

**Congressional Submission**

**U.S. Department of Justice**

**Assets Forfeiture Fund**

**FY 2009 PERFORMANCE BUDGET**

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\*N/A = Not Applicable

## **I. Overview for the Assets Forfeiture Fund**

### **A. Introduction**

The Department of Justice is requesting \$20,990,000 in definite authority for expenses of the Assets Forfeiture Fund for 2009 to support the Department's Strategic Goal 2: to prevent crime, enforce Federal laws and represent the rights and interests of the American people. AFF spending also supports the President's Management Agenda to improve financial performance and expand electronic government (e-gov) (e.g., in security and cost savings), and the Attorney General's Management Agenda to streamline, eliminate or consolidate duplicative functions and utilize technology to improve government.





The Assets Forfeiture Fund (AFF or Fund) was created by the Comprehensive Crime Control Act of 1984 (P.L. 98-473, dated October 12, 1984) to be a repository of the proceeds of forfeitures under any law enforced and administered by the Department of Justice (see 28 U.S.C. 524(c)).

The primary purpose of the Fund is to provide a stable source of resources to cover the costs of an effective asset forfeiture program, including the costs of seizing, evaluating, inventorying, maintaining, protecting, advertising, forfeiting, and disposing of property seized for forfeiture. Prior to creation of the Fund in 1985, costs of these activities had to be diverted from agency operational funds. The more effective an agency was in seizing property, the greater the drain on its appropriated funds. Creation of the Fund is responsible, in large measure, for the growth in the Department's forfeiture program over the past decade. A secondary benefit of an aggressive and well-managed forfeiture program is the production of surplus revenues to assist in financing important law enforcement programs. If the forfeiture program ceases to function effectively in its primary role, these surplus revenues will not be generated.

The AFF's mission has as its primary strategic goal to enforce Federal laws and prevent and reduce crime by disrupting, damaging and dismantling criminal organizations through the use of civil and criminal forfeiture. The program attempts to remove those assets that are essential to the operation of those criminal organizations and punish the criminals involved by denying them the use of the proceeds of their crimes.

Table 1 below displays the functional activities of the participating agencies. For the full names of the participating agencies, see footnote 1. These agencies investigate or prosecute criminal activity under statutes, such as the Comprehensive Drug Abuse Prevention and Control Act of 1970, the Racketeer Influenced and Corrupt Organizations statute, the Controlled Substances Act, and the Money Laundering Control Act, or provide administrative support services to the program.

Table 1. Asset Forfeiture Program Participants by Function<sup>1</sup>

Function	AFMLS	AFMS	ATF	DCIS	DEA	DS	EOUSA	FBI	FDA	USDA	USMS	USPS
 Investigation			X	X	X	X		X	X	X		X
 Litigation	X						X					
 Custody of Assets			X		X			X			X	
 Management	X	X										

As an outcome of the Homeland Security Act of 2002, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) joined the Fund on January 25, 2003. In addition, the Act transferred the forfeiture functions of the Immigration and Naturalization Service to the Department of Homeland Security (DHS) on March 31, 2003. On October 1, 2004, the Bureau of Diplomatic Security, Department of State (DS), joined the AFF. The Fund subsequently includes seizures and forfeitures resulting from investigations of passport and visa fraud. In 2007, the Defense Criminal Investigative Service (DCIS) became a participant. DCIS is the criminal investigative arm of the Inspector General of the Department of Defense and devotes investigative resources to terrorism, product substitution, computer crimes, illegal technology transfers, and public corruption.

It is increasingly important to recognize that the benefits to be achieved through inter-departmental cooperation and standardization of policies and procedures are enormous, not only from a program management perspective, but also from the perspective of preserving the due process rights of citizens. The significant effect of a less than aggressive forfeiture program is that criminal organizations have hundreds of millions of dollars more in their coffers to support their illicit operations each year.

<sup>1</sup> The participants include the Asset Forfeiture and Money Laundering Section, Criminal Division (AFMLS); Asset Forfeiture Management Staff, Justice Management Division (AFMS); Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); Defense Criminal Investigative Service (DCIS); Drug Enforcement Administration (DEA); Bureau of Diplomatic Security, Department of State (DS); Executive Office for United States Attorneys (EOUSA); Federal Bureau of Investigation (FBI); Food and Drug Administration (FDA); United States Department of Agriculture (USDA); United States Marshals Service (USMS); and United States Postal Service (USPS).

In summary, the asset forfeiture program not only represents an effective law enforcement tool against criminal organizations but also provides financial support to other federal law enforcement efforts. Without this resource, agency funds would be seriously taxed to maintain and preserve seized assets and liquidate forfeited assets, and law enforcement projects supported by the Fund could not be undertaken or would have to await the possibility of funding through other avenues. Continuing to support aggressive training, case evaluations, funds management, and contract support is key to extracting the greatest benefit to our society from application of the asset forfeiture sanction.

No program within the AFF has been selected for review under the Program Assessment Rating Tool (PART) process.

## **B. Trends, Issues, and Outcomes**

Although the Fund's mission and objectives will not change in FY 2009, the challenges it faces will. The Fund's budget is integrated with the Department's Strategic Goals and Objectives and is aligned with the President's Management Agenda.

Over the past two years, there has been a significant growth in the value of deposits into the AFF fueled by several large fraud and economic crime forfeiture cases. Given the Attorney General's 2007 priority of continuing to focus on forfeitures in corporate fraud and other financial crime cases and on increasing the amount of money returned to crime victims, we expect deposits to continue to increase that will be used to benefit the victims of the underlying offenses.

Following is a brief summary of the Department's Strategic Goals and Objectives, in which the Fund plays a role.

