

**FY 2009**

**CONGRESSIONAL BUDGET JUSTIFICATION**

**EMPLOYMENT STANDARDS ADMINISTRATION**



# EMPLOYMENT STANDARDS ADMINISTRATION

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# EMPLOYMENT STANDARDS ADMINISTRATION

## Introduction

The Employment Standards Administration (ESA) is a diverse organization that administers and enforces a variety of laws and an Executive Order. These laws protect wages and working conditions; ensure that workers are recruited, hired, promoted, and compensated in a non-discriminatory manner by Federal contractors; provide benefits to covered workers who suffer a work-related injury, disease, or death; and promote democracy, transparency and financial integrity within labor unions. ESA's more than 4,000 employees and over 2,600 contract staff are distributed nationwide in over 360 offices in one of four component programs: the Wage and Hour Division (WHD), the Office of Workers' Compensation Programs (OWCP), the Office of Labor-Management Standards (OLMS), and the Office of Federal Contract Compliance Programs (OFCCP). ESA Program Direction and Support (PDS) is comprised of the Office of the Assistant Secretary (OAS), an Equal Employment Opportunity (EEOU) enforcement unit, a Division of Legislative and Regulatory Analysis (DLRA) and the Office of Management, Administration and Planning (OMAP).

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*ESA's mission is to enhance the welfare and protect the rights of American workers.*

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ESA enhances the welfare and protects the rights of nearly every working American through one or more of its component programs. WHD promotes compliance with minimum wage, overtime, child labor and other employment protections. OWCP provides benefits, treatment, and rehabilitation to certain workers who experience work-related injury or occupational disease. OLMS enforces democracy and fiscal responsibility in labor organizations. OFCCP promotes compliance with equal employment and non-discrimination among Federal contractors. PDS leads, directs, and supports this multifaceted organization.

The four accounts that constitute ESA's appropriation are: 1) Salaries and Expenses, (S&E) which provides funding resources for administering relevant statutes; 2) Special Benefits, which provides funding for payments to Federal civilians and Longshore and Harbor Workers and their dependents for work-related injuries and illnesses; 3) Special Benefits for Disabled Coal Miners, which provides funding for income maintenance to miners suffering from Black Lung disease and eligible survivors for claims filed under Part B of the Black Lung Benefits Act between December 30, 1969, and June 30, 1973; and 4) the Energy Employees Occupational Illness Compensation Program (EEOICP) Part B and Part E, which provides compensation to employees and survivors of employees for illness or death stemming from work in the Department of Energy (DOE) nuclear weapons complex. The S&E account is discretionary while the other accounts are mandatory.

ESA also jointly administers, with the Secretaries of Treasury and Health and Human Services (HHS), the Black Lung Disability Trust Fund (BLDTF). This Fund was established under the Black Lung Benefits Reform Act of 1977, which provides for payment of benefits (income maintenance and medical payments to miners suffering from Black Lung disease and eligible survivors), administrative expenses, and interest on repayable advances. Resources for this Fund

## EMPLOYMENT STANDARDS ADMINISTRATION

are derived from excise taxes on coal, reimbursements from responsible mine operators, interest, as well as fines and penalties assessed against responsible mine operators and, when needed, funds transferred from the advances to the Unemployment Trust Fund (UTF). The Trust Fund also pays all Part C Black Lung benefits, including income maintenance and medical benefits, when no coal mine operator can be held liable for payments.

ESA also administers the Panama Canal Commission (PCC) Compensation Fund and the Longshore and Harbor Workers' Special Workers' Compensation Expenses Fund. The PCC Compensation Fund was established to provide for the accumulation of funds to meet the Commission's future Federal Employees' Compensation Act (FECA) workers' compensation cost obligations. The PCC was dissolved on December 31, 1999, under the Panama Canal Treaty of 1977; however, PCC's liability for workers' compensation payments extended beyond the Commission's termination date. The PCC Compensation fund was set up to continue payments until all beneficiaries are deceased or no longer eligible. This Fund was established in conjunction with the transfer of the administration of the FECA program from the Commission to the Department of Labor (DOL), ESA, effective January 1, 1989.

The Longshore and Harbor Workers' Special Workers' Compensation fund is comprised of the Longshore and Harbor Workers' Compensation Act and the District of Columbia Compensation Act accounts. These trust funds are derived from amounts received from employers for the death of an employee where no person is entitled to compensation for such death, for fines and penalty payments, and pursuant to an annual assessment of the industry, for the general expenses of the fund under the Longshore and Harbor Workers' Compensation Act, as amended. These funds are available for payment of additional compensation for second injuries and to pay one-half of the increased benefits provided under the Longshore and Harbor Workers' Compensation Act for persons on the rolls prior to 1972.

For FY 2009, ESA's request of \$7,286,802,000 and 4,122 FTE is essential to the agency's mission to achieve two of the Department's Strategic Goals: **Safe and Secure Workplaces** - Promote workplaces that are safe, healthful, and fair; guarantee workers receive the wages due them; foster equal opportunity in employment; and **Strengthened Economic Protections** - Protect and strengthen worker economic security through effective and efficient provision of workers' compensation; ensuring union transparency; and securing pension and health benefits.

*Under Performance Goal 3c-Ensure Workers Receive the Wages Due Them*, WH requests \$5,073,000 and 75 FTE over the FY 2008 level for WHD. With these additional resources, WHD will be able to employ additional front-line staff in order to ensure sufficient resources in the Gulf Coast and throughout the country to offer an effective balance between its directed enforcement program, in low-wage industries, including child labor and agriculture, and its compliance driven enforcement program. WHD is also requesting \$6,707,000 and 0 FTE to restore funding and resources for the FY 2008 program increase and other inflationary adjustments included in the President's FY 2008 budget, but not enacted in the Consolidated Appropriations Act, 2008, (P.L 110-161). The restoration of this funding will be used to continue its enforcement and compliance assistance activities.

## EMPLOYMENT STANDARDS ADMINISTRATION

*Under Performance Goal 3d-Federal Contractors Achieve Equal Opportunity Workplaces,* OFCCP requests \$2,000,000 over the FY 2008 level to conduct the analysis and design of a new case management system, the Federal Contractor Compliance System (FCCS). This new system will assist OFCCP in the performance of its mission by employing state of the art technology to track statistical data through the compliance evaluation process, thereby ensuring that Federal contractors are in compliance with all Equal Employment related requirements. OFCCP is also requesting \$3,181,000 and 0 FTE to restore the significant funding cuts in the Consolidated Appropriations Act, 2008, (P.L 110-161). The restoration of this funding will be used to continue its effective enforcement and compliance assistance activities.

*Under Performance Goal 4b-Reduce the Consequences of Work-related Injuries for Workers and Their Families* OWCP requests \$500,000 and 5 FTE over the FY 2008 level to improve the management of the Defense Base Act (DBA) claims processing. The additional funding will enable OWCP to make DBA claims intake and case creation less labor-intensive while improving accuracy and claims processing time; reducing employer/carrier administrative costs in reporting and communicating with OWCP. OWCP is also requesting \$4,481,000 and 25 FTE to restore the significant funding cuts in the Consolidated Appropriations Act, 2008 (P.L. 110-161). The restoration of funding will be used to continue the administration of OWCP's four disability programs that provide wage replacement, medical treatment, and vocational rehabilitation benefits.

*Under Strategic Goal 4c-Ensure Union Financial Integrity, Democracy, and Transparency,* OLMS is requesting \$11,950,000 and 52 FTE to restore the significant funding cuts in the Consolidated Appropriations Act, 2008, (P.L 110-161). The restoration of funding will be used to continue the effectiveness of its Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) union financial integrity program to protect union members' dues and assets; investigate union election complaints, and where warranted supervise new elections; and maintain an effective Internet public disclosure system.

ESA's challenges include many of the circumstances and trends found in today's workplace and the nation's economy. These challenges reflect changes in the traditional employment relationships, growth in the contingent work force, and complexities in protecting workers in low-wage industries, especially immigrant and youth workers. Specifically, these changes include:

- The restructuring and modernization of the workplace is changing the types of new workplace injuries and reducing the number of jobs for recovering injured workers as reported to OWCP.
- More elaborate financial markets and greater use of electronic transactions coupled with mergers creating larger unions, are increasing the complexities involved with union financial matters.

## EMPLOYMENT STANDARDS ADMINISTRATION

- The Nation's increased reliance on foreign-born workers and the growth in the number of undocumented immigrants.
- The increasing use of contingent workers and temporary help services has resulted in the restructuring of traditional industries with increasing reliance on subcontracting arrangements.

ESA is committed to ensuring the protection of American workers and keeping pace with the challenges and changes occurring in the American workforce, such as virtual workplaces, demographic shifts, immigration, organized labor, the growth of small businesses, and the shift from manufacturing to services.

### **Cost Models**

ESA requests \$7,286,802,000 and 4,122 FTE to support two strategic goals: *Safe and Secure Workplaces and Strengthened Economic Protections*.

ESA's request also includes \$6,000,000 for the PCC Compensation Fund.

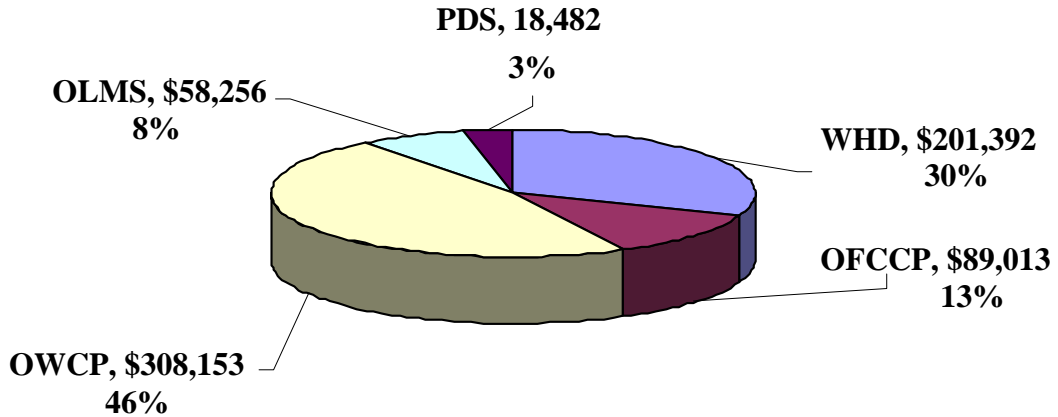
ESA's anticipated resources are described below and are detailed by appropriation. Note that special benefits resources consist of FECA benefits, Longshore and Harbor Workers' Compensation (LHWC), EEOICP, Disabled Coal Mine Workers (DCMW) (Part B), and Black Lung Disability Trust Fund (BLDTF).



# EMPLOYMENT STANDARDS ADMINISTRATION

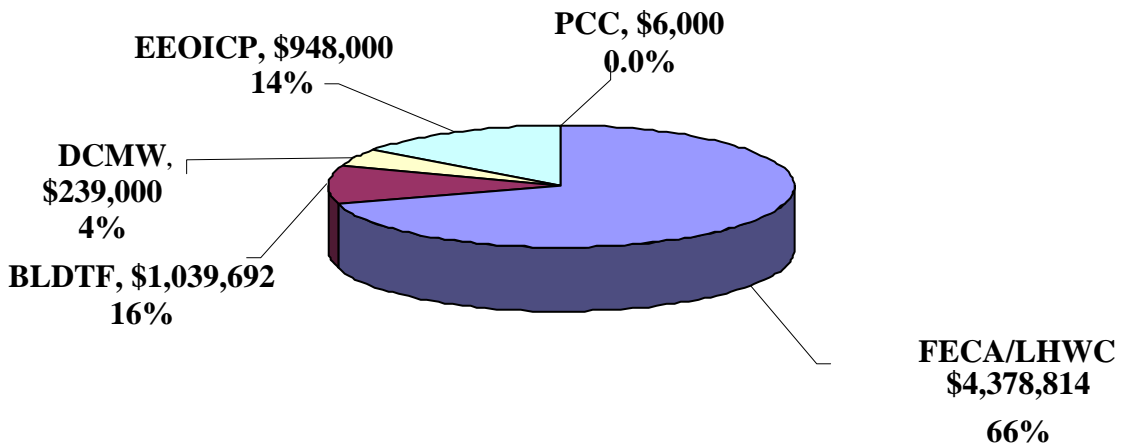
**Cost Allocation per Program Activity:** The chart below illustrates ESA resources identified and allocated by program activity<sup>1</sup>:

**FY 2009 Budget Request by ESA**  
**Total Administrative Budget Request \$675,296**  
**(Dollars in Thousands)**



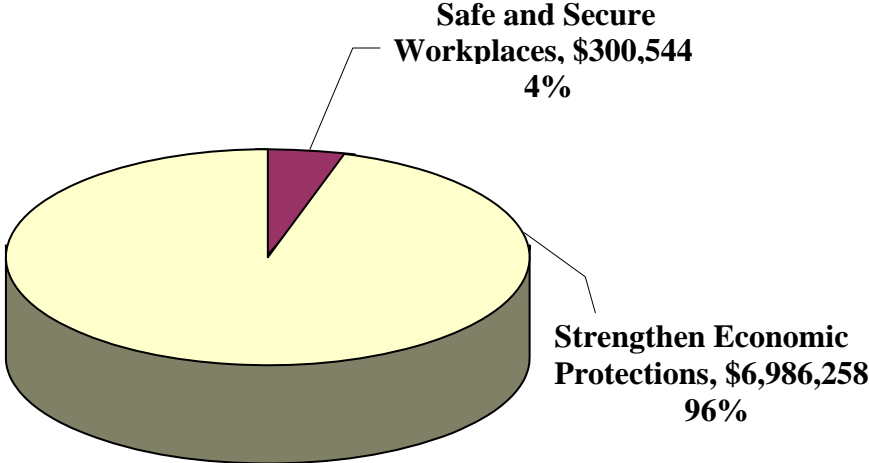
<sup>1/</sup> Reimbursable Civil Money Penalties of \$2,800,000 and \$5,500,000 for H1B are included in WHD.

**FY 2009 Budget Request by ESA**  
**Total Benefits Budget Request \$6,611,506**  
**(Dollars in Thousands)**



**EMPLOYMENT STANDARDS ADMINISTRATION**

**FY 2009 Budget Request by Strategic Goal \$7,286,802  
(Dollars in Thousands)**



# EMPLOYMENT STANDARDS ADMINISTRATION

## BUDGET YEAR FUNDING

Program	FTE	Resources (\$000)
<b>ESA ADMINISTRATIVE EXPENSES</b>		
<b>Wage &amp; Hour</b>	<b>1,283</b>	<b>193,092</b>
<b>OFCCP</b>	<b>585</b>	<b>89,013</b>
<b>OWCP Total Admin. Expenses</b>	<b>1,792</b>	<b>308,153</b>
Federal Employees' Compensation Act (FECA-General Funds)	768	96,153
FECA Fairshare (Special Benefits)	127	52,720
Longshore Harbor Workers' (LSHW-General Funds)	95	11,878
Longshore Harbor Workers' (LSHW -Trust Funds)	9	2,179
Black Lung Disability Trust Fund (BLDTF-Part C)	178	31,915
Disabled Coal Miners (DCM-Part B)	17	5,130
<b>Energy Employees Occup Illness Comp Act (EEOICPA)</b>	<b>598</b>	<b>108,178</b>
Part B	305	49,654
Part E (Indefinite)	293	58,524
<b>OLMS</b>	<b>369</b>	<b>58,256</b>
<b>PDS Total Admin. Expenses</b>	<b>93</b>	<b>18,482</b>
PDS (General Funds)	90	18,089
Black Lung Disability Trust Fund (BLDTF-Part C)	3	393
<b>TOTAL ADMINISTRATIVE EXPENSES</b>	<b>4,122</b>	<b>666,996</b>
Reimbursables (WH-CMP)		2,800
H1-B User Fees		5,500
<b>TOTAL ADMIN with Reimbursables</b>	<b>4,122</b>	<b>675,296</b>
<b>ESA BENEFITS</b>		
<b>FECA Special Benefits</b>		<b>4,227,814</b>
Appropriation <sup>1/</sup>		163,000
Offsetting Collections		2,516,080
FY 08 Carryover Balance		1,548,734
<b>Special Workers' Compensation Funds (SWCF)</b>		<b>151,000</b>
Longshore Harbor Workers' (Longshore Trust)		140,000
District of Columbia Workmen's Comp (DCCA)		11,000
<b>Black Lung Disability Trust Fund (BLDTF-Part C)</b>		<b>1,039,692</b>
Benefit Payments & Interest on Advances		1,014,317
Departmental Management (DM) S&E		24,694
Office of the Inspector General (OIG) S&E		325
Treasury Admin. Costs		356
<b>Disabled Coal Miners (DCM-Part B)</b>		<b>239,000</b>
Advanced Appropriation for FY 2010		56,000
Appropriation		183,000
<b>Energy Employees Occupation Illness Comp Act (EEOICPA)<sup>2/</sup></b>		<b>948,000</b>
Part B		390,000
Part E (Indefinite)		558,000
<b>Panama Canal Commission (PCC)</b>		<b>6,000</b>
<b>TOTAL BENEFITS</b>		<b>6,611,506</b>
<b>TOTAL RESOURCES w/o Reimbursables</b>	<b>4,122</b>	<b>7,278,502</b>
<b>Total ESA Resources with Reimbursables</b>	<b>4,122</b>	<b>7,286,802</b>

<sup>1/</sup>Includes \$3,000 for Longshore

<sup>2/</sup> Amounts reflect rounding.

# EMPLOYMENT STANDARDS ADMINISTRATION

## BUDGET AUTHORITY by STRATEGIC GOAL

(Dollars in Thousands)

	<b>Goal 1: Prepared Workforce</b>	<b>Goal 2: Competitive Workforce</b>	<b>Goal 3: Safe and Secure Workplaces</b>	<b>Goal 4: Strengthened Economic Protections</b>	<b>Total Budget Authority</b>
Budget Activity 1 (Wage and Hour Division)					
Performance Goal 1					
Performance Goal 2					
Performance Goal 3C			208,332		208,332
Other Program Mandates					
Subtotal Budget Activity 1	\$0	\$0	\$208,332	\$0	\$208,332
Budget Activity 2 (Office of Federal Contract Compliance Programs)					
Performance Goal 1					
Performance Goal 2					
Performance Goal 3D			92,212		92,212
Other Program Mandates					
Subtotal Budget Activity 2	\$0	\$0	\$92,212	\$0	\$92,212
Budget Activity 3 (Federal Workers' Compensation Programs) <sup>1</sup>					
Performance Goal 1					
Performance Goal 2				314,402	314,402 <sup>1/</sup>
Performance Goal 3					
Other Program Mandates					
Subtotal Budget Activity 3	\$0	\$0	\$0	\$6,925,908	\$6,925,908 <sup>2/</sup>
Budget Activity 4 (Office of Labor-Management Standards)					
Performance Goal 1					
Performance Goal 2					
Performance Goal 4C				60,350	60,350
Other Program Mandates					
Subtotal Budget Activity 4	\$0	\$0	\$0	\$60,350	\$60,350
Budget Activity 5 (Program Direction and Support) <sup>3/</sup>					
	\$0	\$0	\$0	\$0	\$0
<b>Agency Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$300,544</b>	<b>\$6,986,258</b>	<b>\$7,286,802</b>

<sup>1/</sup> Includes \$308,153 (OWCP Admin) and \$6,249 (ESA-PDS)—PDS includes \$393 Black Lung IV;<sup>2/</sup> \$6,659,514 includes \$4,275,822 (FECA Special Benefits); \$151,000 (Longshore SW Benefits); 1,039,692 (Black Lung Part C Benefits); \$239,000 (Black Lung Part B Benefits); \$390,000 (EEOIC Part B Benefits); \$558,000 (EEOIC Part E Benefits) and \$6,000 for Panama Canal Commission

<sup>2/</sup> As an administrative activity, funding for these resources have been allocated to the agencies' performance goals within the Agency program activities.

