

**Congressional Submission**

**U.S. Department of Justice**

**Assets Forfeiture Fund**

**FY 2010 PERFORMANCE BUDGET**

## Table of Contents

	Page No.
<b>I. Overview</b> .....	1
<b>II. Appropriations Language and Analysis of Appropriations Language</b> .....	6
<b>III. Decision Unit Justification</b> .....	7
Assets Forfeiture Fund	
1. Program Description	
2. Performance Tables	
3. Performance, Resources, and Strategies	
<b>IV. E-Government Initiatives</b> .....	10
<b>V. Exhibits</b>	
A. Organizational Chart.....	22
B. Summary of Requirements .....	N/A*
C. Program Increases by Decision Unit.....	N/A
D. Resources by DOJ Strategic Goal/Objective .....	23
E. Justification for Base Adjustments .....	N/A
F. Crosswalk of 2008 Availability .....	24
G. Crosswalk of 2009 Availability .....	25
H. Summary of Reimbursable Resources .....	26
I. Detail of Permanent Positions by Category .....	N/A
J. Financial Analysis of Program Increases/Offsets .....	N/A
K. Summary of Requirements by Grade.....	N/A
L. Summary of Requirements by Object Class .....	27
M. Status of Congressionally Requested Studies, Reports, and Evaluations.....	N/A
N. Modular Costs for New Positions .....	N/A
O. Information on Overseas Staffing .....	N/A

\*N/A = Not Applicable

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

### **A. Introduction**

The President's Budget includes \$20,990,000 in definite authority for expenses of the Assets Forfeiture Fund for 2010 to support the Department's Strategic Goal 2: to prevent crime, enforce Federal laws and represent the rights and interests of the American people. AFF spending also supports the President's management agenda to improve financial performance and expand electronic government (e-gov) (e.g., in security and cost savings), and the Attorney General's management agenda to streamline, eliminate or consolidate duplicative functions and utilize technology to improve government.

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

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

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

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

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

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

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

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

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

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

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

Although the Fund's mission and objectives will not change in FY 2010, the challenges it faces will. The Fund's budget is integrated with the Department's Strategic Goals and Objectives.

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

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

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

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

## **C. Full Program Costs**

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

For FY 2010, the Department is estimating \$1.289 billion for mandatory and investigative expenses. Included in this amount, providing net receipts support this expense level is \$102 million to pay overtime expenses and other costs of state and local law enforcement officers engaged in joint operations with federal law enforcement agencies participating in the Fund. The Department's authority to incur program operations expenses, including recognition of the equity interests of others and the efforts of law enforcement agencies, is limited only by the level of receipts deposited into the Fund. To the extent that receipts exceed the amounts necessary for mandatory program expenses, the Fund may be used for discretionary investigative expenses.

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

## **D. Performance Challenges**

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

### **External Challenges**

- International money laundering and forfeiture investigations continue to target millions of dollars in illegal proceeds that have been secreted overseas. The repatriation of foreign assets is potentially a significant source of the Fund receipts as demonstrated by the \$89 million in Nasser-David funds deposited in 1999. As more and more countries enact legislation providing authority to assist in and undertake forfeiture and money laundering investigations, more of these funds will be subject to repatriation and forfeiture. The United States currently has a Mutual Legal Assistance Treaty (MLAT), which facilitates forfeiture cooperation, with 51 countries. In addition, more than 172 countries are parties to the Vienna Convention which provides, *inter alia*,<sup>2</sup> for forfeiture assistance in drug and drug-related (i.e., money laundering) cases. The Department has made significant progress in recent years convincing foreign governments that such cooperation is in their best interest. The Department shares a significant part of any repatriated funds with its international partners. For example, since 1989, the United States has shared more than \$230 million with 36 jurisdictions and countries. These cases are very difficult to negotiate and often take years to come to fruition. However, the forfeiture parts of several major cases are ongoing and should be concluded in the next few years.
- The financial mid- and long-term projections for deposits and expenses are difficult to quantify. Revenue estimates in 2009 and 2010 are estimated to be similar to the 2008 level for recurring deposits, indicating a strong potential in the stream of revenue flowing into the AFF. Revenue from non-recurring deposits are estimated to be lower from prior year levels, primarily because of uncertainties associated with the non-recurring nature of extraordinary deposits from fraud and financial crime cases with unknown quantities and timing. The fiscal resources of the AFF must first cover the business or operational expenses of the asset forfeiture program. The Fund is not allowed to operate at a deficit.

