financial reporting to ensure that cases expeditiously move through the chapter 11 process before assets are dissipated. They also provide important new enforcement tools to the United States Trustees. To implement the BAPCPA's new oversight provisions, the USTP developed a new Monthly Operating Report (MOR) form for small business chapter 11 cases to make financial reporting simpler and more uniform.

Congress placed clear, new restraints on the compensation of executives in bankruptcy companies. The USTP believes that Congress intended to provide enhanced oversight of chapter 11 companies in reorganization and increase management accountability. In demonstrating that intent, Congress has fundamentally changed the rules for granting retention bonuses and severance packages. Prior to this change, Key Employee Retention Plans (KERPs) allowed the very officers who managed the debtor into bankruptcy to receive millions of dollars in post filing compensation while the remainder of the debtor's workforce suffered disproportionate financial loss. Overall, the USTP's success rate for either objecting to KERPs or obtaining an acceptable negotiated change to the compensation package is approximately 80 percent. One example of the USTP's success is summarized in the Malden Mills case, out of Massachusetts. The debtor proposed a \$1.0 million bonus for a small number of executives if they remained employed through the sale of the business, which was expected to occur in less than 60 days. Unsecured creditors, on the other hand, would get nothing. The USTP and others objected, and the proposal was withdrawn.

The USTP is currently overseeing the bankruptcy cases of several subprime mortgage lenders. The USTP has taken a variety of measures to ensure that the interests of various stakeholders are protected, including by seeking to enforce the statutory limitations on executive compensation, successfully moving for an independent investigation into the pre-petition activities of the debtor, and enforcing statutory protections for homeowners so mortgage loans are not sold free and clear of consumers' claims and defenses.

Other examples of provisions demonstrating Congress' intent are the appointment of trustees when there is suspicion of criminal conduct by officers of a debtor, and deadlines for filing a disclosure statement and plan. In part, these provisions will help redress an imbalance that evolved over the past quarter century and favored incumbent management at the expense of creditors and the public interest.

Debtor Audits

Under BAPCPA, the USTP must contract for random and non-random audits to verify the financial information provided by debtors. This provision helps the USTP identify fraud, abuse, and errors, deter the filing of false financial information, and potentially provide a baseline for measuring fraud, abuse, and errors in the bankruptcy system. The debtor audits mandated by the BAPCPA commenced on October 20, 2006. During FY 2007, auditors conducted 2,837 random audits and 853 non-random audits. In FY 2007, the debtor audits were funded utilizing prior year unobligated balances. The USTP is proposing to reprogram unobligated prior year balances to continue to fund these audits in FY 2008 and FY 2009.

Studies and Data Collection

The BAPCPA required the EOUST to undertake several studies, including (1) consulting with experts in the field of debtor education to develop, test, and evaluate a financial management training curriculum and materials; (2) evaluating the impact of the use of the IRS standards for determining the current monthly expenses under 11 U.S.C. § 707(b) on debtors and bankruptcy courts; and (3) evaluating the impact of the definition of “household goods” in section 313 of the BAPCPA. The USTP anticipates that the debtor education study will be complete in the spring of 2008, as the contractor requested and received a 90-day extension to complete the study. The other two studies referenced above have been completed and submitted to the Congress.

Performance Resources Table

Decision Unit: Administration of Cases

DOJ Strategic Goal/Objective: 2.8 Protect the Integrity and ensure the effective operation of the Nation's bankruptcy system.

WORKLOAD/RESOURCES		Final Target		Actual		Projected		Changes		Requested (Total)	
		FY 2007		FY 2007		FY 2008 Requirements		Current Services Adjustments and FY 2009 Program Changes		FY 2009 Request	
Total Costs and FTE		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
TYPE	Performance /Resources	1,460	223,152	1,264	213,319	1,344	209,763	...	7,653	1,344	217,416
Program Activity	1. Civil Enforcement	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		676	103,140	585	98,553	622	96,911	...	3,520	622	100,431
Performance Measure	# of motions & complaints & inquiries	40,000		62,501		40,000		...		40,000	
	% of successful motions & complaints	90%		96.4%		90%		...		90%	
	Success rate of civil adversary complaints filed	96%		98.8%		96%		...		96%	
	Success in litigating means testing	75%		97%		90%		...		90%	
Program Activity	2. Case and Trustee Administration	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		784	120,012	679	114,766	722	112,852	...	4,133	679	116,985
Performance Measure	<u>Chapter 11</u> # of case filings	8,230		5,658		5,500		...		5,500	
	# of motions & inquiries to convert or dismiss Chapter 11 cases	3,750		3,456		3,750		...		3,200	
Efficiency Measure	% of unconfirmed Chapter 11 cases over 3 years old	<13.0%		10.3%		<13.0%		...		<19.0%	
Efficiency Measure	<u>Chapter 7</u> # of case filings	1,007,722		467,453		585,000		...		694,000	
	% of Chapter 7 cases over 3 years old	<3.5%		4.0%		<3.2%		...		<9.5%	
	<u>Chapter 13</u> # of case filings	441,179		285,161		359,000		...		425,000	

Outcome:		Final Target FY 2007	Actual FY 2007	FY 2008 Requirements	Current Services Adjustments	FY 2009 Request
	Payments to Creditors/% of total disbursements 1/					
	Chapter 7	\$907,810,080 56%	\$ %	\$907,810,080 58%	...	\$907,810,080 58%
	Chapter 12	\$25,866,523 75%	\$ %	\$25,866,523 75%	...	\$24,000,000 75%
	Chapter 13	\$4,028,582,446 84%	\$ %	\$4,178,582,446 86%		\$4,178,582,446 86%
	Potential Additional Returns to Creditors through Civil Enforcement and Related Efforts	Final Target FY 2007 \$500,000,000	Actual FY 2007 \$865,973,002	FY 2008 Requirements \$500,000,000	Adjustments ...	FY 2009 Request \$500,000,000
	# of Civil Enforcement Adversary Actions Filed	1,372	1,639	1,478	...	1,478

Note: Due to fluctuations in bankruptcy filings, the USTP is continuing to refine its performance targets.

1/ Actual data reflecting payments to creditors for the previous fiscal year are not available to the USTP until the subsequent fiscal year (mid-March for chapter 7 cases and late April for chapters 12 and 13 cases).