DOJ Strategic Goal 2: Prevent Crime, Enforce Federal Laws and Represent the Rights and Interests of the American People:

- Reduce the threat, incidence, and prevalence of violent crime (2.2)
- Reduce the threat, trafficking, use, and related violence of illegal drugs (2.4)
- Combat public and corporate corruption, fraud, economic crime, and cyber crime (2.5)

## **C. Full Program Costs**

The Fund is a fee-based program. Receipts are available to pay program operation expenses, i.e., mandatory expenses of the forfeiture program, such as the equity of innocent third parties and lien holders; program investigative expenses, such as the efforts of state and local law enforcement agencies that helped produce the forfeitures; and other authorized expenses of the Fund.

For FY 2009, the Department is estimating \$1.043 billion for mandatory and investigative expenses. Included in this amount, providing net receipts support this expense level, is \$62.7 million to pay overtime expenses and other costs of state and local law enforcement officers engaged in joint operations with federal law enforcement agencies participating in the Fund. The Department's authority to incur program operations expenses, including recognition of the equity interests of others and the efforts of law enforcement agencies, is limited only by the level of

receipts deposited into the Fund. To the extent that receipts exceed the amounts necessary for mandatory program expenses, the Fund may be used for discretionary investigative expenses.

Full program costs are identified in Section III by decision unit. Mandatory expenses increase or decrease relative to seizure and forfeiture activity, and the program is executed by its member agencies.

## **D. Performance Challenges**

The challenges that impact achievement of Fund goals are complex and dynamic. New legislation and case law, technological developments, changing demographics, political decisions, and the internationalization of criminal organizations are only a few factors that impact the assets forfeiture program and pose challenges that demand attention. The following situations are challenges that the Fund is facing.

### **External Challenges**

- International money laundering and forfeiture investigations continue to target millions of dollars in illegal proceeds that have been secreted overseas. The repatriation of foreign assets is potentially a significant source of the Fund receipts as demonstrated by the \$89 million in Nasser-David funds deposited in 1999. As more and more countries enact legislation providing authority to assist in and undertake forfeiture and money laundering investigations, more of these funds will be subject to repatriation and forfeiture. The United States currently has a Mutual Legal Assistance Treaty (MLAT), which facilitates forfeiture cooperation, with 51 countries. In addition, more than 172 countries are parties to the Vienna Convention which provides, *inter alia*,<sup>2</sup> for forfeiture assistance in drug and drug-related (i.e., money laundering) cases. The Department has made significant progress in recent years convincing foreign governments that such cooperation is in their best interest. The Department shares a significant part of any repatriated funds with its international partners. For example, since 1989, the United States has shared more than \$226 million with 33 jurisdictions and countries. These cases are very difficult to negotiate and often take years to come to fruition. However, the forfeiture parts of several major cases are ongoing and should be concluded in the next few years.
- The financial mid- and long-term projections for deposits and expenses are difficult to quantify. Revenue estimates in 2008 and 2009 are estimated to be higher for recurring deposits, indicating a strong potential in the stream of revenue flowing into the AFF. Revenue from non-recurring deposits are estimated to be lower from prior year levels, primarily because of uncertainties associated with the non-recurring nature of extraordinary deposits from fraud and financial crime cases with unknown quantities and timing. The fiscal resources of the AFF must first cover the business or operational expenses of the asset forfeiture program. The Fund is not allowed to operate at a deficit.

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<sup>2</sup> Latin for “among other things.” This phrase is often found in legal pleadings and writings to specify one example out of many possibilities.

## Internal Challenges

The Fund faces many internal challenges in FY 2009, primarily in enhancing its financial and property management capabilities.

- **Data Quality:** The 2007 AFF/Seized Asset Deposit Fund (SADF) financial statements received an unqualified opinion; however, the independent auditors noted a reportable condition in information system controls. The auditors identified significant deficiencies that exist in the information system controls environment. The AFF/SADF uses the Financial Management Information System (FMIS2) accounting system maintained by the Justice Management Division (JMD) Finance Staff (FS). As a result, the control improvements needed in the FMIS2 accounting system also impact the AFF/SADF. This reportable condition and related recommendations were addressed to JMD, which has primary responsibility over FMIS2. Accordingly, no recommendations for this reportable condition were addressed to the AFF/SADF management. Additionally, management is implementing appropriate security measures in CATS.

The auditors noted that internal controls over status of valuation of seized and forfeited property needed to be reinforced. AFMS is working with participants to establish and enforce corrective actions in a timely manner.

A new reportable condition, procurement management, was also mentioned in the auditors report. AFMS will work with the AFP components to promote a regular review of open obligations and delivered-unpaid balances to ensure complete and accurate information when issuing Financial Statements.

- **Technological Developments:** The AFF funded a CATS project that contributes to a 2008 ATF deployment of a new version of the Nforce case management system that includes an interface to the CATS application. This application will enable a single data capture point for ATF agents and asset forfeiture administrators, centralizing tracking for ATF seizure and forfeiture activities. While this enhancement will increase efficiency and reduce overall costs, the need for enhancements, based on customer requirements and technological changes, remains a constant challenge.

The AFMS is implementing the Unified Financial Management System (UFMS). UFMS is a financial system that incorporates standard capabilities, business processes, business rules, reference data, interfaces, and reports that will be used throughout the department. UFMS will benefit the Department of Justice by addressing material weaknesses in the Department's financial system and accounting operations and enhance system security. When fully implemented, it will be a major step in supporting the departments' mission, objective and strategic goals.

## **II. Appropriations Language and Analysis of Appropriations Language**

### **Appropriations Language**

For expenses authorized by 28 U.S.C. 524(c) (1) (B), (F), and (G), \$20,990,000 to be derived from the Department of Justice Assets Forfeiture Fund.

(rescission)

Of the unobligated balances available under this heading, [~~\$240,000,000~~] *\$285,000,000* are rescinded.

### **Analysis of Appropriations Language**

Language has been included that proposes a rescission of \$285,000,000 of unobligated balances available in the Assets Forfeiture Fund.



