

**Federal Prison System
Buildings and Facilities
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I. Overview for the Bureau of Prisons, Buildings and Facilities (B&F) Appropriation

The Bureau of Prisons (BOP) was established in 1930 to provide more progressive and humane care for Federal inmates, to professionalize the prison service, and to ensure consistent and centralized administration of the 11 Federal prisons in operation at that time (now 116). The mission of the BOP, an agency of the Department of Justice (DOJ), is to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens. Electronic copies of the Department of Justice Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.justice.gov/02organizations/bpp.htm>.

The BOP faces unprecedented challenges in managing the growing Federal inmate population, and providing for inmates' care and safety in crowded conditions, as well as the safety of BOP staff and surrounding communities, within budgeted levels. The average net increase in the inmate population over the past five fiscal years (FY 2006 – FY 2010) is over 4,500 per year. In FY 2008, the inmate population had a smaller increase, growing by a net of 1,648 new inmates attributed to inmates receiving sentence reductions, many resulting in immediate release, after the U.S. Sentencing Commission changed sentencing guidelines to retroactively re-sentence inmates convicted of crack cocaine offenses. The effect of this change was almost fully realized in FY 2008. In FY 2009, a net growth of 7,091 new inmates was realized and in FY 2010 an additional 1,463. An increase of approximately 5,800 inmates per year is projected for FY 2011 and FY 2012.

For FY 2012, a total of \$99,394,000, with 275 positions and 256 FTEs are requested for the B&F appropriation. The FY 2012 request maintains B&F programs at prior years' levels and it will not provide new beds for the projected inmate population growth. Additionally, a rescission of \$35,000,000 in prior years' New Construction unobligated balances is proposed. The rescission reduces \$30,000,000 from the planned "Acquire Existing Institution for Higher Security FCI" project and reduces \$5,000,000 from the partially funded "FCI Midwestern/Leavenworth, KS" project.

Without legislative and administrative changes, the inmate population will continue to grow for the foreseeable future. Future growth will require additional funding beyond the "current services" level.

With the continued and future projected inmate growth and age of existing prisons, B&F funds have been stretched very thin. The BOP strives to follow the Federal Facilities Council recommendations of a two to four percent replacement value method of requesting funding. As noted in report (GAO-10-94) released in November 2009, GAO concluded that BOP's methods for cost estimation largely reflect **best practices** as outlined in GAO's *Cost Estimating and Assessment Guide*. GAO stated, "BOP followed a well-defined process for developing mostly comprehensive, well documented, accurate,

and credible cost estimates”. Further, GAO found that BOP’s methods for projecting inmate population changes have been accurate. For example, GAO found projections were accurate, on average, to within 1 percent of the actual inmate population growth from fiscal year 1999 to August 2009. The full GAO report is available at: <http://www.gao.gov/new.items/d1094.pdf>.

As of January 20, 2011, BOP facilities are extremely overcrowded and operating at 35 percent above rated capacity system-wide; and most critically, with 41 percent overcrowding at the medium security level and 51 percent overcrowding at high security. As of January 2011, 19,160 (94 percent) high security inmates were double bunked, and 8,793 (16 percent) of medium security inmates and almost 36,081 (82 percent) of low security inmates were triple bunked or housed in space not originally designed for inmate housing. Overcrowding rates will worsen given incarceration trends. Nearly 172,000 of the current Federal inmate population are in facilities operated by the BOP. The remainder, nearly 38,000 inmates or 18 percent, are in contract care including privately operated secure facilities, facilities managed by state and local governments, residential reentry centers, or home confinement. The percentage of inmates in contract care has steadily increased from 1.5 percent in 1980, 10.7 percent in 1990, and 13.5 percent in 2000, to 18 percent currently. Future population, capacity, and crowding projections are shown in the following table:

Projected Population, Capacity, and Crowding

	2010 (Actual)	2011	2012	2013	2014	2015	2016	2017	2018
BOP Facilities									
Starting Capacity	125,778	126,713	127,671	129,279	133,603	135,291	135,771	136,271	136,771
Additional Approved/Planned	935	958	1,608	4,324	1,688	480	500	500	2,936
Subtotal Capacity	126,713	127,671	129,279	133,603	135,291	135,771	136,271	136,771	139,707
Pop. Projection	173,289	175,984	181,272	184,370	187,060	189,431	191,802	194,174	196,545
Percent Overcrowded	37%	38%	40%	38%	38%	40%	41%	42%	41%
Contract	36,938	40,278	40,615	42,410	44,177	45,925	47,672	49,420	51,168
Percent Contract	17.6%	18.6%	18.3%	18.7%	19.1%	19.5%	19.9%	20.3%	20.7%
Total Federal Prison Population	210,227	216,261	221,889	226,781	231,238	235,357	239,476	243,595	247,714

Note: The population projections are based on data and information from a variety of sources including the Administrative Office of the U.S. Courts, the U.S. Sentencing Commission, other DOJ components, and the BOP’s own information system (SENTRY). **Additional capacity projections rely on future enactment of funding for contract beds, acquisitions, new construction, and activations.**

Rated capacity is the baseline used to calculate prison crowding, and is essential to managing the BOP’s inmate population to distribute the population throughout the system efficiently and equitably. The calculation for determining rated capacity involves stratified double bunking across all security levels and includes the following formulas: minimum and low security institutions at 100 percent double bunking; medium security

institutions at 50 percent double bunking and; high security institutions at 25 percent double bunking.

The B&F appropriation is comprised of two decision units: 1) the New Construction decision unit includes funding to expand existing facilities and acquire or construct new facilities; and 2) the Modernization and Repair (M&R) decision unit is intended to include funding to maintain existing facilities in an adequate state of repair to provide a safe and secure environment to continue operations, thereby protecting taxpayer capital investments.

For FY 2012, a total of \$99,394,000 with 275 positions, and 256 FTEs are requested for the B&F appropriation to support DOJ Strategic Goal 3: Ensure the Fair and Efficient Administration of Justice. This request funds the New Construction base program but does not provide funding for any additional New Construction projects, and it continues the prior year level of base resources for the M&R program. In addition to this request, a rescission of \$35,000,000 in prior years' unobligated New Construction balances is proposed. The rescission reduces \$30,000,000 from the "Acquire Existing Institution for Higher Security FCI" project and reduces \$5,000,000 from the partially funded "FCI Midwestern/Leavenworth, KS" project.

As a strategy to try to keep pace with inmate population growth, the BOP continues to rely on funding for a combination of contracts with private, state, and local vendors; increasing use of residential reentry centers and home confinement; expansions of existing facilities where infrastructure permits; acquisition and renovation of existing structures; and new prison construction. Current inmate crowding levels are at 51 percent over rated capacity at high security facilities and 41 percent at medium security facilities. As the population increases, and insufficient capacity continues, the prison system is challenged to maintain a safe and secure environment for staff and inmates.

The purpose of the M&R program is to provide the necessary resources to undertake essential rehabilitation, modernization and renovation of buildings, other structures, and associated systems, necessary modifications to meet legal requirements and accommodate correctional programs, repair or replacement of utilities systems and other critical infrastructure and repair projects at existing institutions in order to keep all systems and structures in an adequate state of repair. Proper maintenance, modernization, and repair of BOP institutions are essential. Failure to adequately maintain structures and utility systems erodes capital investment and multiplies the costs in future years for accomplishing the required maintenance and repair. Most importantly, failure to maintain structures can cause direct and/or indirect security problems.

As stated in the Inspector General's memo dated November 13, 2009, regarding Top Management and Performance Challenges in the Department of Justice, "With approximately one-third of BOP's 116 institutions 50 years or older, the increasing prison population also exacerbates a challenge for the BOP in repairing failing infrastructure at these institutions".

The BOP's goal is to maintain a safe and productive environment for staff and inmates. However, the level of annual resources being provided for the M&R program only allows

the BOP to band-aid the major infrastructure and life safety problems and to address only a handful of required repairs each fiscal year. There are 116 existing BOP institutions. Within the constrained resources dedicated to the M&R program, approximately 20 major system replacement projects (of the 134 on the waiting list) are able to be funded annually (i.e. fence, roofs, HVAC, fire alarms). Proper maintenance is necessary to address failing systems to avoid significant deterioration and larger future replacement costs.

DOJ completed implementation of the Asset Management Plan (AMP) system achieving compliance with the Real Property Management initiative from OMB. The AMP inventories all real property and related information and tracks repair needs. This is a significant DOJ and BOP accomplishment as the Federal Prison System accounts for over 90 percent of all of DOJ's capital assets.

