

FY 2012

CONGRESSIONAL BUDGET JUSTIFICATION

**OFFICE OF FEDERAL CONTRACT COMPLIANCE
PROGRAMS**

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

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OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

APPROPRIATION LANGUAGE

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

SALARIES AND EXPENSES

For necessary expenses for the Office of Federal Contract Compliance Programs, \$109,010,000.

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.

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EXPLANATION OF LANGUAGE

In FY 2010, the Department implemented a plan to realign and streamline the former Employment Standards Administration (ESA). As a result, ESA was abolished and funding that previously was requested for the component agencies and offices under the heading “Employment Standards Administration Salaries and Expenses” is requested separately in FY 2012.

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AMOUNTS AVAILABLE FOR OBLIGATION						
(Dollars in Thousands)						
	FY 2010 Comparable		FY 2011 Estimate		FY 2012 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
A. Appropriation	788	\$103,271	775	\$103,271	786	\$109,010
Appropriation, Revised	788	\$103,271	775	\$103,271	786	\$109,010
<i>Subtotal Appropriation</i>	<i>788</i>	<i>\$103,271</i>	<i>775</i>	<i>\$103,271</i>	<i>786</i>	<i>\$109,010</i>
Comparative Transfer From: ESA/PDS	0	\$2,115	0	\$2,115	0	\$0
Recovery Act - Unobligated Balance Carried Forward	50	\$6,702	0	\$0	0	\$0
<i>Subtotal</i>	<i>838</i>	<i>\$112,088</i>	<i>775</i>	<i>\$105,386</i>	<i>786</i>	<i>\$109,010</i>
B. Gross Budget Authority	838	\$112,088	775	\$105,386	786	\$109,010
Reimbursements	0	\$0	0	\$0	0	\$0
Non-Expenditure Transfers from DM	0	\$0	0	\$0	0	\$0
Recovery Act - Unobligated Balance Carried Forward	-50	-\$6,702	0	\$0	0	\$0
<i>Subtotal</i>	<i>788</i>	<i>\$105,386</i>	<i>775</i>	<i>\$105,386</i>	<i>786</i>	<i>\$109,010</i>
C. Budget Authority Before Committee	788	\$105,386	775	\$105,386	786	\$109,010
Reimbursements, Actual	0	\$0	0	\$0	0	\$0
Recovery Act - Unobligated Balance Carried Forward, Actual	34	\$1,980	0	\$0	0	\$0
<i>Subtotal</i>	<i>822</i>	<i>\$107,366</i>	<i>775</i>	<i>\$105,386</i>	<i>786</i>	<i>\$109,010</i>
D. Total Budgetary Resources	822	\$107,366	775	\$105,386	786	\$109,010
FTE Lapse and Unobligated Balance Expiring	-126	-\$248	0	\$0	0	\$0
E. Total, Estimated Obligations	696	\$107,118	775	\$105,386	786	\$109,010
NOTE: FY 2010 FTE includes 34 Recovery Act FTE.						

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SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2011 Estimate	FY 2012 Request	Net Change
Budget Authority			
General Funds	\$105,386	\$109,010	+\$3,624
Trust Funds	\$0	\$0	\$0
Total	\$105,386	\$109,010	+\$3,624
Full Time Equivalents			
General Funds	775	786	11
Trust Funds	0	0	0
Total	775	786	11

Explanation of Change	FY 2011 Base		Trust Funds		FY 2012 Change General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Increases:								
A. Built-Ins:								
To Provide For:								
Costs of pay adjustments	775	\$60,001	0	\$0	0	\$0	0	\$0
Personnel benefits	0	\$19,927	0	\$0	0	\$0	0	\$0
Employee health benefits	0	\$38	0	\$0	0	\$0	0	\$0
Moving allowance	0	\$0	0	\$0	0	\$0	0	\$0
One day less of Pay	0	\$0	0	\$0	0	\$0	0	\$0
Federal Employees Compensation Act (FECA)	0	-\$38	0	\$0	0	\$0	0	\$0
Benefits for former personnel	0	\$30	0	\$0	0	\$0	0	\$0
Travel and transportation of persons	0	\$1,200	0	\$0	0	\$0	0	\$0
Transportation of things	0	\$89	0	\$0	0	\$0	0	\$0
Rental payments to GSA	0	\$5,709	0	\$0	0	\$58	0	\$58
All Other Rental	0	\$147	0	\$0	0	\$0	0	\$0
Communications, utilities, and miscellaneous charges	0	\$960	0	\$0	0	\$0	0	\$0
Printing and reproduction	0	\$80	0	\$0	0	\$0	0	\$0
Advisory and assistance services	0	\$100	0	\$0	0	\$0	0	\$0
Other services	0	\$800	0	\$0	0	\$0	0	\$0
Working Capital Fund	0	\$10,630	0	\$0	0	\$0	0	\$0
Other government accounts (DHS Charges)	0	\$484	0	\$0	0	\$0	0	\$0
Other purchases of goods and services from Government accounts	0	\$50	0	\$0	0	\$0	0	\$0
Research & Development Contracts	0	\$0	0	\$0	0	\$0	0	\$0
Operation and maintenance of facilities	0	\$0	0	\$0	0	\$0	0	\$0
Operation and maintenance of equipment	0	\$4,161	0	\$0	0	\$0	0	\$0
Supplies and materials	0	\$300	0	\$0	0	\$0	0	\$0
Equipment	0	\$693	0	\$0	0	\$0	0	\$0
Grants, subsidies, and contributions	0	\$0	0	\$0	0	\$0	0	\$0
Insurance claims and indemnities	0	\$25	0	\$0	0	\$0	0	\$0

