United States Trustee Program

FY 2011 Budget Request

February, 2010

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I. Overview of the United States Trustee Program

- The U.S. Trustee Program's ("USTP" or "Program") FY 2011 budget request totals 1,358 permanent positions (330 attorneys), 1,341 workyears, and $236,435,000. The request includes a program change of $5,175,000 and 35 positions (12 attorneys) to address the increasing bankruptcy caseload and funding for critical information technology requirements. The request also includes a technical adjustment of $5,238,000 to permanently restore the Program's base requirements.

- The USTP anticipates its budget request will be fully offset by bankruptcy fees collected during FY 2011.

Electronic copies of the Department of Justice's Congressional Budget Justification and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using Internet address: http://www.usdoj.gov/jmd/2011justification/.

Rationale for Budget Request

The U.S. Trustee Program's total FY 2011 budget request represents a 5.3 percent increase over the total resources made available in the FY 2010 Consolidated Appropriations Act. The request specifically addresses the Administration's priority to defend and protect the federal fisc by identifying and combating creditor abuse and mortgage fraud. It also reflects a significant revenue increase for the U.S. Trustee System Fund and addresses some extenuating circumstances such as recent budget shortfalls, a rapidly rising caseload, and critical enforcement issues.

Current estimates indicate that by 2011, the Program will face filing increases of more than 100 percent above the FY 2007 post-BAPCPA filing level, generating offsetting collections of $281.8 million. The Program's request for FY 2011 totals $236.4 million, $45.4 million less than anticipated offsetting collections. This request will help the Program address the gap in resources which occurred with the significant reduction to base experienced in the FY 2008 Appropriations Act, and it would begin to provide the resources necessary for the Program to address the increasing and complex issues of mortgage fraud and abuse in the bankruptcy system.

The FY 2008 Act provided total resources to the USTP of $209.8 million, $13.4 million less than the FY 2007 appropriation and $21 million below the FY 2008 current services base. The USTP successfully responded to the base reduction by imposing a limited hiring freeze, which left more than 100 vacancies unfilled; streamlining its operations; and reducing or eliminating automation and information technology support, planned studies and evaluations, training, equipment replacements, and other budget categories. To meet statutorily mandated debtor audit requirements, for which Congress has never appropriated funding, the USTP utilized limited carry over resources to fund the audits at a reduced rate of 1 audit for every 1,000 case filings.

With the increased workload and resulting increased offsetting collections, it is critical that the Program rebuild its workforce and obtain the additional resources needed to address caseload increases and complexities and capitalize on advancements in information technology to enhance staff productivity.

USTP Mission Statement: *The United States Trustee Program acts in the public interest to promote the efficiency and to protect and preserve the integrity of the bankruptcy system. It works to secure the just, speedy, and economical resolution of bankruptcy cases; monitors the conduct of parties and takes action to ensure compliance with applicable laws and procedures; identifies and investigates bankruptcy fraud and abuse; and oversees administrative functions in bankruptcy cases to promote and defend the integrity of the federal bankruptcy system.*

A. Background

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

The USTP is a national program with broad administrative, regulatory, and litigation authorities. Its duties are set out primarily in titles 11 and 28 of the United States Code and range from consumer bankruptcy cases to large corporate reorganizations. In addition to specific statutory duties and responsibilities, United States Trustees may raise and may appear and be heard on any issue in any case or proceeding under title 11, the Bankruptcy Code.

The Program litigates to protect the integrity of the bankruptcy system and to help ensure that the Bankruptcy Code is interpreted nationally in a consistent and fair manner. The USTP is the only participant in the bankruptcy system with a national perspective and a responsibility to develop coherent case law in all jurisdictions.

With the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) of 2005 (P.L. 109-8), the USTP was provided new enforcement responsibilities and important statutory tools to assist it in identifying and civilly prosecuting those who abuse the bankruptcy system.
The enforcement actions taken by the Program reflect a balanced approach to address wrongdoing both by debtors and by those who exploit debtors – creditors (including mortgage servicers), attorneys, and bankruptcy petition preparers who prey on vulnerable debtors using fraud and deceptive practices.
The combined result of the Program's efforts is to deter abuse, maximize the returns to creditors, and strengthen the laws to ensure that relief is appropriately granted.

The Program's mission is reflected in Goal II, Strategic Objective 2.8 of the Department's Strategic Plan: Protect the Integrity and Ensure the Effective Operation of the Nation's Bankruptcy System. The USTP's strategic objectives are listed below:

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

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

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

In January 2006, the Office of Management and Budget (OMB) completed its joint review of the USTP's operations. The OMB rating reflected the USTP's efforts to adopt performance-based management systems, including better measurements of results achieved and tying programmatic success to budget formulation. In FY 2009, the Program completed an extensive review of its performance measures with special emphasis on comprehensive programmatic results as they relate to resource expenditures and needs. The review resulted in significant changes to the Program's performance measures that better reflect its mission, outcomes and impacts.

B. Full Program Costs

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

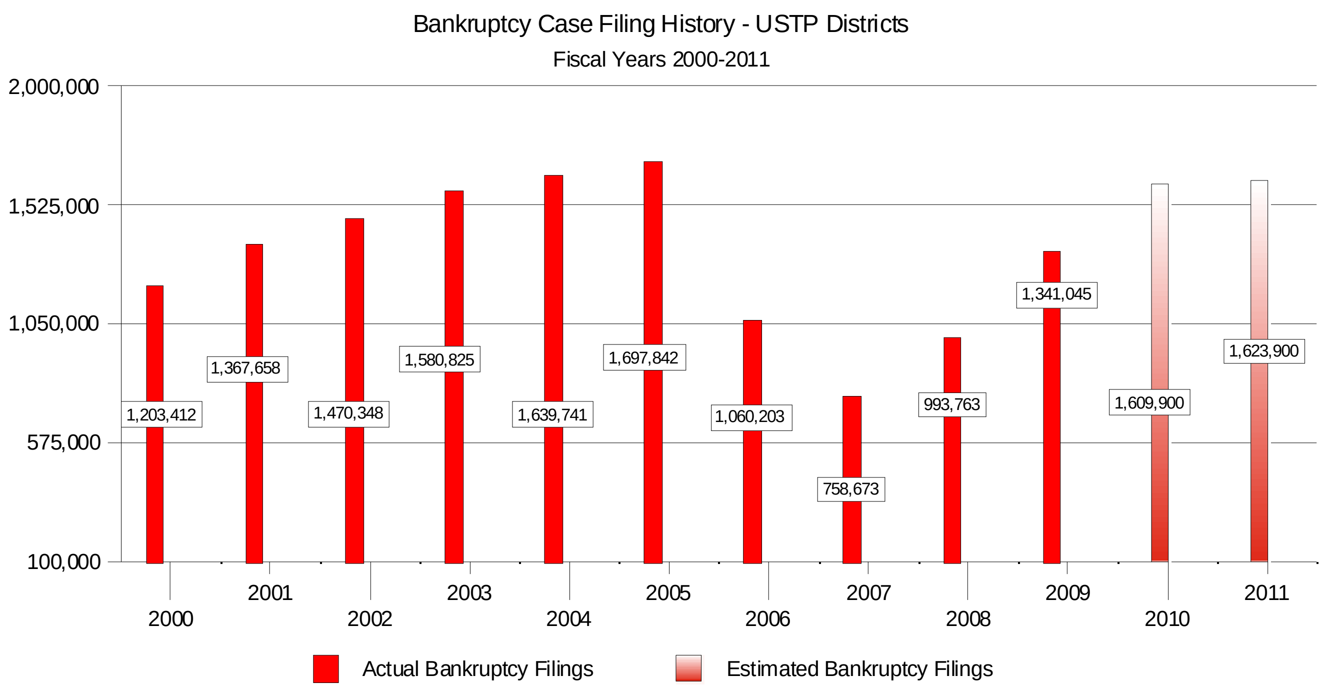
C. Performance Challenges

External Challenges. There are a number of external factors that impact the operations of the United States Trustee Program. While the USTP is responsible for oversight of the panel and standing trustees who handle bankruptcy cases and for litigating issues that arise in those cases before the bankruptcy courts, the federal judiciary is responsible for adjudicating the bankruptcy cases. Thus, the Program must work cooperatively with the federal courts on numerous legal and other issues of mutual interest affecting the integrity of the bankruptcy system. For example, the USTP worked with the courts to enhance the information it receives electronically from the courts to streamline its ability to review bankruptcy petitions and schedules. It also worked cooperatively with the courts to implement new uniform trustee final reports required by law to be filed with the courts by panel and standing trustees. The USTP enforces and defends challenges to provisions of the Bankruptcy Code, including by litigating issues of first impression and carrying out numerous administrative and other duties arising under the bankruptcy law. The USTP also faces challenges in detecting evolving and innovative schemes of fraud and abuse, including creditor abuse, that affect the bankruptcy system.