**III. Decision Unit Justification**  
**Assets Forfeiture Fund**

<b>Assets Forfeiture Fund TOTAL</b>	<b>Perm. Pos</b>	<b>FTE</b>	<b>Amount (\$000)</b>
2007 Enacted with Rescissions			1,521,629
2007 Changes in the Estimate			33,289
2007 Enacted w/Resc, Supps, and Change in Est			1,554,918
2008 Enacted with Rescissions			979,779
2009 Current Services			1,017,400
2009 Program Increases			0
2009 Request			1,017,400
<b>Total Change 2008-2009</b>			37,621

<b>Mandatory, Indefinite Authority Total</b>	<b>Perm. Pos</b>	<b>FTE</b>	<b>Amount (\$000)</b>
2007 Enacted with Rescissions			1,500,435
2007 Changes in the Estimate			33,289
2007 Enacted w/Resc, Supps, and Change in Est			1,533,724
2008 Enacted with Rescissions			958,789
2009 Current Services			996,410
2009 Program Increases			0
2009 Request			996,410
<b>Total Change 2008-2009</b>			37,621

<b>Appropriated, Definite Authority Total</b>	<b>Perm. Pos</b>	<b>FTE</b>	<b>Amount (\$000)</b>
2007 Enacted with Rescissions			21,195
2007 Changes in the Estimate			0
2007 Enacted w/Resc, Supps, and Change in Est			21,195
2008 Enacted with Rescissions			20,990
2009 Current Services			20,990
2009 Program Increases			0
2009 Request			20,990
<b>Total Change 2008-2009</b>			0

<b>Assets Forfeiture Fund/CATS—Information Technology Breakout from Mandatory Total</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount (\$000)</b>
2007 Enacted with Rescissions			13,545
2007 Enacted w/Resc, Supps, and Change in Est			13,545
2008 Enacted with Rescissions			16,900
2009 Current Services			16,900
2009 Program Increases			0
2009 Request			16,900
<b>Total Change 2008-2009</b>			0

**Assets Forfeiture Fund**  
**Summary of Requirements by Financing**  
**(Dollars in Thousands)**

<b><u>Financing</u></b>	2007 Actual <u>Amount</u>	2008 Appropriation Enacted with Rescissions and <u>Supplemental</u>	2009 Current Services and Request	2008-2009 Total <u>Change</u>
<b>Unobligated balance of receipts, start-of-year</b>				
Available for start-up expenses	214,135	202,375	171,407	-30,968
Committed to other purposes:				
Super surplus balances unobligated	50,436	55,193	26,000	-29,193
Major Sharing Reserves	133,872	140,241	156,000	15,759
Total: committed to other purposes	<u>184,308</u>	<u>195,434</u>	<u>182,000</u>	<u>-13,434</u>
Unappropriated balance of receipts, start-of-year	398,443	397,809	353,407	-44,402
<b>Collections/deposits/receipts/recoveries:</b>				
Regular receipts	732,491	767,000	775,000	8,000
Extraordinary Receipts*	856,865	282,779	287,400	4,621
Prior year rescissions restored	102,274	170,000	240,000	70,000
Recovery/Refunds of prior year obligations	33,288	0	0	0
Current year rescissions	-170,000	0	0	0
Proposed rescission	<u>0</u>	<u>-240,000</u>	<u>-285,000</u>	<u>-45,000</u>
Collections/deposits/receipts/recoveries:	1,554,918	979,779	1,017,400	37,621
Total resources available	1,953,361	1,377,588	1,370,807	-6,781
<b>Less: Unappropriated balance of receipts, end-of year</b>				
Start-up expenses for following year	-202,375	-171,407	-171,407	0
Prior surplus balances carried forward	-55,193	-26,000	0	26,000
Major Sharing Reserves	<u>-140,241</u>	<u>-156,000</u>	<u>-156,000</u>	<u>0</u>
Unappropriated balance of receipts, end-of-year	-397,809	-353,407	-327,407	26,000
Total obligations	1,555,552	1,024,181	1,043,400	19,219

**Assets Forfeiture Fund**  
**Obligations by Type of Expense**  
**(Dollars in Thousands)**

	2007 Actual <u>Amount</u>	2008 Appropriation Enacted with Rescissions and <u>Supplemental</u>	2009 Current Services and <u>Request</u>	2008 - 2009 <u>Total Change</u>
<b><i>Mandatory expenses: (indefinite authority)</i></b>				
<b>Case support expenses:</b>				
Asset management and disposal	43,873	46,500	48,400	1,900
Third Party Payments	812,307	248,300	253,800	5,500
Case Related Expenses	27,712	44,700	46,500	1,800
Special contract services	65,709	85,500	88,900	3,400
Investigative Expenses Leading to Seizure	24,264	24,800	25,800	1,000
Contracts to identify assets	13,381	14,400	15,000	600
Awards for information leading to a forfeiture	10,200	9,300	9,700	400
<b>Program support expenses:</b>				
Automated data processing	14,335	17,500	18,200	700
Training and printing	11,732	13,300	13,800	500
Other program management	18,744	22,600	23,500	900
<b>Other authorized expenses:</b>				
Storage, protection & destruction of controlled substances	4,707	3,980	4,110	130
Equitable sharing payments	402,316	405,000	412,000	7,000
Joint Federal/state and local law enforcement operations	<u>75,341</u>	<u>60,300</u>	<u>62,700</u>	<u>2,400</u>
Subtotal: Mandatory expenses	1,524,621	996,180	1,022,410	26,230
<b><i>Investigative expenses: (definite authority)</i></b>				
Awards for information	12,305	12,314	12,314	0
Purchase of evidence	7,210	7,215	7,215	0
Equipping of conveyances	<u>1,680</u>	<u>1,461</u>	<u>1,461</u>	<u>0</u>
Subtotal: Investigative expenses	21,195	20,990	20,990	0
Total, mandatory and investigative expenses	1,545,816	1,017,170	1,043,400	26,230
Super surplus amounts obligated	<u>9,736</u>	<u>7,011</u>	<u>0</u>	<u>7,011</u>
Total gross obligations	1,555,552	1,024,181	1,043,400	19,219

