



U.S. Department of Justice FY 2010 Budget Request

COMBATING FINANCIAL FRAUD AND PROTECTING THE FEDERAL FISC

+ \$62.6 million in Enhancements

FY 2010 Overview

The FY 2010 Budget requests a \$62.6 million increase and a total of 379 positions (including 54 agents and 165 attorneys) to aggressively pursue mortgage fraud, corporate fraud, and other economic crimes. DOJ continues to play a crucial role in the federal financial recovery effort through criminal and civil litigation. To continue in this role, the Department needs additional FBI agents, federal prosecutors, civil litigators, and bankruptcy attorneys to address the problems that contributed to – and that are caused by – the current financial crisis.

The Department's efforts will not only protect American investors and markets, but they are also likely to have high rates of return on the federal government's initial investment of resources. Investments in debt collection activities, tax law enforcement, and fraud enforcement lead to the recoupment of funds to the federal fisc.

As a result of the current economic environment, the FBI has reported an increase in mortgage fraud and related corporate fraud activity. For example, FBI data show an increase of more than 500 percent in the number of mortgage fraud-related Suspicious Activity Reports over the last five years. FBI data also reflect a 300 percent increase in mortgage fraud investigations over the past five years. As of April 2009, the FBI was investigating more than 2,100 mortgage fraud cases and 44 corporate fraud matters related to the mortgage industry, up from 881 mortgage fraud cases in 2006. In addition, the FBI has more than 530 corporate fraud cases, which equates to six investigations per agent; and corporate fraud investigations can take up to four years to complete. These data do not capture the anticipated investigations related to the allocation of funds via the Troubled Asset Relief Program (TARP), the American Recovery and Reinvestment Act, and other efforts connected to the current financial rescue.

This increase in fraud-related activity also affects other DOJ components as well. For example, the demands on the Criminal Division's Fraud Section and U.S. Attorney's Offices around the country will greatly increase as more fraud cases are investigated and referred for criminal prosecution. The Civil Division's litigation also will increase

through the aggressive pursuit of fraud under the False Claims Act. The U.S. Trustee Program is experiencing similar workload increases in bankruptcy caseload. In short, the additional resources requested are required to enable the Department to adequately address fraud related to the recent financial downturn and the disbursement of federal funds in the financial recovery effort.

New Investments

Federal Bureau of Investigation (FBI)

- **Mortgage Fraud and Economic Recovery Investigations: \$25.5 million and 143 positions (50 agents)** to: enhance FBI field investigative capabilities; increase the number of forensic accountants; and increase the number of Mortgage Fraud Task Forces. The FBI will execute several strategic activities using intelligence resources to identify and prioritize threats. The FBI will be able to address additional mortgage fraud cases annually in regions with significant mortgage fraud problems. Additional analytical resources will also enable the FBI to efficiently address corporate fraud cases. FY 2010 current services for this program are 337 positions (175 agents) and \$49.7 million.

Civil Division (CIV)

- **Federal Financial Rescue: \$10 million (including \$5 million for automated litigation support) and 118 positions (87 attorneys)** for litigation related to the liquidation of troubled assets acquired by the Troubled Asset Relief Program (TARP). A bankruptcy case involving any major institution receiving government funds or guarantees will likely be extraordinarily complex and challenging. In addition to litigation involving the massive debt due the government, protection of the existing regulatory and contractual interests of multiple federal agencies will likely be required. The litigation will, among other things, include expensive and time-consuming disputes over asset valuation and the feasibility of any proposed reorganization plan. Congress created a Special Inspector General for the TARP. This Special Inspector General is likely to refer many fraud matters to the DOJ. The requested program increase will establish a baseline for this initiative.

U.S. Attorneys (USA)

- **Federal Financial Rescue: \$7.5 million and 43 positions (35 attorneys)** to address mortgage fraud investigations and prosecutions. The number of active mortgage fraud investigations has tripled in the last three years, and the FBI recently announced that it will shift existing resources to mortgage fraud enforcement; thus the USA workload will likely continue to increase over the next several years. Financial institutions have reported a record number of mortgage fraud cases to the Treasury Department — 10 times the number reported in 2001-2002. In addition, the Housing and Urban Development Inspector General stated

that he anticipates greatly increased mortgage fraud caseload based on the new broadened standards for obtaining FHA-backed loans. Cases emerging from 42 FBI-led mortgage fraud task forces across the country will increase the number of prosecutions. FY 2010 current services are 2,219 positions (1,441 attorneys) and \$295.9 million.