The USTP's funding is entirely fee based, and as a result is impacted by fluctuations in bankruptcy filings. The Program has no control over the number of filings or the chapter under which a bankruptcy petition is filed. In the two weeks leading up to the October 17, 2005, BAPCPA effective date, 600,000 cases were filed. Following the implementation of the BAPCPA, bankruptcy filings fell immediately and dramatically and the USTP experienced a concomitant decrease in the level of revenue that was collected to support its operations.

Bankruptcy case filings fell to their lowest post-BAPCPA level in FY 2007 with less than 760,000 filings. In FY 2008, filings increased by almost 31 percent over the previous fiscal year. FY 2009 filings increased by 35 percent over FY 2008, ending the fiscal year at 1,341,045 filings. In the two years subsequent to the FY 2007 low, bankruptcy filings increased by almost 77 percent. The USTP projects that filings will increase an additional 20 percent in FY 2010 to an estimated 1,609,900 filings. Filing activities in FY 2011 are conservatively projected to stabilize, remaining around the FY 2010 level for the fiscal year. The following chart reflects actual and projected filings for fiscal years 2000 through 2011.

1. Bankruptcy Filings



<u>Internal Challenges</u> The USTP also faces internal challenges resulting from its efforts to address new and increasing concerns in the areas of mortgage foreclosure and creditor abuse, an increased number of large chapter 11 filings, its ongoing efforts to enforce bankruptcy reform, and its fluctuating workload and available resources. In FY 2006, the USTP received a program enhancement specifically to address its added responsibilities under the BAPCPA. At the same time, filings and revenues dropped, requiring draw-downs from the System Fund in FY 2006, FY 2007 and FY 2008 to fund the USTP's operations. The decreased revenue stream created a significant burden on the USTP in terms of meeting its core mission and increased responsibilities under the BAPCPA. The USTP successfully responded to this reduction by streamlining operations, imposing a hiring freeze, temporarily suspending debtor audit activities and later reinstating the audits at a reduced level, and by reducing or eliminating automation and information technology support, planned studies and evaluations, training, equipment replacements, and other items. At the same time that revenues fell and authorized positions were reduced, the bankruptcy caseload increased by almost one third. The Program assumed substantially increased duties mandated by BAPCPA and was faced with addressing new and complex issues associated with mortgage foreclosures, national mortgage servicers, and large chapter 11 bankruptcy filings, eg., Lehman Brothers and Chrysler.

2. U.S. Trustee System Fund

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

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

In FY 2006, bankruptcy filings fell dramatically following the effective date of the BAPCPA. Collections during the fiscal year were insufficient to support the USTP's operations, requiring a draw-down of about $44 million from the U.S. Trustee System Fund. Bankruptcy filings and revenue hit their lowest post-BAPCPA point in FY 2007, with annual filings totaling less than 760,000 and total revenue of about $131 million. In order to support operations during FY 2007, a draw down of $92 million from the System Fund was needed. Although filings steadily increased in FY 2008, annual filing levels remained below pre-BAPCPA levels and a draw down of $26 million was needed to support USTP operations in FY 2008. During FY 2009 the number of filings exceeded 1.3 million and actual collections for the fiscal year totaled over $226 million. Current revenue projections indicate that the fees collected in FY 2010 and FY 2011 will be sufficient to fully fund the budget requests.

D. Revenue Estimates

The following chart displays the actual revenue collected from FY 2006 through FY 2008, and the current revenue projections for FY 2009 through FY 2011.

Revenue Collected in FY 2006:

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

Revenue Collected in FY 2007:

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

Revenue Collected in FY 2008:

	Amount
Bankruptcy Fees:	
Filing Fees	$79,239,888
Chapter 11 Quarterly Fees	78,334,677
Other	70,078
Interest earnings on investments	5,860,839
TOTAL DEPOSITS	163,505,482

Revenue Collected in FY 2009:

	Amount
Bankruptcy Fees:	
Filing Fees	$107,189,094
Chapter 11 Quarterly Fees	118,504,046
Other	87,500
Interest earnings on investments	790,276
TOTAL DEPOSITS	226,570,916

Revenue Projections for FY 2010:

	Amount
Bankruptcy Fees:	
Filing Fees	$130,315,170
Chapter 11 Quarterly Fees	135,593,645
Other	150,000
Interest earnings on investments	1,000,000
TOTAL DEPOSITS	267,058,815

Revenue Projections for FY 2011:

	Amount
Bankruptcy Fees:	
Filing Fees	$131,536,250
Chapter 11 Quarterly Fees	148,642,714
Other	150,000
Interest earnings on investments	1,500,000
TOTAL DEPOSITS	281,828,964

E. Program Efforts toward Creating and Implementing an Environmental Management System (EMS)

The USTP joins the Department in working to improve environmental management. The Program has implemented a number of recycling and other “greening” initiatives and complies with existing Federal Acquisition Regulations. For example:

- The USTP's Facilities Management Division works with the General Services Administration (GSA) to ensure that environmentally preferable building products and materials are used in the design, construction and operation of commercially owned office space occupied by the Program. Specifically, lessors are required to use products that are phosphate-free, non-corrosive, non-flammable, and fully biodegradable. In addition, lessors are required to use paper products with recycled content conforming to EPA standards. This information is included in GSA's standard leasing documents, and is a requirement for all new lease acquisitions.

- As required by Federal Acquisition Regulation (FAR) 23.705, the Program makes every effort to purchase electronic products which are Electronic Product Environmental Assessment Tool (EPEAT) registered, or EnergyStar Compliant products. Such products include computer monitors, desktop computers, notebook computers, printers and copiers.

- As required by FAR Subpart 23, the Program purchases supplies that are environmentally preferable products made from recycled content, such as copier paper, file folders, pens and remanufactured toner cartridges. Original equipment manufacturer cartridges that contain remanufactured content, on occasion, are purchased.

- The Program recently implemented a personal cell phone and rechargeable battery recycling project at the Executive Office for U.S. Trustees. The project will be expanded to other field offices following a pilot period.

- Recycling of paper products, cans, bottles and plastics are encouraged throughout the Program -- an effort highlighted through the use of signage, posters, and the continual availability of appropriate recycling receptacles. The Program also encourages its employees to reuse items such as notebooks and file folders rather than discarding them through recycling or other means.

II. Summary of Program Changes

Item Name	Description	Pos.	FTE	Dollars (000's)	Page
Additional Personnel to Address Increased Workload and Responsibilities	Attorneys and support staff to address significant increased caseload and case complexities.	35	18	$ 2,675	33
IT Requirements	Portal development for data sharing	. . .	. . .	$ 2,500	36

III. Program Changes by Decision Unit to Strategic Goal

					Number and Type of Positions	
Item Name	**Strategic Goal**	**Decision Unit**	**FTE**	**Dollars (000)**	**Position Series**	**No. of Positions in Series**
Staffing to Address Increase Caseload	2.8	Administration of Cases	18	$2,675	301 905 900-998	12 12 11
IT Requirements	2.8	Administration of Cases	. . .	$2,500	N/A	N/A

IV. Appropriations Language and Analysis of Appropriations Language

The FY 2011 budget request includes proposed changes in the appropriations language set forth and explained below. New language is *italicized and underlined*, and language proposed for deletion is bracketed.

United States Trustee System Fund

For necessary expenses of the United States Trustee Program, as authorized, [$224,488,000] *$236,435,000* , to remain available until expended and to be derived from the United States Trustee System Fund: Provided, That notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: Provided further, That[,] notwithstanding any other provision of law, [$224,488,000] *$236,435,000* of offsetting collections pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and shall remain available until expended: Provided further, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year [2010] *2011*, so as to result in a final fiscal year [2010] *2011* appropriation from the Fund estimated at $0.