### **Internal Challenges**

The Fund faces many internal challenges in FY 2010, primarily in enhancing its financial and property management capabilities.

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

- **Data Quality:** The 2008 AFF/Seized Asset Deposit Fund (SADF) financial statements received an unqualified opinion; however, the independent auditors noted a reportable condition in information system controls. The auditors identified significant deficiencies that exist in the information system controls environment. The AFF/SADF uses the Financial Management Information System (FMIS2) accounting system maintained by the Justice Management Division (JMD) Finance Staff (FS). As a result, the control improvements needed in the FMIS2 accounting system also impact the AFF/SADF. This reportable condition and related recommendations were addressed to JMD, which has primary responsibility over FMIS2. Additionally, management is implementing appropriate security measures in the Consolidated Asset Tracking System (CATS) and will address weakness related to communications protocols.

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

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

- **Technological Developments:** The AFF funded a CATS project that enables AFF participants to manage and track asset forfeiture case files. The asset forfeiture case file tracking system is an intra-net, web-based application that is managed by the AFMS and made available to the community. While this enhancement will increase efficiency and improve the successful execution of forfeiture activities, the need for enhancements, based on customer requirements and technological changes will remain a constant challenge.

The AFMS is implementing the Unified Financial Management System (UFMS). UFMS is a financial system that incorporates standard capabilities, business processes, business rules, reference data, interfaces, and reports that will be used throughout the department. UFMS will benefit the Department of Justice by addressing material weaknesses in the Department's financial system and accounting operations and enhance system security. In 2013, when fully implemented, it will be a major step in supporting the departments' mission, objective and strategic goals.

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

### **Appropriations Language**

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

*(including cancellation)*

*Of the unobligated balances available under this heading, \$285,000,000 are hereby permanently cancelled.*

### **Analysis of Appropriations Language**

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

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

<b>Assets Forfeiture Fund TOTAL</b>	<b>Perm. Pos</b>	<b>FTE</b>	<b>Amount (\$000)</b>
2008 Enacted with Rescissions			1,264,501
2008 Supplementals			41,086
2008 Enacted w/Rescissions and Supplementals			1,305,587
2009 Enacted			1,257,400
2010 Current Services			1,275,000
2010 Program Increases			0
2010 Request			1,275,000
<b>Total Change 2009-2010</b>			17,600

<b>Mandatory, Indefinite Authority Total</b>	<b>Perm. Pos</b>	<b>FTE</b>	<b>Amount (\$000)</b>
2008 Enacted with Rescissions			1,243,585
2008 Supplementals			41,086
2008 Enacted w/Rescissions and Supplementals			1,284,671
2009 Enacted			1,236,410
2010 Current Services			1,254,010
2010 Program Increases			0
2010 Request			1,254,010
<b>Total Change 2009-2010</b>			17,600

<b>Appropriated, Definite Authority Total</b>	<b>Perm. Pos</b>	<b>FTE</b>	<b>Amount (\$000)</b>
2008 Enacted with Rescissions			20,916
2008 Supplementals			0
2008 Enacted w/Rescissions and Supplementals			20,916
2009 Enacted			20,990
2010 Current Services			20,990
2010 Program Increases			0
2010 Request			20,990
<b>Total Change 2009-2010</b>			0

<b>Assets Forfeiture Fund/CATS—Information Technology Breakout from Mandatory Total</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount (\$000)</b>
2008 Enacted with Rescissions			14,900
2008 Enacted w/Rescissions and Supplementals			14,900
2009 Enacted			25,000
2010 Current Services			27,700
2010 Program Increases			0
2010 Request			27,700
<b>Total Change 2009-2010</b>			2,700

