



U.S. Trustees (USTP)

FY 2021 Budget Request At A Glance

FY 2020 Enacted:	\$227.2 million (1,028 positions; 371 attorneys)
Current Services Adjustments:	+\$5.1 million
Program Changes:	+\$2.1 million
FY 2021 Budget Request:	\$234.5 million (1,038 positions; 375 attorneys)
Change From FY 2020 Enacted:	+\$7.2 million (+3.2%) (+10 positions; +4 attorneys)

Mission:

The USTP's mission is to promote the integrity and efficiency of the bankruptcy system for the benefit of all stakeholders – debtors, creditors, and the public.

Organization:

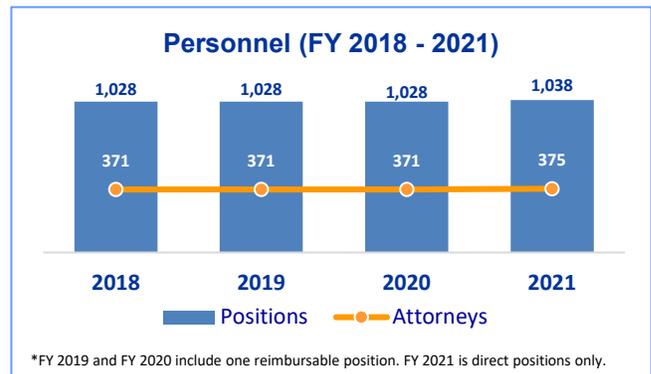
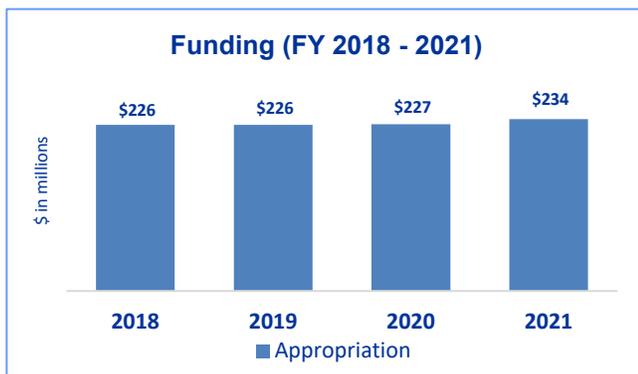
The USTP is managed by an Executive Office in Washington, DC, which is headed by a Director, a career appointee in the Senior Executive Service who provides comprehensive policy and management direction to the U.S. Trustees and their staffs. The USTP operates in 88 judicial districts through a system of 21 regions, each headed by a U.S. Trustee, and 90 field office locations. It does not operate in the judicial districts established for Alabama and North Carolina.

Resources:

The FY 2021 budget request for USTP totals \$234.5 million, which is a 3.2 percent increase over the FY 2020 Enacted.

Personnel:

The USTP's direct authorized positions for FY 2021 total 1,038 positions, including a net increase of 10 positions over the FY 2020 Enacted of 1,028 direct authorized positions.



FY 2021 Strategy:

The “USTP” or the “Program” is a litigating component of the Department whose mission is to promote the integrity and efficiency of the nation’s bankruptcy system for the benefit of all stakeholders – debtors, creditors, and the public. As the vigilant “watchdog” of the bankruptcy system,¹ the USTP is the only organization to address multi-jurisdictional violations, targeting misconduct by national law firms, creditors, and fraudsters, while also combatting abuse committed by debtors. To faithfully execute its mission, the Program conducts a broad range of administrative, regulatory, and enforcement activities, which include:

- Appointing and supervising approximately 1,500 private trustees who distribute on average between \$9 and \$10 billion annually from the assets of bankruptcy estates.
- Evaluating the retention and compensation of professionals who participate in the liquidation of bankruptcy estates or the reorganization of companies, including policing billions of dollars in fees paid annually to attorneys, investment bankers, and other professionals.
- Taking on average around 30,000 civil enforcement actions each year (both in and out of court) to ensure that all parties comply with the Bankruptcy Code and Rules.
- Making more than 2,000 criminal referrals each year and assisting in the prosecution of bankruptcy crimes.
- Approving and monitoring about 230 agencies and providers of mandatory pre-bankruptcy credit counseling and pre-discharge financial education.
- Enforcing the statutory “means test” that applies to consumer debtors.
- Participating in approximately 100 appeals annually to bankruptcy appellate panels, district courts, courts of appeals, and the Supreme Court to promote consistency in case law and compliance with statutory requirements.

The USTP is the only national enforcement agency that can identify and marshal resources against significant fraud, abuse and emerging threats to the integrity of the bankruptcy system. Among its activities, in the past year the Program has achieved significant accomplishments in addressing the following areas:

- Fraudulent conduct and other violations by consumer debtor attorneys including system-wide, multi-jurisdictional misconduct. Lawyers who are incompetent, dishonest or who fail to satisfy minimal professional obligations impede the debtor’s “fresh start” and add costs to creditors and the entire system.
- Disqualifying conflicts of interest for professionals retained in business cases. In FY 2019, the Program entered into a settlement agreement with McKinsey & Company, Inc., resolving disputes over the firm’s disclosures of connections in chapter 11 bankruptcy

cases. The settlement is one of the highest repayments made by a bankruptcy professional for alleged non-compliance with disclosure rules.