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Explanation of Change	FY 2011 Base		Trust Funds		FY 2012 Change General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Built-Ins Subtotal	775	+\$105,386	0	\$0	0	+\$58	0	+\$58
B. Programs:								
Inspectors Dedicated to Misclassification Investigation	0	\$0	0	\$0	11	\$3,566	11	\$3,566
Programs Subtotal			0	\$0	11	+\$3,566	11	+\$3,566
Total Increase	775	+\$105,386	0	\$0	11	+\$3,624	11	+\$3,624
Decreases:								
A. Built-Ins:								
To Provide For:								
Built-Ins Subtotal	0	\$0	0	\$0	0	\$0	0	\$0
B. Programs:								
Programs Subtotal			0	\$0	0	\$0	0	\$0
Total Decrease	0	\$0	0	\$0	0	\$0	0	\$0
Total Change	775	+\$105,386	0	\$0	11	+\$3,624	11	+\$3,624

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SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY (Dollars in Thousands)						
	FY 2010 Comparable		FY 2011 Estimate		FY 2012 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
Office of Federal Contract Compliance Programs	696	105,386	775	105,386	786	109,010
General Funds	696	105,386	775	105,386	786	109,010
Total	696	105,386	775	105,386	786	109,010
General Funds	696	105,386	775	105,386	786	109,010

NOTE: FY 2010 reflects actual FTE.

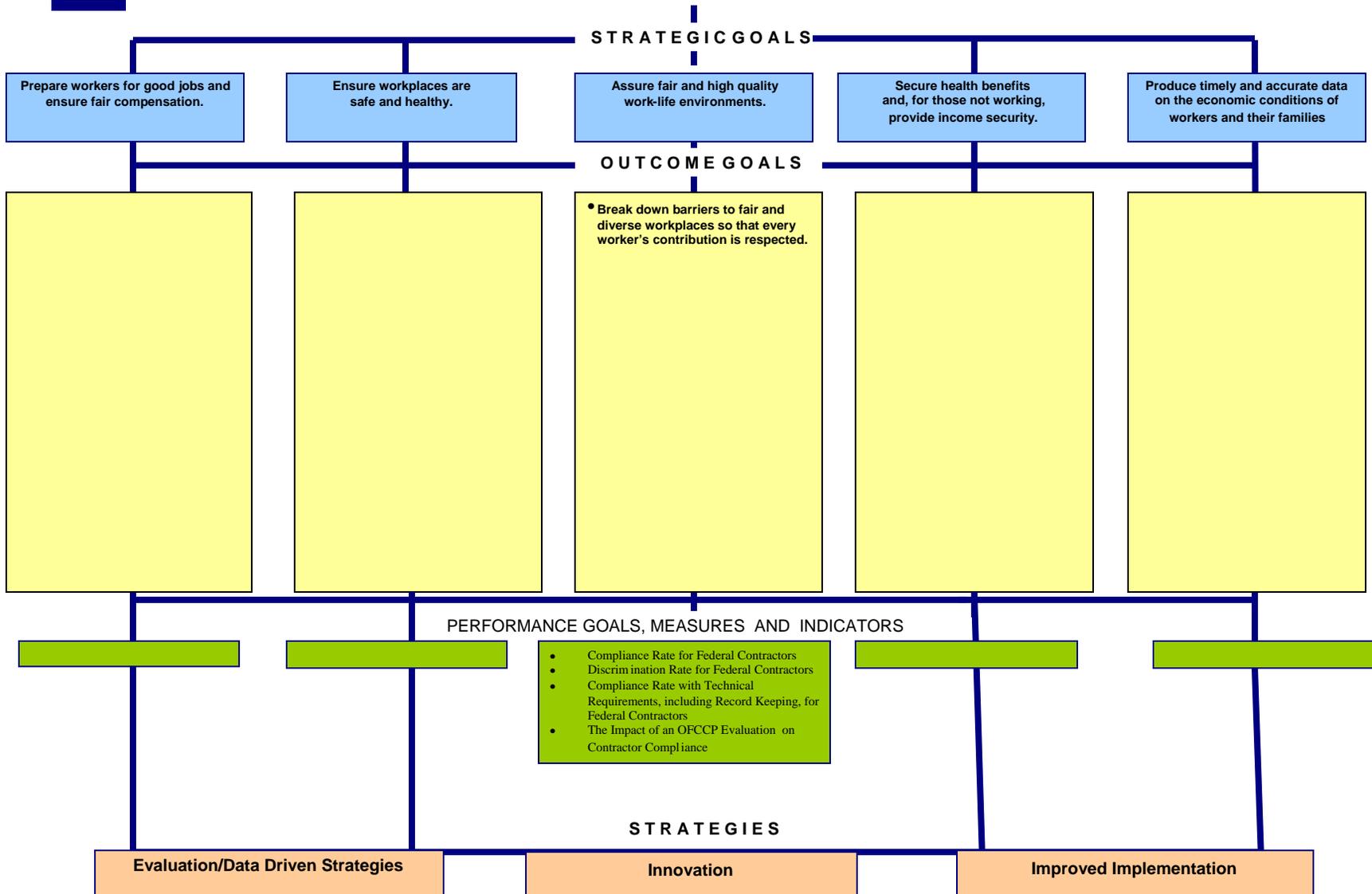
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