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

<b><u>Financing</u></b>	2008 Actual <u>Amount</u>	2009 Appropriation Enacted with Rescissions and <u>Supplemental</u>	2010 Current Services and Request	2009-2010 Total <u>Change</u>
<b>Unobligated balance of receipts, start-of-year</b>				
Available for start-up expenses	202,375	257,267	299,775	42,508
Super surplus balances unobligated	55,193	45,197	0	-45,197
Major Sharing Reserves	140,241	249,642	250,000	358
Total: committed to other purposes	<u>195,434</u>	<u>294,839</u>	<u>250,000</u>	<u>-44,839</u>
Unappropriated balance of receipts, start-of-year	397,809	552,106	549,775	-2,331
<b>Collections/deposits/receipts/recoveries:</b>				
Regular receipts	891,916	902,400	875,000	-27,400
Extraordinary Receipts	443,620	400,000	400,000	0
Prior year rescissions restored	170,000	240,000	285,000	45,000
Recovery/Refunds of prior year obligations	40,051	0	0	0
Current year rescissions	-240,000	0	0	0
Proposed rescission	<u>0</u>	<u>-285,000</u>	<u>-285,000</u>	<u>0</u>
Collections/deposits/receipts/recoveries:	1,305,587	1,257,400	1,275,000	17,600
Total resources available	1,703,396	1,809,506	1,824,775	15,269
<b>Less: Unappropriated balance of receipts, end-of-year</b>				
Start-up expenses for following year	-321,764	-299,775	-285,185	14,590
Prior surplus balances carried forward	-45,197	0	0	0
Major Sharing Reserves	<u>-185,145</u>	<u>-250,000</u>	<u>-250,000</u>	<u>0</u>
Unappropriated balance of receipts, end-of-year	-552,106	-549,775	-535,185	14,590
Total obligations	1,151,290	1,259,731	1,289,590	29,859

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

	2008 Actual <u>Amount</u>	2009 Appropriation Enacted with Rescissions and <u>Supplemental</u>	2010 Current Services and Request	2009-2010 Total <u>Change</u>
<i><b>Mandatory expenses: (indefinite authority)</b></i>				
<b>Case Support Expenses:</b>				
Asset Management and Disposal	46,216	54,000	59,000	5,000
Third Party Payments	250,828	230,000	230,000	0
Case Related Expenses	39,444	52,000	54,600	2,600
Special Contract Services	76,284	94,300	99,000	4,700
Investigative Expenses Leading to Seizure	41,576	45,200	47,500	2,300
Contracts to Identify Assets	14,289	36,000	37,800	1,800
Awards for Information Leading to a Forfeiture	9,800	9,800	10,700	900
<b>Program Support Expenses:</b>				
Automated Data Processing	18,450	37,500	39,400	1,900
Training and Printing	14,791	23,500	24,700	1,200
Other Program Management	21,620	26,600	28,000	1,400
<b>Other Authorized Expenses:</b>				
Storage, Protection & Destruction of Controlled Substances	7,844	9,500	10,300	800
Equitable Sharing Payments Joint Federal/State and Local Law Enforcement Operations	437,659 <u>96,696</u>	500,000 <u>118,000</u>	500,000 <u>127,600</u>	0 <u>9,600</u>
Subtotal: Mandatory Expenses	1,075,497	1,236,400	1,268,600	32,200
<i><b>Investigative expenses: (definite authority)</b></i>				
Awards for Information	13,589	12,155	12,155	0
Purchase of Evidence	6,007	7,310	7,310	0
Equipping of Conveyances	<u>1,320</u>	<u>1,525</u>	<u>1,525</u>	<u>0</u>
Subtotal: Investigative Expenses	20,916	20,990	20,990	0
Total, Mandatory and Investigative Expenses	1,096,413	1,257,390	1,289,590	32,200
Super Surplus amounts obligated	<u>54,877</u>	<u>2,341</u>	<u>0</u>	<u>-2,341</u>
Total Gross Obligations	1,151,290	1,259,731	1,289,590	29,859

