

FY 2015

CONGRESSIONAL BUDGET JUSTIFICATION

WAGE AND HOUR DIVISION

WAGE AND HOUR DIVISION

TABLE OF CONTENTS

Appropriation Language	1
Amounts Available for Obligation.....	2
Summary of Changes	3
Summary of Budget Authority and FTE by Activity.....	5
Budget Authority by Object Class	6
Significant Items in Appropriation Committees' Reports	7
Authorizing Statutes.....	8
Appropriation History	10
Overview	11
Organization Chart.....	15
Budget Activities	17
Wage and Hour Division	17

WAGE AND HOUR DIVISION

APPROPRIATION LANGUAGE

WAGE AND HOUR DIVISION

SALARIES AND EXPENSES

For necessary expenses for the Wage and Hour Division, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, [\$224,330,000] \$265,766,000. (*Department of Labor Appropriations Act, 2014.*)

WAGE AND HOUR DIVISION

AMOUNTS AVAILABLE FOR OBLIGATION						
(Dollars in Thousands)						
	FY 2013 Enacted		FY 2014 Enacted		FY 2015 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
A. Appropriation	1,434	\$227,061	1,446	\$224,330	1,751	\$265,766
Reduction Pursuant to P.L. 113-6 for FY 2013	0	-\$454	0	\$0	0	\$0
Reduction Pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985	-14	-\$11,423	0	\$0	0	\$0
<i>Subtotal Appropriation</i>	<i>1,420</i>	<i>\$215,184</i>	<i>1,446</i>	<i>\$224,330</i>	<i>1,751</i>	<i>\$265,766</i>
Non-Expenditure Transfer from TES per P.L. 113-2	0	\$1,002	0	\$0	0	\$0
Reimbursements (CMP's)	0	\$2,660	0	\$2,800	0	\$2,800
H-1B L Fraud Fees (Collected)	325	\$33,215	363	\$55,443	363	\$55,443
H-2B Fees	0	\$2,681	0	\$0	0	\$0
<i>Subtotal</i>	<i>1,745</i>	<i>\$254,742</i>	<i>1,809</i>	<i>\$282,573</i>	<i>2,114</i>	<i>\$324,009</i>
B. Gross Budget Authority	1,745	\$254,742	1,809	\$282,573	2,114	\$324,009
Non-Expenditure Transfer from TES per P.L. 113-2	0	-\$1,002				
Reimbursements (CMP's)	0	-\$2,660	0	-\$2,800	0	-\$2,800
H-1B L Fraud Fees (Collected)	-325	-\$33,215	-363	-\$55,443	-363	-\$55,443
H-2B Fees	0	-\$2,681	0	\$0	0	\$0
C. Budget Authority Before Committee	1,420	\$215,184	1,446	\$224,330	1,751	\$265,766
Reimbursements (CMP's)	0	\$2,660	0	\$2,800	0	\$2,800
H-1B L Fraud Fees Actual	325	\$48,150	363	\$55,443	363	\$55,443
H-2B Fees Actual	0	\$2,681	0	\$0	0	\$0
D. Total Budgetary Resources	1,745	\$268,675	1,809	\$282,573	2,114	\$324,009
FTE Lapse and Unobligated Balance Expiring	58	\$861	0	\$0	0	\$0
E. Total, Estimated Obligations	1,803	\$267,814	1,809	\$282,573	2,114	\$324,009

WAGE AND HOUR DIVISION

SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2014 Enacted	FY 2015 Request	Net Change
Budget Authority			
General Funds	\$224,330	\$265,766	+\$41,436
Total	\$224,330	\$265,766	+\$41,436
Full Time Equivalents			
General Funds	1,809	2,114	305
Total	1,809	2,114	305

Explanation of Change	FY 2014 Base		FY 2015 Change					
	FTE	Amount	Trust Funds		General Funds		Total	
			FTE	Amount	FTE	Amount	FTE	Amount
Increases:								
A. Built-Ins:								
To Provide For:								
Costs of pay adjustments	1,809	\$108,918	0	\$0	0	\$1,403	0	\$1,403
Personnel benefits	0	\$23,458	0	\$0	0	\$0	0	\$0
Employee health benefits	0	\$7,854	0	\$0	0	\$0	0	\$0
Moving allowance	0	\$0	0	\$0	0	\$0	0	\$0
Federal Employees' Compensation Act (FECA)	0	\$1,287	0	\$0	0	\$9	0	\$9
Benefits for former personnel	0	\$0	0	\$0	0	\$0	0	\$0
Travel and transportation of persons	0	\$6,000	0	\$0	0	\$0	0	\$0
Transportation of things	0	\$15	0	\$0	0	\$0	0	\$0
Rental payments to GSA	0	\$11,000	0	\$0	0	\$1,244	0	\$1,244
Rental payments to others	0	\$20	0	\$0	0	\$0	0	\$0
Communications, utilities, and miscellaneous charges	0	\$4,184	0	\$0	0	\$0	0	\$0
Printing and reproduction	0	\$540	0	\$0	0	\$0	0	\$0
Advisory and assistance services	0	\$3,946	0	\$0	0	\$0	0	\$0
Other services from non-Federal sources	0	\$3,750	0	\$0	0	\$0	0	\$0
Working Capital Fund	0	\$19,120	0	\$0	0	\$1,340	0	\$1,340
Other Federal sources (DHS Charges)	0	\$1,076	0	\$0	0	\$0	0	\$0
Other goods and services from Federal sources	0	\$4,123	0	\$0	0	\$936	0	\$936
Research & Development Contracts	0	\$0	0	\$0	0	\$0	0	\$0
Operation and maintenance of facilities	0	\$800	0	\$0	0	\$0	0	\$0
Operation and maintenance of equipment	0	\$25,689	0	\$0	0	\$0	0	\$0
Supplies and materials	0	\$1,260	0	\$0	0	\$0	0	\$0
Equipment	0	\$1,290	0	\$0	0	\$0	0	\$0
Grants, subsidies, and contributions	0	\$0	0	\$0	0	\$0	0	\$0