In accordance with the Administration's direction to focus on place-based policies and initiatives [M-09-28], the BOP has a long standing practice of locating many of its new Federal prisons in rural areas. As stated in the White House memo "The prosperity, equity, sustainability, and livability of neighborhoods, cities and towns, and larger regions depend on the ability of the Federal government to enable locally-driven, integrated, and place-conscious solutions guided by meaningful measures, not disparate or redundant programs which neglect their impact on regional development." The BOP's positive impact on rural communities is significant. By bringing in new federal jobs, stimulation of local businesses and housing, contracting with hospitals and other local vendors, and coordinating with local law enforcement, the BOP improves the economy of the town and the entire region where these rural facilities are located.

Environmental Accountability

The BOP continues its progress of improving environmental and energy performance. The BOP is aggressively pursuing the Energy Saving Performance Contract (ESPC) finance mechanism permitted by Executive Order 13423 and Energy Policy Act. Twenty-five ESPCs have been initiated over the last three years, and the BOP has moved forward with ESPCs at twenty institutions. As part of these projects, the BOP is implementing green initiatives such as solar power, wind turbines, biomass boilers, lighting upgrades, water conservation retrofits, heating and cooling equipment replacement, and many other energy saving measures.

For example, at the Federal Correctional Complex (FCC) in Victorville, CA, an ESPC was utilized to install a 750 kW wind turbine and a 74.5 kW photovoltaic array with new integrated HVAC controls for a total savings of 13.2 billion BTU's over the last few years. This forward thinking approach has been presented in the Boston Business Journal in 2005. In 2007, FCC Victorville initiated an aluminum can recycling program that diverted more than 3,500 pounds of aluminum cans from the local landfill. During FY 2008, the institution expanded services to include virtually all ferrous and nonferrous metals, textiles, plastic oils, antifreeze, batteries, tires, cardboard, paper, construction debris pallets, e-waste, glass toner cartridges, light bulbs and sawdust.

USP Hazelton, WV has a prison sanitation “green purchasing” project which involves the institution purchasing 100 percent, green seal-certified, bio-based, or environmentally-friendly sanitation supplies. The USP continually seeks out the best solutions to its sanitation needs – i.e. those that are safe, cost-effective, and minimize negative impact on the environment.

Over the last four years, the BOP’s ESPC Program has won the following national awards:

- 2006 DOE Small Team Award for the FCC Victorville Project
- 2007 Presidential Award for Leadership in Federal Energy Management
- 2007 GSA Award for the “Greening of Prisons”
- 2009 DOJ Energy and Environmental Awards to USP Hazelton and FCC Victorville

In addition to ESPCs, the BOP is also pursuing numerous energy conservation and greening projects via traditional methods. As an example, the BOP has recently signed a contract with Lycoming County, Pennsylvania, to utilize methane gas from a landfill to provide electricity and hot water to the Federal Correctional Complex in Allenwood, PA.

The FCC in Butner, NC is one of the first prisons in the country to be LEED “Certified”. The Leadership in Energy and Environmental Design (LEED) Green Building Rating System is the nationally accepted benchmark for design, construction and operation of high performance sustainable buildings. As part of this certification, these assets received points for a sustainable site, water efficiency, energy/atmosphere, materials/resources, indoor air quality and innovative designs. Currently, new prisons are being built in Yazoo City, MS, Aliceville, AL, and Hazelton, WV. All three of these prisons will be at a minimum, LEED “Certified”.

In an effort to conserve energy system-wide, the BOP Director implemented an Energy Conservation Initiative in 2006. This initiative employs integrated design principles, optimization of energy performance and operational changes. As part of this initiative, the BOP reduced the consumption of electricity, natural gas, fuel oil, gasoline and water. This resulted in a 2 percent reduction in energy consumption over the fiscal year. Also, the BOP implemented additional water conservation initiatives in 2009 to reduce water consumption throughout the system.

Four ESPCs in the final stages of construction or recently completed. Most of the Energy Conservation Measures (ECMs) are in place and already having a significant impact on the facilities consumption of water and energy. The four institutions are the Federal Correctional Institution (FCI) Englewood, CO; FCI Big Spring, TX; Federal Correctional Complex (FCC) Victorville, CA; and FCC Petersburg. The combined acreage for the four institutions is 2,518 and the total building space is 3,580,000 square feet. The four institutions have a total of 28 ECMs. The ECMs included water management, sub-metering, control upgrades, wind energy, solar PV, solar thermal, biomass, geothermal, lighting, HVAC and plumbing upgrades, and electric vehicles. The combined impact of the energy savings and emissions reductions generated by these ECMs is allowing the BOP to make a significant contribution to the reduction of federal greenhouse gas emissions. Total emissions reductions for the four sites include CO₂ 24,705,781 lbs./yr.,

NOx 19,693 lbs./yr., and SOx 25,348 lbs./yr. Additionally, reductions in water and energy usage are decreasing the BOP's environmental footprint on a national level. The consolidated projected savings for the four sites are electrical 12,036,552 KWh/yr., natural gas 118,286 MBtu/yr., water 126,302 KGal/yr., and sewage 70,9000 KGal/yr. Implementation of ESPCs and agency funded projects has significantly assisted the BOP in meeting its goals and the requirements of federal energy related statutory laws and regulations.

The BOP has a very ambitious recycling program. As an example, the Safety Department at the FCC in Lompoc, California, operates a multi-faceted recycling and environmental awareness operation. The institution employs several inmate workers to sort recyclable materials throughout the complex. In FY 2007, FCC Lompoc's recycling efforts kept 320,000 tons of recyclables, such as wood, cardboard, ferrous metals, non-ferrous metals, tires, batteries, anti-freeze, engine oil, cooking oil, wood pallets, plastics, light bulbs, computers and paper from entering the Nation's waste stream. The recycling program generated \$28,885 in FY 2007 and saved more than \$24,000 in land fill disposal fees.

The BOP has six institutions that have various size bio-diesel operations. At these facilities, waste kitchen grease is converted into bio-diesel, and is used in vehicles and lawn equipment. The United States Penitentiary in Big Sandy, Kentucky produces over 500 gallons of bio-diesel per month. The BOP anticipates this program will be expanded to most institutions over the next few years.

FY 2012 Total Bureau of Prisons Request by DOJ Strategic Goal

The BOP's mission plays a direct role in supporting DOJ, Strategic Goal 3: Ensure the Fair and Efficient Administration of Justice. For FY 2012, a total of \$99,394,000 with 275 positions and 256 FTEs are requested for the B&F appropriation to support the Department's Strategic Goal to:

- Provide for the safe, secure, and humane confinement of detained persons awaiting trial and/or sentencing, and those in the custody of the Federal Prison System (Strategic Goal 3.3)

In addition to this request, the budget proposes a rescission of \$35,000,000 in prior years' unobligated new construction balances. The rescission reduces \$30 million from the "Acquire Existing Institution for Higher Security FCI" project and reduces \$5 million from the partially funded "FCI Midwestern/Leavenworth, KS" project.

Full Program Costs

The BOP's budget integrates both DOJ and BOP Strategic Goals and Objectives. Each performance objective is linked with the costs of critical strategic actions. The FY 2012 B&F budget request includes resources to continue the base program for New Construction and continues the current services amount from FY 2011 for the most critical Modernization and Repair needs of existing institutions.

Both performance and resource tables within each decision unit justification define the total costs of achieving the strategies the BOP will implement in FY 2012.

FY 2012 Budget Request by Decision Unit

New Construction Funds: \$25,439,000

The budget proposes a rescission of \$35,000,000 in prior years' unobligated New Construction balances.