BUDGET AUTHORITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2010 Comparable	FY 2011 Estimate	FY 2012 Request	Change FY 12 Req. / FY 10 Comp.
	Full-Time Equivalent				
	Full-time Permanent	788	775	786	-2
	Total	788	775	786	-2
	Reimbursable	0	0	0	0
	Total Number of Full-Time Permanent Positions	788	775	786	-2
	Average ES Salary	\$223,000	\$224,000	\$224,000	\$1,000
	Average GM/GS Grade	12	12	12	0
	Average GM/GS Salary	\$104,000	\$103,000	\$103,000	-\$1,000
	Average Salary of Ungraded Positions	0	0	0	0
11.1	Full-time permanent	64,103	58,338	59,358	-4,745
11.3	Other than full-time permanent	1,748	530	530	-1,218
11.5	Other personnel compensation	1,747	1,133	1,133	-614
11.8	Special personal services payments	0	0	0	0
11.9	Total personnel compensation	67,598	60,001	61,021	-6,577
12.1	Civilian personnel benefits	11,295	19,927	20,244	8,949
13.0	Benefits for former personnel	30	30	30	0
21.0	Travel and transportation of persons	786	1,200	1,831	1,045
22.0	Transportation of things	110	89	89	-21
23.1	Rental payments to GSA	5,107	5,709	5,767	660
23.2	Rental payments to others	108	147	147	39
23.3	Communications, utilities, and miscellaneous charges	667	960	960	293
24.0	Printing and reproduction	41	80	235	194
25.1	Advisory and assistance services	2,040	100	100	-1,940
25.2	Other services	792	800	2,000	1,208
25.3	Other purchases of goods and services from Government Accounts	11,944	11,164	11,164	-780
25.4	Operation and maintenance of facilities	25	0	0	-25
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	3,852	4,161	4,161	309
26.0	Supplies and materials	371	300	310	-61
31.0	Equipment	351	693	926	575
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	269	25	25	-244
	Total	105,386	105,386	109,010	3,624
	1/Other Purchases of Goods and Services From Government Accounts				
	Working Capital Fund	10,630	10,630	10,583	-47
	DHS Services	484	484	484	0
	Services by DOL Agencies	50	32	32	-18
	GSA Services	592	0	47	-545
	Services by Other Government Departments	188	18	18	-170

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Secretary's Vision: "Good Jobs for Everyone"



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TOTAL BUDGETARY RESOURCES												
FY 2010 - 2012												
(Dollars in Thousands)												
	FY 2010 Comparable				FY 2011 Estimate				FY 2012 Request			
	Activity Approp.	Other Approp. ¹	Other Resrcs. ²	Total	Activity Approp.	Other Approp 1	Other Resrcs.2	Total	Activity Approp.	Other Approp.1	Other Resrcs. 2	Total
Office of Federal Contract Compliance Programs	105,386	0	0	105,386	105,386	0	0	105,386	109,010	0	0	109,010
Office of Federal Contract Compliance Programs	105,386	0	0	105,386	105,386	0	0	105,386	109,010	0	0	109,010
Total	105,386	0	0	105,386	105,386	0	0	105,386	109,010	0	0	109,010

¹ "Other Appropriation" is comprised of resources appropriated elsewhere, but for which the benefits accrue toward the operation of the budget activities. (Executive Direction and IT Crosscut)

² "Other Resources" include funds that are available for a budget activity, but not appropriated, such as reimbursements and fees.

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PERFORMANCE STRUCTURE

Strategic and Outcome Goals Supporting Secretary Solis’ Vision of <i>Good Jobs for Everyone</i>	Supporting Budget Activities
Strategic Goal 1 – Prepare Workers for Good Jobs and Ensure Fair Compensation	
1.1 Increase workers’ incomes and narrow wage and income inequality.	
1.2 Assure skills and knowledge that prepare workers to succeed in a knowledge-based economy, including in high-growth and emerging industry sectors like “green” jobs.	
1.3 Help workers who are in low-wage jobs or out of the labor market find a path into middle class jobs.	
1.4 Help middle-class families remain in the middle class.	
1.5 Secure wages and overtime.	
1.6 Foster acceptable work conditions and respect for workers’ rights in the global economy to provide workers with a fair share of productivity and protect vulnerable people.	
Strategic Goal 2 – Ensure Workplaces Are Safe and Healthy	
2.1 Secure safe and healthy workplaces, particularly in high-risk industries.	
Strategic Goal 3 – Assure Fair and High Quality Work-Life Environments	
3.1 Break down barriers to fair and diverse work places so that every worker’s contribution is respected.	Federal Contractor EEO Standards
3.2 Provide workplace flexibility for family and personal care-giving.	
3.3 Ensure worker voice in the workplace.	
Strategic Goal 4 – Secure Health Benefits and, for Those Not Working, Provide Income Security	
4.1 Facilitate return to work for workers experiencing workplace injuries or illnesses who are able to work.	
4.2 Ensure income support when work is impossible or unavailable.	
4.3 Improve health benefits and retirement security for all workers.	
Strategic Goal 5 – Assure the Production of Timely and Accurate Data on Social and Economic Conditions of Workers and their Families	
5.1 Provide sound and impartial information on labor market activity, working conditions, and price changes in the economy for decision making, including support for the formulation of economic and social policy affecting virtually all Americans.	