WAGE AND HOUR DIVISION

Explanation of Change	FY 2014 Base		FY 2015 Change					
			Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Insurance claims and indemnities	0	\$0	0	\$0	0	\$0	0	\$0
Built-Ins Subtotal	1,809	+\$224,330	0	\$0	0	+\$4,932	0	+\$4,932
B. Programs:								
Enhanced Enforcement for the 21st Century	0	\$0	0	\$0	237	\$22,705	237	\$22,705
Prior Year Request	0	\$0	0	\$0	63	\$12,999	63	\$12,999
Modernizing Talent Management and Training Strategy	0	\$0	0	\$0	5	\$800	5	\$800
Programs Subtotal			0	\$0	305	+\$36,504	305	+\$36,504
Total Increase	1,809	+\$224,330	0	\$0	305	+\$41,436	305	+\$41,436
Decreases:								
A. Built-Ins:								
To Provide For:								
Built-Ins Subtotal	0	\$0	0	\$0	0	\$0	0	\$0
B. Programs:								
Total Decrease	0	\$0	0	\$0	0	\$0	0	\$0
Total Change	1,809	+\$224,330	0	\$0	305	+\$41,436	305	+\$41,436

WAGE AND HOUR DIVISION

SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY (Dollars in Thousands)								
	FY 2013 Enacted		FY 2014 Enacted		FY 2015 Request		Diff. FY15 Request / FY14 Enacted	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Wage and Hour Division	1,803	215,184	1,809	224,330	2,114	265,766	305	41,436
General Funds	1,803	215,184	1,809	224,330	2,114	265,766	305	41,436
Total	1,803	215,184	1,809	224,330	2,114	265,766	305	41,436
General Funds	1,803	215,184	1,809	224,330	2,114	265,766	305	41,436

NOTE: FY 2013 reflects actual FTE.

WAGE AND HOUR DIVISION

BUDGET AUTHORITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2013 Enacted	FY 2014 Enacted	FY 2015 Request	Diff. FY15 Request / FY14 Enacted
	Full-Time Equivalent				
	Full-time Permanent	1,803	1,809	2,114	305
	Total	1,803	1,809	2,114	305
	Average ES Salary	\$170,136	\$170,138	\$170,138	\$0
	Average GM/GS Grade	11/1	11/1	11/1	0
	Average GM/GS Salary	\$73,566	\$74,301	\$75,045	\$744
	Average Salary of Ungraded Positions	0	0	0	0
11.1	Full-time permanent	105,951	105,342	122,677	17,335
11.3	Other than full-time permanent	0	1,450	1,450	0
11.5	Other personnel compensation	1,429	2,126	2,126	0
11.9	Total personnel compensation	107,380	108,918	126,253	17,335
12.1	Civilian personnel benefits	32,317	32,599	36,876	4,277
13.0	Benefits for former personnel	0	0	0	0
21.0	Travel and transportation of persons	6,725	6,000	8,044	2,044
22.0	Transportation of things	28	15	15	0
23.1	Rental payments to GSA	10,569	11,000	14,121	3,121
23.2	Rental payments to others	28	20	20	0
23.3	Communications, utilities, and miscellaneous charges	3,597	4,184	4,941	757
24.0	Printing and reproduction	620	540	718	178
25.1	Advisory and assistance services	2,955	3,946	3,946	0
25.2	Other services from non-Federal sources	5,508	3,750	4,479	729
25.3	Other goods and services from Federal sources 1/	22,668	24,319	29,356	5,037
25.4	Operation and maintenance of facilities	0	800	800	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	19,432	25,689	32,664	6,975
26.0	Supplies and materials	1,100	1,260	1,551	291
31.0	Equipment	2,257	1,290	1,982	692
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	Total	215,184	224,330	265,766	41,436
	1/Other goods and services from Federal sources				
	Working Capital Fund	18,323	19,120	22,952	3,832
	DHS Services	1,076	1,076	1,076	0
	GSA Services	181	181	181	0
	Services by Other Government Departments	3,088	3,942	5,147	1,205

WAGE AND HOUR DIVISION

SIGNIFICANT ITEMS IN APPROPRIATIONS COMMITTEES' REPORTS

The Committee also urges WHD to continue exploring and implementing strategies with ODEP and other Federal agencies to provide additional opportunities for such workers to participate in competitive integrated environment.

WHD Response:

The Wage and Hour Division has worked closely with other agencies outside of the Department of Labor, such as the Department of Justice and Department of Education, to identify areas for joint enforcement and coordinated outreach to stakeholders. WHD has also worked closely with ODEP in the Department, partnering in regional conferences designed to educate Community Rehabilitation Programs who participate in the 14(c) program. WHD will continue to build on these efforts in 2014.

WAGE AND HOUR DIVISION

AUTHORIZING STATUTES

Public Law / Act	Legislation	Statute No. / US Code	Volume No.	Page No.	Expiration Date
PUB. L. 75-718	Fair Labor Standards Act of 1938, as amended.	29 U.S.C. 201-219			N/A
PUB. L. 74-846	Walsh-Healy Public Contracts Act, as amended.	41 U.S.C. 35-45			N/A
PUB. L. 90-321	Consumer Credit Protection Act (Title III – Restriction on Garnishment).	15 U.S.C. 1671-1677			N/A
PUB. L. 87-581	Contract Work Hours and Safety Standards Act, as amended.	40 U.S.C. 327-330			N/A
PUB. L. 89-286	McNamara-O’Hara Service Contract Act, as amended.	41 U.S.C. 351-357			N/A
PUB. L. 74-403	Davis-Bacon Act, as amended and related acts.	40 U.S.C. , Chapter 31, Subpart IV			N/A
PUB. L. 97-470	Migrant and Seasonal Agricultural Worker Protection Act.	29 U.S.C. 1801-1872			N/A
PUB. L. 99-603	Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986.	8 U.S.C. 1324, 8 U.S.C. 1101(a), 1184(c), 1824, 29 U.S.C. 1802, 1813(a)			N/A
PUB. L. 100-347	Employee Polygraph Protection Act of 1988.	29 U.S.C. 2001 et seq			N/A
PUB. L. 101-238	Immigration Nursing Relief Act of 1989.	8 U.S.C. 1101, et seq.			N/A
PUB. L. 101-649	Immigration Act of 1990.	8 U.S.C. 1101, et seq.			N/A
PUB. L. 103-3	Family and Medical Leave Act of 1993.	29 U.S.C. 2601, et. Seq.			N/A
PUB. L. 105-277	American Competitiveness and Workforce Improvement Act (ACWIA), Title IV of the Omnibus Consolidated and	414(b) and (c)			N/A