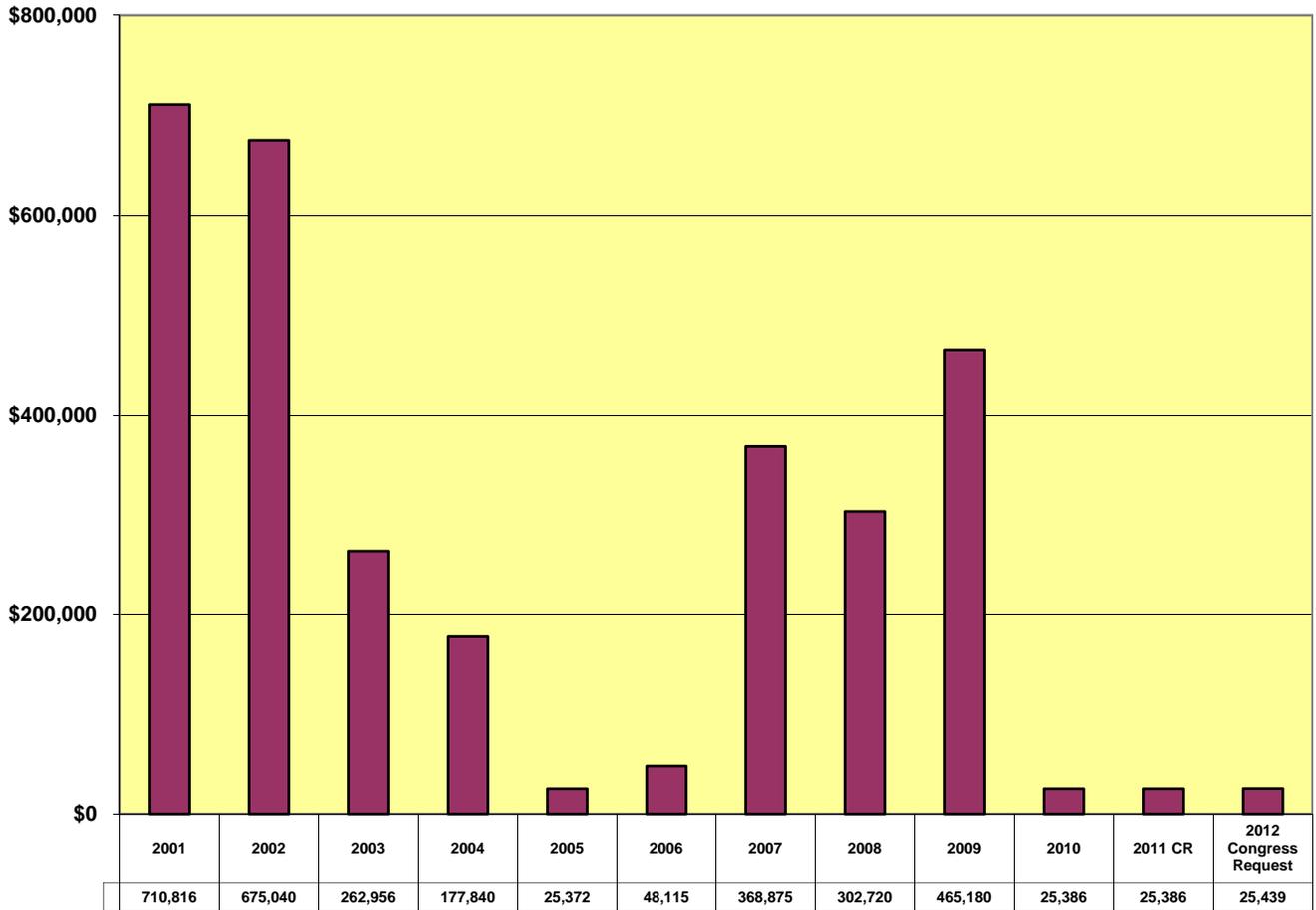
For FY 2012, \$25,439,000 in New Construction base funds are minimally required to provide for ongoing expenses within the decision unit. New Construction base resources are essential to the program and required for the Oklahoma Transfer Center lease payments (approximately \$10 million per year); salaries and administrative costs of architects, project managers, site selection, procurement, and other staff necessary to carry out the program objective; environmental requirements and geo-technical exploration; construction of inmate work program areas; expansion and conversion projects, i.e. additional special housing unit space; and any unforeseen preliminary project costs issues which may arise and are not included in the individual project cost estimate. Further, new construction base funds are utilized when site investigations are required for a project in which a specific location has not yet been identified.

Resources for each objective that the BOP supports are identified under each decision unit. The total costs include the following:

- The direct cost of all activities
- Indirect costs
- Common administrative systems costs

The following chart shows the history of New Construction funding levels from FY 2001 to the FY 2012 Request.

New Construction Funding (\$000)



For FY 2012, this budget proposes a rescission of \$35 million in prior years' unobligated New Construction balances.

The BOP absorbed rescissions against new construction project funds of \$5.7 million in FY 2002 and \$51.9 million in FY 2004.

Modernization and Repair: \$73,955,000

For FY 2012, \$73,955,000, or a 0.3 percent replacement value level, is requested for the M&R program to remain at the current services level for FY 2012. This requested base level for M&R will fund some of the most basic and emergency type repairs of BOP's aging facilities' infrastructures.

The M&R program is intended to provide the necessary resources to undertake essential rehabilitation, renovation and replacement projects at existing institutions to ensure structures, utilities systems, and other plant facilities are operational. It is extremely important to maintain a current services level for the M&R program in order to address the most critical repairs and safety projects that will help keep Federal prisons operational and reduce security problems.

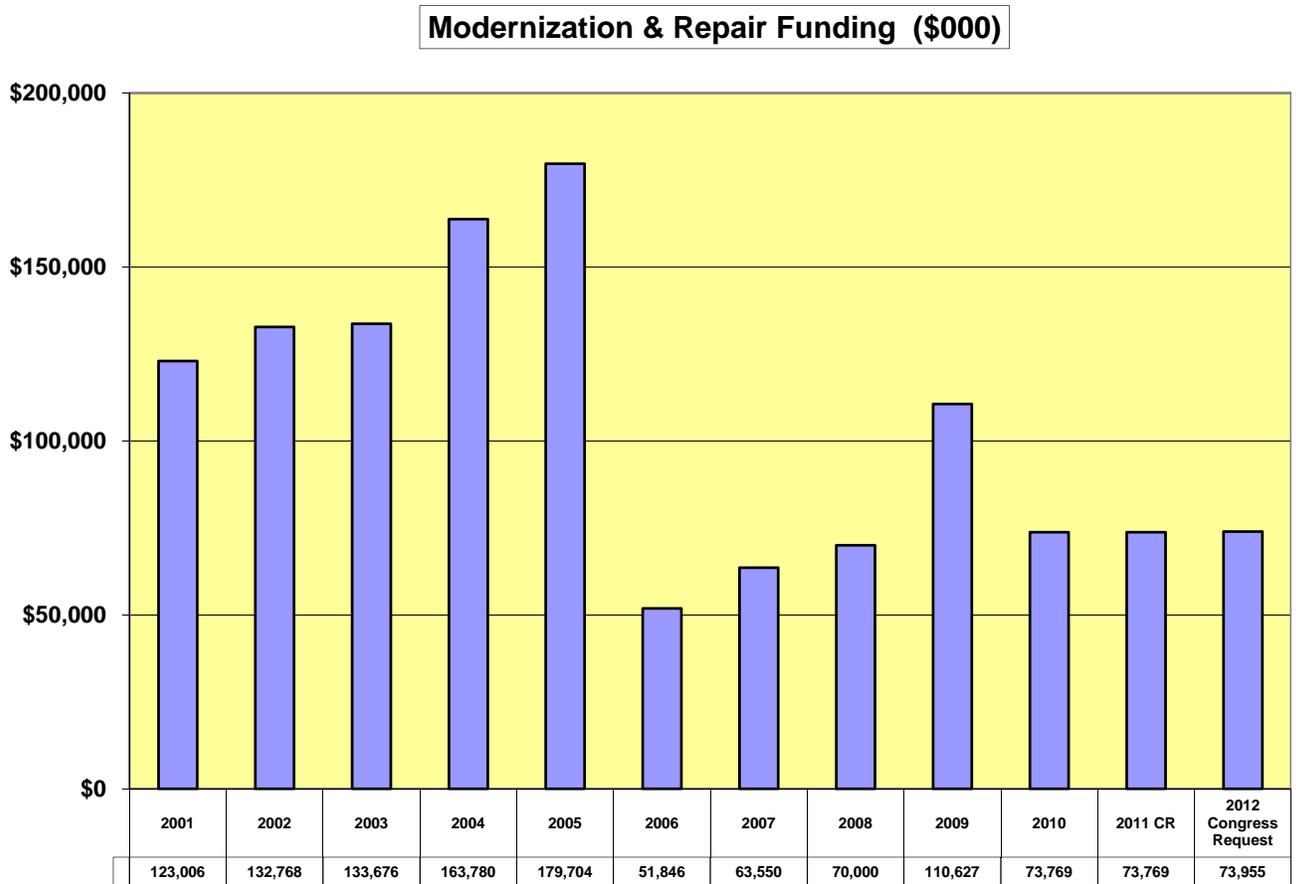
Delays in completing needed repairs have increased the number and cost of unfunded projects as well as contributed to additional deterioration of BOP's aging and inadequate

infrastructures. For example, FCI Tallahassee, FL is one of many institutions that have been in need of funds for major repairs of its infrastructure. Due to limited resources in the M&R program, this important project has not been able to be funded and is delayed year after year. The infrastructure is now failing to the point that the entire building for Inmate Services needs to be replaced at a cost of over \$7 million. M&R is essential to institution security because deteriorated facilities add to increased risk of escape, inability to lock down cells, and violence due to frustration over inadequate living conditions, such as leaking and collapsing roofs at some locations that are in need of replacement.