Performance Measure Table

Decision Unit: Administration of Cases

	FY 2001 Actual	FY 2002 Actual	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 Actual	FY 2007 Target	FY 2007 Actual	FY 2008 Target	FY 2009 Target
# of Motions, Complaints & Inquiries	13,305	27,457	41,940	40,518	39,207	48,011	40,000	62,501	40,000	40,000
% of Successful Motions & Complaints	90.0%	92.1%	94.5%	94.9%	97.4%	97.5%	90.0%	96.4%	90.0%	90.0%
Success Rate of Civil Adversary Complaints Filed	N/A	N/A	N/A	N/A	99.3%	99.1%	96.0%	98.8%	96.0%	96.0%
Success in litigating means testing	N/A	N/A	N/A	N/A	N/A	N/A	75%	97%	90%	90%
# of Chapter 11 Cases	10,225	11,380	9,782	10,043	6,412	5,807	8,230	5,658	5,500	5,500
# of Motions & Inquiries to Convert or Dismiss Chapter 11 Cases	6,172	8,198	6,741	4,081	3,595	3,306	3,750	3,456	3,750	3,200
% of Unconfirmed Chapter 11 Cases over 3 years old	4.5%	2.7%	3.8%	3.2%	9.5%	14.1%	< 13.0%	10.3%	< 13.0%	< 19.0%
# of Chapter 7 Cases filed	982,934	1,047,969	1,137,723	1,114,622	1,299,824	804,614	1,007,722	467,453	585,000	694,000

	FY 2001 Actual	FY 2002 Actual	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 Actual	FY 2007 Target	FY 2007 Actual	FY 2008 Target	FY 2009 Target
% of Chapter 7 cases over 3 years old	2.2%	2.1%	2.2%	2.3%	1.4%	3.7%	< 3.5%	4.0%	< 3.5%	< 9.5%
# of Chapter 13 cases filed	374,133	410,686	432,545	414,747	391,127	249,692	441,179	285,161	359,000	425,000
OUTCOME - Payments and Percentages to Creditors										
Chapter 7	\$886.23 M 59%	\$724.6M 57%	\$907.81M 58%	\$1.02B 58%	\$1.02B 59%	\$1.80B* 63%	\$907.8M 56%	Not Yet Available	\$907.8M 58%	\$907.8M 58%
Chapter 12	\$ 31.27M 89%	\$27.07M 87%	\$40.01M 84% **	**	\$27.9M ** 85%	24.05M 85%	\$25.87M 75%	Not Yet Available	\$25.87M 75%	\$24.0M 75%
Chapter 13	\$ 3.15B 87%	\$3.31B 86%	\$3.58B 85%	\$4.02B 86%	\$4.39B 86%	\$4.6B 87%	\$4.03B 84%	Not Yet Available	\$4.18B 86%	\$4.18B 86%
Potential Add'l. Returns to Creditors	N/A	\$159.01M	\$644.62M	\$522.37M	\$593.9M	\$878.7M	\$500M	\$866M	\$500M	\$500M
# of Civil Enforcement adversary actions filed	N/A	N/A	N/A	N/A	1,301	1,704	1,372	1,639	1,478	1,478

* Chapter 7 data for FY 2006 reflects actual payments made to creditors as of April 2007.

** The Chapter 12 trustee annual cycle was changed from a calendar year to a fiscal year (1/1/03 to 6/30/04). During that 18-month period, a total of \$40.01 million was distributed to creditors. Chapter 13 data for FY 2006 is actual data from audited reports.

Data Definition, Validation, Verification, and Limitations:

Data Definitions:

Chapter 7: A liquidation case. A trustee is appointed to sell the debtor's non-exempt assets and distribute the proceeds to creditors. Generally, absent fraud or abuse, the remaining debts are discharged.

Chapter 11: A reorganization case. The debtor usually remains in possession of its assets, continues to operate its business, and repays and/or readjusts debts through a plan that must be approved by creditors and the bankruptcy court. Chapter 11 cases are generally business cases.

Chapter 13: A debt adjustment case by an individual with regular income. The debtor retains property, but repays creditors, in whole or in part, through a court-approved chapter 13 plan over a period not to exceed 5 years.

Civil Enforcement:

Number of motions and complaints & inquiries: The number of motions and complaints filed with the court by U.S. Trustees pursuant to Sections 707, 727, and 110 of Title 11, United States Code (the Bankruptcy Code). Section 707(a) of the Bankruptcy Code permits a chapter 7 liquidation case to be dismissed for cause, while Section 707(b) provides that a case may be dismissed for presumed abuse, bad faith or the totality of the circumstances. Under Section 727, a complaint may be filed objecting to the entry of the chapter 7 debtor's discharge. Section 110 places stringent requirements on all non-lawyers who prepare bankruptcy petitions for compensation and establishes penalties for those individuals who negligently or fraudulently prepare bankruptcy petitions. In addition to formal actions filed with the court, this performance measure also includes the number of inquiries made by U.S. Trustees under the same Bankruptcy Code sections. An inquiry is a written or documented verbal communication by the U.S. Trustee to a debtor about possible violations of any of these sections, either directly or through a third party such as the case trustee, which requires a response. It does not rise to the level of a formal pleading.

Percent of successful motions & complaints: The number of motions and complaints filed by the U.S. Trustees pursuant to Sections 707, 727 and 110 in which the court granted the relief sought, or the debtor/respondent agreed to the relief sought by the U.S. Trustees, divided by the total number of motions/complaints that were filed and resolved.

Success rate of civil adversary complaints filed: The number of complaints filed by the U.S. Trustees pursuant to Section 727 in which the court granted the relief sought, or the debtor agreed to the relief sought by the U.S. Trustees, divided by the total number of complaints that were filed and resolved. The success rate shows the quality of the work done by the USTP.

Success in litigating means testing: The percentage of 707(b)(2) and 707(b)(3) abuse motions decided after a court hearing that resulted in the dismissal of the case by the court, voluntary dismissal or voluntary conversion.

Case and Trustee Administration:

Number of cases monitored: The number of new bankruptcy cases filed. This data is provided by the Administrative Office of the U.S. Courts on a quarterly basis.