WAGE AND HOUR DIVISION

	Emergency Supplemental Appropriation Act.				
PUB. L. 108-447	L-1 Visa and H-1B Visa Reform Act, Title IV of the Consolidated Appropriations Act, 2005.	401-430			N/A
PUB. L. 89-209	National Foundation for the Arts and Humanities Act, Sections 5(i) and 7(g).	20 U.S.C. 954 (i) and 956 (g)			N/A

WAGE AND HOUR DIVISION

APPROPRIATION HISTORY					
(Dollars in Thousands)					
	Budget Estimates to Congress	House Allowance	Senate Allowance	Appropriations	FTE
2005					
Base Appropriation	\$165,933	\$0	\$0	\$164,494	1,346
2006					
Base Appropriation	\$167,359	\$0	\$0	\$165,685	1,300
2007					
Base Appropriation	\$177,578	\$0	\$0	\$170,220	1,200
2008					
Base Appropriation	\$182,365	\$0	\$0	\$175,658	1,208
Scorekeeping Adjustments	-\$50,000	\$0	\$0	\$0	0
2009					
Base Appropriation	\$193,092	\$0	\$0	\$193,092	1,367
Scorekeeping Adjustments	-\$30,000	\$0	\$0	\$0	0
2010					
Base Appropriation	\$227,656	\$0	\$0	\$227,606	1,676
Scorekeeping Adjustments	-\$30,000	\$0	\$0	\$0	0
2011					
Base Appropriation	\$244,240	\$0	\$0	\$227,491	1,697
2012					
Base Appropriation	\$240,937	\$0	\$227,491	\$227,061	1,759
2013 ²					
Base Appropriation	\$237,730	\$0	\$0	\$215,184	1,745
2014					
Base Appropriation	\$243,254	\$0	\$0	\$224,330	1,809
2015					
Base Appropriation	\$265,766	\$0	\$0	\$0	2,114

² Does not reflect \$1,002,000 transferred to WHD for Hurricane Sandy reconstruction and recovery activities, as provided in the Disaster Relief Appropriations Act, 2013, P.L. 113-2. This amount has been transferred from the Employment and Training Administration, Training and Employment Services account via a non-expenditure transfer.

In the FY 2005 through FY 2010 budget estimate to congress, the Wage and Hour amount was included in the former Employment Standards Administration request.

FTE shown includes FTE funded from the H-1B L Fraud Protection Account as well as WHD annual appropriation.

WAGE AND HOUR DIVISION

OVERVIEW

Introduction

The Wage and Hour Division (WHD) is authorized under 29 U.S.C. 207, *et seq.* to administer and enforce a variety of laws that establish the minimum standards for wages and working conditions in the United States. Collectively, these labor standards cover most private, state, and local government employment. They protect over 135,000,000 workers in more than 7,300,000 establishments throughout the United States and its territories. WHD's mission is to "*promote and achieve compliance with labor standards to protect and enhance the welfare of the Nation's workforce.*" The WHD mission and its performance outcomes directly support the Secretary's strategic objectives of *securing wages and overtime* and *protecting workers' rights* and the Secretary's vision of *promoting and protecting opportunity* for all workers and their employers. WHD's success in achieving its outcomes is instrumental in promoting access for everyone to opportunities—opportunities for workers to move into the middle class; opportunities for employers to compete on a level playing field; and opportunities for workers to balance their family and work obligations.

WHD is comprised of a nationwide staff of investigators, supervisors, analysts, technicians, and administrative employees who share responsibilities for enforcing and administering the minimum wage, overtime, and child labor provisions of the Fair Labor Standards Act (FLSA); the prevailing wage requirements and wage determination provisions of the Davis-Bacon and Related Acts (DBRA) and the McNamara-O'Hara Service Contract Act (SCA); the wages and working conditions under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA); the job protections of the Family and Medical Leave Act (FMLA); and the Employee Polygraph Protection Act (EPPA). WHD also enforces the field sanitation and temporary labor camp standards in agriculture and certain employment standards and worker protections of the Immigration and Nationality Act (INA).

WHD's core enforcement priorities promote workers employed in compliance with wage and hour laws, employers sustaining compliance with those laws, and the agency providing customer-oriented and quality service to workers, employers, and the public. Compliance with this Nation's wage and workplace standards provides the most basic protections for workers and the greatest opportunity for them to advance to higher-paying jobs. Labor standards compliance also levels the playing field for businesses. When employers understand that all businesses must abide by the Nation's wage and workplace standards, they can anticipate and budget for those requirements. Goods and services can then be produced through innovation and competitive efficiencies rather than through strategies that lower core labor standards. An effective compliance program that couples enforcement and education with strategies to promote continued compliance means that all workers in this country can realize the potential of a stable and secure income and those responsible businesses can succeed through the ingenuity of their workforce and not at its expense.

The 2015 Budget request for Wage and Hour is \$265,766,000, an increase of \$41,436,000 and 305 FTE, including 300 new investigators. These additional resources continue the agency's transformation into a 21st Century law enforcement organization—an organization that is

WAGE AND HOUR DIVISION

strategic in its approach to resolving compliance challenges, efficient in its use of resources, flexible in responding to critical and emerging compliance issues, and effective in promoting and achieving compliance.

WHD's enforcement strategies have evolved over the last several years as industries have adopted new business models. The businesses that are covered by this Nation's labor standards laws are no longer the traditional brick and mortar companies that operated when these laws were first passed. Advances in technologies and transportation and increased globalization and specialization have influenced the structure of businesses and modified how those businesses view their labor force. Business relationships are more fluid. Companies outsource key aspects of their production. The staffing industry is one of the fastest growing industries in this country. WHD has, by necessity, begun to adapt and respond to this new paradigm by introducing new enforcement strategies and applying new technologies to educate workers, employers, and the public.