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AUTHORIZING STATUTES

Public Law / Act	Legislation	Statute No. / US Code	Volume No.	Page No.	Expiration Date
PUB. L. 93-112	Rehabilitation Act of 1973, as amended.	29 U.S.C. 793			N/A
PUB. L. 93-508	Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended.	38 U.S.C. 4212			N/A
PUB. L. 101-336	Americans with Disabilities Act, as amended.	42 U.S.C. 12101 et seq.			N/A

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APPROPRIATION HISTORY					
(Dollars in Thousands)					
	Budget Estimates to Congress	House Allowance	Senate Allowance	Appropriations	FTE
2002	\$0	\$0	\$0	\$0	0
2003	0	0	0	78,033	742
2004	0	0	0	79,441	749
2005	0	0	0	80,059	691
2006	0	0	0	81,285	670
2007	0	0	0	82,442	625
2008	0	0	0	81,001	585
2009	0	0	0	84,172	596
2010	109,521	101,521	107,021	105,386	788
2011	113,433	0	0	0	788
2012	109,010	0	0	0	786

FY 2009 and FY 2010 amounts reflect reallocated funds from the dissolution of ESA's Program Direction and Support Office.

A full-year 2011 appropriation for this account was not enacted at the time the budget was prepared.

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OVERVIEW

Introduction

“*Good Jobs for Everyone*” is Secretary Hilda L. Solis’ strategic vision for the United States Department of Labor. The Office of Federal Contract Compliance Programs (OFCCP) is a worker protection agency at the Department of Labor that ensures workers are recruited, hired, promoted, trained, terminated, and compensated in a fair and equitable manner by federal contractors.

OFCCP enforces the following laws which apply to the federal contracting community: Executive Order 11246, as amended, which prohibits employment discrimination on the basis of race, religion, color, national origin and sex; Section 503 of the Rehabilitation Act of 1973, as amended, which prohibits employment discrimination against individuals with disabilities; and The Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, which prohibits employment discrimination against certain protected veterans.

Under new leadership, OFCCP has reinvigorated its core mission of ensuring equal employment opportunity in the federal contracting community through enforcement, regulatory work, outreach and education to workers and their advocates, and targeted technical assistance to small contractors who do not ordinarily have access to human resources or legal staff. Within the last year, OFCCP:

- Initiated more onsite investigations in order to conduct thorough investigations.
- Began the revisions to Federal Contract Compliance Manual (FCCM), ensuring consistency within its investigative process.
- Published an Advanced Notice of Proposed Rule Making related to the revisions of Section 503 of the Rehabilitation Act of 1973, as amended, to strengthen the affirmative action provisions of the Act.
- Hired over 200 compliance officers to build the Agency’s capacity to conduct more comprehensive compliance evaluations and increase enforcement efforts.
- Implemented an intensive training program for new compliance officers to ensure that they are provided with the tools necessary to conduct quality investigations.

In support of President Obama’s Equal Pay Enforcement Task Force, OFCCP is making the issue of pay equity a top priority. OFCCP recognizes that pay equity is both a family issue and an economic recovery issue. Although OFCCP investigated and resolved numerous compensation discrimination cases involving female workers, the wage gap persists between men and women. In an effort to more fully address this issue, OFCCP is updating its protocols and training compliance officers to identify patterns of compensation discrimination. OFCCP is also keenly aware that data are critical to addressing the issue of pay equity. Accordingly, OFCCP is developing a Compensation Data Collection Tool that will assist the agency in identifying compensation discrimination.

OFCCP is responsible for producing measurable performance outcomes that support the third strategic goal as set forth by the Secretary’s vision of “*Good Jobs for Everyone*.”

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Strategic Goal 3: Assure fair and high quality work-life environments.

- Break down barriers to fair and diverse workplaces so that every worker's contribution is respected.

At the Agency Request level, OFCCP will focus its resources on the following areas:

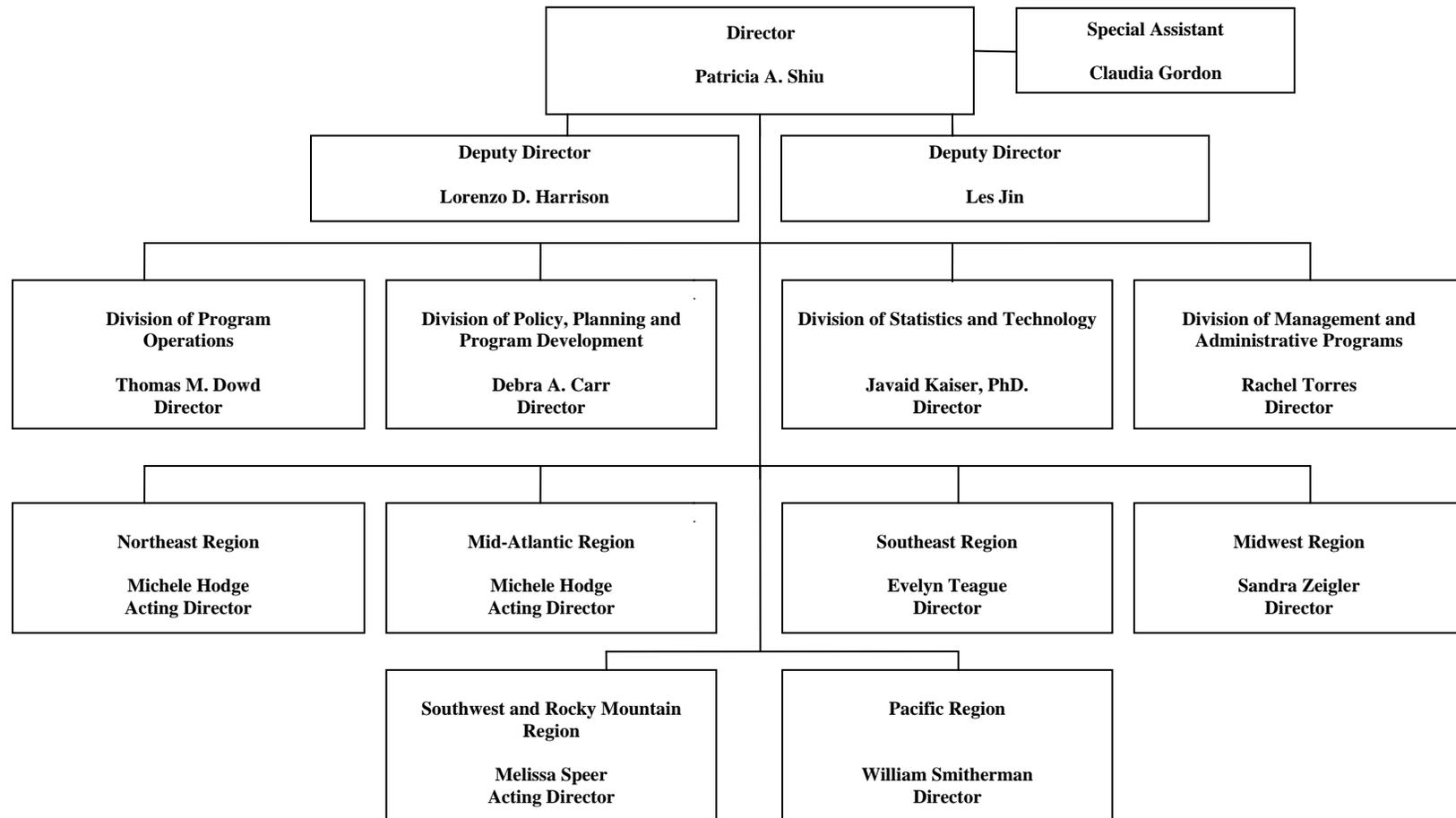
- Promoting work-family balance and workplace flexibility - In support of this theme, OFCCP will focus on preventing gender and disability-based discrimination;
- Fostering compliance through worker education - OFCCP will educate workers about OFCCP's mission as the lead civil rights enforcement agency at the Department of Labor which is responsible for ensuring equal employment opportunity in the federal contractor workplace.
- Expanding efforts to deter, detect, and eliminate worker misclassification - OFCCP will expand its investigative process to include an analysis of workers' potential misclassification as independent contractors during compliance evaluations.
- Strengthening regulatory programs and improving transparency and public disclosure - OFCCP plans to execute a robust regulatory agenda. Additionally, to inform the public, OFCCP will design a web-based, searchable database system comprised of aggregated data from the Compensation Data Collection Tool.

For FY 2012, OFCCP is requesting a salary and expenses appropriation of \$109,010,000 and 786 FTE. This level of funding will allow OFCCP to focus on this transformative strategy that encompasses providing worker education, scheduling and conducting compliance evaluations, and investigating complaints of discrimination. The successful implementation of this strategy will result in greater understanding and awareness among federal contract employees of their rights as workers, as well as increased enforcement of federal contractors to ensure that all individuals are afforded equal employment opportunities.

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Federal Contractor and EEO Standards Enforcement Organization Chart

The OFCCP is comprised of a national office headquartered in Washington, D.C. with four divisions and six regional headquarter offices with area and district offices distributed nationwide. The regional headquarters are located in Atlanta, Georgia (Southeast); Chicago, Illinois (Midwest); Dallas, Texas (Southwest and Rocky Mountain); New York City, New York (Northeast); Philadelphia, Pennsylvania; (Mid-Atlantic); and San Francisco, California (Pacific).



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BUDGET AUTHORITY BEFORE THE COMMITTEE				
(Dollars in Thousands)				
	FY 2010 Comparable	FY 2011 Estimate	FY 2012 Request	Diff. FY 12 Req. / FY 10 Comp.
Budget Authority	105,386	105,386	109,010	3,624
FTE	696	775	786	90

NOTE: FY 2010 reflects actual FTE. Authorized FTE for FY 2010 was 788.

Introduction

As a worker protection agency, OFCCP ensures that workers are recruited, hired, promoted, trained, terminated, and compensated in a fair and equitable manner by federal contractors. Reporting directly to the Secretary of Labor, OFCCP is comprised of a national office and six regional offices around the country.

OFCCP is committed to ensuring that good jobs are within everyone's grasp. To that end, OFCCP anticipates an overall improvement in the compliance rate of federal contractors and a reduction in the discrimination rate. OFCCP will ensure that more contractors abide by technical requirements, including maintaining appropriate and accurate records. Consequently, OFCCP is modifying performance and workload production goals to achieve more comprehensive measurement and to reflect enhanced enforcement. As a result of a shift in enforcement focus, improved training and procedures and updating of its regulations, OFCCP anticipates an overall improvement in the compliance rate for federal contractors and a decrease in the discrimination rate. These results will directly and significantly contribute to the Secretary's goal of breaking down barriers to fair and diverse workplaces.

In support of the Secretary's vision of "*Good Jobs for Everyone*," and a renewed commitment to enforcement, OFCCP is redirecting and expanding its enforcement activities to place a greater emphasis on affirmative action and equal employment opportunity for individuals with disabilities and covered veterans with respect to hiring, worker retention, and data collection. This change in enforcement supplements the agency's historical focus on Executive Order 11246 compliance. While OFCCP has specific mandates for ensuring equal employment opportunity for employees protected under Section 503 of the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended, for nearly a decade the agency's enforcement activities focused primarily on the investigation of systemic hiring discrimination.