# EMPLOYMENT STANDARDS ADMINISTRATION

## EMPLOYMENT STANDARDS ADMINISTRATION TOTAL BUDGETARY RESOURCES BY ACTIVITY FY 2007 – 2009 (Dollars in Thousands)

	FY 2007 Enacted				FY 2008 Estimate				FY 2009 Request			
	Activity <u>Approp.</u>	Other <u>Approp</u>	Other <u>Resources</u>	<u>Total</u>	Activity <u>Approp.</u>	Other <u>Approp</u>	Other <u>Resources</u>	<u>Total</u>	Activity <u>Approp.</u>	Other <u>Approp</u>	Other <u>Resources</u>	<u>Total</u>
<b>Salaries and Expenses</b>	<b>454,450</b>	<b>0</b>	<b>500</b>	<b>454,950</b>	<b>453,686</b>	<b>0</b>	<b>2,800</b>	<b>456,486</b>	<b>500,968</b>	<b>0</b>	<b>2,800</b>	<b>503,768</b>
			0									
Enforcement of Wage and Hour Standards	170,220	6,566	500	177,286	175,658	6,634	2,800	185,092	193,092	6,940	2,800	202,832
Federal Contractor EEO Standards Enforcement	82,442	3,180	0	85,622	81,001	3,059	0	84,060	89,013	3,199	0	92,212
Federal Programs for Workers' Compensation	136,102	6,345	0	142,447	134,473	6,226	0	140,699	142,125	6,249	0	148,374
Program Direction and Support <sup>1/</sup>	17,933	(17,933)	0	0	17,616	(17,616)	0	0	18,482	(18,482)	0	0
Labor Management Standards	47,753	1,842	0	49,595	44,938	1,697	0	46,635	58,256	2,094	0	60,350
<b>Special Benefits-Total Estimated Obligations<sup>2/</sup></b>	<b>227,000</b>	<b>0</b>	<b>2,393,755</b>	<b>2,620,755</b>	<b>203,000</b>	<b>0</b>	<b>2,472,400</b>	<b>2,675,400</b>	<b>163,000</b>	<b>0</b>	<b>2,570,900</b>	<b>2,733,900</b>
Federal Employees' Compensation Act Benefits-New BA	224,000		2,503,547	2,727,547	200,000		2,533,700	2,733,700	160,000		2,568,800	2,728,800
Carryover of Offsetting Collections (FECA Fair Share, Non-Add)			1,377,642 (51,034)	1,377,642 (51,034)			1,487,434 (52,280)	1,487,434 (52,280)			1,548,734 (52,720)	1,548,734 (52,720))
Longshore and Harbor Workers' Compensation Benefits	3,000			3,000	3,000			3,000	3,000			3,000
Carryout of Offsetting Collections			(1,487,434)	(1,487,434)			(1,548,734)	(1,548,734)			(1,546,634)	(1,546,634)
<b>Black Lung Disability Trust Fund <sup>3/</sup></b>	<b>1,005,465</b>	<b>0</b>	<b>0</b>	<b>1,005,465</b>	<b>1,068,000</b>	<b>0</b>	<b>0</b>	<b>1,068,000</b>	<b>1,072,000</b>	<b>0</b>	<b>0</b>	<b>1,072,000</b>
<b>Black Lung Part B Total <sup>4/</sup></b>	<b>303,373</b>	<b>0</b>	<b>0</b>	<b>303,373</b>	<b>276,221</b>	<b>0</b>	<b>0</b>	<b>276,221</b>	<b>250,130</b>	<b>0</b>	<b>0</b>	<b>250,130</b>
Black Lung Part B Benefits	224,000			224,000	203,000			203,000	183,000			183,000
Appropriation (non-add)	298,000			298,000	271,000			271,000	245,000			245,000
Advanced Appropriation	74,000			74,000	68,000			68,000	62,000			62,000
Black Lung Part B Administration	5,373			5,373	5,221			5,221	5,130			5,130
<b>Energy Employees' Occupational Illness Compensation Program</b>												
Administration <sup>5/</sup>	<b>158,966</b>			<b>158,966</b>	<b>161,630</b>			<b>161,630</b>	<b>108,178</b>			<b>108,178</b>
Part B - ESA	49,971			49,971	49,387			49,387	49,654			49,654

# EMPLOYMENT STANDARDS ADMINISTRATION

**EMPLOYMENT STANDARDS ADMINISTRATION  
TOTAL BUDGETARY RESOURCES BY ACTIVITY  
FY 2007 – 2009  
(Dollars in Thousands)**

	FY 2007 Enacted				FY 2008 Estimate				FY 2009 Request			
	Activity <u>Approp.</u>	Other <u>Approp</u>	Other <u>Resources</u>	<u>Total</u>	Activity <u>Approp.</u>	Other <u>Approp</u>	Other <u>Resources</u>	<u>Total</u>	Activity <u>Approp.</u>	Other <u>Approp</u>	Other <u>Resources</u>	<u>Total</u>
Part B - HHS	52,336			52,336	55,358			55,358	-	0		0
Part E	56,659			56,659	56,885			56,885	58,524			58,524
<b>Total Budget Authority Before Committee</b>	<b>2,149,254</b>	<b>0</b>	<b>3,294,255</b>	<b>4,543,509</b>	<b>2,162,537</b>	<b>0</b>	<b>2,475,200</b>	<b>4,637,737</b>	<b>2,094,276</b>	<b>0</b>	<b>2,573,700</b>	<b>4,667,976</b>
<b>H1-B</b>		<b>6,700</b>		<b>6,700</b>		<b>4,700</b>		<b>4,700</b>		<b>5,500</b>		<b>5,500</b>
<b>Panama Canal Commission Compensation Fund</b>	<b>6,300</b>			<b>6,300</b>	<b>6,200</b>			<b>6,200</b>	<b>6,000</b>			<b>6,000</b>
<b>Energy Employees' Occupational Illness Compensation Program</b>												
<b>Benefits</b>	0	0	898,090	898,090	0	0	964,555	964,555	0		948,487	948,487
<b>Part B - Benefits</b>			553,112	553,112			415,923	415,923			390,582	390,582
<b>Part E - Benefits</b>			344,978	344,978			548,676	548,676			557,905	557,905
<b>Longshore and Harbor Workers' Special</b>												
<b>Workers' Fund</b>	<b>149,539</b>	<b>0</b>	<b>0</b>	<b>149,539</b>	<b>150,080</b>			<b>150,080</b>	<b>150,833</b>	<b>0</b>	<b>0</b>	<b>150,833</b>
<b>Total Budgetary Resources</b>	<b>2,305,093</b>	<b>6,700</b>	<b>3,292,345</b>	<b>5,604,138</b>	<b>2,318,817</b>	<b>4,700</b>	<b>3,439,799</b>	<b>5,763,316</b>	<b>2,251,109</b>	<b>5,500</b>	<b>3,522,187</b>	<b>5,778,796</b>

1/ As an administrative support activity, these resources have been allocated to ESA activities within the Salaries and Expenses appropriation for all three fiscal years.

2/ Other resources for FECA Special Benefits include offsetting collections.

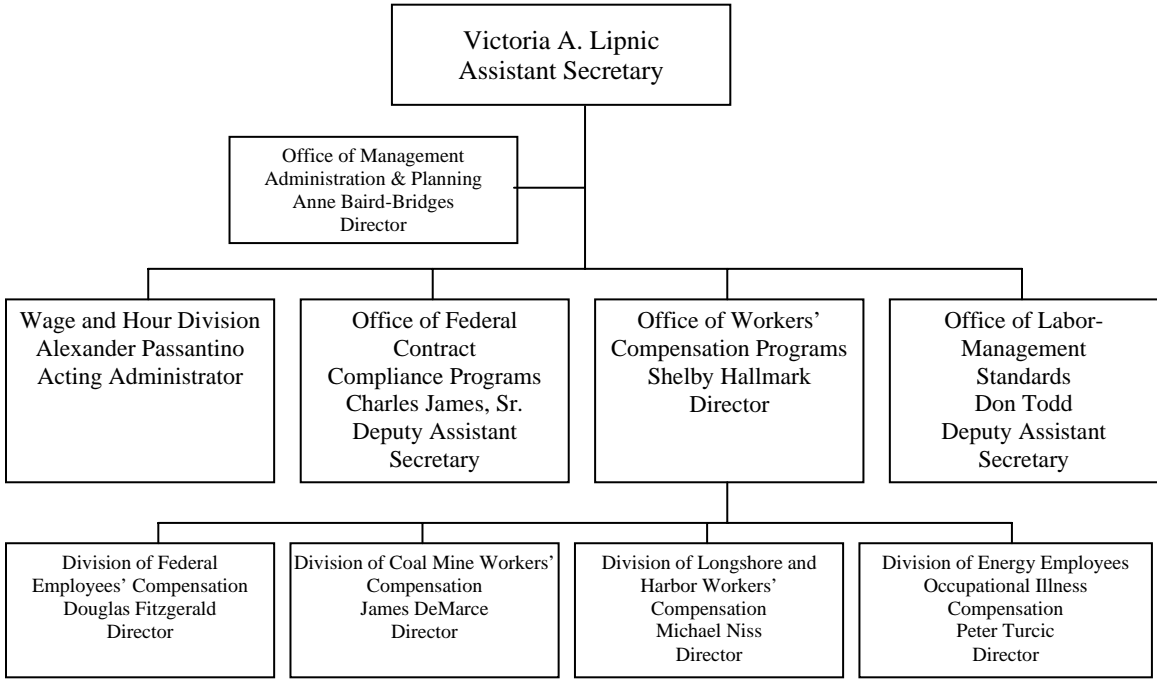
3/ Benefit and interest amounts only, excludes administrative costs for Treasury, includes ESA administrative costs, DM, OIG, and administrative costs. Assumes the passage and implementation of the Black Lung Debt Restructuring Act and the numbers include a one-time Treasury reimbursement in FY 2005 for interest lost.

4/ Part B program transferred from Social Security Administration to ESA effective February 1, 2003.

5/ New BA only for both DOL and HHS activities.

# EMPLOYMENT STANDARDS ADMINISTRATION

## ORGANIZATION CHART



**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

**APPROPRIATION LANGUAGE**

*For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, [~~\$426,351,000~~] \$466,481,000, together with [~~\$2,058,000~~] \$2,179,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d), and 44(j) of the Longshore and Harbor Workers' Compensation Act: Provided, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938 and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act. Of the unobligated funds collected pursuant to section 286(v) of the Immigration and Nationality Act, [~~\$102,000,000 are rescinded~~] \$30,000,000 is hereby permanently cancelled. (Department of Labor Appropriations Act, 2008.)*



**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

**ANALYSIS OF APPROPRIATION LANGUAGE**

“...44(d) and...”

This language provides authority for the transfer of resources from the Longshore and Harbor Workers’ Compensation Act special fund to defray expenses incurred by the Department of Labor in conducting special fund inspections and/or audits and to defray expenses incurred by the Department in direct administration of the fund.

“...*Provided*, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications for issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act ... and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act...”

This language provides authority for the assessment of fees to cover the costs of certain services, which are necessitated by law, and, generally, without which the user would not be allowed to conduct certain employment practices. This authority enables the Employment Standards Administration to assess, and collect fees to defray the cost for processing applications for homeworker and special minimum wage certificates as well as applications for registration under MSPA. The funds collected are deposited in the miscellaneous receipts account of the Treasury.

“Of the unobligated funds collected pursuant to section 286(v) of the Immigration and Nationality Act... \$30,000,000 is hereby permanently cancelled.”

One-third of the amounts deposited into the H-1B and L Fraud Prevention and Detection Account remain available to the Secretary of Labor until expended for enforcement programs and activities described in section 212(n). This language rescinds funds that were received in FY2008 but could not be used by the Department because of statutory limitations. If the proposed legislation that was transmitted to Congress in September 2007 to amend section 286(v)(2)(C) of the INA (8 U.S.C. 1356) is enacted in FY2008 or FY2009, the Department intends to utilize any funds remaining in the account to strengthen enforcement in low wage industries the employ significant numbers of immigrant workers.

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

<b>AMOUNTS AVAILABLE for OBLIGATION (Dollars in Thousands)</b>						
	<b>FY 2007 Comparable</b>		<b>FY 2008 Estimate</b>		<b>FY 2009 Request</b>	
	<b>FTE</b>	<b>Amount</b>	<b>FTE</b>	<b>Amount</b>	<b>FTE</b>	<b>Amount</b>
<b>A. Appropriation (Amount shown in Appropriation Language)</b>	<b>3,068</b>	<b>418,830</b>	<b>3,110</b>	<b>426,351</b>	<b>3,190</b>	<b>466,481</b>
Reduction pursuant to (P.L. 110-161) in FY 2008	0	0	-76	-7,448	0	0
Other Supplementals and Rescissions						
Appropriation, Revised	3,068	418,830	3,034	418,903	3,190	466,481
A.1) Subtotal Appropriation (adjusted)	3,068	418,830	3,034	418,903	3,190	466,481
Offsetting Collections From:						
Reimbursements (CMP's)	0	500	0	2,800	0	2,800
Trust Funds	190	35,620	195	34,783	190	34,487
H-1B L Fraud Fees	0	6,700	0	5,500		5,500
A.2) Subtotal	190	42,820	195	43,083	190	42,787
<b>B. Gross Budget Authority</b>	<b>3,258</b>	<b>461,650</b>	<b>3,229</b>	<b>461,986</b>	<b>3,380</b>	<b>509,268</b>
Offsetting Collections						
Deduction:						
Reimbursements	0	-500	0	-2,800	0	-2,800
H-1B L Fraud Fees	0	-6,700	0	-5,500	0	-5,500
B.1) Subtotal	0	-7,200	0	-8,300	0	-8,300
<b>C. Budget Authority</b>	<b>3,258</b>	<b>454,450</b>	<b>3,229</b>	<b>453,686</b>	<b>3,380</b>	<b>500,968</b>
Before Committee						
Offsetting Collections From:						
Reimbursements	0	500	0	2,800	0	2,800
H-1B L Fraud Fees	0	6,700	0	5,500	0	5,500
IT Crosscut	0	0	0	0	0	0
Legal Services	0	0	0	0	0	0
C.1) Subtotal	0	7,200	0	8,300	0	8,300
<b>D. Total Budgetary Resources</b>	<b>3,258</b>	<b>461,650</b>	<b>3,229</b>	<b>461,986</b>	<b>3,380</b>	<b>509,268</b>
Other Unobligated Balances	0	0	0	0	0	0
Unobligated Balance Expiring	-3	-3,019	0	0	0	0
<b>E. Total, Estimated Obligations</b>	<b>3,255</b>	<b>458,631</b>	<b>3,229</b>	<b>461,986</b>	<b>3,380</b>	<b>509,268</b>

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

<b>SUMMARY OF CHANGES</b>			
(Dollars in Thousands)			
	FY 2008 Estimate	FY 2009 Request	Net Change
<b>Budget Authority</b>			
General Funds	418,903	466,481	+47,578
Trust Funds	34,783	34,487	-296
<b>Total</b>	453,686	500,968	+47,282
<b>Full Time Equivalents</b>			
General Funds	3,034	3,190	+156
Trust Funds	195	190	-5
<b>Total</b>	3,229	3,380	+151

Explanation of Change	FY 2008 Base		Trust Funds		FY 2009 Change General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>Increases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
Costs of pay adjustments	3,229	239,445	0	563	0	8,005	0	8,568
Personnel benefits	0	67,594	0	84	0	1,433	0	1,517
Employee health benefits	0	13,819	0	29	0	515	0	544
Moving allowance	0	0	0	0	0	3	0	3
Travel	0	7,325	0	0	0	0	0	0
Transportation of things	0	220	0	0	0	0	0	0
GSA Space Rental	0	28,382	0	46	0	574	0	620
All Other Rental	0	410	0	0	0	0	0	0
Communications, utilities & miscellaneous charges	0	5,856	0	0	0	0	0	0
Printing and reproduction	0	749	0	0	0	0	0	0
Advisory and assistance services	0	457	0	0	0	0	0	0
Other services	0	5,814	0	0	0	0	0	0
Working Capital Fund	0	35,417	0	327	0	4,180	0	4,507
Homeland Security	0	2,481	0	0	0	0	0	0
Purchase of goods and services from other Government accounts	0	6,722	0	0	0	0	0	0
Research and Development	0	99	0	0	0	0	0	0
Operation and maintenance of facilities	0	35	0	0	0	0	0	0
Operation and maintenance of equipment	0	31,740	0	0	0	0	0	0
Supplies and materials	0	2,260	0	0	0	0	0	0
Equipment	0	4,765	0	0	0	0	0	0
Insurance claims and indemnities	0	96	0	0	0	0	0	0
<b>Built Ins Subtotal</b>	<b>3,229</b>	<b>453,686</b>	<b>0</b>	<b>1,049</b>	<b>0</b>	<b>14,710</b>	<b>0</b>	<b>15,759</b>
<b>B. Programs:</b>								
Defense Base Act	0	0	0	0	5	500	5	500
Hire additional investigators	0	0	0	0	75	5,073	75	5,073

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

Explanation of Change	FY 2008 Base		Trust Funds		FY 2009 Change		Total	
					General Funds			
Federal Contractor Compliance System (FCCS)	0	0	0	0	0	2,000	0	2,000
Restoration of funding for inflationary costs that were not provided in the Consolidated Appropriations Act, 2008, (P.L 110-161)	0	0	+1	89	76	26,645	77	26,734
<b>Programs Subtotal</b>	<b>0</b>	<b>0</b>	<b>+1</b>	<b>+89</b>	<b>+156</b>	<b>+34,218</b>	<b>+157</b>	<b>+34,307</b>
<b>C. Financing:</b>								
<b>Total Increase</b>	<b>3,229</b>	<b>+453,686</b>	<b>+1</b>	<b>+1,138</b>	<b>+156</b>	<b>+48,928</b>	<b>+157</b>	<b>+50,066</b>
<b>Decreases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
One day less of Pay	0	0	0	-68	0	-1,145	0	-1,213
FECA Adjustments				-54		-206		-260
<b>Built Ins Subtotal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>-122</b>	<b>0</b>	<b>-1,351</b>	<b>0</b>	<b>-1,473</b>
<b>B. Programs:</b>								
Reduction to workload in Black Lung Admin Costs	0	0	-6	-1,311	0	0	-6	-1,311
<b>Programs Subtotal</b>			<b>-6</b>	<b>-1,311</b>	<b>0</b>	<b>0</b>	<b>-6</b>	<b>-1,311</b>
<b>C. Financing:</b>								
<b>Total Decrease</b>	<b>0</b>	<b>0</b>	<b>-6</b>	<b>-1,433</b>	<b>0</b>	<b>-1,351</b>	<b>-6</b>	<b>-2,784</b>
<b>Total Change</b>	<b>3,229</b>	<b>+453,686</b>	<b>-5</b>	<b>-295</b>	<b>+156</b>	<b>+47,577</b>	<b>+151</b>	<b>+47,282</b>