WHD has also adapted to the dynamic changes in the Country's workforce. Today's workforce is significantly different from that the agency encountered when the oldest of its worker protections laws was enacted. More women are working. The age structure of labor force has shifted. The workforce is more diverse as the racial and ethnic composition of the country has changed. Workers move from employer to employer more often. The profile and work patterns of the country's labor force will continue to evolve as new generations enter and older generations leave.

In recognition of this changing environment, WHD undertook a series of evaluations and studies to better refine its ability to identify and remedy violations. These studies culminated in a series of recommendations in a report entitled, *"Improving Workplace Conditions through Strategic Enforcement,"*³ many of which have informed the agency's enforcement strategies and complaint investigation priorities. That report provided evidence that directed (i.e., non-complaint-based) investigations resulted in a deterrence effect not seen following complaint-based investigations. A second evaluation study, *"Reducing Recidivism: Evaluation of Goals, Measures, and Compliance Tools and Options for Improvement,"*⁴ provided insight into the effect of penalties to promote continued compliance among investigated employers. The recent *Family and Medical Leave in 2012: Final Report,*⁵ provided information on family workplace issues and opportunities to adapt strategies in response. WHD has also taken advantage of evaluations and recommendations made by the Government Accountability Office and the Office of Inspector General to improve key processes, including the agency's complaint policy, back wage distribution system, and wage determination responsibilities. Performance trends demonstrate not only a higher performance efficiency among the field staff, which has seen an increase in the number of investigations per investigator, but also better strategies for selecting investigations, better prioritization of both complaints and directed investigations, and higher yields in terms of workers affected and back wages agreed to pay. These trends among WHD's

³ Improving Workplace Conditions Through Strategic Enforcement: A Report to the Wage and Hour Division, David Weil, Boston University, May 2010.

⁴ Reducing Recidivism: Evaluation of Goals, Measures, and Compliance Tools and Options for Improvement, Submitted by: Systems Research and Applications Corporation (SRA), January 2008.

⁵ Family and Medical Leave in 2012: Final Report, Abt Associates Inc., September 2012.

WAGE AND HOUR DIVISION

strategic enforcement measures have demonstrated progress, and the FY 2015 budget request builds upon that success.

WHD is requesting resources for an additional 300 investigators to continue this positive momentum. WHD remains vastly outnumbered by its regulated workplaces. As further increases will not meaningfully change that equation, this request aims to build a stronger, more effective WHD based on a track record of results. The additional resources would propel the agency's directed enforcement program to a level at which the agency can make significant inroads in stemming violations before they occur. Additional resources dedicated to active—as opposed to reactive—enforcement would allow the agency to develop corporate and enterprise-wide solutions to systemic compliance problems. Establishment-by-establishment investigations do not bring about system-wide changes.

Only through the strategic and planned use of resources can the agency begin to change the types of behaviors that drive non-compliance. These additional resources would be dedicated to greater directed investigations that are strategically selected toward solving the most important compliance challenges which include protecting workers in industries that employ business models that are at high risk of wage and hour violations where those who profit most from the labor provided are distanced from the workers who provide that labor. Moreover, WHD recognizes that to drive optimal levels of success, it needs engaged, high-performing employees. WHD seeks to create a workplace that allows for continuous learning and professional development, so this request seeks an additional \$800,000 and 5 FTE to expand the agency's capacity to train its personnel through new technology and the integration of new knowledge and skills into the work experience in a direct, immediate, and meaningful way.

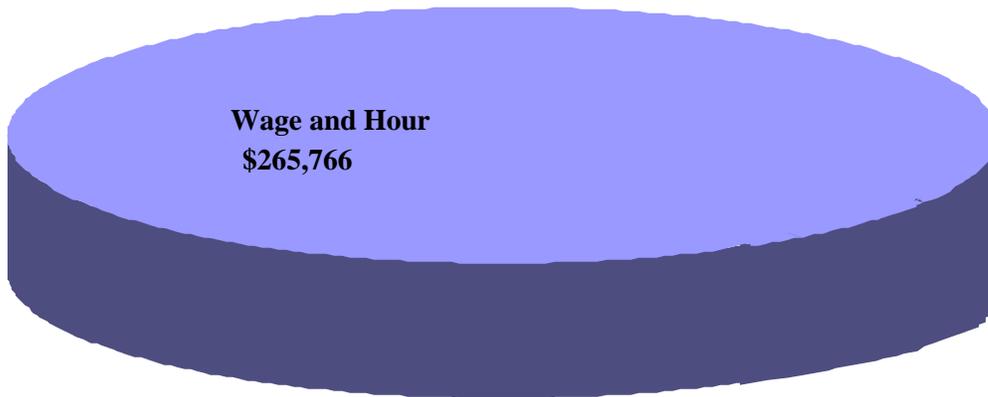
WHD does not have broad influence over all the societal and market-driven factors contributing to non-compliance. However, there are concrete steps the agency can take to combat the effects of income disparities, workplace fragmentation, and the erosion of workplace standards. WHD's active enforcement of the most basic labor standards protections guards against exploitation. Increasing the prevalence of employers properly classifying and paying workers provides all workers with the opportunity to realize the benefits of their labor.