Resources for each objective that the BOP supports are identified under each decision unit. The total costs include the following:

- The direct cost of all activities
- Indirect costs
- Common administrative systems costs

The following chart shows the history of M&R funding levels and requests from FY 2001 to FY 2012.



Challenges

The biggest challenge facing the BOP is managing the ever increasing federal inmate population and providing for their care and safety, while maintaining appropriately safe and secure prisons required to ensure the safety of BOP staff and surrounding communities within budgeted levels. This is why the requested resources for BOP's

operations budget (S&E) and for Modernization and Repair are vital. The most significant increases in the inmate population have occurred in the last two decades. While the BOP is not experiencing the dramatic population increases of 10,000 to 11,400 inmates per year that occurred from 1998 to 2001, the increases are still significant (averaging over 4,500 inmates per year the past five years), and a net growth of about 5,800 inmates per year is projected for FY 2011 and FY 2012. Therefore, adding new capacity, such as FCI Aliceville, to accommodate the increasing inmate population is basic to address overcrowding and effectively manage federal inmates.

It has been particularly challenging to manage the Federal prisoner population at higher security levels. The combined inmate population confined in medium and high security facilities represents over 40 percent of the entire inmate population. It is important to note that at the medium security level, about 67 percent of the inmates are drug offenders or weapons offenders, approximately 75 percent have a history of violence, 40 percent have been sanctioned for violating prison rules, and half of the inmates in this population have sentences in excess of 8 years. At the high security level, more than 70 percent of the inmates are drug offenders, weapons offenders, or robbers, another 10 percent have been convicted of murder, aggravated assault, or kidnapping, and half of the inmates in this population have sentences in excess of 10 years. Furthermore, nearly 70 percent of high security inmates have been sanctioned for violating prison rules, and more than 90 percent have a history of violence.

Further, with the ongoing threats and activity of terrorist organizations, the BOP's work has taken on significantly greater risks with the incarceration of high-profile convicted terrorists such as: Zacarias Mossaoui, Nidal Ayyad (World Trade Center Bomber), Terry Nichols, Sheik Rahman, Richard Reid, Ramzi Yousef, Ahmed Ghailani, and Colleen LaRose (a.k.a. Jihad Jane).

About one-third of the BOP's 116 institutions are over 50 years old. The BOP prioritizes its major M&R projects (typically those costing about \$300,000 or more) so that only the most critical are funded first in order to maintain safe and secure facilities. Maintaining sufficient M&R resources is essential to ensuring BOP facilities are kept in an adequate state of repair for the safety of staff, inmates, and the surrounding communities. Failure to adequately maintain structures and utility systems erodes capital investment and multiplies the costs in future years for accomplishing the required maintenance and repair. This is particularly important given the Administration's emphasis on agency asset management planning processes.

The BOP has made significant progress in environmental and energy performance and will continue to integrate and update prior practices and requirements. Without the requested M&R funds, the BOP will be unable to meet the goals and mandates as required. The BOP is actively utilizing the Energy Saving Performance Contract (ESPC) finance mechanism permitted by Executive Order 13423 and Energy Policy Act.

An ESPC is a contract that provides for the performance of services for the design, acquisition, financing, installation, testing, operation, and where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations. The contractor must incur costs of implementing

energy savings measures, including at least the cost (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel in exchange for a predetermined share of the value of the energy savings directly resulting from implementation of such measures during the term of the contract. Payment to the contractor is contingent upon realizing a guaranteed stream of future energy and cost savings, with any savings in excess of that guaranteed by the contractor accruing to the Federal Government. The BOP has twenty ESPCs in different phases, and plans to look into the utilization of these contracts at every institution where it is practical.

With 116 federal prisons and approximately 210,000 inmates, the BOP is the largest energy and water consumer in the Department of Justice. Like all other government entities, the BOP is required to meet the goals established in the Energy Policy Act of 2005, the Energy Independence and Security Act of 2007 and Executive Order (EO) 13423. As stated, the BOP is aggressively pursuing ESPCs to help meet these goals, but with our increasing inmate population and degrading infrastructure, ESPCs alone will not be enough. Currently, on the M&R backlog list, there are approximately \$30 million in energy related projects. It is estimated that during the next five years, the BOP will need over \$250 million in energy related M&R funds to meet these goals. As an example, Executive Order 13423 requires that by 2015, 15 percent of BOP buildings/institutions are to be sustainable. To be considered sustainable, these buildings have to meet the five guiding principles of sustainability. An engineering firm performed a contract study on an existing institution to determine the estimated cost to meet these guiding principles. The estimate for this work is approximately \$3 million. To meet the 15 percent requirement, the BOP would have to make 17 prisons sustainable. This alone would require approximately \$51 million in M&R funds.

Most recently, Executive Order (EO) 13514 was issued. The purpose of this EO is to reduce Green House Gases government-wide. This will require the BOP to reduce energy consumption even further. It has not yet been determined how the BOP will meet the mandates of this EO, but it is anticipated that a significant amount of M&R funds will be needed to get there. Also, in order to meet the requirements of this EO, old equipment will have to be replaced, i.e. boilers. The BOP has 33 institutions that are over 50 years old and a large amount of equipment at these institutions is inefficient and emits large quantities of green house gases. The only viable solution is to replace the equipment, and these costs could exceed \$50 million.

The BOP is also in the process of self certifying the Environmental Management Systems (EMS) based on requirements of International Organization Standards 14001. The main purpose of EMS is to identify operations which affect the environment. During the self certification process, a survey team performs an inspection to determine if the institution complies with all environmental regulations. As a result of inspections, the BOP has found that many institutions require infrastructure improvements to meet regulations. For example, after an inspection that took place at USP Atlanta, it was determined that the underground fuel tanks would have to be replaced to meet the current standards. The cost of this work is approximately \$350,000. The total cost estimate to provide the necessary repairs, Bureau-wide, could amount to \$10 million. If these repairs are not made, BOP will be subjected to possible fines by the EPA, and even worse, could have an incident that damages the environment.

II. Summary of Program Changes

Item Name	Description			Page
	Pos.	FTE	Dollars (\$000)	
Rescission of Prior Years' New Construction Unobligated Balances	Rescind Prior Year Unobligated Balances and Reduce Construction Project Funding:			30
	0	0	(30,000)	
	0	0	(5,000)	
Total Program Changes	0	0	(\$35,000)	

III: Appropriations Language and Analysis of Appropriations Language

Appropriations Language

Buildings and Facilities

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, \$99,394,000, to remain available until expended, of which not less than \$73,955,000 shall be available only for modernization, maintenance and repair, and of which not to exceed \$14,000,000 shall be available to construct areas for inmate work programs: Provided, That labor of United States prisoners may be used for work performed under this appropriation.

(CANCELLATION)

Of the unobligated balances from prior year appropriations available under this heading, \$35,000,000 are hereby permanently cancelled: Provided, That no amounts may be cancelled from amounts that were designated by the Congress as an emergency requirement pursuant to the Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Note.—A full-year 2011 appropriation for this account was not enacted at the time the budget was prepared; therefore, this account is operating under a continuing resolution (P.L. 111-242, as amended). The amounts included for 2011 reflect the annualized level provided by the continuing resolution.

Analysis of Appropriations Language

A cancellation of \$35 million in prior years' unobligated New Construction balances is proposed.

Note: The FY 2012 President's Budget uses the FY 2011 President's Budget language as a base so all language is presented as new.

IV. Decision Unit Justification

A. New Construction

New Construction TOTAL	Perm. Pos.	FTE	Amount
2010 Enacted with Rescissions	143	125	25,386
2010 Supplemental	0	0	0
2010 Enacted w/Rescissions & Supps.	143	125	25,386
2011 CR	143	125	25,386
Adjustments to Base and Tech. Adj.	(9)	(10)	53
2012 Current Services	134	115	25,439
2012 Request	134	115	25,439
2012 Proposed Rescission of Prior Years' New Construction Funds	0	0	[35,000]
Total Change 2011-2012	(9)	(10)	\$53

No Information Technology for this program.

1. Program Description

New Construction

The budget proposes a rescission of \$35 million in prior years' unobligated New Construction balances. The rescission reduces \$30 million from the "Acquire Existing Institution for Higher Security FCI" project and reduces \$5 million from the partially funded "FCI Midwestern/Leavenworth, KS" project.