- Fraud and abuse relating to asbestos trusts created in bankruptcy. Although the USTP and courts have limited authority to oversee asbestos trusts created through chapter 11 plans of reorganization, the USTP recently has made major strides in obtaining rulings prior to court approval of such plans that: (1) change the standard for appointing a Future Claimants Representative such that the court no longer defers to the tort lawyers’ selection; and (2) impose new anti-fraud and auditing requirements.
- Implementation of the provisions of the Small Business Reorganization Act of 2019 (SBRA), Pub. L. No. 116-54, enacted in August 2019, which is discussed further below.

The USTP’s successes were achieved despite a flat budget since FY 2015 and a 25 percent workforce decline since FY 2009. This was due to the deployment of innovative management practices, such as a consolidation of functions; the sharing of staff across regions; and the use of shared services in partnership with other Departmental agencies and divisions. The FY 2021 budget request of \$234.5 million will enable the USTP to sufficiently increase staff levels to relieve workload pressures and continue its mission, including the new duties added under the SBRA.

The USTP’s appropriation is offset primarily by revenues deposited into the United States Trustee System Fund (“Fund”). These fees are dependent on the number of bankruptcy cases filed, which began declining in FY 2011 and continued through FY 2018. As a result, the balance of the Fund was essentially exhausted in FY 2017, and the Program fell short of offsetting its appropriation that year. In anticipation of this issue, the USTP proposed an adjustment to quarterly fees for the largest chapter 11 debtors. A modified version of the proposal was enacted in the Bankruptcy Judgeship Act of 2017, Pub. L. No. 115-72, enabling the Program to fully offset its appropriations since FY 2018 and potentially through FY 2021, as currently projected.²

FY 2021 Program Changes:

USTP Statutory Duties under Subchapter V of Chapter 11: \$2.1 million and 11 positions (4 attorneys)

The SBRA provides small business debtors with less than \$2.7 million of debt the option to elect to proceed under a new subchapter V of chapter 11 of the Bankruptcy Code. Subchapter V provides more streamlined processes, readjusts the balance of debtor and creditor rights, and installs a chapter 11 subchapter V trustee. The Program is responsible for appointing and overseeing a trustee to each case and estimates it will need to recruit and clear over 250 new private trustees. Oversight activities will include ensuring cases progress within the tight deadlines established under the law; case and financial reporting is provided; and, in cases where a trustee must operate the business, that all requirements of the law are met. The USTP, which began implementing the provisions of the SBRA in FY 2020 with no base funding, requires an additional 11 positions (4 attorneys, 2 paralegals and 5 bankruptcy analysts), 10 FTE, and \$2.1 million. There are no current services for this initiative.

¹ See 28 U.S.C. § 586 (a) (3); see also H.R. Rep. No. 95-595, at 99 (1977), reprinted in 1978 U.S.C.C.A.N. 5963, 6049 U.S. Trustees “serve as bankruptcy watchdogs to prevent fraud, dishonesty, and overreaching in the bankruptcy arena.”

² The amended fee structure was effective January 1, 2018, and applies for each fiscal year through FY 2022 only. The fee schedule, however, will revert to the prior schedule for any fiscal year in which the balance of the Fund equals or

exceeds a threshold amount as of the end of the prior fiscal year. For FY 2020 and FY 2021 the threshold is \$300 million (as amended by the Consolidated Appropriations Act, 2020, Pub. L. No. 116-93). The USTP anticipates ending FY 2020 with a Fund balance below \$300 million, and therefore projects the amended fee structure will be in effect through FY 2021.

U.S. Trustees
(Dollars in Thousands)

	U.S. Trustees		
	Pos	FTE	Amount
2019 Appropriation	[1,028]	930	226,000
2020 Enacted	[1,028]	976	227,229
2021 Request	[1,038]	1,025	234,464
Change 2021 from 2020 Enacted	[10]	49	7,235
Technical Adjustments			
Total Technical Adjustments	0	0	0
Base Adjustments			
Pay & Benefits	[-1]	39	4,554
Domestic Rent & Facilities	0	0	565
Other Adjustments	0	0	13
Total Base Adjustments	[-1]	39	5,132
2021 Current Services	[1,027]	1,015	232,361
Program Changes			
Increases:			
USTP Statutory Duties under Subchapter V of Chapter 11	[11]	10	2,103
Subtotal, Program Increases	[11]	10	2,103
Decreases:			
Subtotal, Program Decreases	0	0	0
Total Program Changes	[11]	10	2,103
2021 Request	[1,038]	1,025	234,464

*FY 2019 and FY 2020 include one reimbursable position. FY 2021 is direct positions only.

U.S. Trustees
(Dollars in Thousands)

Comparison by activity and program	2020 Enacted			2021 Current Services		
	Pos.	FTE	Amount	Pos.	FTE	Amount
Administration of Cases	1,028	976	227,229	1,027	1,015	232,361
Total	1,028	976	227,229	1,027	1,015	232,361
Reimbursable FTE		1			1	
Total Direct and Reimbursable	1,028	977	227,229	1,027	1,016	232,361

Comparison by activity and program	2021 Total Program Changes			2021 Request		
	Pos.	FTE	Amount	Pos.	FTE	Amount
Administration of Cases	11	10	2,103	1,038	1,025	234,464
Total	11	10	2,103	1,038	1,025	234,464
Reimbursable FTE					1	
Total Direct and Reimbursable	11	10	2,103	1,038	1,026	234,464

*FY 2020 include one reimbursable position. FY 2021 is direct positions only.