Number of motions and inquiries to dismiss or convert chapter 11 cases: The number of motions filed by U.S. Trustees pursuant to Section 1112 (b) of the Bankruptcy Code. In chapter 11 case administration, the U.S. Trustees act promptly to file a motion either to dismiss or convert a chapter 11 case to one under chapter 7 if the debtor is not complying with the provisions of the Bankruptcy Code or Rules, or is unable to confirm a plan of reorganization. In addition to the formal motions filed with the court, this performance measure also includes the number of inquiries made by U.S. Trustees. An inquiry is a written or documented verbal communication by the U.S. Trustee to the debtor about issues that would be grounds for conversion or dismissal that required a response from the debtor. It does not rise to the level of a formal pleading.

Percent of unconfirmed chapter 11 cases over 3 years old: The percentage of chapter 11 cases pending that do not have a confirmed plan and are more than 3 years old.

Outcomes:

Payments to Creditors: Total dollar amount of disbursements made to creditors in chapters 7, 12, and 13 cases. For chapter 7 cases, the USTP receives trustee distributions reports as part of the Final Account on each chapter 7 case closed during the year. The chapter 7 data are aggregated on a nationwide basis and reported twice a year in January and July. Chapter 12 data come from annual reports submitted by trustees at the end of their operating year in June. Chapter 13 data are gathered from the standing chapter 13 trustees' annual reports on a fiscal year basis.

Percentage of Total Payments: The percentage of total payments to creditors is calculated by dividing the payments to creditors by either the total receipts of the bankruptcy estate (in chapter 7 cases) or the trust fund (in chapter 12 and 13 cases). Funds that are not distributed to creditors may include private trustee compensation, professional fees, and other administrative costs.

Potential Additional Returns to Creditors through Civil Enforcement Efforts: The amount of scheduled general unsecured debt in a chapter 7 case that was not immediately discharged in chapter 7 because of dismissal or conversion of the case, or because of the denial or voluntary waiver of the debtor's discharge, plus all professional fee reductions, professional fee disgorgements, and all fines imposed as a result of civil enforcement actions.

Number of Civil Enforcement Adversary Actions Filed: The number of complaints filed by the U.S. Trustees pursuant to Section 727. Under Section 727, a complaint may be filed objecting to the entry of the chapter 7 debtor's discharge. The measure focuses on the USTP's priority; prevent and root out fraud and abuse in the bankruptcy system.

USTP Data Validation and Verification Process

The Significant Accomplishments and Reporting System (SARS) is the primary database utilized in connection with the U.S. Trustee Program's civil enforcement activity. Data of all informal and formal actions taken are entered by each of the USTP's 95 field offices. Data is verified at the end of each fiscal quarter by the Assistant U.S. Trustee (AUST) in each field office. The AUST conducts a SARS data verification process for the respective office and submits an email to the U.S. Trustee stating the data verification protocol for the office has been completed.

To ensure data integrity, efficiency, and effectiveness of existing and future data collection systems and to develop long-range goals and priorities to support the USTP mission, the Data Integrity Group (DIG) working group was formed. DIG, which consists of four AUSTs, works closely with the

EOUST Office of Research and Planning and IT staffs. In connection with SARS, DIG reviews a sampling of SARS reports from at least one office in each of the 21 regions. These "spot checks" are conducted twice a year, or as needed. DIG establishes data element definitions, provides training and guidance to the field, and looks for ways to streamline the data collection process for more efficient and effective data collection systems.

Departmental Strategic Goals and Objectives and Results

The USTP mission is included in the DOJ Strategic Plan under Goal II: Enforce Federal Laws and Represent the Rights and Interests of the American People and Strategic Objective 2.8: Protect the integrity and ensure the effective operation of the Nation's bankruptcy system. The following lists the USTP's strategies to achieve the objectives.

Enforce compliance with federal bankruptcy laws and take civil actions against parties who abuse the law or seek to defraud the bankruptcy system.

The centerpiece of the USTP's anti-fraud and abuse efforts has been the National Civil Enforcement Initiative. The Initiative focuses on wrong-doing both by debtors and by those who exploit debtors. The USTP combats debtor fraud and abuse primarily by seeking case dismissal if a debtor has an ability to repay debts and by seeking denial of discharge for the concealment of assets and other violations. The USTP protects consumer debtors from wrongdoing by attorneys, bankruptcy petition preparers, creditors, and others by seeking a variety of remedies, including disgorgement of fees, fines, and injunctive relief.

To accomplish these objectives, the USTP uses existing statutory tools to combat fraud and abuse in the bankruptcy system and to protect consumers. Civil enforcement actions include taking steps to dismiss abusive filings, deny discharges to ineligible or dishonest debtors, limit improper refilings by debtors, curb unfair practices by attorneys, sanction unscrupulous bankruptcy petition preparers and others who prey upon those in financial straits, and attack identity fraud in bankruptcy.

The USTP has focused its enforcement efforts to redress abuses by creditors on identified practices among mortgage servicers' *agencies* in chapter 13 cases, including: the filing of false or inaccurate claims; the assessment of unreasonable charges post-petition; and the failure to properly account for post-petition mortgage payments.

From the inception of the National Civil Enforcement Initiative in October 2001, civil enforcement related projects have included the development and implementation of annual enforcement strategies in all 95 field offices; the appointment of national civil enforcement coordinators who facilitate the Initiative by issuing standard guidance, providing technical assistance and training, and coordinating multi-district litigation; the formation of a civil enforcement resource team consisting of some of the USTP's most experienced attorneys, financial analysts, and litigation support personnel; and the marshalling of resources to assist staff in their enforcement responsibilities.

Since the USTP began tracking its civil enforcement and related actions in 2003, it has taken more than 270,000 actions with a monetary impact in excess of \$3.2 billion. During FY 2007, the USTP's offices reported taking more than 62,000 formal and informal civil enforcement actions, yielding almost \$866 million in debts not discharged in chapter 7, fines and other remedies. The USTP's attorneys prevailed in over 96 percent of the actions resolved by judicial decision or consent in the fundamental areas of dismissal for abuse (11 U.S.C. § 707(b)), denial of discharge

(11 U.S.C. § 727), fines against bankruptcy petition preparers (11 U.S.C. § 110), and disgorgements of attorneys' fees (11 U.S.C. § 329).