## IV. E-Government Initiatives

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

### A. Funding and Costs

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

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

The Department of Justice E-Government expenses – i.e., DOJ’s share of e-Gov initiatives managed by other federal agencies – are paid for from the Department’s Working Capital Fund. These costs, along with other internal E-Government related expenses (oversight and administrative expenses such as salaries, rent, etc.) are reimbursed by the components to the WCF. The AFF reimbursement amount is based on the anticipated or realized benefits from an e-Government initiative. The AFF E-Government reimbursement to the WCF is \$2,000 for FY 2008. The anticipated AFF E-Government reimbursement to WCF is \$2,000 for FY 2009.

### B. Benefits

The AFF established baseline cost estimates for each IT investment being (or planned to be) modified, replaced, or retired due to the Department's use of an E-Government or Line of Business initiative. The AFF is measuring actual costs of these investments on an ongoing basis. As the AFF completes migrations to common solutions provided by an E-Government or Line of Business initiative, the AFF expects to realize cost savings or avoidance through retirement or replacement of legacy systems and/or decreased operational costs. The table below represents only those E-Government initiatives and Lines of Businesses where the AFF expects to realize benefits in FY2008 and FY2009.

<b>E-Gov Initiative</b>	<b>FY 2008 Benefits</b>	<b>FY 2009 Anticipated Benefits</b>	<b>Comments</b>
Financial Mgmt. Consolidated LoB	TBA	TBA	The Benefits are related to the United Financial Management System (UFMS), but AFF does not have an estimated cost savings at this time.

## 1. Program Description

## Current Services Program Description

### A. Mandatory Expenses, Indefinite Authority

#### 1. Management and Disposal of Seized Assets

<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
\$46,500,000	\$48,400,000	\$1,900,000

While seizures are increasing and there may be some accompanying increases in the costs of asset management and disposal, efficiencies will be sought to contain costs. The primary purpose of the Fund is to ensure an adequate and appropriate source of funding for the management and disposal of property seized for forfeiture, as well as forfeited assets, activities which would otherwise be paid from agencies' operating budgets. The Fund puts criminals' money to work for the taxpayer. Other costs may also increase because of higher rates for services and the movement to more comprehensive management and maintenance services. Also, funding is required for the assessment, containment, removal and destruction of hazardous materials seized for forfeiture, and hazardous waste contaminated property seized for forfeiture. The USMS and DEA will continue to utilize the Fund for disposal of toxic and hazardous substances when necessary for forfeiture or the disposition of forfeited property. Under this category and Other Program Management, approximately \$11.0 million are provided to the USMS for the cost of administrative personnel associated with the forfeiture program and \$7.0 million for non-personnel administrative costs.

#### 2. Other Asset Specific Expenses

<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
\$293,000,000	\$300,300,000	\$7,300,000

This category includes payments to satisfy third-party interests, including lien holders and other innocent parties, pursuant to 28 U.S.C. § 524(c)(1)(D); payments in connection with the remission and mitigation of forfeitures, pursuant to 28 U.S.C. § 524(c)(1)(E); and direct expenses incurred in perfecting the forfeiture. Also included in this expense category are expenses associated with the prosecution of a forfeiture case or execution of a forfeiture judgment, such as advertising, travel and subsistence, court and deposition reporting, courtroom exhibit services, and expert witness costs. In appropriate cases, the services of foreign counsel may be necessary. In this area, the costs of advertising are a major expense. Under current law, the Department must advertise each seizure three consecutive weeks in a newspaper of general circulation in the area of the seizure. In addition, the Department must also incur the cost of providing personal notice, by certified mail or other means, to all individuals or entities identified as having a potential legal interest in the property. If a claim is filed and the forfeiture process is converted from an administrative process to a judicial process, the entire notice and advertising process is repeated--doubling the cost. This expense is directly related to the volume of seizures and claims. It is essential that these expenses be met in order that the asset title conveys properly, while ensuring due process rights of citizens. The decline in expenses represents more the non-recurring nature of major fraud and financial crime cases than a trend. While major cases may be ongoing, they are very difficult to negotiate and often take years to come to fruition.

3. Special Contract Services

<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
\$85,500,000	\$88,900,000	\$3,400,000

The Department of Justice asset forfeiture program is extensively using contract personnel to manage the massive paper flow associated with forfeiture, including data entry, data analysis, word processing, file control, file review, quality control, case file preparation and other process support functions. These workers have become an integral part of the asset forfeiture program. Without this contract support, it would be impossible to maintain the automated databases, process the tens of thousands of equitable sharing requests, and maintain the tens of thousands of forfeiture case files.

4. Investigative Expenses Leading to Seizure

<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
\$24,800,000	\$25,800,000	\$1,000,000

Investigative expenses are those normally incurred in the identification, location, and seizure of property subject to forfeiture. These include payments to reimburse any Federal agency participating in the Fund for investigative costs leading to seizures.

5. Contracts to Identify Assets

<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
\$14,400,000	\$15,000,000	\$600,000

Investigative agencies use these funds for subscription services to nationwide public record data systems, and for acquisition of specialized assistance, such as reconstruction of seized financial records. Demand for these services will increase as more agents graduate from the training programs and use the asset forfeiture sanction in their cases; however, it is anticipated that costs will be controlled through volume economies. Resources requested will be used to identify assets during the investigative stage of the case, where such research will enhance effective use of the asset forfeiture sanction. If the government can improve upon the identification of ill-gotten assets, the insidious nature of the criminal wrongdoing can be better demonstrated and reinforced before the jury. Such evidence results in stiffer penalties for hard-core criminals who may have dodged such penalties in the past by successfully concealing such assets, only to be released to finance further criminal activities with such assets. It is this kind of "criminal financing" that the forfeiture laws are intended to derail.