The agency is also making significant investments in its regulatory capacity which is focused on the promulgation of new rules. OFCCP is undertaking an extensive effort to update regulations, expand training for program staff, and increase partnerships and outreach to other federal agencies, employee advocacy groups, federal contractors, and other stakeholders. For example, in FY 2012, OFCCP is scheduled to finalize its revision of 41 CFR Part 60-4, which impacts federal contractors and subcontractors in the construction industry, and 41 CFR Part 60-741, which sets out protections for workers with disabilities. (Regulations revising VEVRAA are scheduled to be published in 4th quarter FY 2011.) Following publication of these final rules, OFCCP will engage in an innovative, extensive campaign to inform and educate internal staff,

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the contractor community, and worker protection and community-based organizations using national and regional webinars (public) and on-line OFCCP staff training. OFCCP will also hold regional town hall meetings for stakeholders, regional educational workshops, and publish new training materials that will be available on the web.

OFCCP will continue to update its compliance evaluation manual with revised enforcement procedures that will include a more wide-ranging and thorough compliance investigation process. OFCCP will conduct significantly more full-desk audits, additional onsite investigations, focus reviews, and stakeholder education. This change in approach will significantly expand the investigative process. Although this strategy may decrease the number of completed compliance evaluations, each audit will be more thorough, will ensure that OFCCP investigates all types of discrimination under its purview, and may result in finding a higher number of violations. In addition to this more thorough evaluation process, OFCCP will continue to provide basic, intermediate, and advanced training to its compliance officers to ensure that they are knowledgeable in assessing compliance and identifying discrimination under all three laws, as well as obtaining effective remedies for violations.

Building on the gains reflected in FY 2010 and FY 2011 budgets, the continued funding of OFCCP's new IT system will enable OFCCP to achieve measurable outputs that contribute to the Secretary's strategic and outcome goals. The Federal Contractor Compliance System (FCCS) will modernize OFCCP's ability to perform its mission by employing state of the art technology to track statistical data collected through the compliance evaluation process resulting in improved program performance.

The FCCS will automate the Affirmative Action Plan (AAP) process by enabling OFCCP to electronically collect and analyze data submitted directly by the federal contractor community in a much more timely and efficient manner. Such data includes EEO, hiring and promotion activities, and compensation information. The agency envisions that AAP data will be collected via a secure compliant web portal that will be accessible to the federal contractor community. OFCCP plans to add additional functionality to the FCCS which will:

- A) Enable various stakeholder communities to voluntarily and electronically provide information regarding employment opportunities for veterans, individuals with disabilities etc, directly to OFCCP through automated tools developed in association with this IT investment;
- B) Conduct automated surveys (for the public and/or federal contractor community) regarding OFCCP's enforcement activities and how they can be improved;
- C) Provide information electronically, in varied, multi-language formats, for consumption by the various ethnically diverse groups which comprise the general population. This will ensure that OFCCP's mission reaches the broadest scope of constituents within our existing stakeholder communities.

Additionally, as part of the President's Securing Americans Value and Efficiency (SAVE) Award process, OFCCP evaluated proposals from DOL employees and secured a contractor to conduct a program level organizational assessment in FY 2010. As part of this effort, the contractor is evaluating the agency's current business processes and will provide recommendations on how to conduct the compliance evaluation process more efficiently.

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In July 2010, the Obama Administration released the *National HIV/AIDS Strategy for the United States*, the nation's first comprehensive plan for responding to the domestic HIV epidemic. The President designated the Department of Labor as one of six executive agencies responsible for implementing the Strategy at the Federal level. DOL has produced an operational plan and responsibility for taking steps to achieve the goals of the Strategy. This is dispersed across the department with lead responsibility for coordinating efforts delegated to the Director of OFCCP, Patricia Shiu.

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2007	\$82,442	625
2008	\$81,001	585
2009	\$84,172	596
2010	\$105,386	788
2011	\$0	775

NOTE: A full-year 2011 appropriation for this account was not enacted at the time the budget was prepared.

FY 2012

Funding at the level of \$109,010,000 and 786 FTE will allow OFCCP to maintain current resources in support of its expanding enforcement approach, which is designed to ensure compliance with all of its laws and regulations. This funding level will allow the program to fully implement the quality enforcement efforts initiated in FY 2010 and FY 2011, employ new transformative strategies designed to increase awareness among federal contract workers of their rights, and efficiently increase awareness in the federal contracting community of their legal responsibility to take affirmative action to ensure that all individuals have an equal employment opportunity. With this funding, improved staff training will ensure more thorough reviews and maintain the same level of completed compliance evaluations with more effectiveness in identifying and resolving discrimination. OFCCP will utilize research results from FY 2010 and FY 2011 to improve investigation impact (along with the agency's scheduling system) and identify additional efficiencies.

The agency is also making significant investments in the promulgation of new rules. Specifically, OFCCP is:

- Issuing proposed rules to strengthen its affirmative action regulations in order to increase the hiring of protected veterans by Federal contractors.
- Issuing proposed rules to reduce discrimination against women and minorities in construction and strengthen its affirmative action regulations in order to increase the hiring of women and underutilized minorities by Federal contractors in the construction industry.