Pursue violations of federal criminal laws pertaining to bankruptcy by identifying, evaluating, referring, and providing investigative and prosecutorial support of cases.

The integrity of the bankruptcy system depends upon debtors to self-report honestly and accurately all their assets and liabilities when they file for bankruptcy protection. The U.S. Trustees have an affirmative duty to refer instances of possible criminal conduct to the U.S. Attorney and to assist in the prosecution of such criminal conduct. The bankruptcy system requires vigorous prosecution of criminal violations to encourage honest, lawful behavior. Moreover, criminal referrals from the USTP show that bankruptcy crimes are often linked to other white collar crimes such as fraud in obtaining federally guaranteed mortgage loans, money laundering, identity theft, mail fraud, and wire fraud. The USTP tracks criminal referrals, evaluates current efforts, and cooperates with other federal agencies (e.g., the U.S. Attorneys and the Federal Bureau of Investigation (FBI)) to address this multi-faceted problem.

In 2003, the Criminal Enforcement Unit (CREU) was established to coordinate the criminal referral responsibilities carried out by the USTP's 95 field offices and to directly assist prosecutors in pursuing bankruptcy crimes. CREU has made a marked difference in the quality of the criminal program by providing extensive training, developing resource materials, and enhancing coordination for the benefit of the USTP's staff, federal prosecutors, and other law enforcement personnel. The USTP submitted its first criminal referral report to the Congress in June 2007. The report outlines the number and types of criminal referrals made to the U.S. Attorneys as well as their outcome and disposition.

In FY 2007, the USTP made 1,163 criminal referrals, a 25.73 percent increase over FY 2006. In many cases, the USTP's lawyers directly prosecuted or assisted the prosecution team in cases initiated as a result of criminal referrals made by the USTP's offices. Four veteran career prosecutors within CREU, plus attorneys in field offices across the country who have been designated as Special Assistant U.S. Attorneys, are available to try cases involving bankruptcy crimes. In addition, a majority of the USTP's field offices participate in bankruptcy fraud working groups which are headed by U.S. Attorney offices and often involve the FBI, U.S. Postal Inspections Service, Internal Revenue Service-Criminal Investigations, and Housing and Urban Development-Office of Inspector General. With the enactment of 18 U.S.C. § 158 as part of the BAPCPA, every U.S. Attorney office is required to designate a prosecutor and every FBI field office an agent who will assume primary responsibility for bankruptcy fraud cases. This provision further strengthens existing working groups by formalizing points of contact and provides a foundation for establishing working groups where currently none exist.

The Program's and the Department's efforts on the bankruptcy criminal enforcement front were illustrated in October 2006, when the Deputy Attorney General announced the conclusion of "Operation Truth or Consequences," a nationwide bankruptcy fraud sweep. In this operation, U.S. Attorneys filed criminal charges against 78 defendants in 69 separate prosecutions in 36 judicial districts within the previous two months. The charges included concealment of assets; fraud committed against consumer debtors; identify theft; and federal benefits fraud. Nine lawyers, including bankruptcy lawyers, were among those charged.

Operation Truth or Consequences was the second bankruptcy fraud sweep conducted by the CREU since its establishment in 2003. The first, Operation Silver Screen, spotlighted the indictment of 21 individuals in 17 separate prosecutions and involved the concealment of more than \$7 million in assets;

illegal conduct by an attorney and a certified public accountant; use of false social security numbers and false identities; submission of forged documents; false statements; and various fraudulent acts.

The USTP is continuing to improve its criminal enforcement efforts. In FY 2007 the USTP's field offices were required to prepare criminal enforcement plans that described current practices, proposed strategies for enhancing the detection and referral of criminal activity, and provided a status on the existence or development of a local bankruptcy fraud working group. These plans are updated on an annual basis and provide a basis for additional action and the development of best practices in this area.

National Bankruptcy Fraud Working Group

The USTP plays a leading role in the National Bankruptcy Fraud Working Group (NBFWG) comprised of U.S. Attorneys' offices, DOJ Criminal Division, FBI, IRS-Criminal Investigation, Postal Inspection Service, the Federal Trade Commission, the Housing and Urban Development's Office of Inspector General, the Executive Office for U.S. Attorneys (EOUSA), and other agencies. The NBFWG helps to coordinate a national response to bankruptcy fraud issues.

Promote the effectiveness of the bankruptcy system by appointing and regulating private trustees who administer bankruptcy cases expeditiously and maximize the return to creditors.

Trustees are fiduciaries who administer cases filed under chapters 7, 12, and 13. They are appointed and supervised by the U.S. Trustee. It is a fundamental duty of the U.S. Trustee to regulate and monitor the activities of these private trustees, and to ensure their compliance with fiduciary standards. The USTP administers a formal system for merit selection of trustees; trains trustees and evaluates their overall performance; regularly reviews their financial operations; and intervenes to prevent loss of estate assets when instances of embezzlement, mismanagement, or other improper activity are uncovered. The USTP maintains data on trustee oversight in several database files. To measure the return of estate assets, the USTP tracks distributions to creditors.

Chapter 7 distributions: During calendar year 2005, \$1,023,136,746 in assets was distributed to creditors (out of a total of \$1,723,313,444 in disbursements). During Calendar Year 2006, \$1,798,936,973 in assets was distributed to creditors (out of a total of \$2,838,592,296 in disbursements). Actual data for CY 2007 will be available in Spring 2008.

Chapter 13 distributions: During FY 2005, \$4,396,378,738 was distributed to creditors out of a total of \$5,119,236,318 in disbursements. During FY 2006, \$4,640,258,097 was distributed to creditors, out of a total \$5,306,339,777 in disbursements. Audited data for FY 2007 will be available in Spring 2008.

Ensure financial accountability, compliance with the Bankruptcy Code, and prompt disposition of Chapter 11 bankruptcy cases.

The USTP's staff must continually address emerging legal issues and challenges in chapter 11. Annually, the USTP participates in a variety of chapter 11 reorganization cases, ranging from small, single proprietorship cases to giant, multinational conglomerates. Without substituting its business judgment for that of parties with a monetary stake in a case, the USTP focuses its attention on such areas as the appointment of official committees of creditors and equity holders, the retention of professionals under §327 and professional compensation issues, and the adequacy of disclosure statements, especially in smaller cases.