WAGE AND HOUR DIVISION

Cost Model

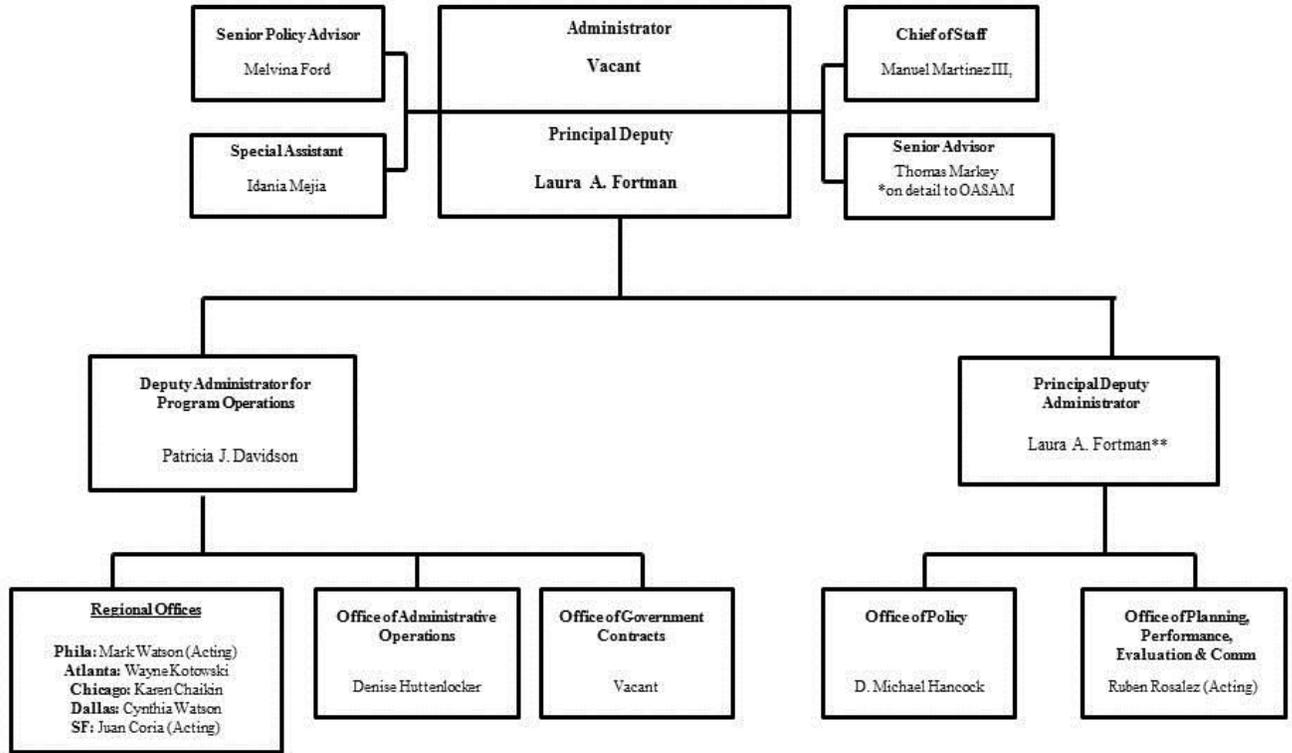
The Wage and Hour Division (WHD) requests a total of \$265,766,000, an increase of \$41,436,000 over the FY 2014 Request level. The FY 2015 agency request includes program increases to significantly expand the WHD investigator corps and modernize WHD's talent management and training strategy, allowing WHD to improve outcomes for workers as well as better customer service for the public.

FY 2015 Budget Request
Wage and Hour Budget Request \$265,766
(Dollars in Thousands)



WAGE AND HOUR DIVISION

Wage and Hour Division (WHD)



** The Principal Deputy Administrator serves as the acting agency head until appointment of the W&H Administrator

WAGE AND HOUR DIVISION

BUDGET AUTHORITY BEFORE THE COMMITTEE				
(Dollars in Thousands)				
	FY 2013 Enacted	FY 2014 Enacted	FY 2015 Request	Diff. FY15 Request / FY14 Enacted
Activity Appropriation	215,184	224,330	265,766	41,436
FTE	1,803	1,809	2,114	305

NOTE: FY 2013 reflects actual FTE. Authorized FTE for FY 2013 was 1,745.

Introduction

The labor standards statutes, for which WHD is responsible, provide basic protections for all workers in this country. Although they differ in scope, all of the statutes enforced by WHD are intended to protect and to promote the welfare of the nation's workforce, to provide opportunities for advancement, and to promote fair compensation for work performed. The Fair Labor Standards Act (FLSA) minimum wage provisions and the prevailing wage laws provide a floor for the payment of fair wages, while the FLSA overtime provisions are intended to broaden work opportunities and promote employment. The Migrant and Seasonal Agricultural Protection Act (MSPA) and the immigration programs establish working conditions intended both to protect the wages and the safety and health of vulnerable workers and to provide that the local labor force is not displaced by lower paid foreign or migrant labor. The prevailing wage programs provide protections to local middle-class workers who may be disadvantaged by competition from outside labor who offer their services at wages lower than those in the locality. The Family and Medical Leave Act (FMLA) was enacted to help workers balance family and work responsibilities by providing job protection; and the child labor provisions of the FLSA promotes the safe employment of young workers, encourage their educational endeavors, and provide a path to future employment.

Enforcement Priorities: WHD concentrates its enforcement resources on providing that workers, including the most vulnerable workers, are employed in compliance with the laws that the agency enforces and that those industries and employers remain in compliance. Vulnerable workers are typically those who are at risk of exploitation at work and who are reluctant to complain when they are subject to violations for fear of retaliation. WHD's efforts to increase compliance in the agricultural industry and among agricultural and young worker populations to whom additional safety and health standards apply specifically contribute to this outcome. Vulnerable workers also include those that are employed in industries with subcontracting, independent contracting, and other contingent workforce characteristics. Employers often fail to classify such workers as employees, leaving them subject to unfair treatment and disparate wages. Other vulnerable workers include individuals with disabilities and those employed in statutory programs for which there is no private right of action. These priorities support the Department's strategic objectives of securing wages and overtime and protecting workers' rights.

Worker Protection Strategies: WHD's ability to achieve compliance and to change the behavior of employers and industries is dependent on a balance of:

WAGE AND HOUR DIVISION

- Enforcement, both complaint-initiated and agency directed;
- Outreach to workers, worker advocates, and community organizations;
- Compliance assistance to employers and employer associations; and
- The promulgation of regulatory and sub-regulatory policies that promote compliant behavior.