Analysis of Appropriation Language

No other substantive changes are proposed.

V. Decision Unit Justification

Decision Unit: Administration of Cases

Decision Unit Administration of Cases	Perm. Pos.	FTE	Amount
2009 Enacted with Rescissions	1,305	1,305	$217,416
2009 Enacted	1,305	1,305	217,416
2010 Enacted	1,323	1,314	219,250[1]
Adjustments to Base and Technical Adjustments	0	9	12,010
2011 Current Services	1,323	1,323	231,260
2011 Program Increases	35	18	5,175
2011 Request	1,358	1,341	236,435
Total Change 2010-2011	**0**	**0**	**17,185**

Decision Unit: Administration of Cases-Information Technology Breakout	Perm. Pos.	FTE	Amount
2009 Enacted with Rescissions	39	39	$24,617
2009 Enacted	39	39	24,617
2010 Enacted	39	39	19,339
Adjustments to Base and Technical Adjustments	0	0	-308
2011 Current Services	39	39	19,031
2011 Program Increases	0	0	2,500
2011 Request	**39**	**39**	21,531
Total Change 2010-2011	**0**	**0**	**2,192**

Note: The IT breakout includes personnel salaries and benefits.

1. Program Description

The USTP operates in 88 judicial districts through a system of 21 regions defined pursuant to 28 U.S.C. Section 581(a). Each region is headed by a U.S. Trustee whose basic authority is conferred under 28 U.S.C. Section 586. U.S. Trustees are appointed by the Attorney General to five-year terms and oversee bankruptcy case administration in each of the Program's 21 regions by appointing private trustees, litigating civil enforcement actions, and carrying out other duties. Each U.S. Trustee maintains a small regional staff that typically consists of an administrative officer, information technology specialist, and clerical assistant. The U.S. Trustees supervise a cadre of Assistant U.S. Trustees (AUSTs) who manage 95 field offices located in 46 states.[2]

The USTP's Executive Office, headed by the Office of the Director, provides comprehensive policy and management direction to the U.S. Trustees and their staff, and directly supervises the operations of the Executive Office for U.S. Trustees (EOUST). The Office of the Director also has the primary responsibility for liaison with the Department, Congress, the bankruptcy courts, private trustee organizations, and other stakeholders in the bankruptcy system (e.g., professional associations and

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1/ In addition to the FY 2010 appropriation, Congress directed that the USTP utilize $5,238,000 in carry over funding to supplement its operational resources.
2/ The USTP has jurisdiction in all federal judicial districts except those in Alabama and North Carolina. The Program has no office in North Dakota and Vermont; offices in South Dakota and New York cover those jurisdictions.

debtor and creditor bar representatives). EOUST also includes the Office of General Counsel, the Office of Review and Oversight, the Office of Research and Planning, and the Office of Administration.

<u>Creditor Abuse</u>

Addressing violations of the Bankruptcy Code by creditors, including national mortgage servicers, has emerged as a top Program priority. The USTP investigates and takes civil enforcement action in cases involving allegations that mortgage servicers file inaccurate papers claiming that debtors owe more money than they actually owe, that a default has occurred when there has been no default, or that the mortgage servicers have been adding additional and undisclosed charges that are not permitted under the terms of the loan contract. The Program is investigating a significant number of allegations involving systemic abuse by national mortgage servicers and other creditors.

The Program has recently prevailed in several significant court decisions involving national mortgage servicers:

On May 1, 2009, in *McDermott v. Countrywide Home Loans (In re O'Neal)*, Case. No. 07-51027 (Bankr. N.D. Ohio), the Bankruptcy Court for the Northern District of Ohio ruled in favor of the United States Trustee for Region 9 on a complaint alleging that Countrywide Home Loans acted recklessly by filing erroneous proofs of claim and other papers in a chapter 13 case. The Court concluded, after a trial, that Countrywide's conduct, including its system for tracking mortgage payments, evidenced "disregard for diligence and accuracy" and "indifference to the truth." The Court found it had authority under both section 105 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 9011 to sanction Countrywide's conduct, and it held an additional hearing to determine appropriate sanctions. In an opinion issued July 31, 2009, the Court ordered Countrywide, its successor and assigns, to complete a four-page summary requiring details such as the type of loan, its interest rate and payment adjustment dates for each new proof of claim, and to attach it as a supplement to previously filed proofs of claim in pending cases. The Court also noted that Countrywide's failure to use and properly complete the summary would result in the imposition of monetary sanctions, including compensatory damages, against Countrywide. Countrywide has appealed the Bankruptcy Court's decision to the United States District Court for the Northern District of Ohio, where the United States Trustee filed a brief in support of affirming the Bankruptcy Court's judgment.

In another case having national impact, *In re Taylor*, No. 07-15385 (Bankr. E.D. Pa.), the United States Trustee for Region 3 participated in an order to show cause proceeding relating to HSBC Mortgage Corporation's filing of a proof of claim and motion for relief from stay, including an investigation into the practices and procedures employed by the mortgage servicer, Lender Processing Services, Inc. f/k/a/ Fidelity National Information Services, Inc. ("Fidelity"), and the servicer's attorneys and agents. In a detailed opinion issued on April 15, 2009, the Bankruptcy Court criticized the mortgage servicer's unchecked use of automation and highlighted various problems encountered in relying exclusively on an automated process. The Court also issued non-monetary sanctions against the mortgage servicer and the mortgage servicer's regional counsel, and authorized the United States Trustee's continued investigation into the conduct of the mortgage servicer's national counsel. This decision is significant because Fidelity supplies mortgage payment tracking services to 39 of the nation's 50 largest banks. The mortgage servicer has appealed the imposition of sanctions to the United States District Court for the Eastern District of Pennsylvania. The United States Trustee filed a brief with the District Court in support of affirming the judgment of the Bankruptcy Court.

In another significant creditor abuse decision, the United States District Court for the Eastern District of Louisiana in *In re Stewart*, No. 08-3225, slip op., 2009 WL 2448054 (E.D. La. Aug. 7, 2009), upheld the Bankruptcy Court's imposition of audit procedures on proofs of claim filed by Wells Fargo, and other associated remedies, and affirmed the Bankruptcy Court's authority to impose remedies for systemic creditor abuse. The United States Trustee for Region 5 filed an *amicus* brief before the District Court arguing in support of the Bankruptcy Court's power to impose sanctions upon Wells Fargo because it repeatedly and systematically filed flawed proofs of claim. The District Court held that section 105(a) of the Bankruptcy Code allowed the Bankruptcy Court to require Wells Fargo to audit and amend inaccurate proofs of claim. The District Court also ruled it was not necessary for the Bankruptcy Court to find fraud or bad faith as a prerequisite to a corrective remedy because the Court was acting pursuant to its inherent authority to manage its docket as well as statutory authority under section 105 to enforce the Bankruptcy Code provisions governing the filing of claims. Finally, the District Court held that the Bankruptcy Court was not required to address abuse on a case-by-case basis, but rather could act to remedy a systemic abuse. Wells Fargo has appealed the District Court's judgment affirming the Bankruptcy Court to the United States Court of Appeals for the Fifth Circuit. The USTP is currently evaluating whether to participate as amicus.

In matters pertaining to the privacy rights of debtors, on July 22, 2009, the United States Trustee Program entered into a settlement agreement with First Tennessee Bank ("First Tennessee") to resolve complaints involving the bank's improper disclosure of more than 2,500 Social Security numbers and other personally identifiable information ("PII") on proofs of claim filed as to mortgage loans in bankruptcy courts in 47 states and the District of Columbia in violation of Federal Rule of Bankruptcy Procedure 9037. Under the agreement, First Tennessee has amended 2,874 proofs of claim with an aggregate total value of over $159 million, provided notice to each debtor and third party whose PII had been disclosed in a proof of claim, and has been required to adopt and maintain appropriate policies, procedures, and controls to ensure that future proofs of claim comply with the requirements of Bankruptcy Rule 9037.

The USTP has enhanced its creditor abuse enforcement training program by delivering a one-day course at the EOUST for senior field staff, presenting at least annually a new training program at the USTP's National Bankruptcy Training Institute of the National Advocacy Center, and filming a creditor abuse video for the video on demand library which is available to all employees.