6. Awards for Information Leading to Forfeiture

<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
\$9,300,000	\$9,700,000	\$400,000

Section 114 of Public Law 104-208, dated September 30, 1996, amended the Justice Fund statute to treat payments of awards based on the amount of the forfeiture the same as other costs of a forfeiture. Historically, this authority represented less than 10 percent of award payments.

7. Automated Data Processing (ADP)			
	<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
	\$17,500,000	\$18,200,000	\$700,000

CATS (Consolidated Asset Tracking System) was initiated in 1990 and fully implemented in 1997. The year 1997 was a major milestone for the asset forfeiture program. CATS began providing nationwide processing capabilities that tied together all agencies involved in the Department of Justice asset forfeiture program. Agency legacy data bases were converted to CATS, operating procedures updated, and system users retrained. For the first time, on a full-year basis in 1997, the Department of Justice prepared complete reports on all asset forfeiture activity on a real time basis; investigative and judicial agencies had available the actual results of their efforts; and office, agency and Department managers were able to assess the efficiency of the forfeiture program and estimate future program results in a more informed manner.

CATS enables access for more than a thousand locations to a central database to perform full asset forfeiture lifecycle tasks more efficiently. It eliminates redundant data capture and provides consistency and standardization for agencies performing similar functions. The system provides current information to field personnel on the status of cases, integrates financial analysis capabilities into the inventory management process, provides the estimation of program income and expenses, and provides the capability for agency and Department managers to review and assess program activity.

Recurring costs include telecommunications support, recurring costs for system and equipment maintenance, costs for user support and help desk, data center charges in support of CATS, software maintenance, user training, and equipment.

8. Training and Printing			
	<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
	\$13,300,000	\$13,800,000	\$500,000

This category funds expenses for training personnel on aspects of the federal forfeiture program as well as other training necessary to maintain the competency of federal and contractor personnel dedicated to performing federal forfeiture functions. Printing costs reflect the continuing need to provide current legal advice and support. Expenses include updating and distributing manuals and pamphlets directly related to forfeiture issues, policies, and procedures.

9. Other Program Management Expenses			
	<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
	\$22,600,000	\$23,500,000	\$900,000

This category includes several types of expenses that are important to the overall management of the asset forfeiture program: management analysis, performance assessment, problem analysis, requirements analyses, policy development, and other special projects designed to improve program performance. This funding will provide travel and per diem funds for temporary duty assignments needed to correct program deficiencies. Other activities funded under this heading include the annual audit of financial statements of the Assets Forfeiture Fund and the Seized Asset



Deposit Fund by an independent accounting firm and special assessments and reviews. This category also finances the AFMS, JMD and, since 2001, USMS headquarters administrative personnel and non-personnel costs associated with the forfeiture program.

10. Storage, Protection, and Destruction of Controlled Substances

<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
\$3,980,000	\$4,110,000	\$130,000

These expenses are incurred to store, protect and/or destroy controlled substances. In 2008 and 2009, provided sufficient receipts are available, \$4.11 million per year are proposed for this expense category.

11. Equitable Sharing Payments

<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
\$405,000,000	\$412,000,000	\$7,000,000

The equitable sharing activity in 2009 is expected to increase from 2008. These funds are reserved until the receipt of the final forfeiture orders that result in distributions to the participants. Equitable sharing payments represent the transfer of portions of federally forfeited cash and proceeds from the sale of forfeited property to state and local law enforcement agencies and foreign governments that directly assisted in targeting or seizing the property. Most task force cases, for example, result in property forfeitures whose proceeds are shared among the participating agencies.

12. Joint Federal/State and Local Law Enforcement Operations

<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
\$60,300,000	\$62,700,000	\$2,400,000

Public Law 102-393, referred to as the 1993 Treasury Appropriations Act, amended Title 28 U.S.C. 524(c), enacted new authority for the Fund to pay for "overtime, travel, fuel, training, equipment, and other similar costs of state or local law enforcement officers that are incurred in a joint law enforcement operation with a federal law enforcement agency participating in the Fund." Such cooperative efforts have significant potential to benefit federal, state, and local law enforcement efforts.

## B. INVESTIGATIVE EXPENSES

### Definite, Appropriated (discretionary) Authority

1.	Awards for Information and Purchase of Evidence		
	<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
	\$19,529,000	\$19,529,000	\$0

Awards payable from the Fund directly support law enforcement efforts by encouraging the cooperation and assistance of informants. The Fund may also be used to purchase evidence of violations of drug laws, Racketeering Influenced and Corrupt Organizations (RICO), and criminal money laundering laws. Payment of awards to sources of information creates tremendous motivation for individuals to assist the government in the investigation of criminal activity and the seizure of assets. Many cases would be impossible to bring to trial without the information from cooperating individuals. Even when the government has reason to believe criminal activity is occurring, an inside informant can facilitate the cost-effective deployment of investigative resources to obtain the greatest results. These expense categories are used in support of the Attorney General's highest priority programs, and represent resources that become increasingly precious as law enforcement budgets are curtailed to meet deficit reduction goals.

2.	Equipping of Conveyances		
	<u>FY 2008 Estimate</u>	<u>FY 2009 Estimate</u>	<u>Increase/Decrease</u>
	\$1,461,000	\$1,461,000	\$0

This category provides funding to equip vehicles, vessels or aircraft for law enforcement functions, but not to acquire them. Purchased equipment must be affixed to and used integrally with the conveyance. This funding is used for emergency and communications equipment, voice privacy and surveillance equipment, armoring, and engine upgrades and avionic equipment for aircraft. It is only through Fund resources that many of these surveillance vehicles are available to the field districts that need them. DEA uses surveillance vans as stationary and mobile platforms to conduct surveillance and gather intelligence, the cornerstone of cases against most major drug violators. In addition, evidence obtained through the use of such surveillance often provides the audio and video documentation necessary for conviction.