For the last several years, WHD has undertaken strategic planning and evaluation activities to determine ways to maximize its investigation resources. Historical enforcement data combined with studies of evolving industry structures strongly argue that impacting compliance rates requires a greater investment in directed enforcement. To that end, a strategic directed enforcement program provides WHD with the ability to prioritize enforcement resources, plan for sustained compliance, evaluate how strategies can deter violations beyond the investigated employers, and measure the extent to which individual investigations can address system-wide compliance problems.

In FY 2015, WHD will continue to use its directed investigations to increase WHD presence in high risk industries, *i.e.*, those industries with high minimum wage and overtime violations and among vulnerable worker populations where complaints are not common. Directed investigations are most often centered on employer and industry business models that function to obscure, or eliminate entirely, the link between the worker and the business. This increasingly common practice of distancing the entity that profits from the labor from responsibility for the working conditions of that labor has created a growing population of vulnerable workers with reduced protections and less opportunity to address the lack of protections. WHD also conducts directed investigations to secure compliance for other workers at a higher risk of exploitation: workers with disabilities, young workers, agricultural workers, and workers with no private right to pursue remedies on their own behalf.

WHD's complaint investigation program is aligned and integrated with the agency's priorities in a manner that heightens the impact of its directed program. The alignment of the complaint and directed program has freed enforcement resources for more directed investigations, which in turn, has a higher deterrent effect on employers. WHD's investigations now map business relationships to identify opportunities to affect compliance at the most effective and efficient point within subcontracting and supply chains, contracting schemes, or franchise operations.

WHD enforcement activities, both complaint and directed, are oriented towards promoting long-term industry and employer compliance by:

- Pursuing corporate-wide compliance;
- Using enhanced compliance agreements;
- Imposing penalties and sanctions as appropriate; and
- Increasing transparency.

The investigation results now revolve around mechanisms for promoting sustained compliance as opposed to being satisfied with just an agreement to future compliance and the payment of back wages. The objective is real and lasting changes in behavior that benefit workers and level the competitive playing field for those responsible businesses that play by the rules. To this end,

WAGE AND HOUR DIVISION

WHD seeks opportunities to secure corporate and industry-wide systemic changes to promote compliance, particularly in program areas such as the FMLA where compliance at the establishment level is driven by corporate policies.

WHD will continue to leverage its partnership arrangements with other federal, state, and local agencies, and with worker and community-based organizations. Stakeholder coordination will provide avenues for information gathering on compliance issues and will provide opportunities to develop meaningful compliance assistance tools. Public information releases, issued through various news media and new technologies will be used to inform the public of WHD laws, compliance actions taken, resolution of violations, and penalties assessed. WHD involves the workers, community organizations, and employee unions in identifying and reporting alleged workplace violations. The agency engages states and other federal agencies in cross-cutting initiatives, such as the misclassification of workers as something other than an employee. WHD's regulatory, sub-regulatory, and communication strategies are undertaken to promote openness and transparency in achieving compliance with the regulatory requirements and to provide workers and employers with information and tools to identify and remedy violations.

Customer Service: To effectively serve WHD's customers and stakeholders, WHD is committed to consistency and professionalism in the conduct of its investigations. The agency works to provide accurate and timely information and advice to the public in all venues, and to promote wide access to WHD services.

Accuracy and Currency of Wage Determinations: WHD is examining its Davis-Bacon wage survey processes and its Service Contract Act wage determination processes to improve the quality of wage determinations published by the agency. By publishing up-to-date and accurate wage rates in both the Service Contract Act and Davis-Bacon Act programs, WHD provides that construction and service workers are paid a fair wage.

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2010	\$227,606	1,676
2011	\$227,491	1,697
2012	\$227,061	1,759
2013	\$215,184	1,745
2014	\$224,330	1,809

FY 2015

WAGE AND HOUR DIVISION

At the FY 2015 Request Level, WHD requests \$265,766,000 and 2,114 FTE. This includes \$29,904,000 for 300 new investigator FTE. Of this amount:

- \$2,500,000 and 21 FTE (transferred from the Women's Bureau) will be dedicated to strengthening FLSA and FMLA enforcement;
- \$899,000 and 7 FTE will bolster FLSA Section 14(c) compliance efforts; and
- \$3,800,000 and 35 FTE will increase enforcement related to misclassified workers.

The remaining new FTE will be dedicated to enforcing all of the laws that WHD enforces.

These resources will support a continued shift to greater percentage of directed enforcement activity in priority industries and will offer an improved customer service approach to complaint handling. WHD will continue to increase its number of compliance actions, but anticipates that continued gains in compliance actions concluded will be incremental as WHD maintains its emphasis on conducting quality case work and concentrates on reducing no-violation cases through effective compliance screening and investigation targeting. WHD data show a higher number of employees affected and greater back wages on average for directed investigations.

The request also proposes \$5,800,000 to implement a new, integrated information technology system to replace the current outdated system, which impedes WHD's efforts to advance its strategic enforcement strategies. This IT investment would allow the agency to make critical improvements that would fundamentally enhance the day-to-day operations of the agency and WHD's ability to provide effective customer service to both employees and employers. As new investigator productivity and effectiveness continues to increase and as the agency's targeting strategies increase in quality and ambition, the need for up-to-date technology and information resources proves critical to continued growth in these areas. Moreover, without such technology, investigators are obstructed in implementing new and innovative strategies due to technological limitations. Similarly, in order to meet the employer's and public's expectation that information about the laws enforced be easily accessible and understandable, WHD must invest in both more effective management of the information and policy guidance WHD develops and more effective methods of making that information readily available.

Finally, the budget also requests \$800,000 and 5 FTE to support the agency's talent management and training strategy. Improved training and professional development is an essential part of WHD's efforts to improve the efficiency and effectiveness of its enforcement program. These FTE will provide WHD with expertise in professional development, adult learning techniques, instructional design, advanced technology applications, and course evaluation, and to deploy a video teleconferencing (VTC) infrastructure that conforms to the integrated DOL Digital Government platform. To drive optimal levels of success, WHD needs engaged, high-performing employees. WHD seeks to create a workplace that allows for continuous learning and professional development, which is a key factor in driving a workforce towards excellence.