The USTP has also established a creditor abuse working group, consisting of AUSTs and attorneys who have been leaders in this effort. The creditor abuse working group provides timely and effective legal advice to USTP personnel, assists with information sharing, and provides coordination and guidance to field offices in investigating or litigating creditor abuse. The USTP's FY 2010 enacted appropriation supports an additional 18 positions to establish litigation swat teams to address creditor abuse and other complex litigation schemes.

The USTP also developed new guidance for chapter 13 standing trustees to ensure appropriate review of proofs of claim, including those filed by mortgage servicers.

Mortgage Fraud Schemes

Individuals who engage in mortgage fraud often use the bankruptcy system as an essential tool in carrying out their fraudulent schemes and victimizing desperate homeowners. The USTP routinely identifies mortgage rescue fraud and other mortgage fraud schemes involving the bankruptcy system. Where appropriate, the USTP makes criminal referrals to its law enforcement partners, including the United States Attorneys and the Federal Bureau of Investigation. In many cases, USTP efforts involve identifying the scheme, conducting an investigation, preparing the referral to law enforcement, and assisting law enforcement with the investigation and prosecution.

- One of the prevalent mortgage fraud schemes found in bankruptcy is the foreclosure rescue operation. Foreclosure rescue operators defraud financially troubled homeowners using the bankruptcy system to help perpetrate their crimes. There are several variations of the scheme, but generally the perpetrator entices the distressed homeowner to either make mortgage payments through them or to transfer a deed to them. The perpetrator then files a bankruptcy petition to delay foreclosure and continues to collect payments from the unsuspecting homeowner. The perpetrator fails to perform promised services to negotiate loan modification, and does not remit the mortgage payment, so the homeowner ultimately loses the home to foreclosure.

<u>Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) of 2005</u>
The Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) of 2005 (P.L. 109-8) was signed into law on April 20, 2005. The Act provided the USTP with new tools to enhance the integrity and efficiency of the bankruptcy system for the benefit of all parties. Despite the difficulties presented by the unprecedented surge in filings in the two weeks leading up to the implementation of the BAPCPA, the USTP successfully implemented and enforces the new law's important provisions. The BAPCPA assigned substantial new responsibilities to the USTP primarily, but not exclusively, in five major areas: means testing; credit counseling and debtor education; small business chapter 11s; debtor audits; and studies and data collection.

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

The USTP was extensively involved in the Judicial Conference's Advisory Committee on Bankruptcy Rules' the development of necessary official forms and accompanying rules to perform the means test. In addition, the USTP worked with the courts to enhance the information it receives electronically from the courts to permit it to streamline its review of bankruptcy petitions and schedules under the statutory means testing formula. Moreover, the USTP made a major investment in training field personnel to perform the means test, including exercising appropriate discretion in deciding whether to file a motion to dismiss a case under the "presumed abuse" standard and the "special circumstances" exception.

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

By the end of calendar year 2009, there were 157 credit counseling agencies covering 88 judicial districts for pre-bankruptcy counseling. In addition to offering Internet and telephonic access, the companies have over 776 walk-in locations for credit counseling. For post-bankruptcy debtor education, there are currently 260 approved debtor education providers covering 88 judicial districts. In addition to debtor education providers offering internet and telephonic access, there were over 965 walk-in locations.

Quality Service Reviews (QSRs) allow the Program to corroborate information submitted in applications, observe credit counseling and debtor education sessions, and obtain information about the operations of the credit counseling agency or debtor education provider. The USTP completed 11 QSRs during FY 2009.

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

In the 2005 bankruptcy reform law, Congress placed clear, new restraints on the compensation of executives in companies that are in chapter 11 bankruptcy. The USTP believes that Congress intended to provide enhanced oversight of chapter 11 companies in reorganization and increase management accountability. In demonstrating that intent, Congress has fundamentally changed the rules for granting retention bonuses and severance packages. Section 503(c) of the Bankruptcy Code prohibits most retention bonuses, generally requiring that bonuses to senior officials be based upon achievement of bona fide performance goals. Prior to this change, Key Employee Retention Plans (KERPs) allowed the very officers who managed the debtor into bankruptcy to receive millions of dollars in post filing compensation while the remainder of the debtor's workforce suffered disproportionate financial loss. The United States Trustee is often the only party objecting to executive bonuses that do not comply with the new law.

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

Among many other chapter 11 cases, the U.S. Trustee appointed independent examiners to investigate the financial affairs of Lehman Brothers; New Century Mortgage Company; and Dreier LLP, an attorney accused of misappropriating hedge fund and bankruptcy estate funds.

In addition, the unprecedented chapter 11 filings by Chrysler and General Motors presented significant challenges to the USTP. In anticipation of the filings, the USTP proactively assembled a team of highly experienced chapter 11 practitioners from a number of field offices and the Office of the General Counsel under the leadership of several U.S. Trustees and EOUST. Using this task force approach, the USTP was able to fulfill its important functions in the cases within the exigent time frames of the cases. For example, the team reviewed voluminous pleadings that the court heard in the first days of each case and successfully negotiated changes and resolved its concerns without the necessity of filing formal objections. In addition, within several days after each of the filings, the U.S.

Trustee had marshaled information about the company's complex debt structure and had appointed a creditors committee that was representative of the debtor's numerous unsecured debt constituencies.

Under the BAPCPA, the USTP contracts for random and non-random audits to verify the financial information provided by debtors. This provision helps the USTP identify fraud, abuse, and errors, deter the filing of false financial information, and potentially provide a baseline for measuring fraud, abuse, and errors in the bankruptcy system. The debtor audits authorized by the BAPCPA commenced on October 20, 2006.

The USTP never received appropriated funding to support debtor audit activities. The Program utilized available carry over funding to contract for debtor audits in FY 2007 and in FY 2008. The amount of carry over available in FY 2008 supported debtor audits at reduced levels. The audits continued at reduced levels in FY 2009 and were again funded with carry over. The Program's FY 2010 enacted appropriation was augmented with $5.3 million in carry over funding, leaving only $3.3 available for debtor audits and other unfunded operational priorities. Contracting for the audits in FY 2011 will be dependent upon the availability of carry over funding.

2. Performance and Resources Table

Appropriation: United States Trustee Program
Decision Unit: Administration of Cases

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

		Final Target		Actual		Projected		Changes		Requested (Total)	
WORKLOAD/ RESOURCES		**FY 2009**		**FY 2009**		**FY 2010 Enacted**		**Current Services and Technical Adjustments & FY 2011 Program Changes**		**FY 2011 Request**	
Number of Chapter 7 Cases Filed		1,000,000		961,025		1,236,000		14,000		1,250,000	
Number of Chapter 11 Cases Filed		13,000		14,295		13,000		0		13,000	
Number of Chapter 12 Cases Filed		350		471		400		0		400	
Number of Chapter 13 Cases Filed		345,500		365,254		360,500		0		360,500	
Total Filings		**1,358,850**		**1,341,045**		**1,609,900**		**14,000**		**1,623,900**	
Total Costs and FTE		**FTE**	**$000**	**FTE**	**$000**	**FTE**	**$000**	**FTE**	**$000**	**FTE**	**$000**
TYPE / Strategic Objective	**Performance /Resources**	1,305	$217,416	1,239	$ 215,752	1,314	$219,250	27	$17,185	1,341	$236,435
Program Activity	**1. Civil Enforcement**	**FTE** 603	**$000** 93,950	**FTE** 498	**$000** 86,795	**FTE** 574	**$000** 90,957	**FTE** 17	**$000** 7,129	**FTE** 591	**$000** 98,086
Performance Measure	Number of motions, complaints & inquiries	40,000		42,619		42,000		**MEASURE IS DISCONTINUED IN FY 2011**			
	Percent of successful motions & complaints	90%		98%		92%		**MEASURE IS DISCONTINUED IN FY 2011**			