- **National Advocacy Center (NAC): \$5.3 million** to expand the NAC, to enable the U.S. Attorneys to provide additional facilities for training and conferences; co-locate the Executive Office for U.S. Attorneys operations and information technology staff; ensure Continuity of Operations; establish a regional litigation support service center; and achieve rent cost savings by relocating certain EOUSA operations currently conducted from Washington, as well as the operations of the South Carolina U.S. Attorney's Office. FY 2010 current services for the Legal Education program are 48 positions (6 attorneys) and \$20.7 million.

Tax Division (Tax)

- **Operation National Tax Defier: \$2.9 million and 18 positions (13 attorneys)**, to increase the Department's ability to bring tax collection suits against tax defiers, recovering funds that would otherwise be lost to the government. Since January, 2001, the Tax Division has used both civil and criminal enforcement tools against tax defiers, with great success. Criminal prosecutors in the Division and in the United States Attorneys Offices have obtained guilty verdicts or guilty pleas in more than 200 tax defier cases. The Division has also sought and obtained civil injunctions barring more than 90 tax defier promoters and return preparers from continuing to encourage other taxpayers to violate the tax laws.

Over the past four years, the Division, on average, has returned \$14 to the Treasury for every \$1 spent on attorney salaries and expenses. Further, this amount represents only the actual dollars recovered and returned to the Treasury; it does not include the immeasurable deterrent effect of successful affirmative civil enforcement litigation. The requested program enhancement will establish a baseline for this initiative.

U.S. Trustees Program (USTP)

- **Federal Financial Rescue: \$2.2 million and 18 positions (15 attorneys)** for trial SWAT teams. The USTP has actively participated in a number of civil and criminal enforcement efforts involving both bankruptcy and mortgage fraud and abuse. As the housing market and overall economy continue to experience challenging times, the USTP has an increasing role in ensuring the integrity of the bankruptcy system, including the duty to redress violations by creditors, particularly when the abuse is systemic or multi-jurisdictional. The requested program increase will establish a baseline for this initiative, and will be fully funded by offsetting collections from Hart-Scott-Rodino fee revenue.

Office of the Inspector General (OIG)

- **Oversight and Review: \$2.0 million and 18 positions (4 agents)** to enhance oversight of the Department's administration of state and local grant programs, as well as other funds provided to the Department of Justice. The funds will ensure that the Department continues to devote resources towards its oversight responsibilities to assure that monies allocated to stimulate the economy are being used effectively and for their intended purpose. FY 2010 current services for this initiative are 17 positions and \$3.4 million.

Criminal Division (CRM)

- **Combating Financial Fraud & Protecting the Federal Fisc: \$1.8 million and 7 positions (5 attorneys)** to fund a strategic response to the current financial crisis affecting the mortgage markets, credit markets, and banking system by aggressively prosecuting critical and high visibility fraud cases with a national coordinated approach. Total FY 2010 current services for the Financial Fraud and the Federal Fisc are 16 positions (12 attorneys) and \$3.4 million.

Antitrust Division (ATR)

- **Federal Financial Rescue: \$1.2 million** to address commercial and investment bank merger activity. During the recent economic turmoil, the Federal Reserve Bank has consulted with the Antitrust Division on proposed large commercial and investment bank consolidations. As indicated in the Bank Merger Act (12 U.S.C. §1828(c)), the Department is to be notified of proposed bank merger reviews so that an analysis of the merger's competitive effects can be completed and reported to the appropriate banking agency (Comptroller of the Currency, Federal Reserve Bank, FDIC, or Office of Thrift Supervision). These reviews require short, statutorily-mandated turnaround times. FY 2010 current services are 7 positions (6 attorneys) and \$800 thousand.

Environment and Natural Resources (ENRD)

- **Tribal Trust: \$3.3 million and 10 positions (7 attorneys)** to defend the United States in the high-profile, high-stakes Indian Tribal Trust litigation. As of March 2009, 94 Tribal Trust cases have been filed by 121 Tribes in various U.S. District Courts and in the Court of Federal Claims, and 5 cases are on appeal in the Federal Circuit. FY 2010 current services are 22 positions (18 attorneys) and \$1.9 million.
- **Civil Environmental Enforcement: \$650,000 and 3 positions (2 attorneys)** to promote and expand the Division's civil enforcement of Clean Air Act and Clean Water Act cases. FY 2010 current services for this program are subsumed in the Environmental Enforcement decision unit.

- **Criminal Environmental Enforcement: \$250,000 and 1 attorney position** to build upon the success of its criminal environmental prosecution initiatives. FY 2010 current services for this program are subsumed in the Environmental Enforcement decision unit.