With additional resources, WHD believes it can increase the number of compliance actions, increase the number of investigations in priority industries, increase the number and percentage of directed investigations, and maintain and possibly further reduce the difference between no violation rates in directed and complaint investigations while also continuing to reduce the

WAGE AND HOUR DIVISION

overall rates to ensure that WHD is conducting investigations in the right places and maximizing its resources.

In FY 2015, WHD will continue to use its directed investigations to increase WHD presence in high risk industries, *i.e.*, those industries with high minimum wage and overtime violations and among vulnerable worker populations where complaints are not common. Directed investigations are most often centered on employer and industry business models that function to obscure, or eliminate entirely, the link between the worker and the business. This increasingly common practice of distancing the entity that benefits from the labor from responsibility for the working conditions of that labor has created a growing population of vulnerable workers with reduced protections and less opportunity to address the lack of protections. Directed investigations are also undertaken to secure compliance for other workers at a higher risk of exploitation: workers with disabilities, young workers, agricultural workers, and workers with no private right to pursue remedies on their own behalf.

One of the most fundamental challenges facing WHD and most worker protection agencies arises from the limited resources available relative to the size and scope of workplaces covered by the statutes the agencies enforce. This request aims to build a stronger, more effective WHD based on a track record of results since the agency began dedicating greater enforcement hours to directed investigations that are strategically targeted toward solving the most important compliance challenges. To that end, strategic directed enforcement provides WHD with the ability to prioritize resources, plan for sustained compliance, evaluate how strategies can deter violations beyond the investigated employers, and measure the extent to which individual investigations can address system-wide compliance problems. For every 1,000 enforcement hours expended in directed investigations, WHD helps over 300 workers. In contrast, for every 1,000 hours expended in complaint investigations, the agency helps just over 200 workers. Directed investigations are highly efficient at detecting violations. In short, directed investigations produce industry deterrent effects beyond the boundaries of a workplace or a company.

Starting in FY 2010, WHD undertook an agency-wide effort to increase the percent of directed investigations. With the addition of nearly 300 investigators, WHD achieved productivity gains and directed investigations trended upward with compliance actions increasing from approximately 25,000 to over 34,000, and the percent of directed investigations increasing from 27 percent of investigations to over 40 percent. Investigations started showing a higher rate of return when measured as the number of workers helped for every enforcement hour expended. Since 2001, directed investigations have consistently reached a higher number of employees than complaint investigations per enforcement hour. The gap between violation rates for complaint versus directed cases has significantly decreased from FY 1999, shifting from a difference of 44 percentage points to six points. Since the launch of the strategic enforcement program, WHD has sought to determine the optimum mix of complaint and directed cases. At the current investigator levels, further increases to the percent of directed enforcement cases may jeopardize no violation rates and negatively impact customer service goals for the complaint program. With the additional FTE, however, WHD can increase the number and percent of directed investigations to 50 percent by FY 2018 when all new investigator FTE are fully trained, which will allow the agency to deliver consistent, high quality customer service in the complaint

WAGE AND HOUR DIVISION

program and further amplify the success of its directed enforcement program. With additional resources, WHD believes it can increase the number of compliance actions, increase the number of investigation in priority industries, increase the number and percentage of directed investigations, and maintain and possibly further reduce the difference between no violation rates in directed and complaint investigations while also continuing to reduce the overall rates to ensure that WHD is conducting investigations in the right places and maximizing its resources.

FY 2014

Figures shown for FY 2014 reflect the FY 2014 full-year enacted appropriation of \$224,330,000. In FY 2014, WHD is continuing its strategic enforcement approach to compliance with emphasis placed on directed enforcement and increasing the percent of vulnerable workers employed in compliance with the laws that the agency enforces and towards securing the wages and overtime compensation that all workers are due. Vulnerable workers include workers who are reluctant to approach any Federal agency for any reason and who often will not file a complaint when their rights have been violated. They are frequently employed in industries where the employment relationship is splintered and the beneficiary of the labor is distanced from the workers who actually provide the labor. Vulnerable workers also include young workers, agricultural workers, disabled workers, and those workers employed in statutory programs for which there is no private right of action.

FY 2013

Figures shown for FY 2013 reflect the annualized Continuing Resolution (P.L. 112-175) with sequestration. In FY 2013, WHD increased the percentage of its directed investigations while simultaneously lowered the no violation rates to historic lows only 6 percentage points higher than the no violation rates for complaint investigations. Sequestration affected the number of compliance actions that WHD was able to complete during FY 2013.

WAGE AND HOUR DIVISION

DETAILED WORKLOAD AND PERFORMANCE				
	FY 2013 Enacted		FY 2014 Enacted	FY 2015 Request
	Target	Result	Target	Target
Wage and Hour Division				
Strategic Goal 3 - Promote fair and high quality work-life environments				
Strategic Objective 3.2 - Protect workers' rights				
WHD- FMLA- 02	Percent of No Violation FMLA cases			
	[base]	39.74%	40.00%	38.00%
Strategic Objective 3.3 - Secure wages and overtime				
WHD- DB-01b	Average age of Davis-Bacon wage rates for non-Residential Construction (in months)			
	36	42	36	36
WHD- E-01	Number of compliance actions			
	34,231	33,146	33,635	34,771
WHD- E-02	Percent of directed investigations (excludes conciliations)			
	38.00%	44.19%	40.00%	43.00%
WHD- E-05	Percent of complaint no violation cases			
	22.00%	20.76%	20.00%	20.00%
WHD- E-04	Percent of directed no violation cases			
	23.00%	26.12%	22.00%	20.00%
WHD- PRIO- 03	Percent of complaint investigations in priority industries (excludes conciliations)			
	68.00%	67.61%	68.00%	70.00%