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

**SUMMARY BUDGET AUTHORITY and FTE by ACTIVITY**

(Dollars in Thousands)

	FY 2007 Comparable		FY 2008 Estimate		FY 2009 Current Law	
	FTE	Amount	FTE	Amount	FTE	Amount
<b>Enforcement of Wage and Hour Standards</b>	<b>1,216</b>	<b>170,220</b>	<b>1,208</b>	<b>175,658</b>	<b>1,283</b>	<b>193,092</b>
General Funds	1,216	170,220	1,208	175,658	1,283	193,092
<b>Federal Contractor and EEO Standards Enforcement</b>	<b>587</b>	<b>82,442</b>	<b>585</b>	<b>81,001</b>	<b>585</b>	<b>89,013</b>
General Funds	587	82,442	585	81,001	585	89,013
<b>Federal Programs for Workers Compensation</b>	<b>1,044</b>	<b>136,102</b>	<b>1,026</b>	<b>134,473</b>	<b>1,050</b>	<b>142,125</b>
General Funds	854	100,889	834	100,086	863	108,031
Longshore Trust Funds	8	2,042	8	2,022	9	2,179
Black Lung Disability Trust Funds	182	33,171	184	32,365	178	31,915
<b>Division of Federal Employees' Compensation</b>	<b>768</b>	<b>90,137</b>	<b>745</b>	<b>89,449</b>	<b>768</b>	<b>96,153</b>
General Funds	768	90,137	745	89,449	768	96,153
<b>Division of Longshore Harbor Workers' Compensation</b>	<b>94</b>	<b>12,794</b>	<b>97</b>	<b>12,659</b>	<b>104</b>	<b>14,057</b>
General Funds	86	10,752	89	10,637	95	11,878
Longshore Trust Funds	8	2,042	8	2,022	9	2,179
<b>General</b>	<b>86</b>	<b>10,752</b>	<b>89</b>	<b>10,637</b>	<b>95</b>	<b>11,878</b>
General Funds	86	10,752	89	10,637	95	11,878
<b>Trust</b>	<b>8</b>	<b>2,042</b>	<b>8</b>	<b>2,022</b>	<b>9</b>	<b>2,179</b>
Longshore Trust Funds	8	2,042	8	2,022	9	2,179
<b>Division of Coal Miners Compensation</b>	<b>182</b>	<b>33,171</b>	<b>184</b>	<b>32,365</b>	<b>178</b>	<b>31,915</b>
Black Lung Disability Trust Funds	182	33,171	184	32,365	178	31,915
<b>Office of Labor and-Management Standards</b>	<b>321</b>	<b>47,753</b>	<b>317</b>	<b>44,938</b>	<b>369</b>	<b>58,256</b>
General Funds	321	47,753	317	44,938	369	58,256
<b>Program Direction and Support</b>	<b>87</b>	<b>17,933</b>	<b>93</b>	<b>17,616</b>	<b>93</b>	<b>18,482</b>
General Funds	84	17,526	90	17,220	90	18,089
Black Lung Disability Trust Funds	3	407	3	396	3	393
<b>Program Direction and Support</b>	<b>84</b>	<b>17,526</b>	<b>90</b>	<b>17,616</b>	<b>90</b>	<b>18,089</b>
General Funds	84	17,526	90	17,220	90	18,089
<b>Black Lung IV</b>	<b>3</b>	<b>407</b>	<b>3</b>	<b>396</b>	<b>3</b>	<b>393</b>
Black Lung Disability Trust Funds	3	407	3	396	3	393

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

<b>Total</b>	<b>3,255</b>	<b>454,450</b>	<b>3,229</b>	<b>453,686</b>	<b>3,380</b>	<b>500,968</b>
General Funds	3,062	418,830	3,034	418,903	3,190	466,481
Longshore Trust Funds	8	2,042	8	2,022	9	2,179
Black Lung Disability Trust Funds	185	33,578	187	32,761	181	32,308

NOTE: FY 2007 reflects actual FTE.

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

<b>BUDGET AUTHORITY by OBJECT CLASS</b>				
(Dollars in Thousands)				
	<b>FY 2007 Comparable</b>	<b>FY 2008 Estimate</b>	<b>FY 2009 Request</b>	<b>FY 09 Request/FY 08 Estimate</b>
Total Number of Full-Time Permanent Positions				0
Full-Time Equivalent				
Full-time Permanent	3,255	3,229	3,380	151
Other	0	0	0	0
Reimbursable	0	0	0	0
Total	3,255	3,229	3,380	151
Average ES Salary	151,014	154,306	151,659	-2,647
Average GM/GS Grade	10.99	11.23	11.02	-0.2
Average GM/GS Salary	70,828	72,372	72,703	332
Average Salary of Ungraded Positions	0	0	0	0
11.1 Full-time permanent	249,533	245,685	265,921	20,236
11.3 Other than full-time permanent	631	930	1,059	129
11.5 Other personnel compensation	1,570	1,086	1,093	7
11.8 Special personal services payments	2,571	5,563	6,176	613
11.9 Total personnel compensation	254,305	253,264	274,248	20,985
12.1 Civilian personnel benefits	66,501	67,574	73,263	5,689
13.0 Benefits for former personnel	24	20	20	0
21.0 Travel and transportation of persons	7,274	7,325	9,514	2,189
22.0 Transportation of things	203	220	279	59
23.1 Rental payments to GSA	28,672	28,382	29,505	1,123
23.2 Rental payments to others	599	410	436	26
23.3 Communications, utilities, and miscellaneous charges	5,445	5,856	5,996	140
24.0 Printing and reproduction	711	749	773	24
25.1 Advisory and assistance services	2,031	457	1,952	1,495
25.2 Other services	7,600	5,814	6,669	855
Other purchases of goods and services from Government accounts 1/	43,259	44,620	49,973	5,353
25.4 Operation and maintenance of facilities	198	35	40	5
25.5 Research and development contracts	105	99	101	2
25.7 Operation and maintenance of equipment	30,490	31,740	40,075	8,335
26.0 Supplies and materials	2,164	2,260	2,538	278
31.0 Equipment	4,683	4,765	5,488	723
41.0 Grants, subsidies, and contributions	0	0	0	0
42.0 Insurance claims and indemnities	186	96	98	2
<b>Total</b>	<b>454,450</b>	<b>453,686</b>	<b>500,968</b>	<b>47,282</b>
1/Other Purchases of Goods and Services From Government Accounts				
Services by Other Government Departments	7,634	6,411	6,949	538
Working Capital Fund	33,250	35,417	40,180	4,763

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

<b>BUDGET AUTHORITY by OBJECT CLASS</b>				
(Dollars in Thousands)				
DHS Services	2,008	2,481	2,533	52
Census Services	0	0	0	0
Services by DOL Agencies	367	311	311	0



**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

**SIGNIFICANT ITEMS IN APPROPRIATION COMMITTEES' REPORTS**

**Salaries and Expenses**

House:	The Committee directs the Department to target the additional resources provided for the Wage and Hour Division (WHD) to increase inspections and investigations of industries with high concentrations of low-wage and other vulnerable workers, and industries with high levels of wage and hour violations, including overtime violations. In hiring new investigators, WHD should frame position qualifications so as to increase the number of front-line investigators that are fluent in the languages of the workforces in which non-English-speaking workers predominate.
Response:	Although the Consolidated Appropriations Act, 2008, increased WHD's budget by \$5.438 million, this amount only partially funds the approved pay increase and other inflation related cost increases, and does not provide sufficient funding to hire new investigators.

House:	The Committee requests that WHD compile a detailed report to the House and Senate Committees on Appropriations by March 1, 2008, on the Department's enforcement strategy on the misclassification of employees as independent contractors and the investigation activity to date in this area.
Response:	The Wage and Hour Division will submit a report, pursuant to House Report 110-231.

House:	The Committee directs WHD to work with the U.S. Forest Service, the Department of Homeland Security and the Department of State on the issue of fair wages and compliance with safety regulations for Federal contractors that employ H-2B forestry workers, or "pineros." The Forest Service is taking steps to compile a comprehensive database of forestry contractors, current and past violators, and registered H-2B forestry workers. As the Forest Service develops its database, the Committee directs WHD to populate the database with violations of wage disbursements, and to coordinate with the Department's Occupational Safety and Health Administration (OSHA), so as to include additional safety and health enforcement information pertaining to this population in the database. The Committee requests that the Department of Labor provide a report to the House and Senate Committees on Appropriations no later than March 1, 2008 on its enforcement activities regarding those contractors that employ pineros and have violated Federal employment and/or safety standards.
Response:	The Wage and Hour Division will submit a report, pursuant to House Report 110-231.

House:	The Committee recommends that the Secretary of Labor, in collaboration with the Secretary of Agriculture, develop a plan to address child labor violations within the agriculture industry in order to increase compliance with child labor laws and
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**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

	requests that the plan be submitted to the House and Senate Committees on Appropriations by March 1, 2008.
Response:	The Wage and Hour Division will submit a plan, pursuant to House Report 110-231.

House:	The Committee requests that WHD compile a detailed report to the House and Senate Committees on Appropriations by March 1, 2008 on the Department's enforcement strategy on misclassification and the investigation activity to date in this area including recovery of back pay and other compensatory measures, assessment of penalties, and policies for cross-referral of complaints to the Internal Revenue Service.
Response:	The Wage and Hour Division will submit a report, pursuant to House Report 110-231.

House:	The Committee requests that the Secretary of Labor submit a report to the House and Senate Committees on Appropriations by March 1, 2008 addressing the policy and regulatory issued under the Department's jurisdiction that would require review and adaptation in response to a pandemic, including, but not limited to, the Occupational Safety and Health Act, the Fair Labor Standards Act, the Family and Medical Leave Act, and the disaster unemployment assistance.
Response:	The Wage and Hour Division will provide information relating to the laws under its jurisdiction to the Office of the Assistant Secretary for Policy for coordinating within the Department.

House:	Within the amount provided for the enforcement of wage and hour standards, \$1,000,000 is provided for accelerating start-up of a system to resolve claims of injury caused by asbestos exposure. If the authority for an asbestos claims program is not enacted by June 30, 2008, these additional funds may be used to support wage and hour enforcement in low wage industries.
Response:	The ESA will monitor asbestos program legislation and adjust funding accordingly.

Senate:	The Committee requests the Department include, as part of its fiscal year 2009 budget justification, a detailed report on its enforcement efforts aimed at low-wage industries, including: the measures being used to gauge compliance; the enforcement strategy being pursued in each of these industries; the number of investigators that are bilingual (and in what languages); the number of investigations prompted by complaints from workers and those initiated by the Department; the number of workers and those initiated by the Department; the number of workers covered by those investigations; the employer practices that form the basis of complaints; and the findings and actions taken, including recovery of back wages.
Response:	See Wage and Hour Division budget justification materials for more information.

Senate:	The Committee is concerned about the misclassification of employees and independent contractors, which undermines enforcement of the Nation's worker-
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**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

	protection laws. The Committee encourages the Wage and Hour Division to focus increased attention of investigative personnel and resources to detecting and taking enforcement actions against the illegal misclassification of workers and unreported cash pay.
Response:	See Wage and Hour Division budget justification materials for more information.

Senate:	The Committee requests that the fiscal year 2009 budget justification include detailed information on the Department’s enforcement strategy and record misclassification and unreported cash pay, including the measures established to gauge compliance; the number of investigations prompted by complaints from workers and those initiated by the Department; the number of workers and those initiated by the Department; the number of workers covered by those investigations; descriptive data on the employer practices that form the basis of the complaint; and the findings and actions taken, including recovery of back pay, other compensatory measures, and cross-referral.
Response:	The Wage and Hour Division will submit a report, pursuant to House Report 110-231.

**Energy Employees Occupational Illness Compensation Program**

Senate:	The Committee expects that the administration refrain from unilateral changes to reduce the cost of benefits for current or pending cohorts of atomic weapons workers with cancer under the Energy Employees Occupational Illness Compensation Program until such time as Congress approves proposed change
Response:	The Department is committed to rendering fair and impartial decisions on claims in accordance with the law.

Senate:	The Advisory Board on Radiation and Worker Health was created by Congress to review applications based on scientific and medical evidence, with as much independence and objectivity as possible. To ensure that the Advisory Board can retain its autonomy, the Committee has retained language which transfers \$4,500,000 in administrative funds within 30 days of enactment to the National Institute for Occupational Safety and Health for the exclusive use of the Board and its audit contractor.
Response:	As the 2008 Conference Report (House Report 110-424) directed, the funding for the Advisory Board on Radiation and Worker Health is deemed included in the appropriation for NIOSH..

House:	In addition, to the \$55,358,000 that the budget request indicates will be transferred for the National Institute for Occupational Safety and Health (NIOSH) within the Department of Health and Human Services for its activities, the bill directs that the Secretary provide, within 30 days of enactment, \$4,500,000 to NIOSH for use by or in support of the Advisory Board on Radiation and Worker Health to carry out its statutory responsibilities under EEOICPA, including obtaining audits, technical assistance and other support from the Board’s audit contractor with regard to
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**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

	radiation dose estimation and reconstruction efforts, site profiles, procedures, and review of special exposure cohort petitions and evaluation reports.
Response:	As the 2008 Conference Report (House Report 110-424) directed, the funding for the Advisory Board on Radiation and Worker Health is deemed included in the appropriation for NIOSH.

House:	The conferees clarify that the \$4,500,000 for the Advisory Board on Radiation and Worker Health is a part of the total amount of \$55,358,000 identified for transfer to the Department of Health and Human Services (HHS) for the National Institute for Occupational Safety and Health (NIOSH). The Board is a key component of the administration of the program at NIOSH and the conferees expect that it will be funded at the level provided for in the conference agreement.
Response:	As the 2008 Conference Report (House Report 110-424) directed, the funding for the Advisory Board on Radiation and Worker Health is deemed included in the appropriation for NIOSH.

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

**AUTHORIZING STATUTES**

<b>Public Law / Act</b>	<b>Legislation</b>	<b>Statute No. / US Code</b>	<b>Volume No.</b>	<b>Page No.</b>	<b>Expiration Date</b>
PUB. L. 75-718	Fair Labor Standards Act of 1938, as amended.	29 U.S.C. 201-219			N/A
PUB. L. 74-846	Walsh-Healy Public Contracts Act, as amended.	41 U.S.C. 35-45			N/A
PUB. L. 90-321	Consumer Credit Protection Act (Title III – Restriction on Garnishment).	15 U.S.C. 1671-1677			N/A
PUB. L. 87-581	Contract Work Hours and Safety Standards Act, as amended.	40 U.S.C. 327-330			N/A
PUB. L. 89-286	McNamara-O’Hara Service Contract Act, as amended.	41 U.S.C. 351-357			N/A
PUB. L. 74-403	Davis-Bacon Act, as amended and related acts.	40 U.S.C. 276(a)-276(a-7), 276(c), 327-332; 5 U.S.C. Appendix; 5 U.S.C. 301			N/A
PUB. L. 97-470	Migrant and Seasonal Agricultural Worker Protection Act.	29 U.S.C. 1801-1872			N/A
PUB. L. 99-603	Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986.	8 U.S.C. 1324, 8 U.S.C. 1101(a), 1184(c), 1824, 29 U.S.C. 1802, 1813(a)			N/A
PUB. L. 100-347	Employee Polygraph Protection Act of 1988.	29 U.S.C. 2001 et seq			N/A
PUB. L. 101-238	Immigration Nursing Relief Act of 1989.	8 U.S.C. 1101, et seq.			N/A
PUB. L. 101-649	Immigration Act of 1990.	8 U.S.C. 1101, et seq.			N/A
PUB. L. 103-3	Family and Medical Leave Act of 1993.	29 U.S.C. 2601, et. Seq.			N/A
PUB. L. 105-277	American	414(b) and (c)			N/A

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

	Competitiveness and Workforce Improvement Act (ACWIA), Title IV of the Omnibus Consolidated and Emergency Supplemental Appropriation Act.				
PUB. L. 108-447	L-1 Visa and H-1B Visa Reform Act, Title IV of the Consolidated Appropriations Act, 2005.	401-430			N/A
PUB. L. 89-209	National Foundation for the Arts and Humanities Act, Sections 5(i) and 7(g).	20 U.S.C. 954 (i) and 956 (g)			N/A
PUB. L. 93-112	Rehabilitation Act of 1973, as amended.	29 U.S.C. 793			N/A
PUB. L. 93-508	Vietnam Era Veteran's Readjustment Assistance Act of 1974, as amended.	38 U.S.C. 4212			N/A
PUB. L. 101-336	Americans with Disabilities Act.	42 U.S.C. 12101, et seq.			N/A
PUB. L. 267, 39 Stat. 742	Federal Employees Compensation Act, as amended.	5 U.S.C. 8101 et seq.			N/A
PUB. L. 69-803	Longshore and Harbor Workers' Compensation Act, as amended.	33 U.S.C. 901, et seq.			N/A
PUB. L. 91-173	Federal Coal Mine Health and Safety Act of 1969, (now called Federal Mine Safety and Health Act of 1977), as amended.	30 U.S.C. 901, et seq.			N/A
PUB. L. 107-275	Black Lung Consolidation of Administrative Responsibility Act, as amended.				N/A
PUB. L. 106-398	Energy Employees Occupational Illness	42 U.S.C. 7385s et. seq.			N/A

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

	Compensation Act (EEOICPA) of 2000, as amended.				
PUB. L. 86-257	Labor-Management Reporting and Disclosure Act of 1959, as amended.	29 U.S.C. 101			N/A
PUB. L. 95-454	Civil Service Reform Act of 1978	5 U.S.C. 1101			N/A
PUB. L. 88-365	Urban Mass Transportation act of 1964, as amended.	49 U.S.C. 5301 et seq.			N/A
PUB. L. 91-518	Rail Passenger Service Act of 1970 as amended.	45 U.S.C. 501 et seq.			N/A
PUB. L. 91-375	Postal Reorganization Act of 1970.	39 U.S.C. 101			N/A
PUB. L. 96-465	Foreign Service Act of 1980.	22 U.S.C. 3901			N/A
PUB. L. 104-1	Congressional Accountability Act of 1995.	2 U.S.C. 1301			N/A

# EMPLOYMENT STANDARDS ADMINISTRATION SALARIES AND EXPENSES

## APPROPRIATION HISTORY SALARIES AND EXPENSES (Dollars in Thousands)

	Budget Estimates to <u>Congress</u>	House <u>Allowance</u>	Senate <u>Allowance</u>	<u>Appropriation</u>	Direct <u>FTE</u>	Reimburse- ment <u>FTE</u>	Total <u>FTE</u>
1999*	316,191	312,333	311,333	313,437 <sup>1/</sup>	3,711	17	3,728 <sup>2/</sup>
2000*	342,787	314,000	342,787	338,770 <sup>3/</sup>	3,707	17	3,724 <sup>4/</sup>
2001*	363,476	338,770	352,764	362,716 <sup>5/</sup>	3,745	17	3,762 <sup>6/</sup>
2002*	364,715 <sup>7/</sup>	369,631	377,145	370,048 <sup>8/</sup>	3,756	16	3,772 <sup>6/</sup>
2003*	380,757 <sup>9/</sup>	381,578	384,096	381,114	3,698	17	3,715 <sup>6/</sup>
2004*	397,753 <sup>10/</sup>	397,753	392,061	392,872 <sup>11/</sup>	3,805	17	3,822 <sup>6/</sup>
2005*	409,294	402,818	405,870	400,848 <sup>12/</sup>	3,595	17	3,612 <sup>6/</sup>
2006*	415,216	416,332	412,616	411,064 <sup>13/</sup>	3,557	17	3,574 <sup>6/</sup>
2007*	409,099	418,495	435,371	420,872	3,281	17	3,298 <sup>6/</sup>
2008*	447,659	436,508	438,508	428,409	3,229	17	3,246 <sup>6/</sup>
2009*	468,660				3,380	17	3,397 <sup>6/</sup>

\*Includes the below reimbursement from the Special Fund established by the Longshore and Harbor Workers' Compensation Act: , \$1,924,000 in FY 1999, \$1,732,000 in FY 2000, \$1,981,000 in FY 2001, \$1,970,000 in FY 2002, \$2,029,000 in FY 2003, \$2,056,000 in FY 2004, \$2,058,000 in FY 2005, \$2,121,000 in FY 2006, \$2,042,000 in FY 2007, \$2,022,000 in FY 2008, and \$2,179,000 in FY 2009.