For FY 2012, \$25,439,000 in New Construction base funds are required to provide for ongoing expenses within the decision unit. New Construction base resources are essential to the program and are required for the Oklahoma Transfer Center lease payments (approximately \$10 million per year); salaries and administrative costs of architects, project managers, site selection, procurement, and other staff necessary to carry out the program objective; environmental requirements and geo-technical exploration; construction of inmate work program areas; expansion and conversion projects, i.e. additional special housing unit space; and any unforeseen preliminary project costs issues which may arise and are not included in the individual project cost estimate. Further, new construction base funds are utilized when site investigations are required for a project in which a specific location has not yet been identified.

Most criminal justice agencies have some degree of discretion in controlling their workloads, typically through priority systems developed to ensure that the most important cases are handled first. However, the BOP must, by law, accept all inmates sentenced to confinement by the Federal courts. In addition, in accordance with the D.C. Revitalization Act of 1997, the BOP must accept responsibility for the District of Columbia sentenced felon population.

The BOP regularly reviews capacity requirements, considers the current and projected inmate population levels, current law enforcement initiatives, geographic origin of the confined population, and the age and condition of existing facilities. As federal inmate population levels are projected to continue increasing, the BOP strives to take all possible actions within constrained budget levels to protect the community, while keeping institutional population numbers at manageable levels to ensure that federal inmates continue to serve their sentences in a safe and humane environment.

The BOP strives to accommodate its population in the safest and most cost effective manner. The BOP continues to explore opportunities for increasing capacity through the utilization of contract facilities, expansion of existing facilities, acquisition and conversion of military and other properties to prison use, and the ongoing design and construction of new prisons, consistent with the capacity plan and available funding.

From a cost perspective, the expansion of existing institutions is considered by BOP to be a cost effective technique for increasing prison capacity, and the BOP has recently added housing units at facilities where program space and systems infrastructure can absorb further population increases. However, where major program and support areas such as food service and utilities are already seriously over capacity, expansion may be cost prohibitive and other alternatives need to be considered.

The major challenges in managing the federal prisoner population stem from the increasing inmate population particularly at higher security institutions. It is important to note that at the medium security level, about 67 percent of the inmates are drug offenders or weapons offenders, approximately 75 percent have a history of violence, 40 percent have been sanctioned for violating prison rules, and half of the inmates in this population have sentences in excess of 8 years. At the high security level, more than 70 percent of the inmates are drug offenders, weapons offenders, or robbers, another 10 percent have been convicted of murder, aggravated assault, or kidnapping, and half of the inmates in this population have sentences in excess of 10 years. Furthermore, nearly 70 percent of high security inmates have been sanctioned for violating prison rules, and more than 90 percent have a history of violence.

GAO Report 08-634, PRISON CONSTRUCTION, recommended that the BOP communicate in DOJ's annual Congressional budget submission: (1) the extent to which project costs may vary from initial estimates, and (2) changes that may impact the functionality of projects.

- (1) Actual Costs May Vary from Initial Estimates - The cost estimates appearing on the Status of Construction exhibit are preliminary and are updated periodically based on the following factors: when full construction funds are anticipated to become available; geographic location; historical and projected cost escalation; and allowances for uncertainty as to actual sites to be developed. Preliminary estimates in this budget have been adjusted primarily due to when full construction funds are anticipated to become available and based on security level and capacity changes noted below. Although cost escalation is currently lower due to the current recession, preliminary cost estimates historically increase

(approximately 5 percent or more) each year until full funding is provided for projects and construction contracts can be awarded.

- (2) Changes from the FY 2011 Congressional Budget – Construction at FCI McDowell has been completed and the project was removed from the report. The Acquire Existing Institution for FCI project has been changed from a USP, however, the mission of the institution remains the same, to house higher security inmates. The project’s estimated activation funding date was changed from FY 2012 to FY 2013 and is uncertain due to proposed cancellation of funds. The proposed Administrative USP Thomson facility was added, as it is included in the FY 2011 President’s budget. USP El Reno, OK with camp has been changed to an Administrative USP in order to not only house general population high security inmates but also to accommodate projected increases in inmates designated to the Special Management Unit program. The capacity for this project was increased accordingly. The security level of USP North Central Region/Pekin, IL with camp has been changed from FCI North Central Region to address projected high inmate crowding rates at U.S. Penitentiaries and to take advantage of shared costs associated with co-locating facilities. The capacity for this project was adjusted accordingly. The activation funding dates for FCI Midwestern/Leavenworth, KS with camp; USP South Central/Forrest City, AR with camp; and Administrative USP El Reno, OK with camp have been changed from FY 2015 to FY2016. Also, this budget proposes a rescission of partial funding for the FCI Midwestern/Leavenworth project. The activation funding dates for USP Letcher County, KY with camp; USP North Central/Pekin, IL with camp; and FCI Florida with camp have been changed from FY 2016 to FY2017, consistent with the fiscal years in which construction funding is anticipated to be received.

PERFORMANCE AND RESOURCES TABLE

Decision Unit: New Construction

DOJ Strategic Goal/Objective: 3.3

Workload/Resources		Final Target		Actual		Projected		Changes		Requested (Total)	
		FY 2010		FY 2010		FY 2011 CR		Current Services Adjustments and FY 2012 Program Changes		FY 2012 Request	
Workload:											
1. Number of beds added (BOP facilities)		930		485		958		650		1,608	
2. End of Year Capacity (BOP facilities)		126,708		126,713		127,671		1,608		129,279	
Total Costs and FTE		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		268	99,155	268	99,155	268	99,155	(12)	(239)	256	99,394
TYPE/ STRATEGIC OBJECTIVE	Performance	FY 2010		FY 2010		FY 2011 CR		Current Services Adjustments and FY 2012 Program Changes		FY 2012 Request	
Program Activity		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		125	25,386	125	25,386	125	25,386	(10)	(53)	115	25,439
Performance Measure	3. Number of Environmental Impact Studies/Environmental Assessments completed	2		2		1		4		5	
Performance Measure	4. Number of major construction awards	0		0		0		0		0	
OUTCOME	5. Number of facilities completed	3		3		1		(1)		0	
OUTCOME	6. System-wide crowding level *	40%		37%		38%		2%		40%	

Data Definition: The crowding levels are based on a mathematical ratio of the number of inmates divided by the rated capacity of the institutions at each of the specific security levels. The percent of crowding represents the rate of crowding that is over rated capacity. For example, if an institution had a number of inmates that equaled the rated capacity, this would represent 100% occupancy, which equals 0% crowding. Any occupancy above 100% represents a percentage of crowding. System-wide: represents all inmates in BOP facilities and all rated capacity, including secure and non-secure facilities, low, medium, and high security levels, as well as administrative maximum, detention, medical, holdover, and other special housing unit categories. Medium security facilities: strengthened perimeters, mostly cell-type housing, work and treatment programs and a lower inmate-to-staff ratio than low security facilities. High security facilities: also known as U.S. Penitentiaries, highly secure perimeters, multiple and single cell housing, lowest inmate-to-staff ratio, close control of inmate movement. For new construction projects, a Notice to Proceed (NTP) is issued by the contracting officer, shortly after award of a design-build contract. The NTP authorizes the contractor to begin work under the contract, initially the start of design. Mission critical facilities are all existing BOP institutions.

Data Collection and Storage: Data are gathered from several computer systems. Each project is assigned a specific project code. Each obligation and expenditure is entered into FMIS by the specific project code. Award of design-build contracts for new construction projects are maintained and monitored through the BOP's fund control system and DOJ's FMIS. Inmate data are collected on the BOP on-line system (SENTRY). The BOP also utilizes a population forecast model to plan for future contracting and construction requirements to meet capacity needs.

Data Validation and Verification: Within BOP headquarters, staff retrieve and verify data on a daily basis, analyze it, and formulate reports and projections. Purchase requests for design-build contracts are approved by specific project management staff (based on dollar threshold limitations); commitments are entered into a computer based fund control system; and purchase requests are forwarded for procurement action. Once the procurement office awards a contract/purchase order, the obligation is entered into the DOJ FMIS. Each month, FMIS obligations are reconciled with the BOP's fund control register by project, and forwarded to the Central Office Finance Branch, Business Office, to ensure accuracy and compliance. The contracting officer issues the NTP, shortly after award of a design-build contract. The award of a contract is based on completing the procurement of the contract and receipt of the necessary environmental or political requirements or clearances. Subject matter experts review and analyze population and capacity levels daily, both overall and by security level. BOP institutions print a SENTRY report, which provides the count of inmates within every institution cell house. The report further subdivides the cell houses into counting groups, based on the layout of the institution. Using this report, institution staff conduct an official inmate count five times per day to confirm the inmate count within SENTRY. The BOP Capacity Planning Committee (CPC), comprised of top BOP officials, meets bi-monthly to review, verify, and update population projections and capacity needs for the BOP. Offender data are collected regularly from the Administrative Office of the U.S. Courts by the BOP Office of Research and Evaluation in order to project population trends. The CPC reconciles bed space needs and crowding trends to ensure that all available prison space is fully utilized, both in federal prisons and in contract care.

