



## Fees and Expenses of Witnesses (FEW)

### FY 2012 Budget Request At A Glance

FY 2011 CR:	\$168.3 million
Current Services Adjustments:	\$0.0 million
Program Changes:	+\$101.7 million
FY 2012 Budget Request:	\$270.0 million
Change From FY 2011 CR:	+\$101.7 million (+60.4%)

#### Mission:

The mission of the FEW appropriation is to provide funding for all fees and expenses associated with the provision of testimony on behalf of the Federal Government. Funding is also provided to pay for private and foreign counsel

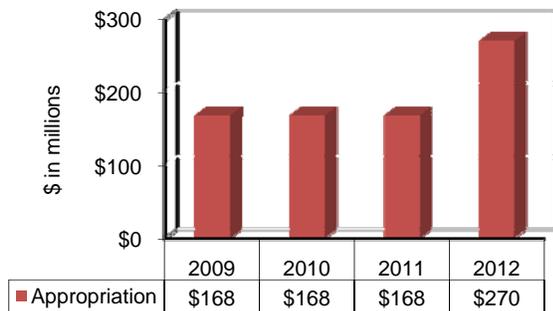
#### Resources:

The FY 2012 budget request for FEW totals \$270.0 million, which is a 60.4 percent increase from the FY 2011 CR.

#### Organization:

The FEW Appropriation is centrally managed by the Justice Management Division's Budget Staff, and funds are allocated to the General Legal Activities and the Executive Office for U.S. Attorneys for administration of expert witnesses that provide technical or scientific testimony and are compensated based on negotiations with the respective federal government attorney. Also, funds are provided for fact witnesses who testify to events or facts of personal knowledge, and witnesses are paid statutorily a rate of \$40 per day plus travel and other costs associated with their appearance. Additionally, funds are provided for the Protection of Witnesses for the security of government witnesses or potential government witnesses, and their families when their testimony, concerning organized criminal activity may jeopardize their personal security.

#### Funding (FY 2009 - 2012)



#### Personnel:

There are no authorized positions associated with this appropriation.

## **FY 2012 Strategy:**

The FEW appropriation provides adequate funding of fees and related expenses incurred by individuals who provide factual, technical or scientific testimony on behalf of the United States or court designated indigent individuals, as provided by law. Funds provided for this activity also guarantee the rights of accused persons to a fair and impartial trial by ensuring that the accused is mentally competent to stand trial and that the courts have testimony regarding the mental competency of the accused at the time of the alleged offense.

FEW also provides the court-attendance fee paid to fact witnesses set by law (28 U.S.C. §1821). As a result of Public law 96-346 ( September 10, 1980), the amounts authorized for travel, per diem and mileage are set by regulation governing official travel by federal employees.

The procedure for designation of a person as a protected witness is set forth in Department of Justice Offices, Boards and Divisions Order 2110.2 "Witness Protection and Maintenance Policy and Procedures." This Order places with the United States Marshals Service the responsibility for the security of these witnesses and their families.

The Victim Compensation Fund provides resources to compensate individuals who are victimized by protected witnesses. The Fund was initially funded by the 1985 Supplemental Appropriations Act (P. L. 99-88).

The Private Counsel activity provides funding to retain outside counsel to represent Government officers and employees who are sued for actions taken while performing their official duties. Per 28 C.F.R. 50.15 and 50.16, the Civil Division is delegated the authority to retain such counsel.

The Superior Court activity provides funding for the protective services offered to the District of Columbia Superior Court witnesses.

The Alternative Dispute Resolution activity encompasses a wide range of problem-solving and conflict management techniques including mediation, early neutral evaluation, arbitration and mini-trials.

The Foreign Counsel activity provides funding to allow the Department to retain outside counsel to represent Government officers and employees who are sued in a foreign country while performing their official duties. As provided under 28 C.F. R. §0.46, the Civil Division is delegated the authority to retain such counsel and further provided that payment for such services will be payable from the Department's appropriations.

## **FY 2012 Program Changes:**

**Fees and expenses of Witnesses/Expert Witnesses:** \$92.0 million to fund costs associated with hiring expert witnesses for cases handled by the litigating components and the U.S. Attorneys. Since FY 2006, appropriated funding has been held flat while unobligated balances were used to fund a significant portion of the requirements. However, that option is no longer viable because the balances have been drawn down and they are no longer sufficient to sustain current activity. The requested enhancement for expert witnesses is needed to supplant funding previously provided through prior year unobligated balances and to support the overall increased costs of hiring expert witnesses.

**Protection of Witnesses:** \$9.7 million to fund costs associated with the Witness Protection (WITSEC) program administered by the U.S. Marshals Service. As is the case with the Expert Witnesses activity, the costs to run the WITSEC program have increased due to inflation and slight increases in the number of participants enrolled in the program. However, the primary justification for the requested enhancement is the declining balance available from prior years.

**Fees and Expenses of Witnesses**  
(Dollars in Thousands)

	Fees and Expenses of Witnesses		
	Pos	FTE	Amount
<b>2010 Enacted</b>	<b>0</b>	<b>0</b>	<b>168,300</b>
<b>2011 Continuing Resolution</b>	<b>0</b>	<b>0</b>	<b>168,300</b>
<b>2012 Request</b>	<b>0</b>	<b>0</b>	<b>270,000</b>
<b>Change 2012 from 2011 Continuing Resolution</b>	<b>0</b>	<b>0</b>	<b>101,700</b>
<b>Technical Adjustments</b>			
Technical Adjustment	0	0	0
Subtotal Technical Adjustments	0	0	0
<b>Total Technical Adjustments</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Adjustments to Base</b>			
<b>Increases:</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Decreases:</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Adjustments to Base</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Adjustments to Base and Technical Adjustments</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>2012 Current Services</b>	<b>0</b>	<b>0</b>	<b>168,300</b>
<b>Program Changes</b>			
<b>Increases:</b>	<b>0</b>	<b>0</b>	<b>101,700</b>
<b>Decreases:</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Program Changes</b>	<b>0</b>	<b>0</b>	<b>101,700</b>
<b>2012 Request</b>	<b>0</b>	<b>0</b>	<b>270,000</b>
<b>Change 2012 from 2011 Continuing Resolution</b>	<b>0</b>	<b>0</b>	<b>101,700</b>

**Fees and Expenses of Witnesses**

(Dollars in Thousands)

Comparison by activity and program	2011 Continuing Resolution			2012 Current Services		
	Perm Pos.	FTE	Amount	Perm Pos.	FTE	Amount
Fees and Expenses of Witnesses	0	0	168,300	0	0	168,300
<b>Total</b>	0	0	168,300	0	0	168,300
Reimbursable FTE	0	0	0	0	0	0
<b>Grand Total</b>	0	0	168,300	0	0	168,300

Comparison by activity and program	2012 Total Program Changes			2012 Request		
	Perm Pos.	FTE	Amount	Perm Pos.	FTE	Amount
Fees and Expenses of Witnesses	0	0	101,700	0	0	270,000
<b>Total</b>	0	0	101,700	0	0	270,000
Reimbursable FTE	0	0	0	0	0	0
<b>Grand Total</b>	0	0	101,700	0	0	270,000