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- <sup>1/</sup> Reflects a \$563,000 reduction pursuant to P.L. 106-51.
- <sup>2/</sup> Does not include FTE in ESA's Special Benefits Account using "Fairshare" funding (140 FTE ceiling; 102 actual).
- <sup>3/</sup> Reflects a \$230,000 reduction pursuant to P.L. 106-113.
- <sup>4/</sup> Does not include FTE in ESA's Special Benefits Account using "Fairshare" funding (129 FTE ceiling, 102 actual).
- <sup>5/</sup> Reflects a \$760,000 reduction pursuant to P.L. 106-554.
- <sup>6/</sup> Does not include FTE in ESA's Special Benefits Account using "Fairshare" funding or in the Energy Employees' Occupation Illness Compensation Program account.
- <sup>7/</sup> Includes \$80,281 and 845 FTE for proposed FECA Surcharge.
- <sup>8/</sup> Includes a reduction of \$698,000 pursuant to P.L. 107-116 and a reduction of \$455,000 pursuant to P.L. 107-206.
- <sup>9/</sup> Includes \$86,442 and 839 FTE for the proposed FECA Surcharge.
- <sup>10/</sup> Includes \$86,260 and 839 FTE for the proposed FECA Surcharge.
- <sup>11/</sup> Includes a Labor-HHS Rescission of \$4,052,000 and a Govt-wide Rescission of \$2,333,000 pursuant to P.L. 108-199.
- <sup>12/</sup> Includes a Labor-HHS Rescission of \$3,479,088 pursuant to P.L. 108-434.
- <sup>13/</sup> Includes a rescission in the amount of \$4,152.



**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

<b>SUMMARY OF PERFORMANCE LEVELS</b>										
<b>Performance Goal – Employment Standards Administration</b>										
<b>Performance Indicators</b>	<b>FY 2004</b>		<b>FY 2005</b>		<b>FY 2006</b>		<b>FY 2007</b>		<b>FY 2008</b>	<b>FY 2009</b>
	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Performance Goal 3C: Wage Hour Division</b>										
<b>Ensure workers receive the wages due them</b>										
Workers assisted per 1,000 case hours in complaint cases	--	--	--	--	Baseline	293	296	271	274	277
Percent of prior violators in compliance	74%	71%	72%	72%	73%	76%	77%	66%	67%	68%
Low-wage workers assisted per 1,000 case hours	--	--	baseline	280	--	301	304	418	422	426
Wage determination forms processed per 1,000 hours	Baseline	1,491	1,506	1,667	1,684	1,834	1,852	2,636	2,662	2,689
<b>Performance Goal 3D: Federal Contractor and EEO Standards Enforcement</b>										
<b>Federal contractors achieve equal opportunity workplaces</b>										
Reducing the rate of discrimination among audited Federal Contractors	9%	1%	7%	2%	6%	2%	2%	1%	1%	1%
Increasing the rate of compliance for all other EEO requirements	61%	91%	62%	86%	64%	87%	86%	88%	89%	90%
<b>Performance Goal 4B: Federal Programs for Workers' Compensation</b>										
<b>Reduce the consequences of work-related injuries</b>										
Lost production days per 100 employees for all other government Agencies	55.4	61.9	61	56.1	60	52.2	49	44.9	46.3	48
Lost production days per 100 employees for United States Postal Service	146	147	148	135	146	142.5	129.8	135.2*	142	139
Periodic Roll Management savings	\$18 million	\$24.4 million	\$17 million	\$23.2 million	\$13 million	\$16.1 million	\$8 million	\$17.1 million	\$14 million	\$12 million
Medical Treatment Cost Containment	8.8%	2.4%	8.8%	2.8%	8.7%	6.3%	8.3%	8.1%	Remain Below Milliman USA Health Cost Index	

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

<b>SUMMARY OF PERFORMANCE LEVELS</b>										
<b>Performance Goal – Employment Standards Administration</b>										
<b>Performance Indicators</b>	<b>FY 2004</b>		<b>FY 2005</b>		<b>FY 2006</b>		<b>FY 2007</b>		<b>FY 2008</b>	<b>FY 2009</b>
	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
Meet Communications Goals	3 of 5	4 of 5	3 of 5	3 of 5	4 of 5	4 of 5	4 of 6	4 of 6	5 of 6	5 of 6
Average Days to resolve Longshore disputed cases	275	247	245	253	250	235	248	230	Baseline**	-1%
Longshore claimants completing rehabilitation	--	--	--	--	50.2%	51.4%	50.7%	56.5%	51.2%	51.7%
Average number of days to process Black Lung claims	--	--	--	--	--	--	247	224	220	218
Change in Average Black Lung Medical Treatment Costs	--	--	--	--	--	--	Baseline	\$3,281 <sup>†</sup>	+6.1%	+6.4%
Average days to process Energy Part B initial claims	--	--	--	--	--	--	Baseline	238	226	221
Average days to process Energy Part E initial claims	--	--	--	--	--	--	Baseline	293	290	272
Percent of Part B and Part E final decisions processed within 180 days where there is a hearing and within 75 days where there is no hearing	77%	98.5%	80%	95%	80%	89%	85%	87.5%	87%	88%
<p>* FY 2007 results reflect an adjusted method for calculating LPD to more accurately capture intermittent periods of compensation.  ** Establishing new baseline to reflect increased workload and complex disputes resulting from Defense Base cases.  <sup>†</sup> Baseline year is presented in dollars and will determine rate of change between FY 2007-2008.</p>										

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

<b>SUMMARY OF PERFORMANCE LEVELS</b>										
<b>Performance Goal – Employment Standards Administration</b>										
<b>Performance Indicators</b>	<b>FY 2004</b>		<b>FY 2005</b>		<b>FY 2006</b>		<b>FY 2007</b>		<b>FY 2008</b>	<b>FY 2009</b>
	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Performance Goal 4C: Office of Labor-Management Standards Ensure union financial integrity, democracy, and transparency</b>										
Increase Union Financial Integrity by decreasing the number of indicators of Fraud	Baseline	9%	--	--	8%	8%	7.5%	7%	7%	6.5%
Ensure union democracy by increasing the compliance with LMRDA standards with democratic union office elections	--	--	--	--	Baseline	92%	92.5%	92.3%	93%	93.5%
Increase Union transparency by increasing the percentage of union filing financial reports that meet OLMS standards for acceptability	75%	92%	95%	94%	96%	93%	97%	95%	97%	97%
Ratio of criminal cases opened per the number of targeted audits	--	--	--	--	--	--	--	--	Baseline	-- <sup>†</sup>
Number of days to resolve union officer election complaints	--	--	--	--	--	--	--	--	Baseline	-- <sup>†</sup>
Percent of unions filing reports electronically	--	--	--	--	--	--	--	--	Baseline	-- <sup>†</sup>

<sup>†</sup>Targets will be set once baseline is established.

## **EMPLOYMENT STANDARDS ADMINISTRATION SALARIES AND EXPENSES**

### **Program Assessment Rating Tool (PART)**

PART reviews have been conducted for several ESA budget activities over the past several years. Other reviews are scheduled to occur during FY-2008. Details of each PART review may be found under each corresponding budget activity or by visiting:

<http://www.whitehouse.gov/omb/expectmore/agency/012.html>

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

**Efficiency Measures**

Details of individual program efficiency measures may be found under each corresponding budget activity.

<b>Program</b>	<b>Efficiency Measure</b>	<b>FY 2009 Target <sup>1/</sup></b>
Wage and Hour Division	Number of wage determination data submission forms processed per 1000 hours	2,689
Wage and Hour Division	Workers assisted per 1,000 enforcement hours in a complaint cases	277
Wage and Hour Division	Low-wage workers assisted per 1,000 enforcement hours	426
Federal Contractor and Equal Employment Opportunity (EEO) Standards Enforcement	FTE Compliance Officers per systemic case resolved	1.7
Federal Programs for Workers' Compensation/Federal Employees' Compensation Program	First-year benefit savings realized as a result of periodic beneficiary roll review (in millions of dollars)	\$12 million
Federal Programs for Workers' Compensation/Federal Employees' Compensation Program	Rate of change in average FECA medical service costs compared to the annual rate of change in national costs as measured by the Milliman, USA Health Cost Index	Remain below Milliman, USA

<sup>1/</sup> Target ratio.

**EMPLOYMENT STANDARDS ADMINISTRATION  
SALARIES AND EXPENSES**

<b>Program</b>	<b>Efficiency Measure</b>	<b>FY 2009 Target <sup>1/</sup></b>
Federal Programs for Workers' Compensation Program/Longshore and Harbor Workers' Compensation	Defense Base Act Claims Processing	N/A <sup>2/</sup>
Federal Programs for Workers' Compensation Program/Longshore and Harbor Workers' Compensation	Claims Management per FTE.	414
Federal Programs for Workers' Compensation Program/Division of Coal Mine Workers' Compensation	Days to render a proposed decision and order on a Black Lung benefits claim.	218
Federal Programs for Workers' Compensation Program/Division of Coal Mine Workers' Compensation	Percentage increase in Black Lung average medical treatment cost from the previous year is less than the National Health Expenditure Projection (NHEP)	6.4%
Office of Labor-Management Standards	Union Financial Integrity: Union dollars protected per staff day dedicated to union audit.	6.5%

<sup>1/</sup>Target ratio.

<sup>2/</sup> New resources requested for FY2009 for the DBA claims workload. Automation of the claims intake process and proper deployment of additional staff are expected to reduce unprocessed claims backlogs and ensure that DBA processing meets OWCP program operation standards. The first year of results measurement will be 2010 after a period of program development and resource deployment.

## ENFORCEMENT OF WAGE AND HOUR STANDARDS

### *Budget Activity 1: Enforcement of Wage and Hour Standards*

Budget Authority Before the Committee (Dollars in Thousands)						
	FY 2007 Comparable	FY 2008 Enacted	FY 2008 Estimate	Diff. FY 07 Comp/ FY 08 Est	FY 2009 Request	Diff. FY 08 Est /FY 09 Req
<b>Activity Appropriation</b>	170,220	175,658	175,658	5,438	193,092	17,434
<b>FTE</b>	1,216	1,208	1,208	-8	1,283	75

\* The FY 2009 request does not include H1-B (\$5,500,000) and CMPs (\$2,800,000).  
NOTE: FY 2007 reflects actual FTE. Authorized FTE for FY 2007 was 1,200.

### **Introduction**

The Wage and Hour Division (WHD) is responsible for administering and enforcing a variety of laws that establish the minimum standards for wages and working conditions in the United States. Collectively, these labor standards cover most private, state, and local government employment. They protect over 135,000,000 workers in more than 7,300,000 establishments throughout the United States and its territories. These labor laws range from some of the first labor protections passed by Congress to some of the most recent. WHD’s mission is to “promote and achieve compliance with labor standards to protect and enhance the welfare of the Nation’s workforce.”

WHD is comprised of a nationwide staff of investigators, supervisors, analysts, technicians, and administrative employees who share responsibilities for enforcing the minimum wage, overtime, and child labor provisions of the Fair Labor Standards Act (FLSA); the requirements and wage determination provisions of the Davis-Bacon Act (DBA) and the McNamara-O’Hara Service Contract Act (SCA); the Migrant and Seasonal Agricultural Worker Protection Act (MSPA); the Family and Medical Leave Act (FMLA); and the Employee Polygraph Protection Act (EPPA). WHD is also responsible for the enforcement of field sanitation and temporary labor camp standards in agriculture and certain employment standards and worker protections of the Immigration and Nationality Act (INA).

The WHD mission and its performance outcomes directly support the Department of Labor’s (DOL) strategic goal of safe and secure workplaces, and in particular, to guarantee workers receive the wages due them. To this end, WHD has established enforcement priorities in three key areas: greater compliance in low-wage industries that employ vulnerable workers (including young and immigrant workers); fewer employers with repeat violations; and the strategic use of complaint investigations to increase labor protections for the greatest number of workers. A fourth priority encourages program efficiencies in the establishment of wage determinations and seeks to guarantee appropriate worker compensation levels by ensuring timely and accurate prevailing wage determinations.

## ENFORCEMENT OF WAGE AND HOUR STANDARDS

The Back Wage Financial System (BWFS) is the agency's IT system for collecting and disbursing back wages to workers. The Wage Determination System (WDS) supports the Davis Bacon Act and McNamara-O'Hara Service Contract Act wage determination programs. Additional information on these systems can be obtained by visiting the corresponding Exhibit 300 at: <http://www.dol.gov/dol/budget/2009/PDF/E300-2009-012.pdf> and <http://www.dol.gov/dol/budget/2009/PDF/E300-2009-013.pdf>, respectively.

### Five-Year Budget Activity History

<b>Fiscal Year</b>	<b>Funding (Dollars in Thousands)</b>	<b>FTE</b>
2004	160,096	1,442
2005	164,495	1,346
2006	165,685	1,300
2007	170,220	1,200
2008	175,658	1,208

### FY 2009

For FY 2009, WHD is requesting a total of \$201,392,000 and 1,283 FTE. This funding includes an increase of \$5,073,000 and 75 FTE which will be used to conduct more targeted investigations. WHD's FY 2009 request allows WHD to restore \$6.707 million in funding and resources for the FY 2008 program increase and other inflationary adjustments included in the President's FY 2008 budget, but not enacted in the Consolidated Appropriations Act, 2008, (P.L. 110-161). Also included in WHD's total request is \$5,500,000 in H-1B fees that can only be used for enforcement programs and activities described in Section 212(n) of the INA and \$2,800,000 in civil money penalty reimbursements authorized under Section 16(e) of the FLSA. The funding will be distributed across performance outcomes to directly support the Department of Labor's (DOL) strategic goal of safe and secure workplaces, and in particular, to guarantee that workers receive the wages due them. Based upon current enforcement experience, WHD will make adjustments to funding levels that support its performance outcomes in order to maximize overall compliance assistance and enforcement effectiveness, particularly in low-wage industries and among repeat violators.

WHD has requested a program increase to fund FTE. The increased FTE level will enable the program to conduct more targeted investigations, particularly in low-wage industries such as agriculture and its directed child labor program to ensure that young workers are safely and legally employed. WHD estimates completion of an additional 225 investigations in the first year following the addition of new staff. This would return WHD to levels achieved in FY 2007. As the experience and productivity of the new investigators increases, WHD expects investigation levels will improve. Overall compliance levels will be maintained or improved as the agency maintains a visible enforcement and compliance assistance presence.

Two interrelated, socio-economic dynamics challenge WHD's ability to ensure continued compliance with this country's most basic labor protections – the increased reliance on foreign-born labor over the past 15 years, and the growth in the number of illegal or undocumented immigrants currently working in the United States. Any viable comprehensive strategy for



## **ENFORCEMENT OF WAGE AND HOUR STANDARDS**

addressing the increasing employment of foreign-born workers, the rise in day-labor employment relationships, and the proliferation of “informal” economic sectors, must include enforcement of the fundamental workplace standards and increased compliance assistance. In the past, WHD has devoted 25 to 30 percent of its enforcement resources to self-directed investigations, *i.e.*, non-complaint investigations in industries that employ vulnerable low-skilled and immigrant workers. The balance (70 to 75 percent) was used to respond to employee complaints.

In support of the efforts to increase compliance in low-wage industries, WHD proposed legislation to amend section 286(v)(2)(C) of the INA (8 U.S.C. 1356), as amended, to permit the more effective use of the fees collected under that statute’s Fraud Prevention and Detection Account. Legislation was transmitted to Congress in September 2007, which, if enacted, would enable the Department to expand its enforcement programs and activities that focus on the low-wage industries likely to employ and recruit recent immigrants and non-immigrants.

In addition, the Department’s FY 2009 budget includes a legislative proposal to increase civil money penalties for violations of the FLSA youth employment provisions that result in the death or serious injury of young workers. The proposed legislation, which was transmitted to Congress in April 2007, would increase the maximum penalty from \$11,000 to \$50,000 for any type of child labor violations that lead to death or serious injury. The Department also proposes to raise to \$100,000 the maximum penalty for willful or repeat violations that lead to the death or serious injury of a young worker.

WHD’s request of \$5,073,000 and 75 FTE will enable the agency to conduct more investigations, provide additional compliance assistance, and ensure that quality cases effectively maximize compliance on behalf of the greatest number of workers. The additional investigators would result in an additional 740 directed investigations a year.

### **Program Assessment Rating Tool (PART)**

WHD’s enforcement and compliance program was reviewed by OMB in 2006 and received a Moderately Effective rating; the agency’s program design, management, and targeting were deemed effective, and its performance goals were determined to be outcome-oriented. WHD will review the recommendations of external evaluations and incorporate recommendations into its FY 2009 planning process and performance plan, as appropriate. Also in FY 2008 and in response to PART recommendations, the agency will draft standardized agreement templates for partnerships with government entities.

With respect to the Prevailing Wage Determination program, which underwent a PART review in 2003, WHD has completed the initial improvement plan. In 2008, the agency plans to initiate partnership discussions with interested parties to foster stakeholder participation in the DBA wage survey program, establish a new internal training program to improve program management, and make other internal updates to further internal communication.

Details of the 2006 and 2003 PART reviews may be found by visiting <http://www.whitehouse.gov/omb/expectmore/detail/10003908.2006.html> and <http://www.whitehouse.gov/omb/expectmore/detail/10003908.2006.html>, respectively.

## **ENFORCEMENT OF WAGE AND HOUR STANDARDS**

### **Efficiency Measures**

WHD's efficiency measures demonstrate the maximization of limited resources to yield the greatest impact. By measuring the number of workers for which WHD received an agreement to pay or an agreement to remedy in a complaint case (excluding conciliations) per 1,000 hours, WHD balances improved timeliness in the resolution of complaint cases with efficient use of resources to maximize compliance for the greatest number of workers. In measuring the number of low-wage workers for which WHD obtained an agreement to pay or an agreement to remedy per 1,000 enforcement hours, WHD tracks the efficiency of its targeted enforcement strategies to ensure that they are reaching the greatest number of low-wage workers. Subsequently, this measure supports WHD's efforts to increase compliance in low-wage industries that employ the most vulnerable workers.

WHD also measures the number of wage determination data submission forms processed per 1,000 staff hours, thereby demonstrating how improvements in the handling of Davis Bacon survey forms promotes timely completion of wage surveys and improves the accuracy and timeliness of resulting prevailing wage determinations.