## IV. E-Government Initiatives

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

### A. Funding and Costs

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

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

The Department of Justice E-Government expenses – i.e., DOJ's share of e-Gov initiatives managed by other federal agencies – are paid for from the Department's Working Capital Fund (WCF). These costs, along with other internal E-Government related expenses (oversight and administrative expenses such as salaries, rent, etc.) are reimbursed by the components to the WCF. The AFF reimbursement amount is based on the anticipated or realized benefits from an e-Government initiative. The AFF E-Government reimbursement to the WCF is \$2.9 million for FY 2009. The anticipated AFF E-Government reimbursement to WCF is \$3.3 million for FY 2010.

### B. Benefits

The AFF established baseline cost estimates for each IT investment being (or planned to be) modified, replaced, or retired due to the Department's use of an E-Government or Line of Business initiative. The AFF is measuring actual costs of these investments on an ongoing basis. As the

AFF completes migrations to common solutions provided by an E-Government or Line of Business initiative, the AFF expects to realize cost savings or avoidance through retirement or replacement of legacy systems and/or decreased operational costs. The table below represents only those E-Government initiatives and Lines of Businesses where the AFF expects to realize benefits in FY2009 and FY2010.

<b>E-Gov Initiative</b>	<b>FY 2009 Benefits</b>	<b>FY 2010 Anticipated Benefits</b>	<b>Comments</b>
Financial Mgmt. Consolidated LoB	TBA	TBA	The Benefits are related to the United Financial Management System (UFMS), but AFF does not have an estimated cost savings at this time.

## 1. Program Description

### Current Services Program Description

#### A. Mandatory Expenses, Indefinite Authority

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

<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
\$54,000,000	\$59,000,000	+\$5,000,000

While seizures are increasing and there may be some accompanying increases in the costs of asset management and disposal, efficiencies will be sought to contain costs. The primary purpose of the Fund is to ensure an adequate and appropriate source of funding for the management and disposal of property seized for forfeiture, as well as forfeited assets, activities which would otherwise be paid from agencies' operating budgets. The Fund puts criminals' money to work for the taxpayer. Other costs may also increase because of higher rates for services and the movement to more comprehensive management and maintenance services. Also, funding is required for the assessment, containment, removal and destruction of hazardous materials seized for forfeiture, and hazardous waste contaminated property seized for forfeiture. The USMS and DEA will continue to utilize the Fund for disposal of toxic and hazardous substances when necessary for forfeiture or the disposition of forfeited property. Under this category and Other Program Management, approximately \$11.3 million are provided to the USMS for the cost of administrative personnel associated with the forfeiture program and \$8.5 million for non-personnel administrative costs.

##### 2. Other Asset Specific Expenses

<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
\$282,000,000	\$284,600,000	+\$2,600,000

This category includes payments to satisfy third-party interests, including lien holders and other innocent parties, pursuant to 28 U.S.C. § 524(c)(1)(D); payments in connection with the remission and mitigation of forfeitures, pursuant to 28 U.S.C. § 524(c)(1)(E); and direct expenses incurred in perfecting the forfeiture. Also

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

3. Special Contract Services

<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
\$94,300,000	\$99,000,000	+\$4,700,000

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

4. Investigative Expenses Leading to Seizure

<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
\$45,200,000	\$47,500,000	+\$2,300,000

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

5. Contracts to Identify Assets

<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
\$36,000,000	\$37,800,000	+\$1,800,000

Investigative agencies use these funds for subscription services to nationwide public record data systems, and for acquisition of specialized assistance, such as reconstruction of seized financial records. Demand for these services will increase as more agents graduate from the training programs and use the asset forfeiture sanction in their cases; however, it is anticipated that costs will be controlled through volume economies. Resources requested will be used to identify assets during the

investigative stage of the case, where such research will enhance effective use of the asset forfeiture sanction. If the government can improve upon the identification of ill-gotten assets, the insidious nature of the criminal wrongdoing can be better demonstrated and reinforced before the jury. Such evidence results in stiffer penalties for hard-core criminals who may have dodged such penalties in the past by successfully concealing such assets, only to be released to finance further criminal activities with such assets. It is this kind of "criminal financing" that the forfeiture laws are intended to derail.