In the area of retention of professionals, the USTP focuses on the lack of disinterestedness and actual conflicts of interest which may take the form of the professional regularly representing other parties in matters unrelated to the bankruptcy case such as a large shareholder, a priority or secured creditor, or a stalking horse bidder or potential purchaser. To the extent that a waiver may have been obtained, the U. S. Trustee will act to make sure that the waiver allows for the professional to meet the fiduciary duty that is owed to the debtor or committee client. The USTP also focuses on compensation issues and continues to monitor professional fees in large chapter 11 cases at the time of retention. The U.S. Trustee may attempt to negotiate or ensure more favorable rates, akin to those rates the professional might provide to its most favorable clients, and to require professionals to submit and live within their budgets.

During FY 2007, the USTP filed almost 2,300 motions to convert or dismiss chapter 11 cases. The grounds for such motions, which are critical to the effective functioning of the reorganization provisions of the Bankruptcy Code, typically include dissipation of estate assets without a reasonable likelihood of rehabilitation, failure to file financial reports, cancellation of insurance, or non payment of taxes.

2. Performance, Resources, and Strategies

a. Performance Plan and Report for Outcomes

Performance Measure: Percent of Assets/Funds Returned to Creditors

Fiscal Year	Measure	Target	Actual
FY 2001	Chapter 7 Assets returned to creditors	52%	59%
	Chapter 13 Funds returned to creditors	80%	87%
FY 2002	Chapter 7 Assets returned to creditors	52%	57%
	Chapter 13 Funds returned to creditors	80%	86%
FY 2003	Chapter 7 Assets returned to creditors	52%	58%
	Chapter 13 Funds returned to creditors	80%	85%
FY 2004	Chapter 7 Assets returned to creditors	54%	58%
	Chapter 13 Funds returned to creditors	80%	86%
FY 2005	Chapter 7 Assets returned to creditors	54%	59%
	Chapter 13 Funds returned to creditors	80%	86%
FY 2006	Chapter 7 Assets returned to creditors	55%	63%
	Chapter 13 Funds returned to creditors	83%	87%
FY 2007	Chapter 7 Assets returned to creditors	56%	N/A
	Chapter 13 Funds returned to creditors	84%	N/A
FY 2008	Chapter 7 Assets returned to creditors	58%	N/A
	Chapter 13 Funds returned to creditors	86%	N/A
FY 2009	Chapter 7 Assets returned to creditors	58%	N/A
	Chapter 13 Funds returned to creditors	86%	N/A

b. Strategies to Accomplish Outcomes

Discussion: The USTP has a comprehensive oversight process that ensures cases filed each year are effectively and efficiently moved through the bankruptcy system. The USTP audits and evaluates private trustees, follows up on deficiencies, ensures that old cases are closed promptly, and initiates action when private trustees fail to comply with their obligations. The USTP tracks the cost of trustee operations, as well as distributions to creditors. In particular, the Distribution Report for Closed Asset Cases helps trustees to identify specific distributions in closed asset cases. Portions of all trustee operations are closely reviewed each year by private accounting firm audits or on-site examinations by the USTP's personnel. Finally, the USTP's civil enforcement initiatives, by reducing the amount of fraud and abuse in the system, will increase the amount of funds potentially available for creditors. As a direct result of the USTP's oversight and effort, a total of \$1,798,936,973 in assets was distributed to chapter 7 creditors in CY 2006. During FY 2005, a total of \$4,396,378,738 in disbursements was distributed to chapter 13 creditors. In FY 2006, a total of \$4,640,258,097 in disbursements was distributed, representing an increase of over \$200,000,000 over the FY 2005 returns of chapter 13 funds distributions. Data on 2007 calendar year and fiscal year distributions will not be available until later in FY 2008

c. Results of Program Assessment Rating Tool (PART) Reviews

During FY 2005, the USTP was assessed through OMB's Program Assessment Rating Tool (PART). At the end of the assessment, the USTP received a rating of Effective. Other findings showed the following:

- *The USTP has a clear purpose and addresses a specific need for the efficient, effective, and fair resolution of bankruptcy cases.*
- *The USTP has long-term, outcome oriented measures, as well as, annual performance targets.*
- *There need to be regular, independent evaluations of the Program to measure future success in meeting program objectives.*

Additionally, to exhibit continual improvement of our practices, the USTP completed all follow-up actions during FY 2006, including:

- *Completing a comprehensive review of performance targets to make them more aggressive. Status - The USTP identified those targets that could be modified and obtained Department and OMB approval to include the more aggressive targets in the Fall 2006 PART update.*
- *Developing an additional performance measure that reflects the new responsibilities assigned to the USTP as a result of the bankruptcy legislation enacted in 2005. Status – The USTP obtained Departmental and OMB approval on the new measure, which is now included in PART.*
- *Continuing to develop a capacity for independent evaluations, either by re-focusing internal resources or contracting for evaluations by outside entities. Status – In August 2007, the USTP received the final report on the fraud and abuse study, performed by Rand. The study was expanded to include the effectiveness of pre-bankruptcy credit counseling, for which a final report also was issued. An independent study on the effectiveness of credit counseling is underway and is scheduled to be completed in late 2010. The Government Accountability Office (GAO) recently completed its study of the credit counseling and debtor education process and made an extremely positive assessment of the*

performance of the USTP in this regard. The GAO concluded that the USTP has established an effective process to screen out unqualified counselors, and that approved providers offer the required services to debtors in an efficient and effective manner. Finally, the Justice Management Division's Management and Planning Staff completed its evaluation of the quality and efficiency of the credit counseling and debtor education renewal and complaint processes. In its report, JMD made several recommendations for future improvements to the credit counseling/debtor education process, but agreed with the General Accountability Office's conclusion that the USTP had developed and implemented a comprehensive and effective process for the approval of credit counselors and debtor educators.