## ENFORCEMENT OF WAGE AND HOUR STANDARDS

WORKLOAD SUMMARY			
	FY 2007	FY 2008	FY 2009
	Actual	Target	Target
Enforcement of Wage and Hour Standards			
Compliance Actions	30,467	30,236	30,463
Compliance Assistance Events	1,774	1,760	1,774
Wage Determinations Issued	21,000	21,000	21,000
Budget Activity Total	\$170,220	\$175,658	\$193,092

# ENFORCEMENT OF WAGE AND HOUR STANDARDS

## PERFORMANCE GOALS AND INDICATORS

Performance Goal 3C: Ensure workers received the wages due them.

	FY 2004		FY 2005		FY 2006		FY 2007		FY 2008	FY 2009
	Goal Achieved		Goal Achieved		Goal Achieved		Goal Not Achieved			
Performance Indicator	Target	Result	Target	Result	Target	Result	Target	Result	Target	Target
Workers assisted per 1,000 case hours in complaint cases					Baseline	293	296	271	274	277
Percent of prior violators in compliance	74%	71%	72%	72%	73%	76%	77%	66%	67%	68%
Low-wage workers assisted per 1,000 case hours			Baseline	280	--	301	304	418	422	426
Wage determination forms processed per 1,000 hours	Baseline	1,491	1,506	1,667	1,684	1,834	1,852	2,636	2,662	2,689

# ENFORCEMENT OF WAGE AND HOUR STANDARDS

## CHANGES IN FY 2009

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments		3,127
Personnel benefits		546
Employee health benefits		218
Moving allowance		2
One day less of Pay		-448
Federal Employees Compensation Act (FECA)		-107
GSA Space Rental		180
Working Capital Fund		2,136
<b>Built Ins Subtotal</b>		<b>5,654</b>

<b>Net Program</b>		<b>11,780</b>
<b>Direct FTE</b>		<b>75</b>
	<b>Estimate</b>	<b>FTE</b>
<b>Base</b>	<b>181,312</b>	<b>1,208</b>
<b>Program Increase<sup>1/</sup></b>	<b>11,780</b>	<b>75</b>

<sup>1/</sup> Included in the \$11,780,000 is \$6,707,000 to restore funds for FY 2008 program increases and other inflationary costs that were not provided under the FY 2008 OMNIBUS level.

# FEDERAL CONTRACTOR AND EEO STANDARDS ENFORCEMENT

## *Budget Activity 2: Federal Contractor and EEO Standards Enforcement*

Budget Authority Before the Committee (Dollars in Thousands)						
	FY 2007 Comparable	FY 2008 Enacted	FY 2008 Estimate	Diff. FY 07 Comp/ FY 08 Est	FY 2009 Request	Diff. FY 08 Est /FY 09 Req
<b>Activity Appropriation</b>	82,442	81,001	81,001	-1,441	89,013	8,012
<b>FTE</b>	587	585	585	-2	585	0

NOTE: FY 2007 reflects actual FTE. Authorized FTE for FY 2007 was 625.

### **Introduction**

The Office of Federal Contract Compliance Programs (OFCCP) ensures that employers doing business with the federal government comply with the laws and regulations requiring non-discrimination and operate equal employment opportunity workplaces. OFCCP also ensures that federal contractors meet contractual requirements mandated by Federal Acquisition Regulation (FAR) Part 48, subparts 22.8, 22.13 and 22.14. Specifically, OFCCP administers and enforces Executive Order 11246, which prohibits employment discrimination on the basis of race, religion, color, national origin and sex; Section 503 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, which prohibit employment discrimination against individuals with disabilities; and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, which prohibits employment discrimination against certain protected veterans.

OFCCP's mission of monitoring federal contractors is essential to ensure equal opportunity in the workplace. The program enforces its mandate by detecting and preventing systemic discrimination and by providing relevant and effective compliance assistance programs. Emphasis is placed on a balanced approach of compliance evaluations, complaint investigations, compliance assistance and strong enforcement. OFCCP directly supports the Department of Labor's strategic goal of safe and secure workplaces that foster equal opportunity in employment.

OFCCP continues to build upon its comprehensive compliance assistance program, conducting more than one thousand compliance assistance events in the last three years. Compliance assistance outreach helps employers prevent unlawful discrimination by providing them with the information necessary to effectively monitor their workplaces.

In FY 2007, OFCCP enforcement efforts resulted in a record \$51,680,950 in back pay and annualized salary and benefits for a record 22,251 American workers who had been subjected to unlawful employment discrimination. Of that record enforcement result, 98% was collected in cases of systemic discrimination – those involving a significant number of workers or applicants subjected to discrimination because of an unlawful employment practice or policy. The nearly

## **FEDERAL CONTRACTOR AND EEO STANDARDS ENFORCEMENT**

\$52 million reflects a 78% increase over financial remedies obtained in FY 2001 and marks the third consecutive year that OFCCP has posted record enforcement numbers.

### **Five-Year Budget Activity History**

<b>Fiscal Year</b>	<b>Funding (Dollars in Thousands)</b>	<b>FTE</b>
2004	79,441	749
2005	80,059	691
2006	81,285	670
2007	82,442	625
2008	81,001	585

### **FY 2009**

For FY 2009, OFCCP is requesting \$89,013,000 and 585 FTE, including \$2,000,000 to fund the design of a new case management system, the Federal Contractor Compliance System (FCCS). The resources will allow continued funding of the data integrity team, as part of the Contracts First (C1) project, and enable OFCCP to fill critical managerial and investigatory personnel vacancies to ensure effective enforcement. OFCCP is also requesting \$3.181 million and 0 FTE to restore the significant funding cuts in the Consolidated Appropriations Act, 2008, (P.L 110-161). The restoration of this funding will be used to continue its effective enforcement and compliance assistance activities.

In FY 2009, OFCCP will launch the design phase of FCCS. This new case management system will track statistical data collected through the compliance evaluation process. FCCS will maintain compliance evaluation data, track jurisdictional history and generate statistical reports, all of which are critical for developing effective compliance and enforcement strategies. It will replace the existing OFCCP Information System (OFIS), which was developed more than 20 years ago and is functionally inadequate to meet current program needs. FCCS will achieve:

- **Cost Savings** –The current case management system, OFIS, was developed in the 1980s and requires significant maintenance supported by a team of contractors. It also does not fully meet the needs of the program, resulting in field offices developing scores of spreadsheets and databases to supplement their data needs. FCCS will incorporate current commercial best practices and utilize the latest technology to eliminate manual processing and system delays.
- **Improved Performance** – FCCS will reduce processing delays, system malfunctions, and connectivity issues to better serve OFCCP compliance officers in the field.
- **Risk Mitigation** – FCCS will reduce risks by replacing out-of-date and unstable technology to ensure the continuity of OFCCP business operations.
- **Potential System Features/Functionality** – The development of FCCS will enable OFCCP to incorporate “dashboard” reporting functionality, create electronic case files, and provide data-mining capabilities for in-depth analysis.

## **FEDERAL CONTRACTOR AND EEO STANDARDS ENFORCEMENT**

Additional information on the FCCS can be obtained by visiting the corresponding Exhibit 300 at: <http://www.dol.gov/dol/budget/2009/PDF/E300-2009-008.pdf> .

The Contracts First (C1) project and data integrity team based in the National Office determines the jurisdictional status of compliance evaluation candidates and generates significant portions of OFCCP's selection lists. Because jurisdictional research is completed in the National Office, compliance officers in the field can focus their time on conducting compliance evaluations. The data integrity team will continue to provide improved selection lists in FY 2009, allowing OFCCP to operate more efficiently while supplementing enforcement efforts.

### **Program Assessment Rating Tool (PART)**

In 2004, a PART reassessment rated OFCCP *Adequate*. OFCCP improved its rating based on new measures tracking the incidence of discrimination and levels of compliance and its overall performance.

OFCCP has continued to implement PART improvement plan recommendations, which include setting more ambitious targets, reviewing program regulations and requirements to identify areas for improvement, and continuing to evaluate and modernize agency data collection processes. OFCCP revised its targets during last year's Departmental strategic planning process in order to reflect the agency's record of consistently exceeding performance targets.

Details of this PART review may be found by visiting:

<http://www.whitehouse.gov/omb/expectmore/summary/10000332.2004.html>

### **Efficiency Measure**

OFCCP strives to utilize its limited resources most efficiently for the benefit of American workers and to follow the direction of the President's Management Agenda (PMA) by: (1) eliminating inefficient processes; (2) maximizing compliance in the contractor community by pursuing cases most likely to result in a finding of systemic discrimination; and (3) generating selection lists based on contract coverage, thereby reducing the time compliance officers spend establishing jurisdiction. Compliance officer enforcement data and hours for this measure are obtained from the OFCCP Information System.

OFCCP measures its efficiency by the number of FTE compliance officers per systemic discrimination case resolved. The number of FTE compliance officers is calculated by dividing the number of FTE hours devoted to all compliance-related activities during the fiscal year by 2,087 (yearly compliance-related hours per FTE compliance officer). OFCCP considers a systemic discrimination case resolved when settlement has been reached, or in limited circumstances, when the Office of the Solicitor agrees that OFCCP has met the high standard of proof that systemic discrimination exists and warrants enforcement litigation.



**FEDERAL CONTRACTOR AND EEO STANDARDS  
ENFORCEMENT**

WORKLOAD SUMMARY			
	FY 2007 Actual	FY 2008 Target	FY 2009 Target
Federal Contractor and EEO Standards Enforcement			
Reduce the Rate of Discrimination	2%	2%	1.50%
Increase the Rate of Compliance	86%	86%	90%
Total Compliance Evaluations Conducted	8,000	9,000	9,270
Total Complaints Investigated/Resolved	280	280	280
Total Complaint Case Inventory	100	100	100
Total Compliance Assistance Activity Hours	100,000	120,000	123,600
Compliance Assistance Events	500	600	620
Workers Establishments Evaluated (in thousands)	2,660	3,000	3,200
Total Compliance Actions	2,400	2,700	2,400
Budget Activity Total	\$80,071	\$81,001	\$89,013

## FEDERAL CONTRACTOR AND EEO STANDARDS ENFORCEMENT

<b>PERFORMANCE GOAL AND INDICATORS</b>										
<b>Performance Goal 3D: Federal contractors achieve equal opportunity workplaces</b>										
Performance Indicator										
Reducing the rate of discrimination among audited Federal Contractors	9%	1%	7%	2%	6%	2%	2%	1%	1%	1%
Increasing the rate of compliance for all other EEO requirements	61%	91%	62%	86%	64%	87%	86%	88%	89%	90%

# FEDERAL CONTRACTOR AND EEO STANDARDS ENFORCEMENT

## CHANGES IN FY 2009

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments		1,582
Personnel benefits		287
Employee health benefits		94
Moving allowance		1
One day less of Pay		-226
Federal Employees Compensation Act (FECA)		-1
GSA Space Rental		116
Working Capital Fund		978

<b>Built Ins Subtotal</b>		<b>2,830</b>
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<b>Net Program</b>		<b>5,181</b>
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<b>Direct FTE</b>		<b>0</b>
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	<b>Estimate</b>	<b>FTE</b>
--	-----------------	------------

<b>Base</b>	<b>83,831</b>	<b>585</b>
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<b>Program Increase<sup>1/</sup></b>	<b>5,181</b>	<b>0</b>
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<sup>1/</sup> Included in the \$5,181,000 is \$3,181,000 and 0 FTE to restore funds for inflationary costs that were not provided under the FY 2008 OMNIBUS level.

## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

### *Budget Activity 3: Federal Programs for Workers' Compensation*

Budget Authority Before the Committee (Dollars in Thousands)						
	FY 2007 Comparable	FY 2008 Enacted	FY 2008 Estimate	Diff. FY 07 Comp/ FY 08 Est	FY 2009 Request	Diff. FY 08 Est /FY 09 Req
<b>Activity Appropriation</b>	136,102	134,473	134,473	-1,629	142,125	7,652
<b>FTE</b>	1,044	1,026	1,026	-18	1,050	24

NOTE: FY 2007 reflects actual FTE. Authorized FTE for FY 2007 was 1,050.

### **Introduction**

The Office of Workers' Compensation Programs (OWCP) is composed of four disability programs providing wage replacement, medical treatment, and vocational rehabilitation benefits:

- The Federal Employees' Compensation Act (FECA) program provides monetary wage-loss and medical compensation to civilian employees of the Federal Government injured at work, and to certain other designated groups.
- The Longshore and Harbor Workers' Compensation Act program provides similar benefits to injured private sector workers engaged in certain maritime and related employment.
- The Black Lung Benefits program provides monetary and medical benefits to totally disabled miners suffering from coal mine pneumoconiosis stemming from mine employment, and monetary benefits to their dependent survivors.
- OWCP also administers the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) under a separate appropriation.

OWCP's national office includes the OWCP Director and the directors of each of the four program divisions. In addition, strategic planning, performance monitoring, and budget formulation and execution processes are integrated in the Division of Planning, Policy and Standards. Six OWCP Regional Directors manage and direct the operations of district and field offices nationwide.

OWCP supports achievement of Department of Labor (DOL) performance goal 4B, "*Reduce the impact of work-related injuries.*" Achievement of this goal is measured using several key indicators: Disability management success in FECA is measured as reductions in lost production days (LPD) rates; communications goals seek to improve customer access to program information and raise service responsiveness and quality levels; effective mediation of disputes is measured in the Longshore program; financial integrity of the FECA Compensation Fund is the objective of Periodic Roll Management (PRM) reviews and medical benefit cost control; claims processing efficiency is the focus of the Black Lung program goal. Energy Compensation's goals focus on processing initial claims, making timely final decisions for benefits, and determining impairment and additional wage loss.

## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

Major workload activities in OWCP include: claims adjudication, benefit payment, disability case management, medical bill processing, information services delivery, benefit fund management, and technical assistance to employers to ensure proper compliance with OWCP procedures and requirements including insurance/self-insurance and payment of benefits.

OWCP and the Occupational Safety and Health Administration (OSHA) continue to spearhead the Safety, Health and Return-to-Employment (SHARE) initiative directing government agencies to reduce Federal injury rates, increase the timeliness of processing FECA injury reports, and reduce average injury time loss.

OWCP has also seen an increase in Defense Base Act (DBA) and War Hazards Compensation Act (WHCA) claims in connection to the war in Iraq and Afghanistan. OWCP is making workload adjustments to address the volume and unique demands of this claims workload and is requesting additional funding in FY 2009 specifically to support the processing of DBA claims.

This Budget includes a proposal for legislative reform of the FECA. The goals of the reform are to improve FECA program management and strengthen program integrity, make the Act more equitable and easier to administer, and ensure that the program does not inadvertently undercut incentives for injured employees to return to work. Specifically, the reform proposes to:

- Convert compensation for new injuries or new claims for disability to a typical retirement benefit at the Social Security retirement age;
- Move the 3-day waiting period during which an injured worker is not entitled to compensation to the point immediately after an injury for all non-Postal workers (P.L. 109-435 implemented this provision for the Postal Service);
- Change the way that schedule awards are paid to allow uniform lump sum payments to Federal employees eligible for such awards;
- Eliminate augmented compensation for dependents but raise the basic benefit level for all claimants;
- Allow OWCP to recover the costs of continuation of pay (COP), a large annual expenditure for Federal agencies, from responsible third parties;
- Increase benefit levels for funeral expenses;
- Increase benefit levels for disfigurement resulting from work injury; and
- Identify unreported work earnings and receipt of Federal Employees Retirement System (FERS) retirement benefits through regular database matching with the Social Security Administration.

Estimated savings to the Government over 10 years (FY 2009 – 2018) through the enactment of these proposals would be \$337,000,000.

## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

The Budget also includes proposed legislation to restructure the Black Lung Disability Trust Fund (BLDTF) debt. The proposal comprises three principal, inseparable provisions:

- Restructuring of the debt at currently lower Treasury interest rates.
- Extension of the current Trust Fund excise tax rates that are set to expire December 31, 2013, until the year following debt retirement.
- A one-time intergovernmental transfer to the Trust Fund to cover the loss to the Treasury as a result of the restructuring.

### Five-Year Budget Activity History

<b>Fiscal Year</b>	<b>Funding (Dollars in Thousands)</b>	<b>FTE</b>
2004	130,394	1,160
2005	131,574	1,119
2006	133,815	1,110
2007	136,102	1,050
2008	134,473	1,026

### FY 2009

Total administrative resources for all OWCP programs at the FY 2009 Request Level are \$308,153,000 and 1,792 FTE. Total compensation and medical benefit obligations are projected at \$4,281,817,000. Funding for OWCP Salaries and Expenses (S&E) is \$142,125,000 and 1,050 FTE for the Federal Employees' Compensation, Longshore and Harbor Workers' Compensation, and Black Lung Part C Benefits program. These funding levels include a program increase of \$500,000 for Defense Base Act claims processing.

The Defense Base Act workload resulting from the war in Iraq and Afghanistan has increased and a backlog of cases to be reviewed and resolved by Longshore has begun to build. To address these workload demands, the Office of Workers' Compensation Programs requests a funding increase of \$500,000 in DLHWC for DBA claims examining, program analysis, and program coordination.

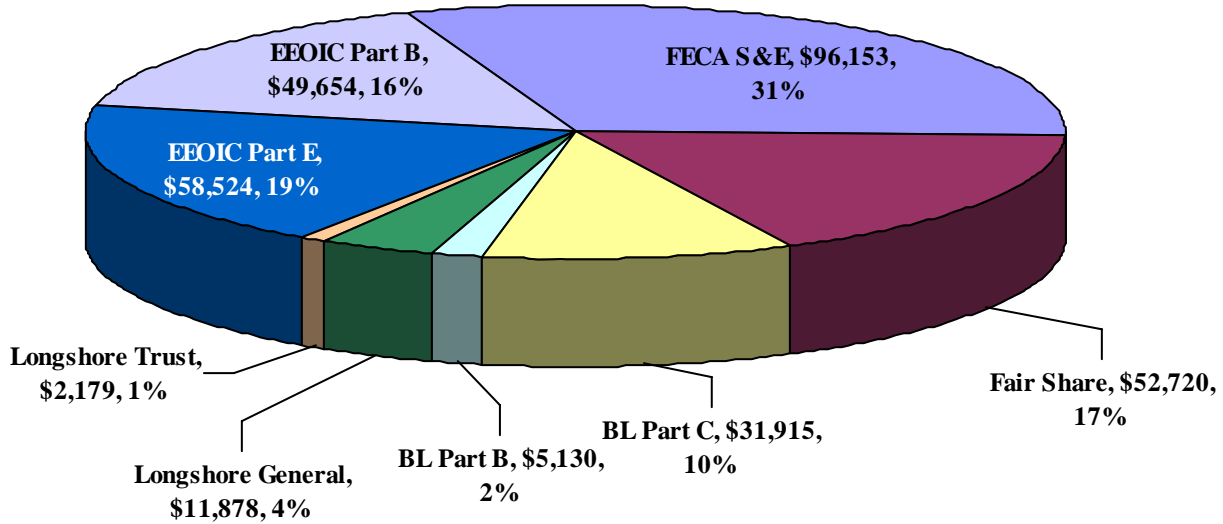
Other funding included in the total for OWCP administration in FY 2009 includes: 127 FTE and \$52,720,000 financed from the FECA Special Benefits account using "Fair Share" funds for periodic roll management and capital improvements and 17 FTE and \$5,130,000 from the Special Benefits for Disabled Coal Mine Workers account for administration of Part B of the Black Lung Benefits Act.