Data Limitations: Due to the unpredictable environment in prisons and other external factors, there may be discrepancies between projected and actual numbers contained in the performance tables. Most plans are developed based on historical data, and past experience to project for the future. In addition, budget delays and shortfalls also affect performance results. The time required for a project to go from NTP to "completion" depends on numerous factors, such as: the extent of site development or remediation activities required; climate of the project site (how many months of good construction weather); what time of year the NTP is issued; unusual weather; unforeseen site conditions; and quality of management by the contractor.

Decision Unit: New Construction												
Performance Report and Performance Plan Targets		FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
		Actual	Target	Actual	Target	Target						
Performance Measure	Number of Environmental Impact Studies/Environmental Assessments completed.	0	1	1	1	0	2	1	2	2	1	5
Performance Measure	Number of major construction awards	2	0	1	0	2	1	2	0	0	0	0
OUTCOME Measure	Number of facilities completed	2	9	1	2	1	0	0	3	3	1	0
OUTCOME Measure	*System-wide Crowding in Federal Prisons	39%	41%	34%	36%	37%	36%	37%	40%	37%	38%	40%

* Denotes inclusion in the DOJ Annual Performance Plan

3. Performance, Resources, and Strategies

The New Construction decision unit contributes directly to the Department's Strategic Goal 3: Ensure the Fair and Efficient Administration of Justice.

a. Performance Plan and Report for Outcomes

As illustrated in the preceding Performance and Resources Table, the outcome measures for this decision unit include: Number of facilities completed/constructed and System-wide crowding level.

For FY 2010, BOP completed two environmental impact study/environmental assessments (USP South Central/Forrest City, AR and Yazoo City, MS). There are additional environmental concerns at Forrest City and community concerns are being addressed at Thomson. For FY 2011, BOP plans on completing one environmental impact study/environmental assessments (Administrative USP Thomson, IL); and for FY 2012, there are five anticipated (FCI Leavenworth, KS; Administrative USP El Reno, OK; USP Bennettsville, SC; USP Letcher County, KY and USP Pekin, IL).

BOP did not have any major construction awards in FY 2010 and are anticipating no major construction awards through FY 2012.

For FY 2010, there were three facilities completed (FCI McDowell, WV, FCI Mendota, CA and FCI Berlin, NH). For FY2011, BOP anticipates one more completion (Aliceville, AL). However, for FY 2012, there are no facilities estimated for completion.

The population projections are based on data and information from a variety of sources including the Administrative Office of the U.S. Courts, the U.S. Sentencing Commission, other DOJ components, and the BOP's own information system (SENTRY). Additional capacity projections rely on future enactment of funding for contract beds, acquisitions, new construction, and activations. For FY 2010, the actual system-wide crowding was 37 percent. BOP's new projections for system-wide crowding (per new capacity plan dated 1/26/11) stands at 38 percent for FY 2011 and 40 percent for FY 2012.

b. Strategies to Accomplish Outcomes

The BOP strives to acquire needed capacity through a multi-pronged approach of contracts with private providers of correctional services for male low security special populations, with state and local governments, expansions of existing facilities and construction and acquisition of new prisons.

BOP continues to contract out for male special population low and minimum security inmates. A total of 37,839 inmates (about 18 percent) were housed in contract confinement as of January 13, 2011.

B. Modernization and Repair

Modernization and Repair TOTAL	Perm. Pos.	FTE	Amount
2010 Enacted with Rescissions	141	143	73,769
2010 Supplemental	0	0	0
2010 Enacted w/Rescissions & Supps.	141	143	73,769
2011 CR	141	143	73,769
Adjustments to Base and Tech. Adj.	0	(2)	186
2012 Current Services	141	141	73,955
2012 Request	141	141	73,955
Total Change 2011-2012	0	(2)	\$186

No Information Technology for this program.

1. Program Description

Modernization and Repair

For FY 2012, a total of \$73,955,000 is requested for the Modernization and Repair (M&R) program. This program is intended to provide the base resources to undertake essential rehabilitation, modernization and renovation of buildings, other structures, and associated systems, necessary modifications to meet legal requirements and accommodate correctional programs, repair or replacement of utilities systems and other critical infrastructure and repair projects at existing institutions in order to keep all systems and structures in a good state of repair. Proper maintenance, modernization, and repair of BOP institutions are essential. Failure to adequately maintain structures and utility systems erodes capital investment and multiplies the costs in future years for accomplishing the required maintenance and repair. Most important, failure to maintain structures can cause direct and/or indirect security problems.

Most maintenance and repair projects are performed using inmate work crews. This provides instructional work for inmates and labor for the work to be performed. Inmate work crews require staff supervision to direct the work being performed and for obvious security reasons.

Almost one-third of the BOP's 116 institutions are over 50 years old, and most have not undergone major renovations from the time they were constructed or acquired and converted to prison use by the BOP. Each facility has numerous buildings on the compound, including inmate living quarters, many of which require extensive work to maintain an adequate state of repair to assure that they meet established standards. Prison facilities are subjected to much heavier than normal use, since they are continuously used 24 hours a day, 365 days a year, in overcrowded conditions. Because of the size of the population, at medium and high security prisons (which are 41 percent and 51 percent over rated capacity respectively as of January 20, 2011), the facilities are over utilized,

causing extensive wear and tear, as well as premature deterioration. This is especially true in many of the older facilities where the utility system infrastructures (water, sewer, electrical, and heating/air conditioning) were originally designed for a smaller inmate population.

Institutions perform detailed annual inspections of all areas of their physical plants and provide a list of projects to their regional office for all items which are in need of remedial action. The six regional offices consolidate major project request lists from their facilities and forward the priority lists to the central office. The central office prioritizes all the major M&R project requests (typically those over \$300,000) submitted by the regions and allocates funds for as many projects as practical.

As of December 31, 2010, the BOP had 693 ongoing major and minor M&R projects at various stages of completion. Individual project costs range from a low of \$10,000 to many millions of dollars. To manage this volume of projects and resources most efficiently, the BOP has significantly improved the M&R program by using long range master planning with detailed surveys of older facilities; establishing a project time limit policy (three years); and striving to attain the Federal Facilities Council minimum recommended 2 percent replacement value level of annual funding.

To address the large inventory of older facilities, the BOP established a Long Range Master Plan that includes surveys of pertinent facilities. The first facilities to be surveyed were those which are over 50 years old and have not had any major renovations. Surveys were conducted by contractors to determine the extent of renovations required to bring the older facilities to an adequate state of repair, and whether the costs of repair would equal or exceed the cost of replacing the facility. Survey results, along with other known renovation needs, are then used by management in a long range plan, so M&R projects can be prioritized and planned well in advance.

A three year time limit policy for M&R projects was implemented in 1998 to ensure that institutions either complete scheduled projects in a timely manner, or the projects will be cancelled. When a project is cancelled, the funding is applied to the next highest priority project. All projects are monitored so local, regional, and central office management are informed of projects which may not meet the time limit. The number of M&R projects being cancelled per fiscal year decreased from 65 in FY 2002 down to six in FY 2010.

The replacement value method of requesting funding was first implemented in FY 2000 which allowed the BOP to adopt a project management approach to the M&R program, since it should ensure a reliable funding stream and stable work force. This method is based on recommendations of the Federal Facilities Council (FFC) which recommends that facilities maintenance programs should be funded at a minimum of 2 to 4 percent of their replacement value. It is important that sufficient funding for the M&R program be provided to address the most critical repair and safety projects in order to safely operate and maintain Federal prison facilities.

Using this method of funding rather than the previous line item method, allows projects to be planned well in advance, and preliminary/preparation work can be performed prior to the scheduled start of the projects. Previously, preliminary work could not always be performed since this required considerable expense, and there was no assurance projects would be funded. In addition, staff and jobs can now be scheduled to meet the unique requirements of each institution and project; i.e. shifting inmates between housing units at a given institution. The level of planning provided by this funding method enables management to obligate funds and start projects on schedule, which was not previously the case. Under the prior method, projects were funded up-front as line items, so staff and funding were dedicated to specific projects which could not be started until preliminary/preparation work was completed.