V. E-Gov Initiatives

The Justice Department is fully committed to the President's Management Agenda (PMA) and the E-Government initiatives that are integral to achieving the objectives of the PMA. The E-Government initiatives serve citizens, business, and federal employees by delivering high quality services more efficiently at a lower price. The Department is in varying stages of implementing E-Government solutions and services including initiatives focused on integrating government wide transactions, processes, standards adoption, and consolidation of administrative systems that are necessary tools for agency administration, but are not core to DOJ's mission. To ensure that DOJ obtains value from the various initiatives, the Department actively participates in the governance bodies that direct the initiatives and communicates regularly with the other federal agencies that are serving as the "Managing Partners" to ensure that the initiatives meet the needs of the Department and its customers. The Department believes that working with other agencies to implement common or consolidated solutions will help DOJ to reduce the funding requirements for administrative and public-facing systems, thereby allowing DOJ to focus more of its scarce resources on higher priority, mission related needs. DOJ's modest contributions to the Administration's E-Government projects will facilitate achievement of this objective.

A. Funding and Costs

The Department of Justice participates in the following E-Government initiatives and Lines of Business:

Business Gateway	E-Travel	Integrated Acquisition Environment	Case Management LoB
Disaster Assistance Improvement Plan	Federal Asset Sales	IAE - Loans & Grants - Dunn & Bradstreet	Geospatial LoB
Disaster Assist. Improvement Plan - Capacity Surge	Geospatial One-Stop	Financial Mgmt. Consolidated LoB	Budget Formulation and Execution LoB
E-Authentication	GovBenefits.gov	Human Resources LoB	IT Infrastructure LoB
E-Rulemaking	Grants.gov	Grants Management LoB	

The Department of Justice E-Government expenses – i.e. DOJ’s share of e-Gov initiatives managed by other federal agencies – are paid for from the Department’s Working Capital Fund. These costs, along with other internal E-Government related expenses (oversight and administrative expenses such as salaries, rent, etc.) are reimbursed by the components to the WCF. The USTP’s reimbursement amount is based on the anticipated or realized benefits from an e-Government initiative. The table below identifies the USTP’s actual or planned reimbursement to the Department’s Working Capital Fund. As such, the USTP’s E-Government reimbursement to the WCF is \$95,000 for FY 2008. The anticipated USTP’s e-Government reimbursement to WCF is \$133,000 for FY 2009.

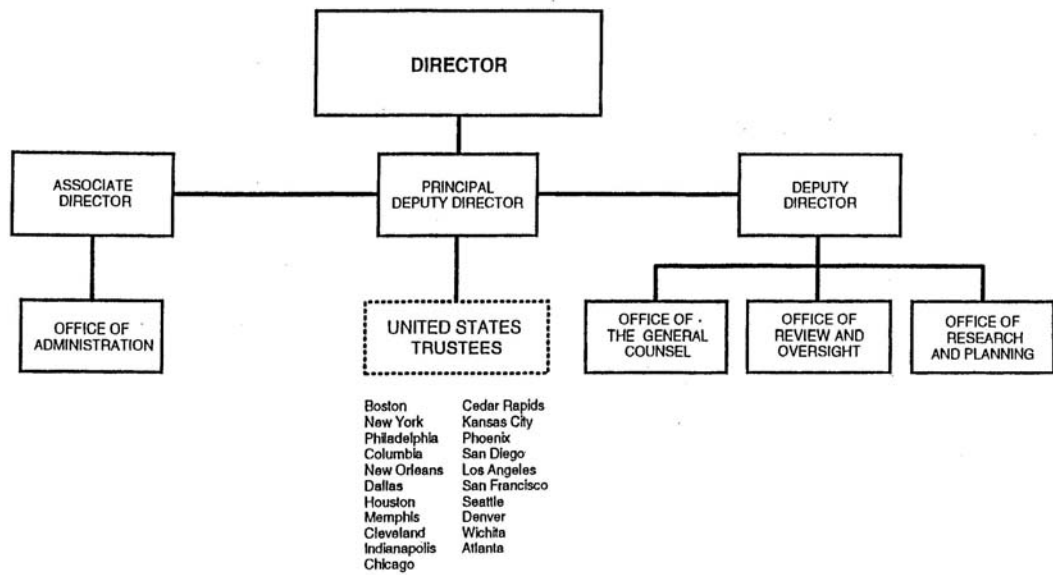
B. Benefits

The USTP established baseline cost estimates for each IT investment being (or planning to be) modified, replaced, or retired due to the Department’s use of an E-Government or Line of Business initiative. The USTP is measuring actual costs of these investments on an ongoing basis. As the USTP completes migrations to common solutions provided by an E-Government or Line of Business initiative, the USTP expects to realize cost savings or avoidance through retirement or replacement of legacy systems and/or decreased operational costs.

Exhibits

A: Organizational Chart

EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES



John D. Ashcroft
Approved by: _____
JOHN D. ASHCROFT
Attorney General

Date: 5-14-02

B: Summary of Requirements

Summary of Requirements
United States Trustee Program
Salaries and Expenses
(Dollars in Thousands)

	FY 2009 Request		
	Perm. Pos.	FTE	Amount
2007 Enacted	1,468	1,460	223,152
2008 Enacted	1,374	1,344	209,763
Adjustments to Base			
Increases:			
2009 pay raise (2.9%)			3,326
2008 pay raise annualization (3.5%)			1,317
Retirement			132
Health Insurance			685
Employees Compensation Fund			6
GSA Rent			2,685
DHS Security Charge			(16)
Postage			28
Printing & Reproduction			22
PACER			58
Subtotal Increases	0	0	8,243
Decreases:			
Change in Compensable Days			(590)
Subtotal Decreases	0	0	(590)
Total Adjustments to Base	0	0	7,653
2009 Current Services	1,374	1,344	217,416
Total Program Changes	0	0	0
2009 Total Request	1,374	1,344	\$217,416
2008 - 2009 Total Change	0	0	7,653

Estimates by budget activity	2007 Appropriation Enacted			2008 Enacted			2009 Adjustments to Base and Technical Adjustments			2009 Current Services			2009 Request		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Administration of Cases	1,468	1,460	\$223,152	1,374	1,344	\$209,763	0	0	\$7,653	1,374	1,344	217,416	1,374	1,344	217,416
Total	1,468	1,460	\$223,152	1,374	1,344	\$209,763	0	0	\$7,653	1,374	1,344	\$217,416	1,374	1,344	\$217,416
Reimbursable FTE										0			0		
Total FTE		1,460			1,344			0		1,344				1,344	
Other FTE															
Total Comp. FTE		1,460			1,344			0		1,344				1,344	