Administrative funding for the Energy Program will be a total \$108,178,000 and 598 FTE, including \$49,654,000 for Part B and \$58,524,000 for Part E of the EEOICPA. The EEOICPA request also includes a joint proposal from DOL and HHS that the HHS/NIOSH funding be removed from the DOL appropriation and appropriated directly to the HHS account. A direct appropriation of funds to HHS/NIOSH will provide for efficient and effective financial and performance management and improved fiscal reporting and accountability.

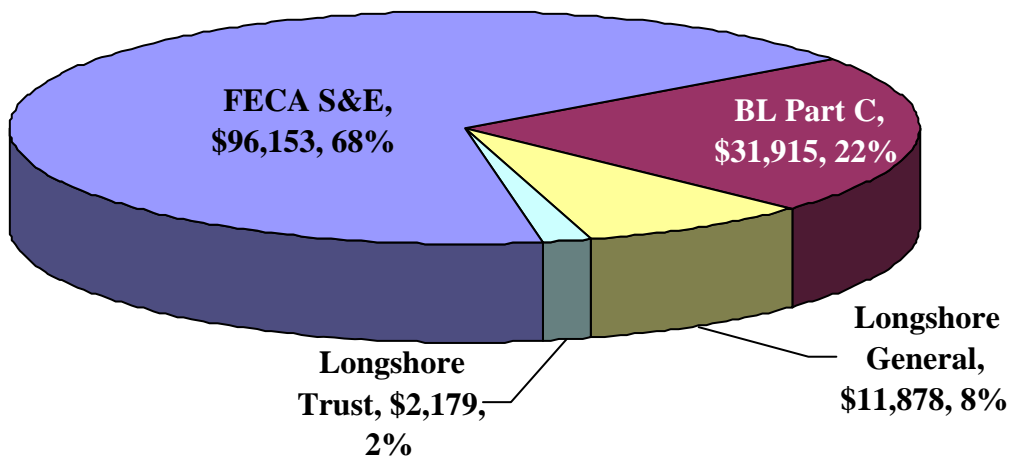
# FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

## Cost Model

**FY 2009 Budget Resources by  
Federal Programs for Workers' Compensation  
Total OWCP Administrative Budget Resources \$308,153  
(Dollars in Thousands)**



**FY 2009 Budget Request by  
Federal Programs for Workers' Compensation  
OWCP Funds Total Request \$142,125  
(Dollars in Thousands)**



## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

### Efficiency Measures

OWCP currently tracks eight efficiency measures and is proposing one new measure associated with the FY 2009 budget proposal for processing Defense Base Act (DBA) claims. Additional information can be found in the individual OWCP budget activity sections.

Program	Efficiency Measure	FY 2009 Target
FECA	Periodic Roll Management savings	\$12 million
FECA	Average Medical Costs	Remain below the Milliman USA index
Longshore	Claims managed per FTE	414 cases
Longshore	DBA claims meeting standards	TBD
Black Lung Benefits	Average number of days to render a decision on a claim for Black Lung benefits.	218
Black Lung Benefits	Average Medical Costs	Annual percent change in costs is less than the National Health Expenditure Index
EEOICPA	Decisions per FTE	191 decisions



## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

PERFORMANCE GOALS AND INDICATORS										
Performance Goal 4B: Reduce the consequences of work-related injuries										
Performance Indicator	2004		2005		2006		2007		2008	2009
	Goal Substantially Achieved		Goal Substantially Achieved		Goal Achieved		Goal Substantially Achieved			
	Target	Result	Target	Result	Target	Result	Target	Result	Target	Target
Lost Production days per 100 employees for all other government agencies	55.4	61.9	61	56.1	60	52.2	49	46.3*	48.5	48
Lost Production days per 100 employees for United States Postal Services	146	147	148	135	146	142.5	129.8	135.2*	142	139
Periodic Roll Management savings	\$18 million	\$24.4 million	\$17 million	\$23.2 million	\$13 million	\$16.1 million	\$8 million	\$17.1 million	\$14 million	\$12 Million
Change in Average FECA Medical Treatment Costs	8.8%	2.4%	8.8%	2.8%	8.7%	6.3%	8.3%	8.1%	Remain Below Milliman USA Health Cost Index	
Meet Communications Goals	3 of 5	4 of 5	3 of 5	3 of 5	4 of 5	4 of 5	4 of 6	4 of 6	5 of 6	5 of 6
Average Days to resolve Longshore disputed cases	275	247	245	253	250	235	248	230	Baseline**	-1%
Longshore claimants completing rehabilitation	--	--	--	--	50.2%	51.4%	50.7%	56.5%	51.2%	51.7%
Average number of days to process Black Lung claims	--	--	--	--	--	--	247	224	220	218
Change in Average Black Lung Medical Treatment Costs	--	--	--	--	--	--	Set Baseline	\$3,281 <sup>†</sup>	+6.1%	+6.4%
Average days to process Energy Program Part B initial claims	--	--	--	--	--	--	Set Baseline	238	226	221
Average days to process Energy Program Part E initial claims							Set Baseline	293	290	272
Percent of Part B and Part E final decisions processed within 180 days where there is a hearing and within 75	77%	98.5%	80%	95%	80%	89%	85%	87.5%	87%	88%

## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

PERFORMANCE GOALS AND INDICATORS										
Performance Goal 4B: Reduce the consequences of work-related injuries										
Performance Indicator	2004		2005		2006		2007		2008	2009
	Goal Substantially Achieved		Goal Substantially Achieved		Goal Achieved		Goal Substantially Achieved			
	Target	Result	Target	Result	Target	Result	Target	Result	Target	Target
days where there is no hearing										

\* FY 2007 results reflect an adjusted method for calculating LPD to more accurately capture intermittent periods of compensation

\*\*Establishing new baseline to reflect increased workload and complex disputes resulting from Defense Base Act cases.

†Baseline year is presented in dollars and will determine rate of change between FY 2007-2008

# FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

## CHANGES IN FY 2009

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments		2,656
Personnel benefits		434
Employee health benefits		162
One day less of Pay		-363
Federal Employees Compensation Act (FECA)		-162
GSA Space Rental		203
Working Capital Fund		1,036
<b>Built Ins Subtotal</b>		<b>3,966</b>

<b>Net Program</b>		<b>3,686</b>
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Direct FTE		-1
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	<b>Estimate</b>	<b>FTE</b>
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Base	138,439	1,026
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Program Increase <sup>1/</sup>	4,981	5
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Program Decrease	-1,295	-6
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<sup>1/</sup> Included in the \$4,981,000 is \$4,481,000 and 25 FTE to restore funds for inflationary costs that were not provided under the FY 2008 OMNIBUS level.

## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

### *Budget Activity #3A: Division of Federal Employees' Compensation*

Budget Authority Before the Committee (Dollars in Thousands)						
				Diff. FY 07 Comp/ FY 08 Est		Diff. FY 08 Est/FY 09 Req
	FY 2007 Comparable	FY 2008 Enacted	FY 2008 Estimate		FY 2009 Request	
<b>Activity Appropriation</b>	90,137	89,449	89,449	-688	96,153	6,704
<b>FTE</b>	768	745	745	-23	768	23

NOTE: FY 2007 reflects actual FTE. Authorized FTE for FY 2007 was 760.

### **Introduction**

The Division of Federal Employees' Compensation (DFEC) directs Federal Employees' Compensation Act (FECA) claims processing operations in 6 regions and 12 district offices. FECA is the exclusive remedy by which Federal employees may obtain compensation from the United States for work-related injury. The Act covers over 2,700,000 civilian Federal employees in more than 70 different agencies, providing benefits to those who sustain an injury or illness in the performance of duty anywhere in the world. Benefits include wage replacement payments and payments for all reasonable and necessary medical treatment as well as training and job placement assistance to help workers return to gainful employment. Injured workers may also be compensated for permanent impairment of limbs and other parts of the body. Survivors are compensated in the event of work-related death.

Approximately 134,000 new injury claims and 19,000 claims for wage loss compensation were filed with the DFEC in FY 2007. Just over 80% of the new injury claims were for traumatic injuries such as those caused by slips and falls. The remainder involved more complex situations in which a medical condition arose due to long-term exposure or exertion. Benefit obligations totaled \$2,563,000,000 in FY 2007 including \$1,820,000,000 in wage-loss compensation and death benefits and \$743,000,000 in medical benefits to over 250,000 beneficiaries.

Mission-critical activities funded out of the S&E account include claims adjudication and payment of benefits; disability case management, nurse intervention and vocational rehabilitation; customer services, communications, and information assistance; technical assistance to Federal agencies; and Compensation Fund management and risk mitigation. Fair Share financing from the Special Benefit Fund account provides for operations and maintenance of the Integrated Federal Employees' Compensation System (iFECS); operation of centralized mail intake and centralized medical bill processing; maintenance of DFEC's telecommunications system; and Periodic Roll Management (PRM) and Medical Bill Review. These investments are aimed at improving services and better managing the expenditure of compensation funds.

## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

DFEC has traditionally carried out its mission through the efficient, timely, and accurate provision of payments to replace lost income and to cover medical and vocational rehabilitation services. DFEC's approach has since evolved in recognition that the full impact of injuries on workers extends beyond maintenance of income and coverage for medical bills. DFEC's larger benefit delivery mission now extends to disability management (DM) to improve the likelihood of the individual's recovery and return to duty. The keystone DM strategy is FECA's Quality Case Management (QCM), a proactive program of using nurses to coordinate with providers to obtain appropriate medical treatment for newly injured workers and work with employers to facilitate a safe return to work. Early disability management outcomes are expressed as reductions in lost production days and increases in returns-to-work.

Major outcomes of DFEC initiatives can be measured in financial terms since these outcomes reflect the efficiency and quality of benefit payment activities, the impact of case management and services on benefits, and the investment of administrative resources to produce those outcomes. DFEC's emphasis on better injury outcomes produces savings in benefit costs and advances its fiduciary responsibility to Federal employers (who are billed for the cost of their employees' benefits) and taxpayers. For example, the reduction since FY 1996 of an average 47 days lost from work in QCM cases produced an estimated \$54,000,000 in compensation savings for the cases measured in FY 2007 alone. This reduction also served to improve the quality of life of the injured workers involved and the productivity of the Federal government.

Historically, DFEC has struggled with effectively responding to the hundreds of thousands of telephone calls and information requests generated by claimants, Federal employers, and medical providers each year. DFEC has reorganized its telephone handling and customer service operation and developed a communications performance goal focused on increasing customer access to information sources, improving responsiveness to callers, and raising the level of call handling quality and information accuracy. Since FY 2003, results have included more than doubling of customers obtaining information from, or submitting documentation through, OWCP automated systems. Average caller wait times have been reduced by 40%. Turnaround time to caller inquiries has been reduced by more than 10%; effectiveness has improved by 30%; and 96% of calls meet program standards of quality.

As new claims, maintenance, disability management, customer service and case maintenance workloads exert continual pressure on resources, DFEC will continue to seek new approaches, which may include centralization and workload shifts to better manage its core activities. The program also seeks to provide better training for staff, employ alternative staff development techniques, and better match staff skills to workloads to improve program effectiveness and work quality.

Technology systems will be used to optimize claims workload distribution, support results analysis and management of resources, maintain fiscal integrity, and provide better services to customers. As the newly implemented iFECS system is fully employed, DFEC will be able to explore business process improvements, such as expansion of Electronic Data Interchange (EDI) claims processing and more robust interface and information exchange with employing agency data systems. Additional information on iFECS can be obtained by visiting the corresponding Exhibit 300 at: <http://www.dol.gov/dol/budget/2009/PDF/E300-2009-011.pdf>

## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

By FY 2009, DFEC anticipates additional workloads due to an increase in Defense Base Act (DBA) and War Hazards Compensation Act (WHCA) claims in connection with the war in Iraq and Afghanistan. The WHCA supplements the DBA by reimbursing contract employers and insurance carriers for compensation and medical benefits paid by them for injuries or deaths involving a "war risk hazard", or by making direct payments to individuals when detention, injury or death occurs as a result of a "war risk hazard". Claims from Iraq and Afghanistan are more complex than typical claims for compensation. DFEC, which administers the WHCA claims, anticipates additional workloads for adjudication, data analysis, reporting, customer assistance and correspondence associated with these claims.

### **Five-Year Budget Activity Component History**

<b>Fiscal Year</b>	<b>Funding (Dollars in Thousands)</b>	<b>FTE</b>
2004	86,260	839
2005	86,819	801
2006	88,446	801
2007	90,137	760
2008	89,449	745

### **FY 2009**

Total administrative funding for the FECA program at this level is \$148,873,000 and 895 FTE. Of that amount, \$96,153,000 and 768 FTE are in the S&E account and \$52,720,000 and 127 FTE are included in Special Benefits Fair Share funding.

The major emphasis in FY 2009 will be a continuation of effective strategies to manage cases and assist with injury recovery and return to work. In recent years, FECA has achieved impressive gains in reducing lost production days (LPD) in Quality Case Management cases (QCM). In QCM, the use of field nurses to coordinate medical care and provide reemployment assistance has been key to achieving LPD and return-to-work goals.

These strategies also support the Administration's Safety, Health and Return-to-Employment (SHARE) initiative that has established LPD targets for all Non-Postal Federal agencies. In FY 2007, those agencies averaged 46.3 lost days per 100 employees versus a goal of 49 lost days. Achievement of this difficult goal demonstrates that SHARE is focusing the agencies on the long-term changes needed to improve their disability case management programs.

Significant challenges remain especially with achieving additional and earlier case resolution and return-to-work outcomes by improving case intervention and strengthening FECA's working relationship with the employer community in the continuation-of-pay period. Regulations limit FECA's direct jurisdiction over new cases in the first 45 days of traumatic injury cases. Therefore, it lacks early direct contact, can obtain only limited case information, and is also limited in obtaining from the Federal employers knowledge of workplace conditions, specific job duties, and alternative employment opportunities for reemploying those injured workers.

## **FEDERAL PROGRAMS FOR WORKERS' COMPENSATION**

A recent independent study of FECA's Continuation-of-Pay (COP) Nurse Program has produced a number of recommendations for strengthening Disability Management (DM) in the earliest period of disability. Through FY 2009, FECA expects to be implementing or piloting a number of process changes and new "best practice" case intervention strategies. Although program resources remain limited, the program also will seek to strengthen the performance of the Federal agencies in injury case management and return-to-work by providing additional outreach, assistance and training.

Strengthened DM will produce even earlier recoveries from injury, larger numbers of returns-to-work, a further reduction in average lost production days, and more timely submission claims to FECA from Federal employers. Expanded assistance and training to greater numbers of Federal agencies will enable them to contribute more effectively to case outcomes in the COP period. Expanded assistance from FECA should also strengthen agency partnerships with the FECA program and improve the overall administrative cost efficiency of agency workers' compensation programs.

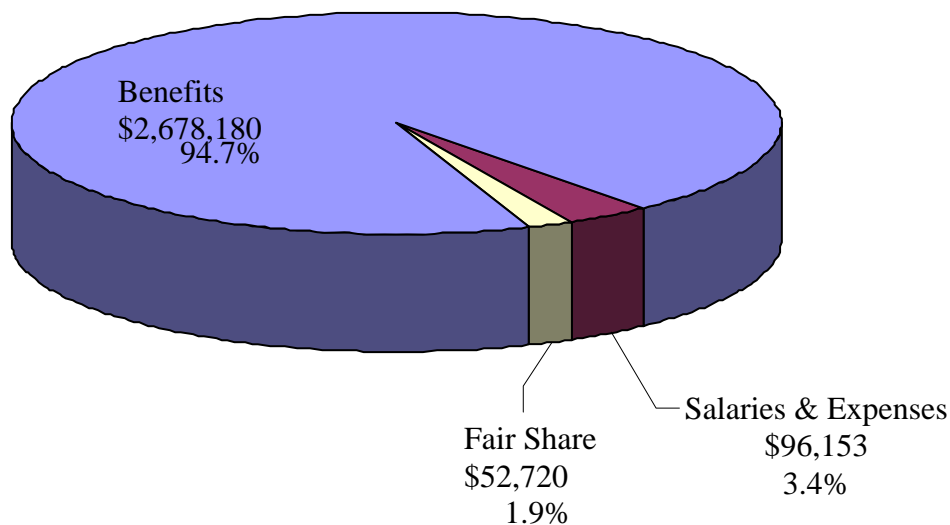
Disability costs for FECA cases within the first year from date of injury are estimated to exceed \$400,000,000 annually, including COP salary costs of over \$76,000,000. Early disability management would impact the costs incurred during that timeframe and would return significant return on resource investment. Reduced disability days could lower Federal agency COP salary costs. Fewer cases will move to FECA wage-loss or those that do proceed to FECA will be in a better posture for earlier resolution under Quality Case Management. Reductions in FECA compensation benefit costs would reduce outlays from the Special Benefits Fund and be reflected in reduced agency FECA Chargeback bills.

# FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

## Cost Model

The total DFEC administrative funding request is \$148,873,000, consisting of \$96,153,000 in S&E and \$52,720,000 in Fair Share funding. In addition, FECA benefit obligations in FY 2009 are estimated at \$2,678,180,000 (this amount assumes Congressional passage of FECA reform legislation effective in FY 2009).

**FY 2009 Budget Request by FECA**  
**FECA Budget Request \$2,827,053**  
(Dollars in Thousands)



## Program Assessment Rating Tool (PART)

In FY 2004, the FECA program was rated “Moderately Effective”. DFEC continues to pursue reforms to FECA to update the benefit structure, allow for the adoption of State best practices, and convert benefits for retirement-age individuals to a typical retirement level; DFEC is evaluating its early nurse intervention program in the continuation-of-pay period and coordination of disability case management with Federal employers; with recent implementation of its new electronic case management system, DFEC is pursuing a review of business processes to identify improvements that will be sustainable and will result in increased efficiency.

Details of this PART review can be seen at:

<http://www.whitehouse.gov/omb/expectmore/summary/10000334.2003.html>



# FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

## Efficiency Measures

The measures and strategies related to performance include:

FECA Periodic Roll Management savings: Directed review of cases under FECA's PRM activity provides efficient oversight of long-term disability roll cases that identifies a lessening or resolution of disability condition that could signal a potential for the injured worker to return to work. Adjustments or termination of disability payments resulting from these outcomes have produced well over \$1 billion in compensation benefit cost savings since 1999. As the program matures, FECA projects that savings will decrease reflecting the improved monitoring of new and existing cases.

FECA Medical Cost Containment: FECA has taken a series of administrative steps including centralization of bill processing, strengthened review of requests for treatment authorization, application of fee schedules to set payment levels on medical procedures, and a stronger system of automated edits and other controls to ensure accuracy and proper and appropriate payment.

## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

WORKLOAD SUMMARY			
	FY 2007 Actual	FY 2008 Target	FY 2009 Target
Federal Employees' Compensation			
Incoming Workload			
Cases Received	134,436	134,000	134,000
Initial Wage-Loss Claims Received	19,104	19,000	19,000
Hearing Requests	6,556	6,400	6,400
Periodic Roll Cases (Long-term disability and Fatal cases)	51,125	51,000	50,000
Output and Performance Measures			
Quality Case Management Lost Production Days per QCM Case	148 days	153 days	151 days
New Rehabilitations and Nurse-assisted Returns-to-Work	8,686	8,000	8,000
Periodic Roll Management Final Resolutions	3,678	3,000	3,000
Process Traumatic Cases ( % within 45 days)	97.5	90	90
Process Basic Non-Traumatic Cases <sup>1/</sup>			
(% within 90 days)	94	85	85
Process Extended Non-Traumatic Cases <sup>2/</sup>			
(% within 180 days)	83.3	73	73
(% within 365 days)	99.3	95	95
<b>Budget Activity Total</b>	<b>\$90,096</b>	<b>\$89,449</b>	<b>\$96,153</b>

1/ Basic Non-traumatic cases include less complicated occupation illnesses such as musculoskeletal and respiratory conditions.