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- Issuing proposed rules to strengthen its affirmative action regulations in order to reduce discrimination against applicants with disabilities and increase the hiring of individuals with disabilities by Federal contractors.
- Issuing a notice of proposed rescission of the interpretive standards for systemic compensation discrimination under Executive Order 11246 and the voluntary guidelines for self-evaluation of the compensation practices under Executive Order 11246.
- Issuing an Advance Notice of Proposed Rulemaking (ANPRM) soliciting information on how it might collect and use appropriate data to identify compensation discrimination. Eliminating compensation discrimination is a priority issue for OFCCP.

The pay gap between men and women persists even after the passage of the Equal Pay Act 47 years ago. There is currently a 23% pay disparity between men and women, and it is even greater among African-American and Hispanic women. The President created the National Equal Pay Enforcement Taskforce to address this issue and eliminate this persistent pay gap. This is a fundamental issue for all American workers and their families and this tool is an important first step to ensure that women are adequately compensated for the work that they perform. OFCCP plans to develop and implement a web-based compensation data collection tool that would enable the agency to identify indicators of pay disparity among federal contractors. As stated above, the agency is issuing an ANPRM to solicit information on how to collect and use such data. The tool would collect compensation data from 70,000 to 110,000 contractors (depending on threshold set for completing the survey). These data would be likely arrayed by job group. The scope of the data has yet to be fully determined. Current possibilities include salary, gender, race and ethnicity data for each employee or average compensation and variances for each group by gender, race and ethnic category. Also not yet determined is the type of personnel activity data that will be required (terminations, promotions, etc. by group and demographic category) and whether data on veteran status and disability will be included in the application.

Misclassification of Workers

As noted by a 2009 report by Government Accountability Office (GAO), the number of employees classified as independent contractors has increased from 8 million to 10 million over the last decade. In 2000, a study by Planmatics that was commissioned by the Department found that ten to thirty percent of firms audited in nine states misclassified at least some employees. Several states that have studied the impact of misclassification have found similar results, with industries like construction having higher rates of misclassified workers. Employees who are misclassified as independent contractors do not receive the protections and benefits to which they are entitled, including protections under the nation's civil rights law. Federal contractors who are seeking to skirt the requirements of E.O. 11246 may misclassify their employees as federal contractors in order to make the composition of their workforce appear more diverse or to mask discriminatory employment practices. Although to date, the agency has not focused its investigative efforts on this issue, the issue of misclassification has surfaced during several compliance evaluations and complaint investigations.

During FY 2012, OFCCP will develop an investigative plan addressing the misclassification of workers and train investigators to identify this issue during the compliance evaluation process. The fourth quarter of FY 2012 will be used to establish a baseline measurement of the impact of

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this initiative.

In order to adequately address misclassification in the federal contractor community, OFCCP requires additional staff, training, and appropriate protocols. To successfully identify misclassified workers, the investigations into the misclassification of workers will require vigorous desk audits (where additional data will be requested from the contractor) and interviews of workers during onsite investigations. To this end, the request includes \$3,566,000 and 11 FTE to begin to address this issue.

FY 2011

Figures shown for FY 2011 reflect the annualized Continuing Resolution level as a full-year appropriation has not been enacted at the time the budget was produced. Since this level is based on the FY 2010 enacted level, operations under a full-year Continuing Resolution would be consistent with those described in the FY 2010 section.

FY 2010

In FY 2010, OFCCP made significant contributions to its enforcement goals. Specifically, the agency completed 4,960 compliance evaluations attaining 99 percent of its goal of 5,000. Facilities identified with violations totaled 1,071; 919 of the violations were resolved through conciliation agreements compared to a total of 694 conciliation agreements for FY 2009. Financial settlements totaled \$9,750,272 in back pay for 12,397 victims. This level of compliance evaluation completed in FY 2010 was only reached in FY 2004 when abbreviated desk audits were used to screen for potential systemic discrimination indicators. In addition, OFCCP completed 107 complaint investigations.

OFCCP recovery activities resulted in a total of 592 ARRA compliance evaluations exceeding the goal of 450 evaluations. The ARRA compliance evaluations identified four findings of discrimination for denial of access that were eventually referred for enforcement. ARRA contractor education total 528 for Federal contracting officers and 255 for government agencies.

The agency also conducted a total of 1,668 compliance assistance events (excluding ARRA) with a focus on MEGA projects and Construction Contractors as well as Industry Liaison Group and Linkage agreements that centered on Executive Order 11246, Section 503 and VEVRAA.

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DETAILED WORKLOAD AND PERFORMANCE				
	FY 2010 Enacted		FY 2011 Estimate	FY 2012 Request
	Target	Result	Target	Target
Office of Federal Contract Compliance Programs				
Strategic Goal 3 - Assure Fair and High Quality Work-Life Environments	--	--	--	--
Outcome Goal 3.1 - Break Down Barriers to Fair and Diverse Work Places So That Every Worker's Contribution Is Respected	--	--	--	--
Performance Measure #1: Compliance Rate for Federal Contractors	--	--	(base)	TBD
Production Item # 1: Compliance Evaluations Completed	5,000	4,960	3,500	3,675
Production Item #2: Number of Supply and Service Evaluations Completed*	--	4,445	3,225	3,355
Production Item # 3: Number of Construction Evaluations Completed*	--	515	275	300
Production Item #4: Supply and Service FAAP Reviews Completed*	--	26	50	50
Performance Measure # 2: Discrimination Rate for Federal Contractors	--	--	(base)	TBD
Performance Measure # 3: Compliance Rate With Technical Requirements, Including Record Keeping, for Federal Contractors	--	--	(base)	TBD
Production Item #5: Total Outreach Hours*	--	--	10,010	11,000
Production Item #6: Total Number of Outreach Events*	--	--	50	60
Performance Measure #4: The Impact of an OFCCP Evaluation on Contractor Compliance	--	--	(base)	TBD

Legend: (r) Revised (e) Estimate (base) Baseline -- Not Applicable TBD - To Be Determined

*No target set for FY 2010 Enacted.