6. Awards for Information Leading to Forfeiture

<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
\$9,800,000	\$10,700,000	+\$900,000

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

7. Automated Data Processing (ADP)

<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
\$37,500,000	\$39,400,000	+\$1,900,000

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

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

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

8. Training and Printing

<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
\$23,500,000	\$24,700,000	+\$1,200,000

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

9. Other Program Management Expenses

<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
\$26,600,000	\$28,000,000	+ \$1,400,000

This category includes several types of expenses that are important to the overall management of the asset forfeiture program: management analysis, performance assessment, problem analysis, requirements analyses, policy development, and other special projects designed to improve program performance. This funding will provide travel and per diem funds for temporary duty assignments needed to correct program deficiencies. Other activities funded under this heading include the annual audit of financial statements of the Assets Forfeiture Fund and the Seized Asset Deposit Fund by an independent accounting firm and special assessments and reviews. This category also finances the AFMS, JMD and, since 2001, USMS headquarters administrative personnel and non-personnel costs associated with the forfeiture program.

10. Storage, Protection, and Destruction of Controlled Substances

<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
\$9,500,000	\$10,300,000	+\$800,000

These expenses are incurred to store, protect and/or destroy controlled substances. In 2010, provided sufficient receipts are available, \$9.4 million per year are proposed for this expense category.

11. Equitable Sharing Payments

<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
\$500,000,000	\$500,000,000	\$0

The equitable sharing activity in 2010 is expected to increase from 2009. These funds are reserved until the receipt of the final forfeiture orders that result in distributions to the participants. Equitable sharing payments represent the transfer of portions of federally forfeited cash and proceeds from the sale of forfeited property to state and local law enforcement agencies and foreign governments that directly assisted in targeting or seizing the property. Most task force cases, for example, result in property forfeitures whose proceeds are shared among the participating agencies.

12.	Joint Federal/State and Local Law Enforcement Operations		
	<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
	\$118,000,000	\$127,600,000	+\$9,600,000

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

## B. INVESTIGATIVE EXPENSES

### Definite, Appropriated (discretionary) Authority

1.	Awards for Information and Purchase of Evidence		
	<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
	\$19,465,000	\$19,465,000	\$0

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

2.	Equipping of Conveyances		
	<u>FY 2009 Estimate</u>	<u>FY 2010 Estimate</u>	<u>Increase/Decrease</u>
	\$1,525,000	\$1,525,000	\$0

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

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: Assets Forfeiture Fund											
DOJ Strategic Goal/Objective: Goal 2: Prevent Crime, Enforce Federal Laws, and Represent the Rights and Interests of the American people. <sup>A</sup>											
WORKLOAD/ RESOURCES		Final Target		Actual				Changes		Requested (Total)	
		FY 2008		FY 2008		2009 Enacted		Current Services Adjustments and FY 2010 Program		FY 2010 Request	
Workload											
Total Costs and FTE <sup>B</sup> (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
TYPE/ STRATEGIC OBJECTIVE	PERFORMANCE <sup>C</sup>	FY 2008		FY 2008		2009 Requirements		Current Services Adjustments and FY 2010 Program		FY 2010 Request	
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
<b>Program Activity</b>	Management of the AFF Provide financial support, control, and guidance to Fund participants in accordance with the Attorney General's Guidelines on Seized and Forfeited Property, July 1990.		[ ]		[ ]		[ ]		[ ]		[ ]
<b>Performance Measure</b>	Percent of time CATS is accessible.	99.6%		99.9%		99.8%				99.8%	
<b>OUTCOME</b>	Achieve effective funds control as corroborated by an unqualified opinion on the AFF financial statements.	100%		100%		100%				100%	

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

<sup>B</sup> No FTE's are directly associated with the AFF. The FTE's (19 authorized) are established in the WCF and are funded by the AFF.