2/ Extended Non-traumatic cases include more complicated occupational diseases such as psychosis, hearing loss and cardiac conditions.

## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

### *Budget Activity #3B: Division of Longshore and Harbor Workers' Compensation*

Budget Authority Before the Committee (Dollars in Thousands)						
	FY 2007 Comparable	FY 2008 Enacted	FY 2008 Estimate	Diff. FY 07 Comp/ FY 08 Est	FY 2009 Request	Diff. FY 08 Est/FY 09 Req
<b>Activity Appropriation</b>	12,794	12,659	12,659	-135	14,057	1,398
<b>FTE</b>	94	97	97	3	104	7

NOTE: FY 2007 reflects actual FTE. Authorized FTE for FY 2007 was 99.

### **Introduction**

The Division of Longshore and Harbor Workers' Compensation (DLHWC) implements the Longshore and Harbor Workers' Compensation Act, as amended. Longshore administers a program of income replacement and medical and rehabilitation benefits for individuals who are injured during the course of covered maritime employment or who suffer an occupational disease arising from such employment. Longshore's core mission activities are to provide mediation, adjudicate claims, resolve disputes, oversee benefit delivery by covered employers and insurance carriers, provide technical assistance to all stakeholders, and manage the Special Workers' Compensation Fund (SWCF) for which it has fiduciary responsibility. Longshore also administers injury and occupational disease coverage for non-maritime employees under several extensions of the Act. These include the Defense Base Act (DBA), Outer Continental Shelf Lands Act (OCSLA), Non-appropriated Fund Instrumentalities Act (NFIA), and the District of Columbia Workmen's Compensation Act (DCWCA) for injuries sustained prior to July 26, 1982. All program FTE and resources support mission critical functions, which in turn support the Department of Labor's (DOL) Performance Goal 4B: "Reduce the consequences of work-related injuries."

The Division currently receives on average 30,000 new lost time injury claims per year and collects assessments for the Special Fund, which provides benefits directly to certain classes of individuals (claimants), including bi-weekly recurring benefit payments to over 6,700 beneficiaries. Further, the program annually evaluates and authorizes 560 companies to participate in the fund and maintains over \$2,000,000,000 in securities to ensure the continuing provision of benefits for covered workers in case of employer/carrier insolvency. Program operations are funded from the General Fund. Management of the SWCF is supported by an appropriation from the Fund that is referred to as "Longshore Trust Funds."

## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

### Five-Year Budget Activity History

Fiscal Year	Longshore General		Longshore Trust	
	Funding (Dollars in Thousands)	FTE	Funding (Dollars in Thousands)	FTE
2004	10,490	96	2,016	11
2005	10,511	93	2,012	11
2006	10,682	93	2,028	11
2007	10,752	90	2,042	9
2008	10,637	89	2,022	8

### FY 2009

A total funding amount of \$14,057,000 and 104 FTE is requested in FY 2009 for the Division of Longshore and Harbor Workers' Compensation (DLHWC). With these resources the Longshore program would be able to process Defense Base Act (DBA) claims in a timely manner and to standards and basic program activities, including vocational rehabilitation, would continue unaffected and dispute resolution would be achieved in a timely manner. Rehabilitation would be performed to its current standard.

DBA injury and death cases in connection with the war in Iraq and Afghanistan have increased from 347 cases in FY 2002 to 15,141 cases in FY 2007, and a backlog of cases to be reviewed and resolved by Longshore has begun to build. To address these workload demands, the Office of Workers' Compensation Programs requests a funding increase of \$500,000 and 5 FTE in DLHWC for DBA claims examining, program analysis, and program coordination.

A major focus for Longshore is reducing the average amount of time it takes for a disputed claim to be reviewed and adjudicated, including the time at the Office of Administrative Law Judges (OALJ). Speedier resolutions reduce the cost of claims processing for both the employer and the injured worker. Reaching informal resolutions is a key to achieving this goal. Formal hearing procedures usually add two hundred or more days to the dispute resolution process. The program strives to persuade opposing parties to work together by delivering timely and effective dispute resolution services, and influencing the culture of the claims community to take a more proactive approach to dispute resolution. When informal compromise is not reached, Longshore works to refer claims to the OALJ for formal hearing procedures as soon as possible to preserve the parties' rights and keep the overall resolution time to a minimum number of days.

In FY 2007, Longshore received 33,395 lost time injuries reports and reduced the average time to resolve disputed issues in contested cases to 230 days. This significant improvement over the FY 2006 result of 235 days was largely due to the excellent work of the district offices, which resolved 62% of disputes without referral to the OALJ.

Longshore conducts a compliance assistance program for covered employers and insurers to establish proper coverage and regulatory compliance. The Longshore national office and district offices hold DBA seminars and workshops for industry groups at least annually. Longshore also regularly provides technical assistance to the maritime industry union members and officials and

## **FEDERAL PROGRAMS FOR WORKERS' COMPENSATION**

maritime workers. The Longshore program staff assists covered workers and their dependents with processing claims and required reports and information, screening, and referrals for medical and vocational rehabilitation services.

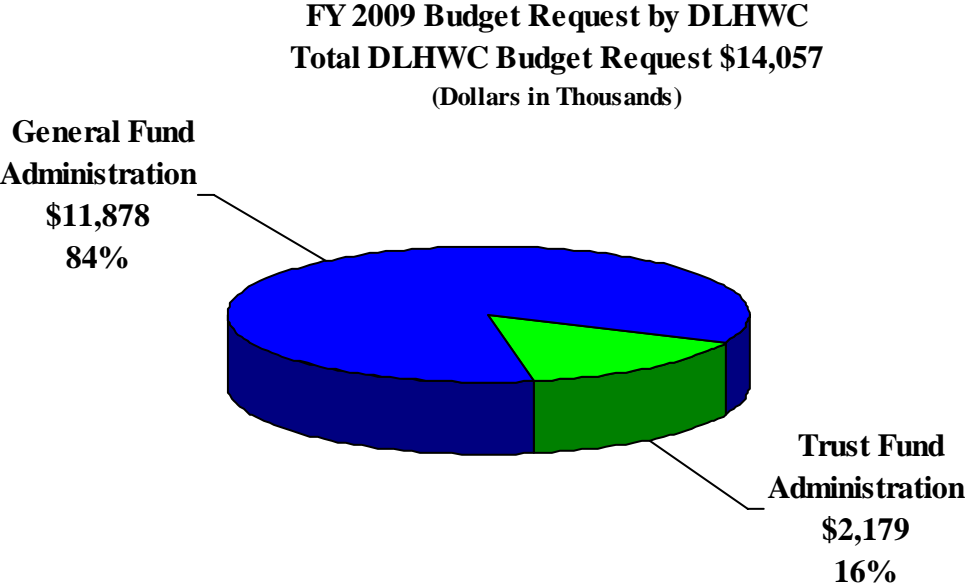
To support the DOL strategic goal of reducing the consequences of work-related injuries, Longshore is pursuing strategies designed to improve service delivery and customer satisfaction with program administration and decision-making. It has elected to measure the success of these strategies in a variety of ways, some focusing on service delivery and others on effective and efficient program administration. In addition, a pilot project is underway to improve the return to work outcome of the vocational rehabilitation program.

Other strategies include an active outreach effort to educate and inform customers about available services, an evolving internet presence, better oversight and direction of vocational rehabilitation service providers, a progressive human capital resources plan that includes staff training, recruitment strategies, succession planning, and improved use of mediation skills and other communication tools to help resolve contested cases.

# FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

## Cost Model

The programmatic administrative funding request is \$11,878,000 for Longshore General Funds and \$2,179,000 for the Longshore Trust Fund. The spread of requested funds across cost components is displayed in the chart below:



# FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

## **Program Assessment Rating Tool (PART)**

In FY 2005, the Longshore program was rated "Adequate". Longshore is currently reviewing two separate industry-proposed legislative packages, one dealing with exclusions for recreational boat builders, and a general reform proposal that addresses numerous parts of the statute; Longshore continues to evaluate the recommendations outlined in the study to gauge the program's effectiveness and efficiency; consolidation of all Special Fund automated systems has been initiated, which will enhance management controls, accuracy, and security. It will also improve efficiency, enhance maintenance controls, and streamline change control management.

Details of this PART review can be seen at:

<http://www.whitehouse.gov/omb/expectmore/detail/10003904.2005.html>

## **Efficiency Measures**

The Longshore Program has an established efficiency measure: *Claims managed per FTE* as measured by the total number of claims managed divided by the number of FTE used for the fiscal year. This measure starts with an FY 2004 baseline ratio of 353 claims and has an FY 2009 target of 414 claims. Several key strategies will promote increased efficiency for this measure. Longshore continues to seek input from stakeholders on improving dispute resolution and case management; improve, streamline and better manage district office dispute resolution processes and tracking; use outreach to develop a relationship with the customer community based on confidence and trust; use outreach and technical assistance to institutionalize accelerated submissions of injury reports, required filings from employers/carriers in compliance with statutory requirements and evidence that will reduce the time it takes to resolve disputes; and use seminars, claims manager roundtable meetings, and personal meetings with contracting agency officers to discuss any issues or suggestions on DBA Claims.

The Longshore Program has a proposed efficiency measure: *Defense Base Act Claims Processing* as measured by the number of DBA claims that meet operational performance standards divided by the total number of DBA claims processed. This measure's baseline would be developed in FY 2009; therefore targets have not been established.

## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

WORKLOAD SUMMARY			
	FY 2007 Actual	FY 2008 Target	FY 2009 Target
Workload A – Number of Claimants	47,928	50,243	52,081
Workload B – Lost Time Injuries Reported	33,395	33,728	34,731
Workload C – Cases Being Compensated	14,533	16,515	17,350
Workload D – Dispute Resolution (Average time required to resolve disputed issues in contested cases)	230 days	Rebaseline	-1%
Budget Activity Total	\$12,756	\$12,659	\$14,057



## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

### *Budget Activity #3C: Division of Coal Mine Workers' Compensation*

Budget Authority Before the Committee (Dollars in Thousands)						
				Diff. FY 07 Comp/ FY 08 Est		Diff. FY 08 Est/FY 09 Req
	FY 2007 Comparable	FY 2008 Enacted	FY 2008 Estimate		FY 2009 Request	
<b>Activity Appropriation</b>	33,171	32,365	32,365	-806	31,915	-450
<b>FTE</b>	182	184	184	2	178	-6

NOTE: FY 2007 reflects actual FTE. Authorized FTE for FY 2007 was 191.

### **Introduction**

The Division of Coal Mine Workers' Compensation (DCMWC) draws its mandate from the Coal Mine Safety and Health Act of 1969, as amended, and serves coal industry workers who are totally disabled by pneumoconiosis or black lung as a result of their exposure to coal mine dust, and their dependent survivors. The Division's core mission and budget activities are to develop and adjudicate claims and pay benefits. Its claims examiners and supporting staff process benefit applications and decide cases in nine district offices across the country. In addition, staff members monitor benefit payments and medical treatment provided by self-insured coal mine operators or their insurance carriers. The national office supports the Secretary's fiduciary responsibility for the Black Lung Disability Trust Fund (BLDTF) by processing coal mine operator self-insurance requests and making sure that self-insurers post the appropriate amounts to cover potential benefit security liabilities. The Division further supports the Secretary's fiduciary responsibility by working with coal mine operators to encourage voluntary compliance with statutory insurance requirements. Other national office activities include overseeing and managing the program's data and medical bill processing systems and its accounting and debt management functions; coordinating litigation with the Solicitor of Labor (SOL); and providing procedural guidance to field operations.

The Division engages its stakeholders with outreach and educational activities designed to improve the quality of medical evidence submitted with claims for benefits, reinforce the concept of DCMWC as a fair and balanced adjudicator, and foster a better understanding of the claims decisions issued. DCMWC is also aggressively seeking ways to reduce erroneous benefit payments and improve overall program administration.

Historically, the statute divided program administration between the Social Security Administration (Part B) and the Department of Labor (Part C). However, in FY 2002, Congress passed legislation permanently transferring jurisdiction over Part B to the Department of Labor. With the Part B appropriation transferred to the Department on October 1, 2003, all components of program administration were combined resulting in fiscal and operational efficiencies and

## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

improved service delivery. Part B funding and activities are discussed in the Special Benefits for Disabled Coal Mine Workers section of the ESA budget.

### Five-Year Budget Activity Component History

<b>Fiscal Year</b>	<b>Funding (Dollars in Thousands)</b>	<b>FTE</b>
2004	31,628	214
2005	32,232	214
2006	32,659	205
2007	33,171	191
2008	32,365	184

### FY 2009

ESA requests a total of \$31,915,000. This will fund 178 FTE to meet FY 2009 obligations for DCMWC's Salaries and Expenses, a decrease of \$450,000 under the FY 2008 level. This request is a component of the FY 2009 request for the BLDTF which also includes: \$393,000 and 3 FTE for ESA Program Direction and Support (PDS); \$25,375,000 for the administrative costs of the Departmental Management account, the Inspector General, and the Department of Treasury; \$256,317 for benefit payments; and \$758,000,000 for interest charges on the BLDTF debt. To fund all components, \$422,000,000 in borrowing authority will be needed.

This level of funding will enable ESA to: pay monthly compensation and ongoing medical treatment benefits to an estimated 30,900 recipients under Part C; continue to monitor cash and medical treatment benefits disbursed by coal mine operators in the private sector to approximately 4,300 additional recipients under Part C; and, process an estimated 4,700 incoming claims which include 4,250 proposed decisions and orders, and 4,250 schedules for the submission of additional evidence.

Although rigorous Federal regulations and improved dust suppression technology have combined over the years to reduce the incidence of pneumoconiosis, the Division's services remain essential for those who need them. DCMWC strives to serve as a fair and balanced adjudicator that exercises sound case and fiscal management. Its highly trained and experienced professional staff continually seeks to improve the quality of service to their customers. The program has been very successful in meeting management and performance goals through the careful oversight and application of available resources. The program will continue to work toward improving the quality and timeliness of its decisions and service delivery and enhancing its financial management tools and oversight.

In addition to monitoring the average number of days to render a decision on a Black Lung claim, the program is positioned to track medical costs. By shifting to a common medical bill processing platform, which provides additional tools for medical bill oversight and control, the program has established a baseline for its medical cost containment measure. DCMWC identified comparable medical cost measures and will begin reporting in FY 2008 using final cost data at the end of FY 2007 as the baseline.

## **FEDERAL PROGRAMS FOR WORKERS' COMPENSATION**

The Black Lung program has undertaken an effort to improve stakeholders' views of claim decisions as fair, balanced, based on reliable evidence and in accordance with existing law. The credibility of initial eligibility decisions will be increased by using higher-credentialed physicians for diagnostic examinations. These strategies will be combined with educational outreach and technical assistance to both customer and provider communities.

Additional FY 2009 strategies include: 1) continuing outreach efforts with the authorized diagnostic provider community to emphasize the need for complete and accurate medical reports; 2) continuing an active compliance assistance program to increase the proportion of smaller, uninsured coal operators who voluntarily comply with legislative insurance requirements; 3) continuing to refine and improve an evolving web presence and e-Government services; 4) supporting automated solutions that improve data access, provide new controls for reducing erroneous payments, and generate administrative efficiencies and economies of scale; 5) continuing to regularly evaluate service delivery timeliness and quality targets and goals, in accordance with the Program Assessment Rating Tool (PART) recommendations, and making appropriate adjustments in workload and resource distribution; 6) continuing to develop program analysis, cost accounting, financial management, and budget and performance integration tools and methodologies that support the President's Management Agenda (PMA) and satisfying government accountability and reporting requirements; 7) developing additional ways to utilize program data to enhance management and performance; and 8) continuing to pursue a progressive human capital resources plan that includes staff training, recruitment strategies, key staff relocations and succession planning.

These strategies support key program performance indicators which include three productivity and efficiency measures that track and report on workload outputs per FTE for adjudication and management of claims.

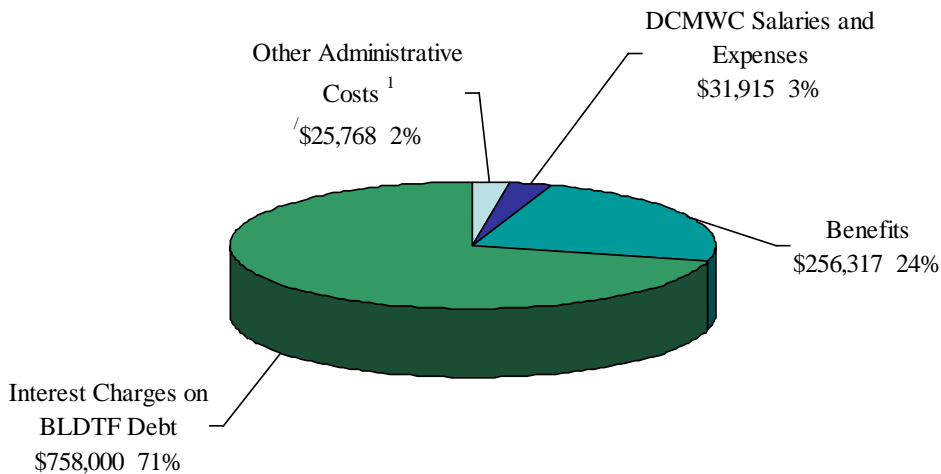
This program is supported by the Black Lung Automated Support Package (ASP). Additional information on this system can be obtained by visiting the corresponding Exhibit 300 at: <http://www.dol.gov/dol/budget/2009/PDF/E300-2009-009.pdf>

# FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

## Cost Model

ESA requests a total of \$31,915,000 for DCMWC Salaries and Expenses. This level of funding will enable DCMWC to exercise its mission-critical activities and meet its performance indicator targets in FY 2009. The distribution of requested funds for all components of the BLDTF is displayed below.

### **FY 2009 Budget Request for Black Lung Part C Total Part C Budget Request \$1,072,000 (Dollars in Thousands)**



<sup>1/</sup> Includes amounts transferred to: Departmental Management (\$24,694,000); Office of Inspector General (\$325,000); Treasury (\$356,000); and ESA Program Direction and Support (\$393,000)—Black Lung IV.

# FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

## **Program Assessment Rating Tool (PART)**

In 2003, the Black Lung Program received a rating of “Moderately Effective”. Entering its fourth year since the assessment, the Black Lung Program has demonstrated significant progress on its PART improvement plan. An independent evaluation provided recommendations for improving performance measurement, thereby addressing the need for an evaluation and more ambitious performance goals. The program will begin reporting on a cost index for its medical cost containment goal in 2008, a noteworthy addition for better managing cost as well as a goal of reducing the average time to make a claims decision. The purpose of the cost containment measure is to maintain Black Lung medical costs at or below a nationwide comparable trend, the National Health Expenditure Projection (NHEP) published by the Centers for Medicare and Medicaid Services.