	Success rate of civil adversary complaints filed	96%		99%		96%		MEASURE IS DISCONTINUED IN FY 2011			
	Success in litigating means testing	90%		97%		94%		MEASURE IS DISCONTINUED IN FY 2011			
Program Activity	**2. Case and Trustee Administration**	**FTE** 702	**$000** 123,466	**FTE** 741	**$000** 128,957	**FTE** 740	**$0** 128,293	**FTE** 10	**$000** 10,056	**FTE** 750	**$000** 138,349
Efficiency Measure	Number of motions & inquiries to convert or dismiss Chapter 11 cases	3,200		4,740		3,400		MEASURE IS DISCONTINUED IN FY 2011			
		Final Target FY 2009		**Actual FY 2009**		**FY 2010 Enacted**		**Current Services Adjustments**		**FY 2011 Total Requested**	
Efficiency Measure	Percent of unconfirmed Chapter 11 cases over 3 years old 1/	N/A		N/A		N/A		MEASURE IS DISCONTINUED IN FY 2011			
	Percentage of Chapter 7 cases over 3 years old 1/	N/A		N/A		N/A		MEASURE IS DISCONTINUED IN FY 2011			
	No. of 707(b) inquiries per successful outcome 2/	8.0		6.0		7.5		0		7.5	
Payments to Creditors / Percentage of Total Disbursements 3/											
Outcomes	**Chapter 7**	$907.8 M		Available in Spring 2010		$1.0 B		MEASURE IS DISCONTINUED IN FY 2011			
	Chapter 12	$24.0 M		Available in Spring 2010		$25.0 M		MEASURE IS DISCONTINUED IN FY 2011			

	Chapter 13	$4.18 B	Available in Spring 2010	$4.6 B	**MEASURE IS DISCONTINUED IN FY 2011**	
	Median days in chapter 11 before case dismissal or conversion	**NEW OUTCOME MEASURE**	181	175	-5	170
Outputs	Number of successful actions related to consumer protection	**NEW OUTPUT MEASURE**	2,706	1,800	200	2,000
	Number of successful discharge complaints	**NEW OUTPUT MEASURE**	512	550	50	600
	Potential Additional Returns to Creditors through Civil Enforcement and Related Efforts	$500,000,000	$1,090,142,515	$700,000,000	$100,000,000	$800,000,000
	Number of Civil Enforcement Adversary Actions Filed	1,478	2,006	1,600	**MEASURE IS DISCONTINUED IN FY 2011**	

1/ During the FY 2008 Fall Update, OMB and the Department agreed to delete these items as efficiency measures and introduce a new measure annotated as 2/ above.

2/ New measure incorporated into the USTP's Performance Table in FY 2009. Approved by the Department and OMB.

3/ Actual data reflecting payments to creditors for the previous fiscal year are not available until mid-April of the subsequent fiscal year.

NOTE: In FY 2009, the Program completed an extensive review of its performance measures with special emphasis on comprehensive programmatic results as they relate to resource expenditures and needs. The review resulted in significant changes to the Program's performance measures that better reflect its mission, outcomes and impacts. Measures that will be discontinued beginning in FY 2011 are noted above. Of the five measures being proposed in FY 2011 and beyond, two are existing measures and three are new measures that are pending the approval of OMB. The new measures are identified in the table above.

PERFORMANCE MEASURE TABLE

Appropriation: United States Trustee Program

Decision Unit: Administration of Cases

Performance Report and Performance Plan Targets		FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009	FY 2010	FY 2011
		Actual	Actual	Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Performance Measure	Number of Motions, Complaints & Inquiries	27,457	41,940	40,518	39,207	48,011	62,501	50,752	40,000	42,619	42,000	Discontinued
	Percent of Successful Motions & Complaints	92.10%	94.50%	94.90%	97.40%	97.50%	96.4%	97.63%	90.00%	97.90%	92.00%	Discontinued
	Success Rate of Civil Adversary Complaints Filed	N/A	N/A	N/A	99.30%	99.10%	98.8%	99.18%	96.00%	98.98%	96.00%	Discontinued
	Success in litigating means testing	N/A	N/A	N/A	N/A	N/A	97.00%	97.98%	90.00%	97.08%	94.00%	Discontinued
Efficiency Measure	Number of Motions & Inquiries to Convert or Dismiss Chapter 11's	8,198	6,741	4,081	3,595	3,306	3,456	3,911	3,200	4,740	3,400	Discontinued
	Percent Unconfirmed Chapter 11 Cases over 3 years old 1/	2.70%	3.80%	3.20%	9.50%	14.10%	10.3%	7.20%	N/A	N/A	N/A	Discontinued
	Percent of Chapter 7 cases over 3 years old 1/	2.10%	2.20%	2.30%	1.40%	3.70%	4.0%	3.40%	N/A	N/A	N/A	Discontinued

	No. of 707(b) inquiries per successful outcome 2/	N/A	N/A	N/A	N/A	13.8	9.5	7.5	8.0	6.0	7.5	7.5
Outcome	Payments to Creditors and Percent of assets paid to creditors in Chapter 7 Cases	$724.6M 57%	$907.81M 58%	$1.02B 58%	$1.02B 59%	$1.80B 63%	$1.7 B 61%	$1.8 B 60%	$907.8M 58%	Available in Spring 2010	$1.0 B 58%	Discontinued Discontinued
	Payments to Creditors and Percent of assets paid to creditors in Chapter 12 Cases	$27.07M 87%	$40.01M 84% **	**	$27.9M ** 85%	$24.05M 85%	$23.67 M 85.7%	$25.7M 78.5%	$24.0M 75%	Available in Spring 2010	$25.0 M 82%	Discontinued Discontinued
	Payments to Creditors and Percent of assets paid to creditors in Chapter 13 Cases	$3.31B 86%	$3.58B 85%	$4.02B% 86%	$4.39B 86%	$4.6B 87%	$4.45B 86%	$4.18B 84%	$4.18B 86%	Available in Spring 2010	$4.6 B 84%	Discontinued Discontinued
	Median number of days in chapter 11 before case dismissal or conversion	**Proposed New Outcome Measure**				N/A	224	190	N/A	181	175	170
Outputs	Number of successful actions related to consumer protection	**Proposed New Output Measure**				1,393	1,283	1,530	N/A	2,706	1,800	2,000
	Number of successful discharge complaints	**Proposed New Output Measure**				552	642	512	N/A	512	550	600
	Potential Add'l. Returns to Creditors	$159.01M	$644.62M	$522.37M	$593.9M	$878.7M	$866M	905M	$500M	$1,090 B	$700 M	$800M

	# of Civil Enforcement adversary actions Filed	N/A	N/A	N/A	1,301	1,704	1,639	1,810	1,478	2,006	1,600	Discontinued

1/ OMB performed a quality review of the USTP's PART measures in the latter part of FY 2008. As a result of this review, OMB determined that two efficiency measures annotated as "1/", above be deleted, and recommended that the Program develop a new efficiency measure in its place.

2/ The USTP received Department and OMB approval to include this new measure in its performance data.

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

NOTE: In FY 2009, the Program completed an extensive review of its performance measures with special emphasis on comprehensive programmatic results as they relate to resource expenditures and needs. The review resulted in significant changes to the Program's performance measures that better reflect its mission, outcomes and impacts. Measures that will be discontinued beginning in FY 2011 are noted above. Of the five measures being proposed in FY 2011 and beyond, two are existing measures and three are new measures that are pending the approval of OMB. The new measures are idenfied in the table above.

Data Definition, Validation, Verification, and Limitations:

Data Definitions:

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

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

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

Civil Enforcement:

Number of 707(b) inquiries per successful outcome: This measure reflects the quality of U.S. Trustee Program inquiries to debtors or debtor attorneys. An efficiency ratio is calculated by dividing the sum of all 707(b)(2) and (b)(3) inquiries made by the Program to debtors or their attorneys in a fiscal year by the number of successful outcomes relating to 707(b)(2) and (b)(3). A successful outcome is defined as a conversion to a more appropriate bankruptcy chapter, a dismissal of the bankruptcy case, or an abuse motion granted. A lower ratio suggests the Program is doing a better job of focusing staff effort (inquiries) on bankruptcy petitions requiring Program action.