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

**PERFORMANCE MEASURE TABLE**

**Decision Unit: Assets Forfeiture Fund**

Performance Report and Performance Plan Targets		FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008		FY 2009	FY 2010
		Actual	Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
<b>Performance Measure</b>	Percent of time CATS is accessible.	N/A	N/A	99.10%	99.6%	99.6%	99.6%	99.6%	99.9%	99.8%	99.8%
<b>OUTCOME Measure</b>	Achieve effective funds control as corroborated by an unqualified opinion on the AFF financial statements.	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

**N/A = Data unavailable**

## Data Definitions

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

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

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

**Performance Measure 1.** CATS is available to participating AFF customers from 8:00 a.m. to 8:00 p.m., Eastern Standard Time, Monday through Friday, excluding all Federal holidays and/or local government closures. Normally scheduled maintenance outages are conducted during non-operational hours (weekends, holidays, and off-hours). Emergency outages and system failures occurring during the core operational hours will impact CATS availability to its customer base. For fiscal years 2009 and 2010, the total number of core supported hours is approximately 3,000. The goal is to provide 99.8 percent availability to customers.

**2010 Performance Plan.** The 2010 plan entails supporting law enforcement authorities in the application of specific forfeiture statutes to prevent and reduce crime by the efficient and timely allocation of resources to cover the costs of an effective asset forfeiture program.

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

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

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

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

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

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

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

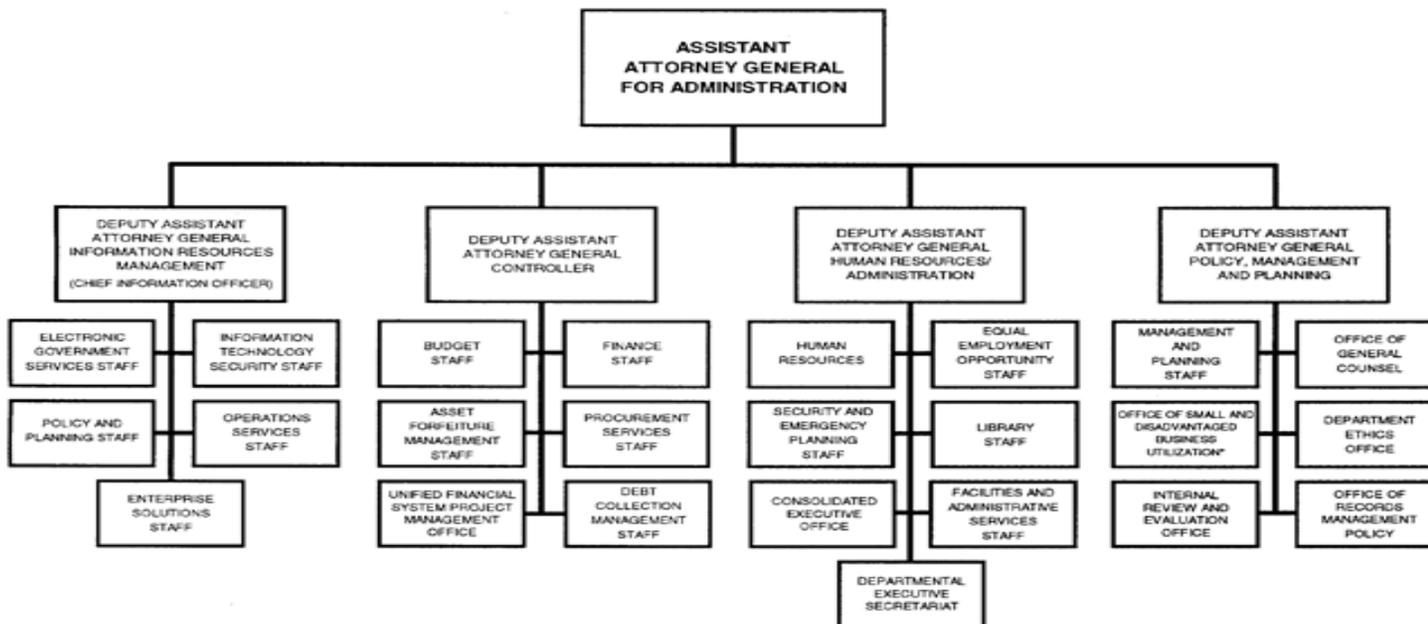
**b. Strategies to Accomplish Outcomes**