Details of the PART review can be seen at:

<http://www.whitehouse.gov/omb/expectmore/summary/10001098.2003.html>

## **Efficiency Measures**

Quality decisions, issued in a timely manner, are a fundamental consideration when determining performance targets that support the program’s strategic indicator. Management has set timeliness targets for its adjudication tracking and expects to continue to meet its annual targets for reducing the average number of days for DCMWC to render a decision on a claim for Black Lung benefits as quality and timeliness continue to improve. DCMWC will also begin reporting in FY 2008 on medical cost containment using as its cost index the National Health Expenditure Projection (NHEP) published by the Centers for Medicare and Medicaid Services. The purpose of this measure is to keep the rate of change in Black Lung average medical treatment costs for eligible miners at or below the NHEP cost index. Program management will continue to regularly review both its strategic plan performance indicators and its management performance goals to ensure they remain challenging and encourage performance improvement. The program will continue to explore and implement as feasible and appropriate automated solutions that improve service delivery, performance and program results, and financial reporting.

## FEDERAL PROGRAMS FOR WORKERS' COMPENSATION

WORKLOAD SUMMARY <sup>1/</sup>			
	FY 2007 Actual	FY 2008 Target	FY 2009 Target
<b>Black Lung III</b>			
Claims Received	4,913	4,800	4,700
Proposed Decisions and Orders (Initial Findings)	4,340	4,300	4,250
Schedules for Submission of Additional Evidence <sup>2/</sup>	4,156	4,300	4,250
<u>Beneficiaries</u>			
Trust Fund Beneficiaries	34,005	32,820	30,900
Beneficiaries Paid by Responsible Operators	5,525	4,900	4,300
<b>Budget Activity Total</b>	<b>\$33,154</b>	<b>\$32,365</b>	<b>\$31,915</b>

<sup>1/</sup> All estimates and targets are end of fiscal year figures.

<sup>2/</sup> The Schedule for Submission of Additional Evidence (SSAE) document provides a preliminary analysis of the initial medical evidence considered by the District Office (DO), indicates whether the claimant would be eligible for benefits and identifies the party potentially liable for the payment of benefits. The SSAE also describes what additional evidence may be submitted by the parties and the timeframes for submission.

# OFFICE OF LABOR-MANAGEMENT STANDARDS

## *Budget Activity 4: Office of Labor and Management Standards*

Budget Authority Before the Committee (Dollars in Thousands)						
					FY 2009	
	FY 2007 Comparable	FY 2008 Enacted	FY 2008 Estimate	Diff. FY 07 Comp/ FY 08 Est	FY 2009 Request	Diff. FY 08 Est /FY 09 Req
<b>Activity Appropriation</b>	47,753	44,938	44,938	-2,815	58,256	13,318
<b>FTE</b>	321	317	317	-4	369	52

NOTE: FY 2007 reflects actual FTE. Authorized FTE for FY 2007 was 313.

### **Introduction**

The Office of Labor-Management Standards (OLMS) administers the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) and related laws, which primarily establish safeguards for union democracy and union financial integrity and require public disclosure reporting by unions and others. The LMRDA applies to private sector labor unions. Similar standards apply to unions representing Federal employees.

OLMS also administers employee protections under various Federally-sponsored transportation programs that certify fair, equitable protective arrangements for transit employees when Federal funds are used to acquire, improve, or operate a transit system. These arrangements must be approved by the Department of Labor before Federal funds can be released to grantees.

The largest percent of OLMS staff and budgetary resources is dedicated to the LMRDA program. Under the LMRDA, OLMS performs four types of activities: investigations, union audits, reports/public disclosure, and compliance assistance. Investigation of both union officer elections and embezzlement of union funds are the program's two major enforcement activities.

Under its union democracy provisions, the LMRDA establishes basic standards for unions to follow when electing their officers. OLMS investigates an officer election upon receipt of a timely filed complaint from a member and must complete its investigation within 60 days, as required by the LMRDA. If warranted, OLMS may take legal action to set aside the challenged election and order a new election under OLMS supervision. Since these investigations are initiated only on a complaint basis, OLMS can exercise no control over the number or type of election complaints it investigates. Consequently, the staff resources devoted to the election program can vary from year-to-year in response to the complaint workload.

Under the LMRDA, it is a Federal crime for a labor union officer or employee to embezzle funds of the union. OLMS conducts criminal investigations to protect and safeguard union funds and assets. Union officers and employees may be barred from holding union office or employment for up to 13 years if convicted of certain crimes, including union funds embezzlement, and in many cases are ordered by a U.S. District Court to make restitution to the union. OLMS also

## OFFICE OF LABOR-MANAGEMENT STANDARDS

investigates possible criminal and civil violations of the LMRDA involving bonding, illegal loans to union officers and employees, trusteeships, and other matters.

OLMS conducts union audits to determine overall compliance with the LMRDA, detect possible union funds embezzlements, and provide individualized compliance assistance to union officials.

Reporting and public disclosure are core requirements of the LMRDA. Labor unions covered by the LMRDA and related laws are required to file annual financial reports with OLMS. Despite OLMS voluntary compliance efforts, some unions fail to file annual financial reports and OLMS must take appropriate steps to secure the reports. In order to ensure that the information in the financial reports is complete and accurate, OLMS also reviews reports, identifies reporting errors, and seeks amended reports as necessary. Other entities and individuals (employers, labor relations consultants, union officers and employees, and surety companies) are required to file reports under certain circumstances. OLMS conducts investigations, as necessary, to determine if such special activity reports are required.

OLMS operates an electronic reporting system for LMRDA reports and an Internet public disclosure system that provides public access to information from filed reports. These systems have greatly contributed to the effectiveness of the LMRDA reporting program by improving union reporting compliance and providing more immediate and better public disclosure to union members and other interested members of the public. Compliance is improved because the electronic reporting forms include a series of error checks, ensuring that the reports are complete when submitted. Disclosure is improved because the public has immediate, on-demand access to information from LMRDA reports on file with OLMS.

Compliance assistance is an important complement to OLMS union audit and enforcement programs and is provided to increase awareness of union member rights and officer responsibilities under the LMRDA and to promote voluntary compliance with the Act. OLMS compliance assistance activities include seminars/workshops, mailings, personal visits, distribution of explanatory publications, and liaison with international union officials. Compliance assistance material also is available through the OLMS internet site.

### **Five-Year Budget Activity History**

<b>Fiscal Year</b>	<b>Funding (Dollars in Thousands)</b>	<b>FTE</b>
2004	38,580	347
2005	41,681	336
2006	45,737	384
2007	47,753	313
2008	44,938	317



# OFFICE OF LABOR-MANAGEMENT STANDARDS

## **FY 2009**

Resources at the Request Level, \$58,256,000 and 369 FTE, continue core program work in support of the LMRDA and employee protections programs. Included in this request is \$11.950 million and 52 FTE which restores funds for staff and other inflationary costs that were not provided under the FY 2008 OMNIBUS level.

In recent years, OLMS has strengthened the LMRDA union financial integrity program, and has been able to significantly increase the number of union audits conducted, from 532 audits in FY 2004 to 775 in FY 2007. This has allowed the agency to extend LMRDA financial integrity protections to a greater number of unions and union members.

OLMS has also increased the number of union funds embezzlement investigations conducted to protect union members' dues and union financial integrity. The legal and proper use of union members' dues and assets is of paramount importance to ensure the economic strength and effectiveness of unions in representing members of the American workforce. Following investigation, OLMS refers findings of criminal violations to the Department of Justice for prosecution. Criminal prosecution of embezzlement frequently results in restitution to the union.

OLMS will maintain core program work to support LMRDA union financial integrity with the resources requested.

## **Program Assessment Rating Tool (PART)**

The OLMS PART review was conducted in 2005. OMB assigned a rating of "Adequate." Three issues were noted: OLMS lacks legislative authority to impose civil monetary penalties on organizations and individuals who fail to comply with the reporting requirements of the LMRDA; OLMS does not measure progress towards ensuring union democracy, which is one of the major OLMS goals; and OLMS has not conducted an independent review of its programs and processes.

OLMS has taken action to implement each of these PART recommendations. With regard to the civil monetary penalty authority issue, the Department of Labor has begun the process of developing proposed legislation that would provide OLMS with such authority. To measure progress in ensuring union democracy, OLMS conducted a study to measure the level of union compliance with LMRDA election standards. This study indicated that unions were compliant with regard to 92% of the election standards measured. With this measure as its performance baseline, OLMS has the goal of increasing compliance to 93.5% in 2009. However, because of this high rate of compliance, OLMS is developing a new union democracy performance measure in FY 2008 to drive improvement in the time the agency uses to resolve union officer election complaints. OLMS has also conducted an independent review of the LMRDA reporting program and related agency processes, especially of its Internet website and is incorporating the recommendations in its day-to-day operations.

Details of this PART review may be found by visiting:  
<http://www.whitehouse.gov/omb/expectmore/detail/10003903.2005.html>

## OFFICE OF LABOR-MANAGEMENT STANDARDS

### Efficiency Measure

OLMS will continue to seek increasing levels of union dollars protected per FTE, as measured by staff day dedicated to audit. The “union-dollars-protected” measure is determined by totaling the receipt levels of unions that have undergone an audit closed during the fiscal year and dividing the sum by the total number of staff days expended on these cases. Data for this efficiency measure is obtained from the OLMS Case Data System and provides a metric that tracks improved long term efficiencies even as resource allocations dedicated to union audits may vary.

The baseline performance level was established at \$60,000 union dollars protected per staff day. In 2006, OLMS narrowly missed the \$80,000 per-staff-day goal, reaching \$76,040 dollars protected per staff day. Although OLMS projected an annual 5% increase through FY 2009, performance in 2007, as tracked by this measure, decreased to \$48,609 per staff day. An analysis of the data indicates that the size of the average union audited (as indicated by receipts) was significantly smaller in 2007 than 2006 (average receipt size was approximately \$633,000 in 2007 versus \$983,000 in 2006).

## OFFICE OF LABOR-MANAGEMENT STANDARDS

WORKLOAD SUMMARY			
	FY 2007 Actual	FY 2008 Target	FY 2009 Target
Office of Labor-Management Standards			
Criminal Investigations	404	365	490
International Compliance Audits	7	6	8
Compliance Audits	775	700	850
Reports Processed	31,075	35,000	35,000
Delinquent Report Investigations	2,086	2,000	2,000
Deficient Report Investigations	777	800	800
Union Officer-Employee/Employer/Consultant Report Investigations	62	200	350
Election Investigations	113	140	140
Supervised Elections	26	30	30
Trusteeship Investigations	9	15	15
Basic Investigations	70	100	100
LMRDA Compliance Assistance	749	750	850
Employee Protections Certifications	1,954	2,000	2,000
Claims Arbitrated	0	5	5
Budget Activity Total	\$47,753	\$44,938	\$58,256

# OFFICE OF LABOR-MANAGEMENT STANDARDS

## PERFORMANCE GOAL INDICATORS

### Performance Goal 4C: Ensure union financial integrity, democracy, and transparency

	FY 2004		FY 2005		FY 2006		FY 2007		FY 2008	FY 2009
	Goal Achieved		Goal Achieved		Goal Not Achieved		Goal Achieved			
Performance Indicator	Target	Result	Target	Result	Target	Result	Target	Result	Target	Target
Increase Union Financial Integrity by decreasing the number of unions with indicators of fraud <sup>1</sup>	Baseline	9%	N/A	N/A	8%	8%	7.5%	7%	7%	6.5%
Ensure Union Democracy by increasing compliance with LMRDA standards for democratic union office elections <sup>2</sup>	N/A	N/A	N/A	N/A	Baseline	92%	92.5%	92.3%	93%	93.5%
Increase Union Transparency by increasing the percentage of unions filing financial reports that meet OLMS standards for acceptability <sup>3</sup>	75%	92%	95%	94%	96%	93%	97%	95%	97%	97%
Ratio of criminal cases opened as a result of targeted audits	--	--	--	--	--	--	--	--	Baseline	-- <sup>‡</sup>
Number of days to resolve union officer election complaints	--	--	--	--	--	--	--	--	Baseline	-- <sup>‡</sup>

## OFFICE OF LABOR-MANAGEMENT STANDARDS

Percent of unions filing reports electronically	--	--	--	--	--	--	--	--	Baseline	-- <sup>†</sup>
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<sup>†</sup>Targets will be set once baseline is established.

In FY 2007, OLMS has proposed new performance measures to support its broad performance goal to ensure union financial integrity, democracy, and transparency. The proposed new measures are as follows:

- Increased detection of LMRDA criminal violations
- Percentage increase in LMRDA union reports that are filed electronically
- Increased timeliness in resolving union officer election complaints

Baselines and targets for these new measures will be developed in FY 2008 and are expected to be in place for FY 2009. These proposed new goals will seek performance improvement in new areas identified by OLMS, significant improvement having been achieved under the present goals. The current goals will be phased out in FY 2009.

# OFFICE OF LABOR-MANAGEMENT STANDARDS

## CHANGES IN FY 2009

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments		906
Personnel benefits		205
Employee health benefits		55
One day less of Pay		-134
Federal Employees Compensation Act (FECA)		-3
GSA Space Rental		89
Working Capital Fund		250

<b>Built Ins Subtotal</b>		<b>1,368</b>
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<b>Net Program</b>		<b>11,950</b>
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	<b>Estimate</b>	<b>FTE</b>
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<b>Base</b>	<b>46,306</b>	<b>317</b>
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<b>Program Increase<sup>1/</sup></b>	<b>11,950</b>	<b>52</b>
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<sup>1/</sup> This funding of \$11,950,000 and 52 FTE restore funds for staff and other inflationary costs that were not provided under the FY 2008 OMNIBUS level.

## PROGRAM DIRECTION AND SUPPORT

### *Budget Activity 5: Program Direction and Support*

Budget Authority Before the Committee (Dollars in Thousands)						
	FY 2007 Comparable	FY 2008 Enacted	FY 2008 Estimate	Diff. FY 07 Comp/ FY 08 Est	FY 2009 Request	Diff. FY 08 Est /FY 09 Req
<b>Activity Appropriation</b>	17,933	17,616	17,616	-317	18,482	866
<b>FTE</b>	87	93	93	6	93	0

NOTE: FY 2007 reflects actual FTE. Authorized FTE for FY 2007 was 93.

### **Introduction**

The Program Direction and Support (PDS) activity includes the Office of the Assistant Secretary and program support offices, including the Office of Management, Administration, and Planning (OMAP), and the Equal Employment Opportunity and Legislative and Regulatory Analysis units. Together they provide financial, technological, administrative, human resources management, regulatory, and equal employment support to more than 4,000 employees in over 360 locations across the country.

The mission of the Employment Standards Administration (ESA) is to enhance the welfare and protect the rights of American workers. Supporting a complex enforcement and benefit delivery agency, the PDS activity is responsible for providing leadership, policy, coordination for budget and performance integration; strategic management of human resources; expanded information technology; improved financial management; and competitive sourcing for the four component program offices within ESA.

PDS is also responsible for ESA's security and emergency management planning, strategic planning, performance reporting, legislative and regulatory analysis, employee safety and health, labor relations, equal employment opportunity enforcement, and general support services to all ESA program components. In support of these services, PDS is requesting \$18,482,000 and 93 FTE (includes \$393,000 and 3 FTE for Black Lung IV).

### **Five-Year Budget Activity History**

Fiscal Year	Funding (Dollars in Thousands)	FTE
2004	15,499	107
2005	15,635	103
2006	17,592	93
2007	17,933	93
2008	17,616	93

# PROGRAM DIRECTION AND SUPPORT

## FY 2009

In FY 2009, a total of \$18,482,000 and 93 FTE (includes \$393,000 and 3 FTE for Black Lung IV) is requested for Program Direction and Support. These funds are in direct support of ESA program components and their achievement of strategic goals, performance goals, PMA initiatives, and implementation of the Program Assessment Rating Tool (PART) recommendations. The funds requested would enable PDS to continue to provide ESA with the level of leadership, management, direction and centralized policy, planning and program support required for attainment of ESA performance goals. Since ESA is the largest agency in the Department of Labor (DOL), the achievement of its goals is the key to the overall mission of the Department. Funding at this level would provide ESA with the necessary resources to complete essential tasks and provide a commendable level of customer service.

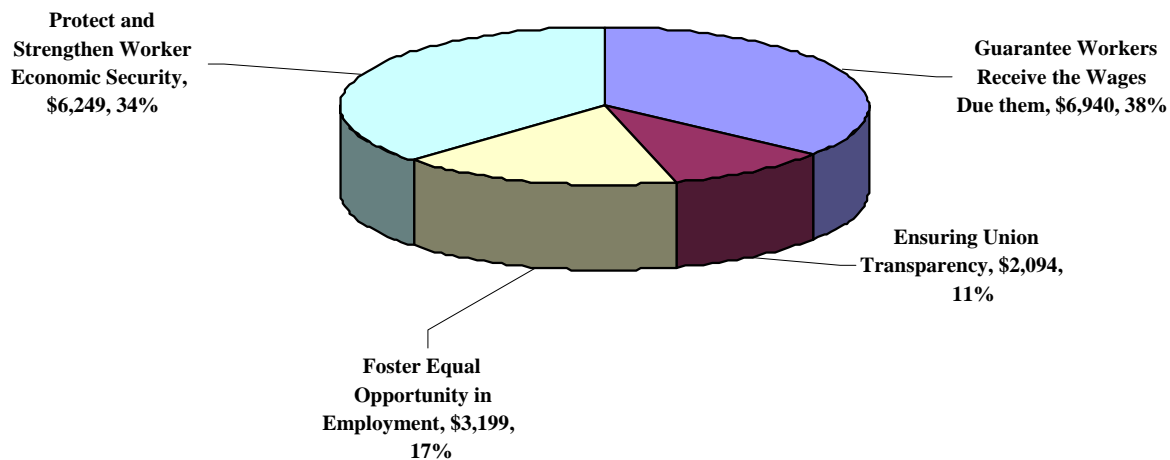
## Efficiency Measures

While PDS provides support and leadership to ESA agencies in improving program effectiveness and efficiency, it does not have an efficiency measure of its own.

## Performance Goals Indicators

PDS resources are used to provide guidance, leadership, and services to all ESA's program components as they strive to achieve their individual performance goals. As it represents an administrative activity as opposed to a programmatic activity, PDS resources have been allocated to the ESA performance goals as illustrated in the following chart<sup>1</sup>.

**FY 2009 Budget Request by Program Direction and Support**  
**Total PDS Budget Request \$18,482**  
**(Dollars in Thousands)**



<sup>1</sup> Allocations based on ESA programs FY 2009 Request



# PROGRAM DIRECTION AND SUPPORT

## CHANGES IN FY 2009

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	298
Personnel benefits	45
Employee health benefits	15
One day less of Pay	-42
Federal Employees Compensation Act (FECA)	13
GSA Space Rental	32
Working Capital Fund	107

**Built Ins Subtotal** **468**

**Net Program** **399**

**Direct FTE** **0**

	Estimate	FTE
<b>Base</b>	<b>18,083</b>	<b>93</b>
<b>Program Increase<sup>1/</sup></b>	<b>415</b>	<b>0</b>
<b>Program Decrease<sup>2/</sup></b>	<b>-16</b>	<b>0</b>

<sup>1/</sup> This funding of \$415,000 and 0 FTE restore funds for inflationary costs that were not provided under the FY 2008 OMNIBUS level.

<sup>2/</sup> Black Lung IV's funding was decreased by \$16,000 due to workload reductions.