Inquiries made under 707(b)(2) and (b)(3) help the Program assess a debtor's eligibility for chapter 7 relief. If a debtor is above the applicable state median and calculations show disposable income above a specified amount, there is a presumption of abuse. In many cases, this requires a debtor to either agree to convert their case to chapter 13 or dismiss (cancel) their chapter 7 bankruptcy petition. Some motions granted and inquiries resulting in voluntary conversions or dismissals were initiated in the prior fiscal year. **(NOTE: This measure was proposed to and approved by the OMB in FY 2008. At that time, initial targets were developed for FY 2010 and subsequent fiscal years.)**

Number of successful discharge complaints filed by the U.S. Trustee Program to prevent fraud and abuse by bankruptcy filers: Successful formal discharge complaints in a bankruptcy court to prevent fraud and abuse by bankruptcy filers. These complaints result in denial or revocation of a discharge of debt. It is the most serious civil remedy available to the Program in its effort to prevent fraud and abuse in the bankruptcy system and is taken to resolve issues such as hidden assets, unreported income, and exaggerated expenses. These figures do not include successful discharge complaints against debtors who are ineligible due to a prior discharge or who failed to complete a debtor education course. **(NOTE: This is a proposed new measure for which targets are initially developed for FY 2010 and subsequent fiscal years.)**

Number of motions and complaints & inquiries: The number of motions and complaints filed with the court by U.S. Trustees pursuant to Sections 707, 727, and 110 of Title 11, United States Code (the Bankruptcy Code). Section 707(a) of the Bankruptcy Code permits a chapter 7 liquidation case to be dismissed for cause, while Section 707(b) provides that a case may be dismissed for presumed abuse, bad faith or the totality of the circumstances. Under Section 727, a complaint may be filed objecting to the entry of the chapter 7 debtor's discharge. Section 110 places stringent requirements on all non-lawyers who prepare bankruptcy petitions for compensation and establishes penalties for those individuals who negligently or fraudulently prepare bankruptcy petitions. In addition to formal actions filed with the court, this performance measure also includes the number of inquiries made by U.S. Trustees under the same Bankruptcy Code sections. An inquiry is a written or documented verbal communication by the U.S. Trustee to a debtor about possible violations of any of these sections, either directly or through a third party such as the case trustee, which requires a response. It does not rise to the level of a formal pleading. **(NOTE: This measure is to be discontinued beginning in FY 2011.)**

Percent of successful motions & complaints: The number of motions and complaints filed by the U.S. Trustees pursuant to Sections 707, 727 and 110 in which the court granted the relief sought, or the debtor/respondent agreed to the relief sought by the U.S. Trustees, divided by the total number of motions/complaints that were filed and resolved. **(NOTE: This measure is to be discontinued beginning in FY 2011.)**

Success rate of civil adversary complaints filed: The number of complaints filed by the U.S. Trustees pursuant to Section 727 in which the court granted the relief sought, or the debtor agreed to the relief sought by the U.S. Trustees, divided by the total number of complaints that were filed and resolved. **(NOTE: This measure is to be discontinued beginning in FY 2011.)**

Success in litigating means testing: The percentage of 707(b)(2) and 707(b)(3) abuse motions decided after a court hearing that resulted in the dismissal of the case by the court, voluntary dismissal or voluntary conversion. **(NOTE: This measure is to be discontinued beginning in FY 2011.)**

Case and Trustee Administration:

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

Number of motions and complaints granted and successful inquiries made by the U.S. Trustee Program to protect bankruptcy filers from fraud, abuse and error: Formal motions and complaints granted in a bankruptcy court and successful inquiries made by the U.S. Trustee to prevent fraud, abuse and error resulting from the inappropriate actions of creditors, petition preparers, attorneys, mortgage service agencies, and rescue mortgage scams. **(NOTE: This is a proposed new measure for which targets are initially developed for FY 2010 and subsequent fiscal years.)**

Number of motions and inquiries to dismiss or convert chapter 11 cases: The number of motions filed by U.S. Trustees pursuant to Section 1112 (b) of the Bankruptcy Code. In chapter 11 case administration, the U.S. Trustees act promptly to file a motion either to dismiss or convert a chapter 11 case to one under chapter 7 if the debtor is not complying with the provisions of the Bankruptcy Code or Rules, or is unable to confirm a plan of reorganization. In addition to the formal motions filed with the court, this performance measure also includes the number of inquiries made by U.S. Trustees. An inquiry is a written or documented verbal communication by the U.S. Trustee to the debtor about issues that would be grounds for conversion or dismissal that required a response from the debtor. It does not rise to the level of a formal pleading. **(NOTE: This measure is to be discontinued beginning in FY 2011.)**

Outcomes:

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

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

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

Median number of days in chapter 11 before case dismissal or conversion: This measure documents the outcomes of effective monitoring of chapter 11 cases. Various program actions and monitoring activities are designed to ensure chapter 11 cases that cannot successfully reorganize do not spend an excessive amount of time in chapter 11. The sooner the Program is able to ascertain a reorganization of a chapter 11 case is not viable, the sooner the case will be dismissed or converted for liquidation of assets. **(NOTE: This is a proposed new measure for which targets are initially developed for FY 2010 and subsequent fiscal years.)**

Number of Civil Enforcement Adversary Actions Filed: The number of complaints filed by the U.S. Trustees pursuant to Section 727. Under Section 727, a complaint may be filed objecting to the entry of the chapter 7 debtor's discharge. **(NOTE: This measure is to be discontinued beginning in FY 2011.)**

3. USTP Data Validation and Verification Process

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

To ensure data integrity, efficiency, and effectiveness of existing and future data collection systems and to develop long-range goals and priorities to support the USTP mission, a Data Integrity Group (DIG) working group was formed. DIG, which consists of seven AUSTs, works closely with the EOUST Office of Research and Planning and IT staffs. In connection with SARS, DIG reviews a sampling of SARS reports from at least one office in each of the 21 regions. These "spot checks" are conducted twice a year, or as needed. DIG establishes data element definitions, provides training and guidance to the field, and looks for ways to streamline the data collection process for more efficient and effective data collection systems.

Departmental Strategic Goals and Objectives and Results

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

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

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

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

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

In October 2008, the USTP entered into a nationwide settlement agreement with a credit card issuer which had improperly collected on previously discharged debt. The agreement provides for the reimbursement of payments to more than 5,000 debtors or their estates and the auditing of more than 650,000 customer accounts to identify and remedy other instances of improper collections. The credit card company was further required to hire an independent auditor approved by the court to certify the accuracy of the audits.

Since the USTP began tracking its civil enforcement and related actions in 2003, it has taken more than 420,000 actions with a monetary impact in excess of $5.5 billion. During FY 2009, the USTP's offices reported taking over 42,500 formal and informal civil enforcement actions, yielding almost $1.1 billion in debts not discharged in chapter 7, fines and other remedies. The USTP's attorneys prevailed in 97.9 percent of the actions resolved by judicial decision or consent in the fundamental areas of dismissal for abuse (11 U.S.C. § 707(b)), denial of discharge (11 U.S.C. § 727), fines against bankruptcy petition preparers (11 U.S.C. § 110), and disgorgements of attorneys' fees (11 U.S.C. § 329).

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

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

The Program's Criminal Enforcement Unit (CREU) coordinates the criminal referral responsibilities carried out by the USTP's 95 field offices and directly assists prosecutors in pursuing bankruptcy crimes. CREU also provides extensive training, develops resource materials, and enhances coordination for the benefit of the USTP's staff, federal prosecutors, and other law enforcement personnel.

In FY 2009, the USTP made 1,611 criminal referrals, an increase of almost 10 percent over FY 2008. During the past two fiscal years, criminal referrals increased a total of 38.5 percent, due in part to the increasing number of cases involving mortgage and housing fraud. In many cases, the USTP's lawyers directly prosecuted or assisted the prosecution team in cases initiated as a result of criminal referrals made by the USTP's offices. Three veteran career prosecutors within CREU, plus attorneys in field offices across the country who have been designated as Special Assistant U.S. Attorneys, are available to try cases involving bankruptcy crimes.