The replacement value method of funding has shortened the time required to complete large M&R projects, through concurrent management of projects in phases, based on projected availability of funds. Under this method, managers can plan projects in smaller stages over a longer period of time and can schedule work to allow for regional and seasonal weather conditions, as well as the unique needs of the facilities and availability of local contractors. Prior to this method, it could take BOP from four to five years to complete large M&R projects. With the replacement value method, the time to complete these projects can be reduced by two to three years.

The BOP M&R projects are classified under five general categories for internal management purposes, (Life Safety, General Improvements, Infrastructure Improvements, Hazardous Waste, and Energy Savings). Within each of these categories are special projects to meet various regulations and codes requirements. Life Safety projects are required to make corrective actions in order to comply with National Fire Code (NFPA 101) standards. General Improvement projects are established to modernize and/or improve equipment, entire rooms, such as kitchens, or buildings that require total rehabilitation of structures, including walls, and utilities. Infrastructure Improvement projects are established to modernize or replace utilities, such as water pipes and electrical systems. Hazardous Waste projects are established to abate hazardous waste, such as asbestos, through removal, encapsulation, and other methods as necessary. Energy Savings projects are established to conserve energy by using more energy efficient equipment and systems. Energy projects are also required to meet pertinent energy conservation laws and regulations.

The five categories may also contain subcategories of projects (such as Accessibility, Environmental, and others) to meet specific needs. For example, General Improvement projects may each include smaller Accessibility projects to meet Architectural Barriers Act requirements. Environmental projects are necessary for the BOP to be in compliance with environmental and safety regulations required by the Environmental Protection Agency (EPA) and the Office of Safety and Health Administration (OSHA).

The BOP has made significant progress in environmental and energy performance and will continue to integrate and update prior practices and requirements. Receipt of sufficient M&R funding will further ensure enhanced performance and compliance with

statutory and legal requirements. The BOP is actively utilizing the Energy Saving Performance Contract (ESPC) finance mechanism permitted by Executive Order 13423 and Energy Policy Act.

An ESPC is a contract that provides for the performance of services for the design, acquisition, financing, installation, testing, operation, and where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations. The contractor must incur costs of implementing energy savings measures, including at least the cost (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel in exchange for a predetermined share of the value of the energy savings directly resulting from implementation of such measures during the term of the contract. Payment to the contractor is contingent upon realizing a guaranteed stream of future energy and cost savings, with any savings in excess of that guaranteed by the contractor accruing to the Federal Government. The BOP has twenty ESPCs in different phases, and plans to look into the utilization of these contracts at every institution where it is practical.

With 116 federal prisons and approximately 210,000 inmates, the BOP is the largest energy and water consumer in the Department of Justice. Like all other government entities, the BOP is required to meet the goals established in the Energy Policy Act of 2005, the Energy Independence and Security Act of 2007 and Executive Order (EO) 13423. As stated, the BOP is aggressively pursuing ESPCs to help meet these goals, but with our increasing inmate population and degrading infrastructure, ESPCs alone will not be enough. Currently, on the M&R back log list, there are approximately \$30 million in energy related projects. It is estimated that during the next five years, the BOP would need over \$250 million in energy related M&R funds to meet these goals. As an example, Executive Order 13423 requires that by 2015, 15 percent of BOP buildings/institutions are to be sustainable. To be considered sustainable, these buildings have to meet the five guiding principles of sustainability. An engineering firm has been contracted to perform a study on an existing institution to determine the estimated cost to meet these guiding principles. The estimate for this work is approximately \$3 million. To meet the 15 percent requirement, the BOP would have to make 17 prisons sustainable. This alone would require approximately \$51 million in M&R funds.

Most recently, Executive Order 13514 was issued. The purpose of this EO is to reduce Green House Gases government-wide. This will require the BOP to reduce energy consumption even further. It has not yet been determined how the BOP will meet the mandates of this EO, but it is anticipated that a significant amount of M&R funds will be needed to get there. Also, in order to meet the requirements of this EO, old equipment will have to be replaced such as boilers. The BOP has 33 institutions that are over 50 years old and a large amount of equipment at these institutions are inefficient and emit large quantities of green house gases. A viable solution would be to replace the equipment, and these costs could exceed \$50 million.

The BOP is also in the process of self certifying the Environmental Management Systems (EMS). The main purpose of EMS is to identify operations which effect the

environment. During the self certification process, a survey team performs an inspection to determine if the institution complies with all environmental regulations. As a result of inspections, the BOP has found that many institutions require infrastructure improvements to meet regulations. For example, after an inspection that took place at USP Atlanta, it was determined that the underground fuel tanks would have to be replaced to meet the current standards. The cost of this work was approximately \$350,000. The total cost estimate to provide the necessary repairs, bureau-wide, could amount to as much as \$10 million. If these repairs are not made, BOP will be subjected to probable fines by the EPA, and even worse, could have an incident that damages the environment.

The M&R program has demonstrated substantial improvements through the implementation of the Long Range Planning method with its associated facility surveys, the project time limit policy, and the two percent replacement value method of requesting funding. These changes have helped the BOP complete more projects in a shorter period of time and stretch its repair dollars. With the time limit policy, the BOP has been able to substantially reduce the M&R unobligated balance from over \$118 million in FY 1999 down to \$26.9 million at the end of FY 2010.

The BOP has a current backlog of M&R major project priorities totaling 134 projects at an approximate cost of \$302 million. This list is not all encompassing of BOP's M&R needs. The list reflects only those major projects (typically costing over \$300,000) that have been approved to receive funding as resources become available. Also, the list does not reflect the universe of unfunded repair and improvement minor projects (less than \$300,000) which are managed and prioritized at the regional level. There are also many more M&R projects greater than \$300,000 that are needed, but have not been approved and added to the unfunded list due to the very constrained funding levels received for the M&R program.

Up to this point, BOP's priority has been the funding of emergency, security, and life safety type projects. For FY 2012, an M&R base amount of \$73,955,000 is requested to maintain current services, or 0.3 percent of the replacement value. This level for M&R will fund a limited number of the most critical repairs of BOP's aging facilities' infrastructure.

PERFORMANCE AND RESOURCES TABLE

Decision Unit: Modernization and Repair of Existing Facilities

DOJ Strategic Goal/Objective: 3.3

Workload/Resources		Final Target		Actual		Projected		Changes		Requested (Total)	
		FY 2010		FY 2010		FY 2011 CR		Current Services Adjustments and FY 2012 Program Changes		FY 2012 Request	
Workload:											
1. Total projects established											
		300		397		332		(85)		247	
Total Costs and FTE		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		268	99,155	268	99,155	268	99,155	(12)	(239)	256	99,394
TYPE/ STRATEGIC OBJECTIVE	Performance	FY 2010		FY 2010		FY 2011 CR		Current Services Adjustments and FY 2012 Program Changes		FY 2012 Request	
Program Activity		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		143	73,769	143	73,769	143	73,769	(2)	186	141	73,955
Performance Measure	2. Total projects completed and closed	350		441		275		0		275	
Performance Measure	3. Total projects active at year end	568		586		643		(28)		615	
OUTCOME	4. Court ordered remedial projects	0		0		0		0		0	
	5. Dollar value of fines for violations	0		0		0		0		0	
Performance Measure	6. Number of facilities over 30 years old	50		50		50		1		51	
	7. Number of facilities over 50 years old	33		33		33		0		33	
	8. Long range master plan for facilities over 50 years old in development	0		0		0		0		0	
	9. Long range master plan for facilities over 50 years old – total completed	25		25		25		0		25	

Data Definition: The crowding levels are based on a mathematical ratio of the number of inmates divided by the rated capacity of the institutions at each of the specific security levels. The percent of crowding represents the rate of crowding that is over rated capacity. For example, if an institution had a number of inmates that equaled the rated capacity, this would represent 100% occupancy, which equals 0% crowding. Any occupancy above 100% represents a percentage of crowding. System-wide: represents all inmates in BOP facilities and all rated capacity, including secure and non-secure facilities, low, medium, and high security levels, as well as

administrative maximum, detention, medical, holdover, and other special housing unit categories. Medium security facilities: strengthened perimeters, mostly cell-type housing, work and treatment programs and a lower inmate-to-staff ratio than low security facilities. High security facilities: also known as U.S. Penitentiaries, highly secure perimeters, multiple and single cell housing, lowest inmate-to-staff ratio, close control of inmate movement. The three-year time limit policy for M&R projects means that institutions are allowed three years to complete scheduled projects or the project is canceled and the funds are committed to other high priority M&R projects. To ensure that electronic equipment utilized for life safety sustains trouble-free operation, the BOP schedules life cycle equipment replacement based on a ten-year cycle. The critical equipment is radio systems and PBX (Public Branch Exchange) systems. Mission critical facilities are all existing BOP institutions.