D: Resources by DOJ Strategic Goal and Strategic Objective

Resources by Department of Justice Strategic Goal/Objective United States Trustee Program (Dollars in Thousands)

Strategic Goal and Strategic Objective	2007 Appropriation Enacted		2008 Enacted		2009 Current Services		2009				2009 Request	
	Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	Increases		Offsets		Direct, Reimb. Other FTE	Direct Amount \$000s
							FTE	\$000s	FTE	\$000s		
Goal 2: Prevent Crime, Enforce Federal Laws and Represent the Rights and Interests of the American People												
2.8 Protect the integrity and ensure the effective operation of the Nation's bankruptcy system	1,460	223,152	1,374	209,763	1,374	217,416	0	0	0	0	1,374	217,416
Subtotal, Goal 2	1,460	223,152	1,374	209,763	1,374	217,416	0	0	0	0	1,374	217,416
GRAND TOTAL	1,460	\$223,152	1,374	\$209,763	1,374	\$217,416	0	\$0	0	\$0	1,374	\$217,416

E. Justification for Base Adjustments

Justification for Base Adjustments United States Trustee Program

Increases

2009 pay raise. This request provides for a proposed 2.9 percent pay raise to be effective in January of 2009 (This percentage is likely to change as the budget formulation process progresses.) This increase includes locality pay adjustments as well as the general pay raise. The amount requested, \$3,326,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$2,565,000 for pay and \$761,000 for benefits).

Annualization of 2008 pay raise. This pay annualization represents first quarter amounts (October through December) of the 2008 pay increase of 3.5 percent included in the 2008 President's Budget. The amount requested \$1,317,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$1,033,000 for pay and \$284,000 for benefits).

Retirement. Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 1.3 percent per year. The requested increase of \$132,000 is necessary to meet our increased retirement obligations as a result of this conversion.

Employees Compensation Fund. The \$6,000 increase reflects payments to the Department of Labor for injury benefits paid in the past year under the Federal Employee Compensation Act. This estimate is based on the first quarter of prior year billing and current year estimates.

Health Insurance. Effective January 2007, this component's contribution to Federal employees' health insurance premiums increased by 9.8% percent. Applied against the 2008 estimate of \$6,989,796, the additional amount required is \$685,000.

General Services Administration (GSA) Rent. GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$2,685,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system which uses the latest inventory data, including rate increases to be effective in FY 2009 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied. Rate increases have been formulated based on GSA rent billing data.

DHS Security Charges. The Department of Homeland Security (DHS) will continue to charge Basic Security and Building Specific Security. The decrease of \$16,000 represents the downward adjustment in basic security charges, from \$0.63 per square foot to \$0.58 per square foot in FY 2009. The costs associated with DHS security were derived through the use of an automated system, which uses the latest space inventory data. The decreased rate for Basic Security costs for use in the FY 2009 budget process was provided by DHS.

Postage. Effective May 14, 2007, the Postage Service implemented a rate increase of 5.1 percent. This percentage was applied to the 2008 estimate of \$559,000 to arrive at an increase of \$28,000.

Government Printing Office (GPO). GPO provides an estimated rate increase of 4%. This percentage was applied to the FY 2008 estimate of \$555,000 to arrive at an increase of \$22,000.

PACER. The Public Access to Court Electronic Records (PACER) is an electronic service that is operated by the Administrative Office of the U.S. Courts (AOUSC). It allows users to obtain case and docket information from Federal Appellate, District and Bankruptcy courts. AOUSC charges user fees to the Department of Justice components (USA and USTP) to fund this service. The United States Congress has given the Judicial Conference of the United States, the governing body of the U.S. Federal Courts, authority to impose user fees for electronic access to case information. The increase of \$58,000 is based on actual annual cost increases reflected in the Department's financial accounting system of record.

Decreases

Changes in Compensable Days. The decrease costs of one compensable day in FY 2009 compared to FY 2008 is calculated by dividing the FY 2008 estimated personnel compensation \$120,343,185 and applicable benefits \$33,646,815 by 261 compensable days. The cost decrease of one compensable day is \$590,000.

F: Crosswalk of 2007 Availability

Crosswalk of 2007 Availability

United States Trustee Program

Salaries and Expenses

(Dollars in Thousands)

Decision Unit	FY 2007 Enacted			Reprogrammings / Transfers			Carryover/ Recoveries			2007 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Administration of Cases	1,468	1,460	223,152	0	0	0	0	0	17,717	1,468	1,460	240,869
TOTAL	1,468	1,460	\$223,152	0	0	\$0	0	0	\$17,717	1,468	1,460	\$240,869
Reimbursable FTE											0	
Total FTE		1,460			0			0			1,460	
Other FTE												
LEAP											0	
Overtime											0	
Total Compensable FTE		1,460			0			0			1,460	

Unobligated Balances and Prior Year Recoveries. Funds were carried over from FY 2006 from the U.S. Trustee System Fund Account. The U.S. Trustee Program brought forward \$16,935,733 from funds provided in 2006 for operational expenses and \$781,032 in prior year recoveries.

G: Crosswalk of 2008 Availability

Crosswalk of 2008 Availability

United States Trustee Program

Salaries and Expenses

(Dollars in Thousands)

Decision Unit	FY 2008 Enacted			Reprogrammings / Transfers			Carryover/ Recoveries			2008 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Administration of Cases	1,374	1,344	209,763	0	0	4,050	0	0	2,893	1,374	1,344	216,706
TOTAL	1,374	1,344	209,763	0	0	4,050	0	0	2,893	1,374	1,344	\$216,706
Reimbursable FTE												0
Total FTE		1,344			0			0				1,344
Other FTE												
LEAP												0
Overtime												0
Total Compensable FTE		1,344			0			0				1,344

Unobligated Balances. The Consolidated Appropriations Act, 2008, authorizes \$209,763,000, of which \$20,000,000 shall be from prior year unobligated balances from funds previously appropriated. The amount carried over from FY 2007 in the U.S. Trustee System Fund account has been reduced accordingly.

Reprogrammings/Transfers. The USTP plans to reprogram unobligated prior year balances to address debtor audits.