In a 2007 case, the USTP office in Baltimore was contacted by a group assisting homeowners facing foreclosure, which claimed that some of its clients had been victims of a rescue fraud scheme. Following its investigation, the USTP filed section 110 motions (seeking penalties for negligently or fraudulently preparing bankruptcy petitions) and brought adversary proceedings against Michael Lewis and 3 co-conspirators, alleging numerous violations of the Bankruptcy Code, conspiracy and fraud. The complaints alleged that Lewis aired television commercials promising to help people deal with mortgage foreclosures and evictions. Victims were invited to attend a meeting of the "Michael K. Lewis Group" (MKLG) and were persuaded to join MKLG for a monthly fee that was deducted from their bank accounts. As members, victims were allowed to attend meetings and were put on the Michael K. Lewis "Financial Diet," which involved not making housing payments for a year and signing blank chapter 13 bankruptcy forms. Lewis and the other co-conspirators used the pre-signed forms to prepare and file "bare bones" chapter 13 bankruptcy petitions in the victims' names. If the victims had not pre-signed a form, bogus bankruptcy documents would be created by copying a signature form from one document and electronically pasting in onto another.

After the bankruptcy cases were filed, Lewis told victims that they needed to sell their homes and that he would use "his good credit" to temporarily refinance the homes. The victims were also told that they could repurchase their homes in one year and that they would receive some funds at closing from their home's equity. Lewis, however, did not tell the victims the amount of the sale or repurchase prices of their homes. Just before closing, Lewis would voluntarily dismiss the bankruptcy case. At closing, victims were told for the first time that they had to pay rent to Lewis.

Because the rental payments were so much higher than the victims' mortgage payments, the victims generally defaulted and Lewis and his co-conspirators then brought an eviction action in state court, leaving the victim homeless and destitute. The Baltimore and Greenbelt offices made criminal referrals to the Office of the U.S. Attorney. In June 2008, Michael K. Lewis and three other defendants were charged in connection with the rescue fraud scheme. All four pleaded guilty in April 2009.

On November 23, the Bankruptcy Court for the District of Maryland granted a motion by the U.S. Trustee's Baltimore office for partial summary judgment against Michael K. Lewis and the co-conspirators for their part in a foreclosure rescue scheme. Pursuant to 11 U.S.C. § 110, the court entered judgment for actual damages of $653,216 jointly and severally against all four defendants and imposed a total of $285,000 in fines against them. The Court also issued injunctive relief and found for the U.S. Trustee on the issue of liability for violations of the automatic stay and prior injunctions.

Program offices participate in more than 50 local law enforcement working groups, including bankruptcy fraud working groups, mortgage fraud working groups, and other specialized task forces that are led by federal law enforcement agencies around the country. The USTP also works closely with the Federal Bureau of Investigation, the Internal Revenue Service – Criminal Investigation, the Office of Inspector General of the Department of Housing and Urban Development, and other federal law enforcement agencies. With the enactment of 18 U.S.C. § 158 as part of the BAPCPA, every U.S. Attorney office is required to designate a prosecutor and every FBI field office an agent who will assume primary responsibility for bankruptcy fraud cases. This provision further strengthens existing working groups by formalizing points of contact and provides a foundation for establishing working groups where currently none exist.

The Program is required to submit a report to the Congress annually which details the number and types of criminal referrals made by the Program; the outcome of each referral; for any year in which the number of referrals is less than the prior year, an explanation of the decrease; and the Program's efforts to prevent fraud and abuse, particularly with respect to the establishment of uniform internal controls to detect common, higher risk frauds. USTP has submitted its criminal referral report to the Congress annually since June 2007.

The USTP is continually improving its criminal enforcement efforts. Field offices are required to prepare annual criminal enforcement plans that describe current practices, propose strategies for enhancing the detection and referral of criminal activity, and provide a status on the existence or development of a local bankruptcy fraud working group. These plans provide a basis for additional action and the development of best practices in this area.

National Bankruptcy Fraud Working Group

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

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

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

Chapter 7 and Chapter 13 Distribution of Assets:

	Chapter 7		Chapter 13	
Calendar Year	**Total Disbursements**	**Distributions**	**Total Disbursements**	**Distributions**
2005	$1,723,313,444	$1,023,136,746	$5,119,236,318	$4,396,378,738
2006	$2,838,592,296	$1,798,936,973	$5,306,339,777	$4,640,258,097
2007	$2,861,789,782	$1,742,786,134	$5,150,455,224	$4,450,453,900
2008	$3,035,254,999	$1,817,013,320	$4,969,797,399	$4,183,543,013
2009	Available in Spring 2010		Available in Spring 2010	

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

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

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

During FY 2009, the USTP filed 3,459 motions to convert or dismiss chapter 11 cases. The grounds for such motions, which are critical to the effective functioning of the reorganization provisions of the Bankruptcy Code, typically include dissipation of estate assets without a reasonable likelihood of rehabilitation, failure to file financial reports, cancellation of insurance, or non payment of taxes.

4. Performance, Resources, and Strategies

a. Performance Plan and Report for Outcomes

Performance Measure: Percent of Assets/Funds Returned to Creditors

Fiscal Year	Measure	Target	Actual
FY 2001	Chapter 7 Assets returned to creditors Chapter 13 Funds returned to creditors	52% 80%	59% 87%
FY 2002	Chapter 7 Assets returned to creditors Chapter 13 Funds returned to creditors	52% 80%	57% 86%
FY 2003	Chapter 7 Assets returned to creditors Chapter 13 Funds returned to creditors	52% 80%	58% 85%
FY 2004	Chapter 7 Assets returned to creditors Chapter 13 Funds returned to creditors	54% 80%	58% 86%
FY 2005	Chapter 7 Assets returned to creditors Chapter 13 Funds returned to creditors	54% 80%	59% 86%
FY 2006	Chapter 7 Assets returned to creditors Chapter 13 Funds returned to creditors	55% 83%	63% 87%
FY 2007	Chapter 7 Assets returned to creditors Chapter 13 Funds returned to creditors	56% 84%	61% 86%
FY 2008	Chapter 7 Assets returned to creditors Chapter 13 Funds returned to creditors	58% 86%	60% 84%
FY 2009	Chapter 7 Assets returned to creditors Chapter 13 Funds returned to creditors	58% 86%	N/A N/A
FY 2010	Chapter 7 Assets returned to creditors Chapter 13 Funds returned to creditors	58% 84%	N/A N/A
FY 2011	Chapter 7 Assets returned to creditors Chapter 13 Funds returned to creditors	58% 84%	N/A N/A

b. Strategies to Accomplish Outcomes

Discussion: The USTP has a comprehensive oversight process that ensures cases filed each year are effectively and efficiently moved through the bankruptcy system. The USTP audits and evaluates private trustees, follows up on deficiencies, ensures that old cases are closed promptly, and initiates action when private trustees fail to comply with their obligations. The USTP tracks the cost of trustee operations, as well as distributions to creditors. In particular, the Distribution Report for Closed Asset Cases helps trustees to identify specific distributions in closed asset cases. Portions of all trustee operations are closely reviewed each year by private accounting firm audits or on-site examinations by the USTP's personnel. Finally, the USTP's civil enforcement initiatives, by reducing the amount of fraud and abuse in the system, will increase the amount of funds potentially available for creditors. As a direct result of the USTP's oversight and efforts, a total of $1,817,013,320 in assets—60% of the total disbursements--was distributed to chapter 7 creditors in calendar year 2008. During FY 2008, a total of $4,183,543,013 was distributed to chapter 13 creditors. This represents 84% of the total chapter 13 disbursements. Audited data on 2009 calendar year and fiscal year distributions will not be available until the second quarter of FY 2010

c. Results of Program Assessment

A program assessment of the USTP was completed during FY 2005. The findings indicated that:

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

VI. Program Increases

Item Name: Additional Staffing to Address Increased, more Complex Workload

Budget Decision Unit(s): Administration of Cases

Strategic Goal(s) & Objective(s): 2.8: Protect the Integrity and Ensure the Effective Operation of the Nation's Bankruptcy System

Organizational Program: U.S. Trustee Program

Component Ranking of Item: ___1___

Program Increase: Positions 35 Agt/Atty 12 FTE 18 Dollars $2,675,145

Description of Item

This initiative requests additional attorney and support staff to address the increase in bankruptcy case filings and the growing complexities of the USTP's overall workload. In FY 2008, filings increased by 31 percent over the previous year. FY 2009 filings increased by 35 percent over FY 2008, ending the fiscal year at over 1.3 million filings. The Program projects that filings during FY 2010 will increase another 20 percent over the FY 2009 level, to more than 1.6 million cases. Filing activities in FY 2011 area conservatively projected to stabilize, remaining around the FY 2010 level for the fiscal year. The total actual and projected growth in bankruptcy filings from FY 2007 through the FY 2011 estimate is almost 113 percent. In addition to the significantly increased caseload, the USTP continues to carry out its BAPCPA mandated activities as it continues to develop comprehensive plans to address new and growing issues related to mortgage and other fraud and abuse.