Data Collection and Storage: Data are gathered from several computer systems. Each project is assigned a specific project code. Each obligation and expenditure is entered into FMIS by the specific project code. Modernization and Repair (M&R) projects are closely monitored to ensure completion and closure prior to the 3-year time limit. At the start of every fiscal year, the BOP's Central Office identifies the M&R projects that will reach the 3-year time limit by the end of that fiscal year. The BOP relies on an in-house house data base in Microsoft Access and DOJ's FMIS to effectively track and manage M&R projects (dates and costs). The BOP uses the Total Maintenance System (TMS) program to determine nationally which radio, PBX System and equipment qualify for replacement annually, based on age and performance.

Data Validation and Verification: Within BOP headquarters, staff retrieve and verify data on a daily basis, analyze it, and formulate reports and projections. Subject matter experts review and analyze population and capacity levels daily, both overall and by security level. Purchase requests are approved by specific project management staff (based on dollar threshold limitations); commitments are entered into a computer based fund control system; and purchase requests are forwarded for procurement action. Once the procurement office awards a contract/purchase order, the obligation is entered into the DOJ FMIS. Each month, FMIS obligations are reconciled with the BOP's fund control register by project, and forwarded to the Central Office Finance Branch, Business Office, to ensure accuracy and compliance. M&R data is maintained in the Microsoft Access database and is verified periodically against FMIS which also tracks the financial status of projects. On an annual basis, the BOP's Central Office Facilities Branch documents which electronic equipment, utilized for life safety, will be at the end of the ten year life cycle. This is accomplished through review and evaluation of the systems by field staff, the contractor, and close monitoring of the TMS program. Each institution enters their data into the TMS program and the information on the critical equipment is reviewed and verified by their respective Regional Office for accurate dates and equipment condition. .

Data Limitations: Due to the unpredictable environment in prisons and other external factors, there may be discrepancies between projected and actual numbers contained in the performance tables. Most plans are all required equipment replacements based on the ten-year life cycle developed based on historical data, and past experience to project for the future. In addition, budget delays and shortfalls also affect performance results. For example, due to budget shortfalls in the past in the M&R program could not be completed due to limited funds, and some replacements had to be delayed to the following year.

PERFORMANCE MEASURE TABLE

Decision Unit: Modernization & Repair

Performance Report and Performance Plan Targets		FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010		FY 2011	FY 2012
		Actual	Target	Actual	Target	Target						
Performance Measure	M&R projects: Completed/Active	476/725	474/770	461/781	423/592	435/603	438/612	412/618	350/568	441/586	275/643	275/615
Performance Measure	Number of facilities over 30 years old	49	51	52	55	55	55	48	50	50	50	51
Performance Measure	Number of facilities over 50 years old	33	33	35	36	36	34	32	33	33	33	33
Performance Measure	Long range master plan for facilities over 50 years in development	3	1	1	0	0	0	0	0	0	0	0
Performance Measure	Long range master plan for facilities over 50 years - total completed	17	20	24	25	25	25	25	25	25	25	25

3. Performance, Resources, and Strategies

The Modernization and Repair (M&R) decision unit contributes directly to the Department's Strategic Goal 3: Ensure the Fair and Efficient Administration of Justice.

a. Performance Plan and Report for Outcomes

As illustrated in the preceding Performance and Resources Table, the outcome measures for this decision unit include: Court ordered remedial projects and Dollar value of fines for violations.

In FY 2010, the BOP completed and closed 441 M&R projects, leaving 586 active at year end. In FY 2011, BOP anticipates completing and closing 275 M&R projects, leaving 643 active at year end. For FY 2012, BOP anticipates completing and closing 275 M&R projects, leaving 615 active at year end. Institutions perform detailed annual inspections of all areas of their physical plants and provide a list of projects to their regional office for all items which are in need of remedial action, and they are placed on a priority list for funding.

The BOP projects that there will continue to be no court ordered remedial projects or dollar value of fines for violations for FY 2011 and FY 2012. The BOP follows a plan to assure that existing facilities meet established standards.

b. Strategies to Accomplish Outcomes

The M&R program has demonstrated substantial improvements through the implementation of the Long Range Planning method with its associated facility surveys, the project time limit policy, and the Federal Facilities Council (FCC) recommended minimum 2 percent replacement value method of requesting funding. However, funding constraints have not allowed any additional Long Range Planning surveys to be conducted.

BOP continues to contract out for male special population low and minimum security inmates. A total of 37,839 inmates (about 18 percent) were housed in contract confinement as of January 13, 2011.

Item Name: **Rescission of Prior Years' Unobligated New Construction Balances**

Budget Decision Unit(s): New Construction
Strategic Goal(s) & Objective(s): Goal3; Objective 3.3
Organization Program: New Construction

	<u>Pos.</u>	<u>Agt./Atty.</u>	<u>FTE</u>	<u>Dollars</u> <u>(\$000)</u>
Program Reduction:	0	0	0	(\$35,000)

Description of Item

The Administration proposes to rescind \$35,000,000 in prior years' new construction unobligated balances. This proposal will result in a rescission of \$30,000,000 in balances intended for the "Acquire Existing Institution for Higher Security FCI" project and rescission of \$5,000,000 in balances for the "FCI Midwestern/Leavenworth, KS" project.

Justification

For FY 2012, the Administration proposes a rescission of \$35,000,000 in prior years' unobligated balances.

Impact on Performance (Relationship of Increase to Strategic Goals)

The proposed rescission reduces funds supporting DOJ Strategic Goal 3, Ensure the Fair and Efficient Administration of Justice. These two projects are incorporated in the Bureau of Prison's Capacity Plan and are an integral part of adding beds to help manage projected inmate population growth and current overcrowding. The "Acquire Existing Institution for Higher Security FCI" project (1,290 beds) and "FCI Midwestern/Leavenworth, KS" (1,408 beds) would provide critically needed bed space for the constantly increasing federal inmate population. Without the capacity from these projects, the population will continue to increase but no new bed space will be added which will crowd inmates even more and increase the inmate to staff ratio, put more demands on staff, and make it more difficult for staff to safely manage and supervise inmates.

Rescission of Funds from “Acquire Existing Institution for Higher Security FCI” Project

(Dollars in Thousands)

Base Funding

FY 2010 Enacted			FY 2011 President’s Budget			FY 2012 Current Services		
<u>Pos</u>	<u>FTE</u>	<u>Dollars</u>	<u>Pos</u>	<u>FTE</u>	<u>Dollars</u>	<u>Pos</u>	<u>FTE</u>	<u>Dollars</u>
0	0	0	0	0	0	0	0	\$104,724

Non-Personnel Decrease Cost Summary

<u>Item</u>	<u>Unit</u>	<u>Quantity</u>	<u>FY 2012 Request</u>	<u>FY 2013 Net Annualization (change from 2012)</u>
Rescission of Prior Years’ Unobligated Balance	n/a	n/a	(\$30,000)	\$0

Total Request for this Item

	<u>Pos.</u>	<u>FTE</u>	<u>Personnel</u>	<u>Non- Personnel</u>	<u>Total</u>
Rescission of Unobligated Balance	0	0	\$0	(30,000)	(30,000)
 Grand Total Rescission from Acquire Existing Institution for Higher Security FCI	 0	 0	 \$0	 (\$30,000)	 (\$30,000)

**Rescission of Funds from “FCI Midwestern/Leavenworth, KS”
Project**

(Dollars in Thousands)

Base Funding

FY 2010 Enacted			FY 2011 President’s Budget			FY 2012 Current Services		
<u>Pos</u>	<u>FTE</u>	<u>Dollars</u>	<u>Pos</u>	<u>FTE</u>	<u>Dollars</u>	<u>Pos</u>	<u>FTE</u>	<u>Dollars</u>
0	0	0	0	0	0	0	0	\$11,190

Non-Personnel Decrease Cost Summary

<u>Item</u>	<u>Unit</u>	<u>Quantity</u>	<u>FY 2012 Request</u>	<u>FY 2013 Net Annualization (change from 2012)</u>
Rescission of Prior Years’ Unobligated Balance	n/a	n/a	(\$5,000)	\$0

Total Request for this Item

	<u>Pos.</u>	<u>FTE</u>	<u>Personnel</u>	<u>Non- Personnel</u>	<u>Total</u>
Rescission of Unobligated Balance	0	0	\$0	(5,000)	(5,000)
 Grand Total Rescission from FCI Midwestern/ Leavenworth, KS	 0	 0	 \$0	 (\$5,000)	 (\$5,000)