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: Assets Forfeiture Fund											
DOJ Strategic Goal/Objective: Goal 2: Prevent Crime, Enforce Federal Laws, and Represent the Rights and Interests of the American people. <sup>A</sup>											
WORKLOAD/ RESOURCES		Final Target		Actual				Changes		Requested (Total)	
		FY 2007		FY 2007		2008 Enacted		Current Services Adjustments and FY 2009 Program		FY 2009 Request	
Workload											
Total Costs and FTE <sup>B</sup> (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
TYPE/ STRATEGIC OBJECTIVE	PERFORMANCE <sup>C</sup>	FY 2007		FY 2007		2008 Requirements		Current Services Adjustments and FY 2009 Program		FY 2009 Request	
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
<b>Program Activity</b>	Management of the AFF Provide financial support, control, and guidance to Fund participants in accordance with the Attorney General's Guidelines on Seized and Forfeited Property, July 1990.	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
<b>Performance Measure</b>	Percent of time CATS is accessible.	99.6%		99.9%		99.8%				99.8%	
<b>OUTCOME</b>	Achieve effective funds control as corroborated by an unqualified opinion on the AFF financial statements.	100%		100%		100%				100%	

<sup>A</sup> The performance by and resources allocated to the AFF participants are indicated in their respective budgets.

<sup>B</sup> No FTE's are directly associated with the AFF. The FTE's (18 authorized) are established in the WCF and are funded by the AFF.

<sup>C</sup> Only the performance by the AFMS in the financial management of the AFF is indicated.

**PERFORMANCE MEASURE TABLE**

**Decision Unit: Assets Forfeiture Fund**

Performance Report and Performance Plan Targets		FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007		FY 2008	FY 2009
		Actual	Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
<b>Performance Measure</b>	Percent of time CATS is accessible.	N/A	N/A	N/A	99.1%	99.6%	99.6%	99.6%	99.9%	99.8%	99.8%
<b>OUTCOME Measure</b>	Achieve effective funds control as corroborated by an unqualified opinion on the AFF financial statements.	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

**N/A = Data unavailable**

## Data Definitions

FTE. See Note B for AFMS FTE information. The AFF also reimburses the USMS for the salaries of administrative personnel responsible for the AFF's property custodial functions, but their associated FTE's reside in the USMS accounts.

Funding. The source of AFF funds is from the receipts realized by the AFF in the respective years. Because the AFF is a permanent indefinite fund, however, it may fund its activities from the unobligated balances carried forward from prior years.

Performance. One of the tasks of the Fund managers is to project Fund activities. As a result of a reevaluation of the Fund's performance measures, in 2001 the indicators were changed to more accurately reflect the activities of the Fund administrators rather than the Fund participants.

Performance Measure 1. CATS is available to participating AFF customers from 8:00 a.m. to 8:00 p.m., Eastern Standard Time, Monday through Friday, excluding all Federal holidays and/or local government closures. Normally scheduled maintenance outages are conducted during non-operational hours (weekends, holidays, and off-hours). Emergency outages and system failures occurring during the core operational hours will impact CATS availability to its customer base. For fiscal years 2008 and 2009, the total number of core supported hours is approximately 3,000. The goal is to provide 99.8 percent availability to customers.

**2009 Performance Plan.** The 2009 plan entails supporting law enforcement authorities in the application of specific forfeiture statutes to prevent and reduce crime by the efficient and timely allocation of resources to cover the costs of an effective asset forfeiture program.

## **2. Performance, Resources, and Strategies**

### **The Fund contributes to the Department's Strategic Goal 2: Prevent Crime, Enforce Federal Laws and Represent the Rights and Interests of the American People.**

To better manage resources, the asset forfeiture program's strategic approach will continue to (1) require a strong intelligence function that provides all-source information on target organizations to permit the assessment of vulnerabilities and the identification of key structural assets; (2) transcend specific cases to coordinate and target enforcement actions against the vulnerabilities of the underlying criminal organization; and (3) focus on removal of the assets that are key to the functionality and viability of the criminal organization. Special emphasis is placed on creative ways to use the proceeds of asset forfeiture, in conjunction with other funds available to our investigative and prosecutive offices, to support operations that focus on the disruption and destruction of criminal organizations and not merely on the conviction of individuals and forfeiture of their personal property.

#### **a. Performance Plan and Report for Outcomes**

As illustrated in the preceding Performance and Resources Table, the performance measure addresses performance only by the AFMS. While the performance measure is internal to the AFMS, Strategic Goal 2 is the Fund's supra-objective. Through stakeholder meetings, employee meetings and internal reviews, the Fund has identified many of the issues that must be addressed to enable it and the Nation's law enforcement community to meet the challenges of the war on

drugs. Continued progress towards implementation will enable the Fund to improve the Nation's effectiveness in the war on drugs.

The challenge of using the asset forfeiture sanction more fully requires the dedication of greater human resources to the development of the financial aspects of criminal operations. Continuing education in conducting financial investigations, tracing assets, presenting financial evidence in court, and managing and disposing of sophisticated properties is needed to develop and support experienced law enforcement professionals capable of dismantling criminal enterprises. The increasing use of sophisticated technology by criminals and the relative ease of operating across international boundaries also present special challenges for law enforcement that must be met if the power of the asset forfeiture sanction is to be realized. The Department will continue to seek opportunities to use asset forfeiture funds to advance the ability of our investigators, prosecutors, and other professionals to meet these challenges successfully.