Justification

While the implementation of BAPCPA resulted in a significant decrease in the number of bankruptcy case filings in FY 2007, the legislation also mandated that specific, additional duties and responsibilities be undertaken by the USTP. Less than three years after BAPCPA implementation, the USTP experienced an explosive increase in bankruptcy activities. Filings were once again on the rise in FY 2008, after hitting a low point of less than 800,000 in FY 2007. At the same time the USTP continued to implement BAPCPA mandates. The USTP was then confronted with issues related to the mortgage fraud and creditor abuse activities that emerged in FY 2008 and continue today.

The level of resources needed to address emerging issues while continuing to perform the additional responsibilities required under BAPCPA with near historic filing levels have placed an enormous strain on existing Program resources. The increase in both large and small business chapter 11 case filings further exacerbates the USTP's position as these cases typically remain in the system for two to five years on average, and continue to require oversight and administration.

Finally, the Program's authorized position level was reduced by 163 positions – from 1,468 in FY 2006 to 1,305 in FY 2009--due to the lack of available funds to support them. With a two-fold caseload increase over FY 2007, increased responsibilities mandated in the BAPCPA, and the increased fraud and abuse activities being investigated and litigated, it is critical that the USTP have the resources to address this workload and maintain the high level of integrity in the bankruptcy system that it has worked so hard to achieve.

The USTP is requesting 35 new positions (12 attorneys) in FY 2011 to address the increased workload. The additional positions would alleviate the need to detail staff from field locations at a time when bankruptcy filings are on the rise. The projected revenue resulting from this increased caseload is sufficient to support this initiative and serves as a further testament to the increased workload and the need for these positions.

Impact on Performance (Relationship of Increase to Strategic Goals)

Supports policy priority: "Defend and protect the interests of the U.S. Government by vigorously enforcing environmental, civil, tax, antitrust and bankruptcy laws."

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

Strategic Objective 2.8: Protect the integrity and ensure the effective operation of the Nation's bankruptcy system.

The initiative addresses the following three strategies to achieve strategic objective 2.8:

> Enforce compliance with federal bankruptcy laws and take civil actions against parties who abuse the law or seek to defraud the bankruptcy system.
>
> Pursue violations of federal criminal laws pertaining to bankruptcy by identifying, evaluating, referring, and providing investigative and prosecutorial support of cases.
>
> Ensure financial accountability, compliance with the Bankruptcy Code, and prompt disposition of chapter 11 bankruptcy cases.

The mission of the USTP is, *inter alia*, to promote integrity and efficiency in the nation's bankruptcy system. This is an increasingly challenging goal for a number of reasons: 1) the number, complexity and makeup of mortgage and other fraud and abuse activities; 2) the amount of time and expertise required to investigate and prosecute those involved in mortgage fraud and abuse; 3) the need to ensure that statutorily mandated responsibilities under the BAPCPA continue to be addressed; 4) the need to cope with a rapid increase in the number of large corporate, including publicly traded company, filings; and 5) the need to achieve and maintain as much balance as possible in addressing overall USTP responsibilities while targeting emerging critical issues.

Funding

The USTP is funded by bankruptcy fees paid by debtors. Fees are deposited in the U.S. Trustee System Fund and remain available for expenditure across fiscal years. Balances in the Fund, as well as projected offsetting collections received during the fiscal year, are available to fund the USTP. This initiative is fully supported by offsetting collections.

Base Funding

FY 2009 Enacted				FY 2010 Requirements				FY 2011 Current Services			
Pos	agt/ atty	FTE	$(000)	Pos	agt/ atty	FTE	$(000)	Pos	agt/ atty	FTE	$(000)

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position ($000)	Number of Positions Requested	FY 2011 Request ($000)	FY 2012 Net Annualization (change from 2011) ($000)
Attorney	$111	12	$1,329	$2,146
Paralegals	$57.3	22	$1,260	$2,028
Research Analyst	$86	1	$86	$157
Total Personnel		35	$2,675	$4,331

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2011 Request ($000)	FY 2012 Net Annualization (Change from 2011) ($000)
0			0	0
Total Non-Personnel				

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel ($000)	Non-Personnel ($000)	Total ($000)
Current Services						
Increases	35	12		$2,675		$2,675
Grand Total						

Item Name: USTP Data Collection Portal Development

Budget Decision Unit(s): Administration of Cases

Strategic Goal(s) & Objective(s): 2.8: Protect the Integrity and Ensure the Effective Operation of the Nation's Bankruptcy System

Organizational Program: U.S. Trustee Program

Component Ranking of Items: ___2__

Program Increase: Positions _____ Agt/Atty _____ FTE _____ Dollars $2,500,000_

Description of Item

The USTP is requesting $2,500,000 for the development of a portal to all of the Program's data collections. Contractor support will be utilized for requirements gathering, design, development and programming, testing, and implementation (and associated system documentation).

Justification

The portal would collapse all USTP data by case allowing field staff to share data between data collections and display all pertinent USTP activity for any case at one time. Currently, case data is stored in several different data collections [the Automated Case Management System (ACMS), the Significant Accomplishments Reporting System (SARS), the Criminal Enforcement Tracking System (CETS), the Means Test Review System (MTR), the Debtor Audit System (DAS) and the Fee Information and Collection System (FICS)]. A single portal would eliminate any duplication of data and streamline the collection, review and analysis process by field staff.

Portal technology provides an approach for assembling a quantity and variety of web applications managed in one portal environment. It would allow users to access a number of applications from a single web page on their computer. Users would be able to navigate among the various applications as if they were one and search across content that is stored in various repositories and web sites.

Portal technology would allow the Program to manage user security from a single administrative console and could decrease maintenance costs. It also provides for single sign-on capability which allows users to log in once on their computer to gain access to all resources at a given level of authentication.

Impact on Performance (Relationship of Increase to Strategic Goals)

Supports policy priority: "Defend and protect the interests of the U.S. Government by vigorously enforcing environmental, civil, tax, antitrust and bankruptcy laws."

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

Strategic Objective 2.8: Protect the integrity and ensure the effective operation of the Nation's bankruptcy system.

The initiative addresses the following three strategies to achieve strategic objective 2.8:

> Enforce compliance with federal bankruptcy laws and take civil actions against parties who abuse the law or seek to defraud the bankruptcy system.
>
> Pursue violations of federal criminal laws pertaining to bankruptcy by identifying, evaluating, referring, and providing investigative and prosecutorial support of cases.
>
> Ensure financial accountability, compliance with the Bankruptcy Code, and prompt disposition of chapter 11 bankruptcy cases.

USTP Strategic Goal 3: Maintain operational excellence that achieves desired results through continuous improvements in administration.

> Strategic Objective: Provide state-of-the-art information technology and systems.

This technology would ultimately allow staff to work more productively by providing them with access to critical information resources from a single location.

<u>Funding</u>

The USTP is funded by bankruptcy fees paid by debtors. Fees are deposited in the U.S. Trustee System Fund and remain available for expenditure across fiscal years. Balances in the Fund, as well as offsetting collections received during the fiscal year, are available to fund the USTP. This initiative is fully supported by offsetting collections.

<u>Base Funding</u>

FY 2009 Enacted				FY 2010 Requirements				FY 2011 Current Services			
Pos	agt/ atty	FTE	$(000)	Pos	agt/ atty	FTE	$(000)	Pos	agt/ atty	FTE	$(000)
			0				0				0

<u>Personnel Increase Cost Summary</u>

Type of Position	Modular Cost per Position ($000)	Number of Positions Requested	FY 2011 Request ($000)	FY 2012 Net Annualization (change from 2011) ($000)
Total Personnel	0	0	0	0

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2011 Request ($000)	FY 2012 Net Annualization (Change from 2011) ($000)
Portal Development	$2,500		$2,500	($2,000)

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel ($000)	Non-Personnel ($000)	Total ($000)
Current Services	0			0	0	0
Increases	0			0	$2,500	$2,500
Grand Total	0			0	$2,500	$2,500

Exhibits

A: Organizational Chart