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

## IV. EXHIBITS

# A: Organizational Chart

## JUSTICE MANAGEMENT DIVISION



\*LOCATED IN JMD FOR ADMINISTRATIVE PURPOSES.

Approved by:   
 MICHAEL B. MUKASEY  
 Attorney General

Date: June 26, 2008

**D: Resources by DOJ Strategic Goal and Strategic Objective**

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

	2008 Appropriation Enacted w/Rescission and Supplementals		2009 Requirements		2010 Current Services		2010				2010 Request	
	Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	Increases		Offsets		Direct, Reimb. Other FTE	Direct Amount \$000s
							Direct Amount \$000s	Other FTE	Direct Amount \$000s	Other FTE		
<b>Goal 2: Prevent Crime, Enforce Federal Laws and Represent the Rights and Interests of the American People</b>												
2.2 Reduce the threat, incidence, and prevalence of violent crime		39,168		37,722		38,250					0	38,250
2.4 Reduce the threat, trafficking, use, and related violence of illegal drugs		874,743		842,458		854,250					0	854,250
2.5 Combat public and corporate corruption, fraud, economic crime, and cybercrime		391,676		377,220		382,500					0	382,500
<b>Subtotal, Goal 2</b>	<b>0</b>	<b>1,305,587</b>	<b>0</b>	<b>1,257,400</b>	<b>0</b>	<b>1,275,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,275,000</b>
<b>GRAND TOTAL</b>	<b>0</b>	<b>1,305,587</b>	<b>0</b>	<b>1,257,400</b>	<b>0</b>	<b>\$1,275,000</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$1,275,000</b>

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

**F: Crosswalk of 2008 Availability**

**Crosswalk of 2008 Availability**

Assets Forfeiture Fund

Salaries and Expenses

(Dollars in Thousands)

Decision Unit	FY 2008 Enacted Without Rescissions			Rescissions			Supplementals			Reprogrammings / Transfers			Carryover/ Recoveries			2008 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Mandatory Expenses, Indef Auth			1,483,511												441,078	0	0	1,924,589
Investigative Expenses, Def Auth			20,990													0	0	20,990
Unobligated balance Rescission						(240,000)										0	0	(240,000)
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>\$1,504,501</b>	<b>0</b>	<b>0</b>	<b>(\$240,000)</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>\$441,078</b>	<b>0</b>	<b>0</b>	<b>\$1,705,579</b>
Reimbursable FTE																		0
Total FTE		0			0			0			0			0				0
Other FTE																		0
LEAP																		0
Overtime																		0
Total Compensable FTE		0			0			0			0			0				0

Enacted Rescissions. Funds rescinded as required by the Revised Continuing Appropriations Resolution, 2008 (P.L. 110-137).

Unobligated Balances. Funds in the amount of \$397,809 were carried over from FY 2007 from the 15X5042 account. The carried forward balances consist primarily of restricted funds and balances for specific ongoing expenses. In addition, \$40,051 in recoveries and refunds have been realized through September 30, 2008.