**b. Strategies to Accomplish Outcomes**

The performance indicators are for the AFMS, the participant with management control of the Fund. In its role, AFMS supports law enforcement authorities in their seizure and forfeiture activities by providing funding for their accessibility to CATS. The asset forfeiture program is executed by its member agencies and their performance is reported under their leadership's guidance.

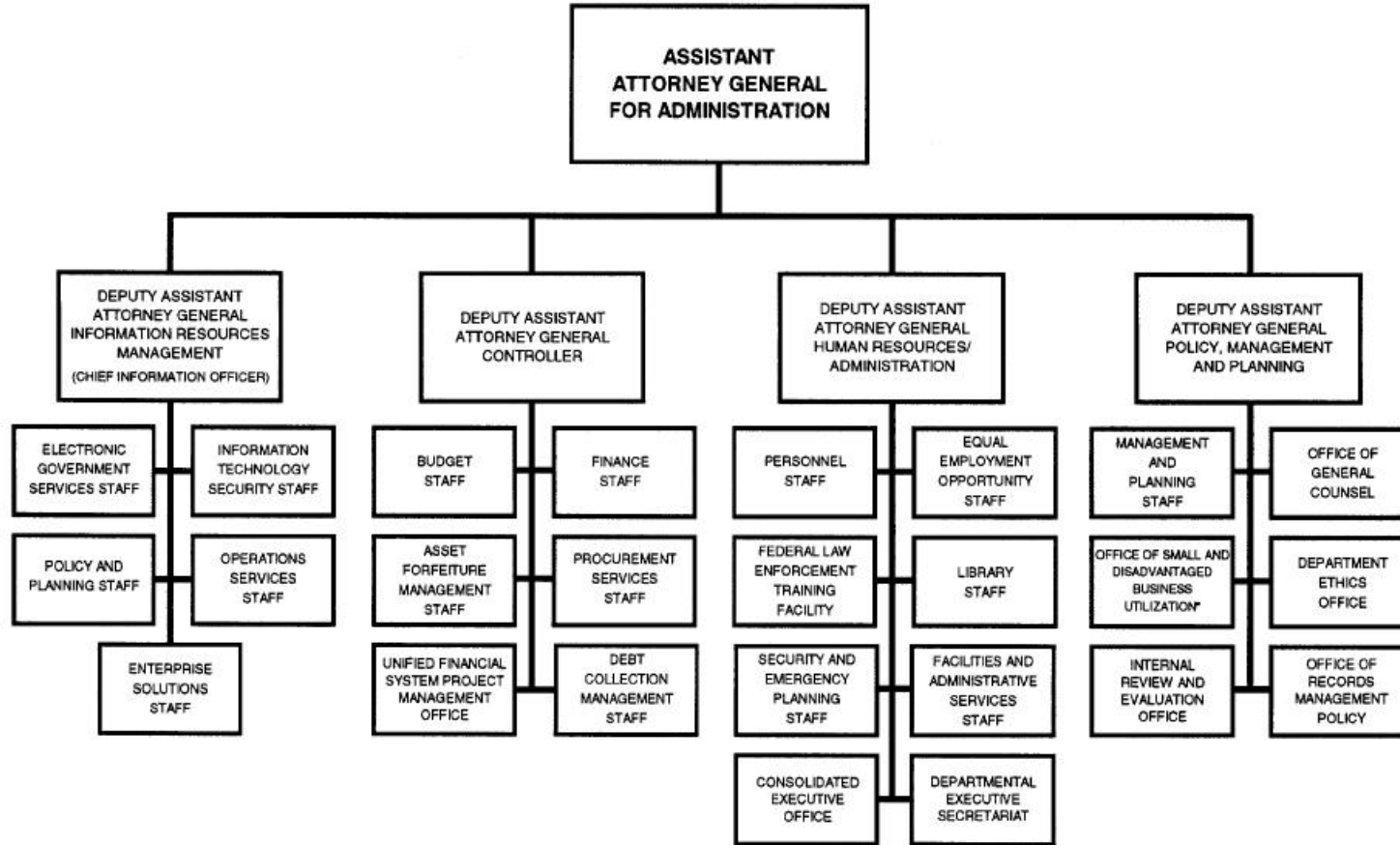
**c. Results of Program Assessment Rating Tool (PART) Reviews**

Programs within the Fund have not been selected for review under the PART process.

## IV. EXHIBITS

A: Organizational Chart

## JUSTICE MANAGEMENT DIVISION



\*LOCATED IN JMD FOR ADMINISTRATIVE PURPOSES.

Approved by: *J. V. [Signature]* Date: 5-23-05



D: Resources by DOJ Strategic Goal and Strategic Objective

**Resources by Department of Justice Strategic Goal/Objective  
Assets Forfeiture Fund**  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	2007 Appropriation Enacted w/Rescissions and Supplementals		2008 Requirements		2009 Current Services		2009				2009 Request	
	Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	Increases		Offsets		Direct, Reimb. Other FTE	Direct Amount \$000s
							Direct FTE	Amount \$000s	Direct FTE	Amount \$000s		
<b>Goal 2: Prevent Crime, Enforce Federal Laws and Represent the Rights and Interests of the American People</b>												
2.2 Reduce the threat, incidence, and prevalence of violent crime		46,648		29,393		30,522					0	30,522
2.4 Reduce the threat, trafficking, use, and related violence of illegal drugs		1,041,795		656,452		681,658					0	681,658
2.5 Combat public and corporate corruption, fraud, economic crime, and cybercrime		466,475		293,934		305,220					0	305,220
<b>Subtotal, Goal 2</b>	<b>0</b>	<b>1,554,918</b>	<b>0</b>	<b>979,779</b>	<b>0</b>	<b>1,017,400</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,017,400</b>
<b>GRAND TOTAL</b>	<b>0</b>	<b>\$ 1,554,918</b>	<b>0</b>	<b>\$ 979,779</b>	<b>0</b>	<b>\$ 1,017,400</b>	<b>0</b>	<b>\$ -</b>	<b>0</b>	<b>\$ -</b>	<b>0</b>	<b>\$1,017,400</b>

The AFF distributes its resources annually at the rate of 3, 67 and 30 percent among objectives 2.2, 2.4 and 2.5, respectively.