H: Summary of Reimbursable Resources

Summary of Reimbursable Resources

United States Trustee Program

Salaries and Expenses

(Dollars in Thousands)

Collections by Source	2007 Enacted			2008 Planned			2009 Request			Increase/Decrease		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
National Security Division	0	0	43	0	0	95	0	0	0	0	0	(95)
Regime Crimes Liaison Office	0	0	122	0	0	89	0	0	0	0	0	(89)
Office of Attorney Recruitment	0	0	9	0	0	10	0	0	10	0	0	0
Executive Office of U.S. Attorneys	0	0	2	0	0	0	0	0		0	0	0
Budgetary Resources:	0	0	\$176	0	0	\$194	0	0	\$10	0	0	(\$184)

I: Detail of Permanent Positions by Category

Detail of Permanent Positions by Category

United States Trustee Program
Salaries and Expenses

Category	2007 Enacted	2008 Enacted	2009 Request		
	Total Authorized	Total Authorized	ATBs	Total Pr. Changes	Total Authorized
Personnel Management (200-299)	6	10		0	10
U.S. Trustees/Ass't. U.S. Trustees (301)	126	125		0	125
Bankruptcy Analysis (301)	273	235		0	235
Clerical and Office Services (300-399)	124	118		0	118
Accounting and Budget (500-599)	13	19		0	19
Attorneys (905)	347	347		0	347
Paralegals / Other Law (900-998)	311	290		0	290
Other Legal and Kindred (986)	225	182		0	182
Contracting, Procurement (1102-1106)	6	4		0	4
Information Technology Mgmt (2210)	32	37		0	37
Security Specialists (080)	1	1		0	1
Other (1515, 1035)	4	6		0	6
Total	1,468	1,374	0	0	1,374
Headquarters (Washington, D.C.)	109	105		0	105
U.S. Field	1,359	1,269		0	1,269
Foreign Field	0			0	0
Total	1,468	1,374	0	0	1,374

K: Summary of Requirements by Grade

Summary of Requirements by Grade

United States Trustee Program

Salaries and Expenses

Grades and Salary Ranges	2007 Enacted		2008 Enacted		2009 Request		Increase/Decrease	
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
SES, \$111,676 - \$168,000	4		4		4		0	
GS-15, \$110,363 - 143,471	126		126		126		0	
GS-14, \$93,822 - 121,967	191		185		185		0	
GS-13, \$79,397 - 103,220	308		290		290		0	
GS-12, \$66,767 - 86,801	176		160		160		0	
GS-11, \$55,706 - 72,421	26		21		21		0	
GS-10, 50,703 - 65,912	170		153		153		0	
GS-9, \$46,041 - 59,852	2		2		2		0	
GS-8, 41,686 - 54,194	51		47		47		0	
GS-7, \$37,640 - 48,933	19		15		15		0	
GS-6, \$33,872 - 44,032	271		254		254		0	
GS-5, \$30,386 - 39,501	121		114		114		0	
GS-4, \$27,159 - 35,303	2		2		2		0	
GS-3, \$24,194 - 31,451	1		1		1		0	
Total, appropriated positions	1,468		1,374		1,374		0	
Average SES Salary		157,362.00		\$162,240		\$165,810		
Average GS Salary		82,649		\$85,211		\$87,086		
Average GS Grade		12/8		12/8		12/8		

L: Summary of Requirements by Object Class

Summary of Requirements by Object Class

United States Trustee Program

Salaries and Expenses

(Dollars in Thousands)

Object Classes	2007 Actuals		2008 Enacted		2009 Request		Increase/Decrease	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
11.1 Direct FTE & personnel compensation	1,203	104,761	1,295	115,813	1,295	117,816	0	2,003
11.3 Other than full-time permanent	61	5,801	49	4,702	49	4,842	0	140
11.5 Total, Other personnel compensation	0	955	0	522	0	522	0	0
<i>Overtime</i>	0	0	0	0	0	0	0	0
<i>Other Compensation</i>	0	955	0	522	0	522	0	0
11.8 Special personal services payments	0	0	0	10	0	10	0	0
Total	1,264	111,517	1,344	121,047	1,344	123,190	0	2,143
Other Object Classes:								
12.0 Personnel benefits		30,574		32,893		34,786		1,893
21.0 Travel and transportation of persons		3,375		2,609		2,609		0
22.0 Transportation of things		423		780		780		0
23.1 GSA rent		25,546		28,665		31,350		2,685
23.2 Moving/Lease Expirations/Contract Parking		226		260		260		0
23.3 Comm., util., & other misc. charges		4,343		4,121		4,149		28
24.0 Printing and reproduction		609		230		252		22
25.1 Advisory and assistance services		4,056		1,160		2,000		840
25.2 Other services		4,144		4,150		4,150		0
25.3 Purchases of goods & services from Government accounts (Antennas, DHS Sec. etc.)		23,165		10,905		10,947		42
25.7 Operation and maintenance of equipment		791		833		833		0
26.0 Supplies and materials		1,669		1,452		1,452		0
31.0 Equipment		1,914		658		658		0
32.0 Land & Structures		708		0				0
42.0 Insurance Claims & Indemnities		83		0				0
Total obligations		\$213,143		\$209,763		\$217,416		\$7,653
Unobligated balance, start of year		(16,936)		(26,943)		0		
Unobligated balance, end of year		26,943		0		0		
Recoveries of prior year obligations		781		0		0		
Total DIRECT requirements		222,369		182,820		217,416		7,653
Reimbursable FTE:								
Full-time permanent	0	0	0	0	0	0	0	0

M. Status of Congressionally Requested Studies, Reports, and Evaluations

United States Trustee Program

Salaries and Expenses

(Dollars in Thousands)

Status of Congressionally Requested Studies, Reports, and Evaluations

1. Section 105 of the BAPCPA (P.L. 109-8, dated April 20, 2005) requires that the Director of the Executive Office for United States Trustees consult with individuals who are experts in the field of debtor education to develop a financial management training curriculum and materials that can be used to educate debtors who are individuals on how to better manage their finances. Target response to the appropriate Committees is 3rd quarter, 2008.
2. Section 1175 of P.L. 109-162 , the Violence Against Women and Department of Justice Reauthorization Act of 2005 (119 STAT 3125) requires the Director of EOUST to prepare an annual report to the Congress detailing criminal referrals made by the U.S. Trustee Program. The FY 2007 report was transmitted on June 14, 2007. The Program is working to meet or exceed this target in FY 2008.