**G: Crosswalk of 2009 Availability**

**Crosswalk of 2009 Availability**

Assets Forfeiture Fund  
Salaries and Expenses  
(Dollars in Thousands)

Decision Unit	FY 2009 Enacted			Rescissions			Supplementals			Reprogrammings / Transfers			Carryover/ Recoveries			2009 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Mandatory Expenses, Indef Auth			1,521,410												552,106	0	0	2,073,516
Investigative Expenses, Def Auth			20,990													0	0	20,990
Unobligated balance Rescission						-285,000										0	0	-285,000
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>1,542,400</b>	<b>0</b>	<b>0</b>	<b>-285,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>552,106</b>	<b>0</b>	<b>0</b>	<b>\$1,809,506</b>
Reimbursable FTE																		0
Total FTE		0			0			0		0			0					0
Other FTE																		0
LEAP																		0
Overtime																		0
Total Compensable FTE		0			0			0		0			0					0

Unobligated Balances. Funds in the amount of \$552,106 were carried over from FY 2008 from the 15X5042 account. The carried forward balances consist primarily of restricted funds and balances for specific ongoing expenses.

2009 Total Availability are the Total Budgetary Resources minus any reimbursable amounts.

**H: Summary of Reimbursable Resources**

**Summary of Reimbursable Resources**

Assets Forfeiture Fund

Salaries and Expenses

(Dollars in Thousands)

Collections by Source	2008 Enacted			2009 Planned			2010 Request			Increase/Decrease		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Executive Office for U.S. Attorneys			3,096,326			0			0	0	0	0
Treasury Executive Office for Asset Forfeiture						7,075,575			7,429,354	0	0	353,779
<b>Budgetary Resources:</b>	<b>0</b>	<b>0</b>	<b>\$3,096,326</b>	<b>0</b>	<b>0</b>	<b>\$7,075,575</b>	<b>0</b>	<b>0</b>	<b>\$7,429,354</b>	<b>0</b>	<b>0</b>	<b>\$353,779</b>

## L: Summary of Requirements by Object Class

### Summary of Requirements by Object Class

Assets Forfeiture Fund

Salaries and Expenses

(Dollars in Thousands)

Object Classes	2008 Actuals		2009 Enacted		2010 Request		Increase/Decrease	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
11.8 Special personal services payments	0	34	0	40	0	40	0	0
Total	0	34	0	40	0	40	0	0
Other Object Classes:								
21.0 Travel and transportation of persons		7,496		7,600		7,900		300
22.0 Transportation of things		933		1,200		1,200		0
23.1 GSA rent		4,697		6,000		6,000		0
23.2 Moving/Lease Expirations/Contract Parking		645		1,000		1,000		
23.3 Comm., util., & other misc. charges		3,579		4,000		4,300		300
24.0 Printing and reproduction		3,250		3,500		3,500		0
25.1 Advisory and assistance services		58,684		60,000		61,000		1,000
25.2 Other services		1,011,982		1,110,791		1,136,550		25,759
25.3 Purchases of goods & services from Government accounts (Antennas, DHS Sec. Etc..)		35,520		38,500		41,000		2,500
25.4 Operation and maintenance of facilities		6,923		7,300		7,300		0
25.5 Research and development contracts		0		0		0		0
25.7 Operation and maintenance of equipment		13,073		15,000		15,000		0
26.0 Supplies and materials		2,562		2,700		2,700		0
31.0 Equipment		1,912		2,100		2,100		0
<b>Total obligations</b>		<b>\$1,151,290</b>		<b>\$1,259,731</b>		<b>\$1,289,590</b>		<b>\$29,859</b>
Unobligated balance, start of year		(397,809)		(552,106)		(549,775)		
Unobligated balance, end of year		552,106		549,775		535,185		
Recoveries of prior year obligations		(43,269)		0		0		
<b>Total DIRECT requirements</b>		<b>2,144,474</b>		<b>2,361,612</b>		<b>2,374,550</b>		
Reimbursable FTE:								
Full-time permanent	0	0	0	0	0	0	0	0
23.1 GSA rent (Reimbursable)		0		0		0		0
25.3 DHS Security (Reimbursable)		0		0		0		0