## F: Crosswalk of 2007 Availability

### Crosswalk of 2007 Availability

Assets Forfeiture Fund

Salaries and Expenses

(Dollars in Thousands)

Decision Unit	FY 2007 Enacted Without Rescissions			Rescissions			Reprogrammings / Transfers			Carryover/ Recoveries			2007 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Mandatory Expenses, Indef Auth			1,670,435									429,058	0	0	2,099,493
Investigative Expenses, Def Auth			21,194										0	0	21,194
Unobligated Balance Rescission						(170,000)							0	0	(170,000)
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>\$1,691,629</b>	<b>0</b>	<b>0</b>	<b>(\$170,000)</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>\$429,058</b>	<b>0</b>	<b>0</b>	<b>\$1,950,687</b>
Reimbursable FTE															0
Total FTE		0			0			0			0			0	
Other FTE															0
LEAP															0
Overtime															0
Total Compensable FTE		0			0			0			0			0	

Enacted Rescissions. Funds rescinded as required by the Revised Continuing Appropriations Resolution, 2007 (P.L. 110-5).

Unobligated Balances. Funds in the amount of \$398,443 were carried over from FY 2006 from the 15X5042 account. The carried forward balances consist primarily of restricted funding for ongoing expenses. In addition, \$30,615 in recoveries and refunds have been realized through September 30, 2007.

Funds in the amount of \$2,674, Change in uncollected customer payments from Federal Sources (unexpired), is not included in the 2007 Availability.

**G: Crosswalk of 2008 Availability**

**Crosswalk of 2008 Availability**

Assets Forfeiture Fund  
Salaries and Expenses  
(Dollars in Thousands)

Decision Unit	FY 2008 Enacted			Rescissions			Supplementals			Reprogrammings / Transfers			Carryover/ Recoveries			2008 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Mandatory Expenses, Indef Auth			1,198,789											397,809	0	0	1,596,598	
Investigative Expenses, Def Auth			20,990												0	0	20,990	
Unobligated Balance Rescission						(240,000)									0	0	(240,000)	
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>1,219,779</b>	<b>0</b>	<b>0</b>	<b>-240,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$1,377,588</b>	
Reimbursable FTE																	0	
Total FTE		0			0			0			0			0			0	
Other FTE																		
LEAP																	0	
Overtime																	0	
Total Compensable FTE		0			0			0			0			0			0	

Unobligated Balances. Funds in the amount of \$397,809 were carried over from FY 2007 from the 15X5042 account. The carried forward balances consist primarily of restricted funds and balances for specific ongoing expenses.

2008 Total Availability are the Total Budgetary Resources minus any reimbursable amounts.

**H: Summary of Reimbursable Resources**

**Summary of Reimbursable Resources**

Assets Forfeiture Fund

Salaries and Expenses

(Dollars in Thousands)

Collections by Source	2007 Enacted			2008 Planned			2009 Request			Increase/Decrease		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Executive Office for U.S. Attorneys	0	0	3,640,640	0	0	3,675,704	0	0	3,767,597	0	0	91,893
Treasury Executive Office for Asset Forfeiture	0	0	616,516	0	0		0	0		0	0	0
<b>Budgetary Resources:</b>	<b>0</b>	<b>0</b>	<b>4,257,156</b>	<b>0</b>	<b>0</b>	<b>3,675,704</b>	<b>0</b>	<b>0</b>	<b>3,767,597</b>	<b>0</b>	<b>0</b>	<b>91,893</b>

## L: Summary of Requirements by Object Class

### Summary of Requirements by Object Class

Assets Forfeiture Fund

Salaries and Expenses

(Dollars in Thousands)

Object Classes	2007 Enacted w/Rescissions and Supplementals		2008 Requirements		2009 Request		Increase/Decrease	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
11.8 Special personal services payments	0	151	0	155	0	155	0	0
Total	0	151	0	155	0	155	0	0
Other Object Classes:								
21.0 Travel and transportation of persons		7,280		6,000		6,300		300
22.0 Transportation of things		824		1,200		1,200		0
23.1 GSA rent		3,735		5,400		5,700		300
23.2 Rental payments to others		575		1,000		1,000		0
23.3 Comm., util., & other misc. charges		1,639		1,000		1,000		0
24.0 Printing and reproduction		4,922		4,500		4,500		0
25.1 Advisory and assistance services		21,034		20,500		21,000		500
25.2 Other services		1,469,216		935,926		951,045		15,119
25.3 Purchases of goods & services from Government accounts (Antennas, DHS Sec. Etc..)		28,302		32,000		35,000		3,000
25.4 Operation and maintenance of facilities		7,897		7,500		7,500		0
25.7 Operation and maintenance of equipment		6,407		6,000		6,000		0
26.0 Supplies and materials		1,080		1,000		1,000		0
31.0 Equipment		2490		2,000		2,000		0
<b>Total obligations</b>		<b>\$1,555,552</b>		<b>\$1,024,181</b>		<b>\$1,043,400</b>		<b>\$19,219</b>
Unobligated balance, start of year		(398,443)		(567,809)		(582,721)		
Unobligated balance, end of year		567,809		582,721		632,000		
Recoveries of prior year obligations		(25,543)		0		0		
<b>Total DIRECT requirements</b>		<b>1,699,375</b>		<b>1,039,093</b>		<b>1,092,679</b>		
Reimbursable FTE:								
Full-time permanent	0	0	0	0	0	0	0	0
23.1 GSA rent (Reimbursable)		0		0		0		0
25.3 DHS Security (Reimbursable)		0		0		0		0