As indicated by the workload table above, the FY 2012 compliance evaluations planned is a significant decrease from the cases completed in FY 2010. However, this quantitative decrease is critical to implementing the fundamental changes to OFCCP's new, comprehensive and multi-faceted enforcement strategy.

As a worker protection agency, ensuring Federal contractor compliance is key to OFCCP's core mission. Contractor compliance is accomplished through agency investigations as well as outreach activities and its ongoing regulatory activity. OFCCP will conduct thorough, quality evaluations of Federal contractors and subcontractors. Modifying the OFCCP current investigation practices is a crucial component of effective enforcement. Previous investigative practices were governed by the Active Case Management (ACM), which was eliminated by rulemaking in 2010. ACM was originally developed as a way to find and resolve systemic hiring discrimination using lower staffing levels. ACM facilitated quick reviews targeted toward indicators of discrimination with larger victim classes, almost exclusively for low-wage, entry

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level job applicants. As a result, little, if any attention was focused on the numerous other important components of OFCCP authority, such as the compliance responsibilities of construction contractors and smaller supply and service contractors; enforcement of Section 503 and VEVRAA; and cases related to failure to promote, harassment, retaliation, and compensation discrimination.

OFCCP will expand its investigation strategy and will adopt a more comprehensive effort, inclusive of all laws enforced by the agency, all protected classes, and all types of cases – in effect a comprehensive enforcement strategy. OFCCP will use a number of measures to assure thoroughness of compliance audits, case quality, and consistency in case audit procedures. Ensuring quality is central to OFCCP's mission and enforcement responsibilities. Compliance investigations are the primary method in which OFCCP assesses Federal contractors' compliance with their legal obligations of nondiscrimination and affirmative action. High quality investigations of contractors, implemented through consistent regularly monitored operational practices in field offices will enable OFCCP to achieve the four outcome goals in this operating plan. The components of quality will ensure that OFCCP:

- Conducts more comprehensive audits;
- Improves the identification of adverse impact indicators;
- Identifies compensation disparities; and
- Brings more Federal contractors into compliance.

Unlike the approach in prior years, OFCCP is broadening enforcement beyond systemic, low-wage hiring discrimination cases under the Executive Order. The changes in enforcement strategy include a more comprehensive, thorough, and timely compliance evaluation process that will result in broader enforcement of all EEO laws and regulations administered by OFCCP. New systems are being established to ensure a renewed focus on previously under-investigated areas mentioned above, such as wage-based compensation discrimination, Section 503 and VEVRAA cases. These types of investigations are more complex, necessitating more in-depth, detailed and thorough investigations with additional on-site verifications and numerous, in-depth interviews of witnesses, all of which require increased staff time and attention.

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BUDGET ACTIVITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2010 Comparable	FY 2011 Estimate	FY 2012 Request	Change FY 12 Req. / FY 10 Comp.
11.1	Full-time permanent	64,103	58,338	59,358	-4,745
11.3	Other than full-time permanent	1,748	530	530	-1,218
11.5	Other personnel compensation	1,747	1,133	1,133	-614
11.8	Special personal services payments	0	0	0	0
11.9	Total personnel compensation	67,598	60,001	61,021	-6,577
12.1	Civilian personnel benefits	11,295	19,927	20,244	8,949
13.0	Benefits for former personnel	30	30	30	0
21.0	Travel and transportation of persons	786	1,200	1,831	1,045
22.0	Transportation of things	110	89	89	-21
23.1	Rental payments to GSA	5,107	5,709	5,767	660
23.2	Rental payments to others	108	147	147	39
23.3	Communications, utilities, and miscellaneous charges	667	960	960	293
24.0	Printing and reproduction	41	80	235	194
25.1	Advisory and assistance services	2,040	100	100	-1,940
25.2	Other services	792	800	2,000	1,208
25.3	Other purchases of goods and services from Government Accounts	11,944	11,164	11,164	-780
25.4	Operation and maintenance of facilities	25	0	0	-25
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	3,852	4,161	4,161	309
26.0	Supplies and materials	371	300	310	-61
31.0	Equipment	351	693	926	575
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	269	25	25	-244
	Total	105,386	105,386	109,010	3,624
1/Other Purchases of Goods and Services From Government Accounts					
	Working Capital Fund	10,630	10,630	10,583	-47
	DHS Services	484	484	484	0
	Services by DOL Agencies	50	32	32	-18
	GSA Services	592	0	47	-545
	Services by Other Government Departments	188	18	18	-170

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CHANGES IN FY 2012

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	\$0
Personnel benefits	0
Employee health benefits	0
Moving allowance	0
One day less of Pay	0
Federal Employees Compensation Act (FECA)	0
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	58
All Other Rental	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services	0
Working Capital Fund	0
Other government accounts (DHS Charges)	0
Other purchases of goods and services from Government accounts	0
Research & Development Contracts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Grants, subsidies, and contributions	0
Insurance claims and indemnities	0

Built-Ins Subtotal **\$58**

Net Program **\$3,566**

Direct FTE **11**

	Estimate	FTE
Base	\$105,444	775
Program Increase	\$3,566	11