WAGE AND HOUR DIVISION

DETAILED WORKLOAD AND PERFORMANCE					
		FY 2013 Enacted		FY 2014 Enacted	FY 2015 Request
		Target	Result	Target	Target
WHD- PRIO- 02	Percent of Directed Investigations in Priority Industries	85.00%	83.49%	86.00%	86.00%
WHD- MIS-01	Percent of Directed Investigations in Industries with a High Prevalence of Employees Misclassified as Independent Contractors	22.00%	19.08%	21.00%	26.00%
WHD- 14C-01	Percent of Directed No-Violation 14C Investigations	[base]	18.52%	23.00%	20.00%
WHD- AG-01	Percent of enforcement hours in agricultural industry	7.46%	7.36%	7.60%	8.00%
WHD- CL-01	Percent of investigations in which child labor compliance is examined (exclude conciliations)	95.00%	94.56%	95.00%	97.00%

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

WAGE AND HOUR DIVISION

Workload and Performance Summary

WHD has prioritized its responsibilities into the following key goals:

- Providing that workers are employed in compliance with wage and hour laws;
- Sustaining compliance through the strategic use of enforcement tools;
- Fostering a customer-oriented quality-driven culture in WHD; and
- Issuing prevailing wage determinations that are current and accurate.

The agency's priorities are supported by performance measures designed to monitor the organization's progress in achieving strategic enforcement and compliance outcomes. WHD uses a balance of measures to evaluate whether the agency is effective, productive, and consistent in applying new policies and strategies. A subset of performance measures allows the agency to assess whether it is undertaking the activities and pursuing the strategies that logistically support the goals and outcomes that the agency hopes to achieve.

To support the discussion of resource levels, it is important to first understand how WHD prioritized the broad scope of its compliance responsibilities.

Protecting Workers at Risk of Violation

WHD concentrates its directed enforcement program towards increasing the percentage of workers employed in compliance with the laws that the agency enforces. The agency uses its directed investigations to increase its presence in priority program areas and within those industries using business models that obscure the employment relationship. Vulnerable workers in these industries are also the least likely to complain. Too few workers in high risk industries, too few young workers in dangerous working conditions, and almost no workers with disabilities will file complaints when they are the subject of a violation.

WHD has demonstrated that it can have a broader effect on compliance within industries through the use of directed enforcement initiatives. Therefore, to continue to be effective in securing compliance on behalf of the workers who are at the greatest risk of being the subject of a violation, WHD must increase the number and percentage of its directed investigations. With additional investigative resources, WHD can continue to increase the number and percentage of its directed investigations to optimal levels.

WHD will continue to leverage its relationships with other federal, state, and local agencies and with worker, employer, and community organizations. Stakeholder coordination will provide avenues for information gathering on compliance issues and will provide opportunities to develop meaningful compliance assistance tools. Public information releases, issued through various news media and new technologies will help inform the public about WHD laws and compliance actions taken. By increasing public awareness through traditional methods such as press releases, as well as newer methods that take advantage of digital services and devices, WHD will aim to sustain compliance by deterring violations among employers within high-risk industries.

Workers Outside the Employment Relationship

WAGE AND HOUR DIVISION

WHD will increase its presence in those industries that have evolved business practices to avoid classifying and treating workers as employees, including those in which employees are misclassified as independent contractors. More and more industries are moving to business models in which the beneficiaries of the labor are distanced by multiple layers from the individuals who actually perform the labor. Rather than add workers to their permanent payrolls and assume the obligations associated with employment relationships, companies are relying on various contingent workforce solutions to produce goods and services.

Individuals wrongly classified as independent contractors are denied access to critical benefits and protections — such as family and medical leave, overtime, unemployment insurance, workers' compensation insurance, and workplace civil rights — to which they may be entitled as regular employees. This type of employment fraud also generates substantial losses to the Treasury and the Social Security, Medicare and Unemployment Insurance Trust Funds.

Workers with Disabilities

Based on the results of the FY 2010 investigation-based evaluation of Community Rehabilitation Programs (CRPs), WHD has undertaken several key changes to the Section 14(c) program. In addition to increasing targeted enforcement, WHD is examining its certification processes and evaluating new technologies to promote employer compliance. This past year, WHD began working with the Department of Justice to broaden its ability to secure the best possible outcomes for workers with disabilities, including avenues toward integrated employment. The increased targeting led to the first revocation of a Section 14(c) certification in recent history.

Individuals with disabilities are among the most vulnerable workers in the United States. If an employer is permitted to pay a sub-minimum wage to a disabled worker, it should scrupulously follow the requirements of 14(c). A recent evaluation found that compliance rates among Section 14(c) community rehabilitation programs are low. WHD determined that the basis for the violations was centered on three factors: (1) high staff turnover; (2) inattention to the Section 14(c) requirements; and (3) the complexity of the program's prevailing rate determination processes. WHD is pursuing several specific steps to promote greater compliance, including redesigning the certification process, integrating the certification process with online knowledge-based technologies, greater training options for the community rehabilitation program staff, and more targeted enforcement.

Agricultural Workers

Agricultural labor remains one of the most dangerous and difficult jobs performed in this country. Domestic and temporary non-immigrant agricultural workers endure low wages, unsafe housing and transportation, and harsh working conditions. In FY 2015, WHD will build upon the results of its FY 2013 directed enforcement plan organized around various supply chains for hand-harvested crops, whose workers are likely to be subjected to especially poor conditions. WHD will continue to conduct directed investigations in this industry to determine compliance with all applicable agricultural labor standards statutes and to work towards achieving a more sustainable impact on the compliance level within the industry. Directed investigations in agriculture will also focus on detecting and deterring child labor violations as this industry has historically seen the highest number of child fatalities. Outreach efforts to workers will be designed to increase WHD visibility among agricultural worker populations. Penalties,

WAGE AND HOUR DIVISION

sanctions, revocation, hot goods, debarment, and similar strategies will be used as appropriate to promote future compliance among violators and to deter violations among other agricultural employers.

Sustaining Compliance Through Strategic Enforcement

WHD has begun seeking opportunities to provide that employers have every incentive to maintain compliance largely by implementing enhanced compliance agreements, by pursuing corporate and enterprise resolutions to investigations, and by examining employment policies. WHD will continue to explore these strategies and will evaluate the effectiveness of these tools within priority industries and programs, particularly as they demonstrate increased deterrence effects.

Family and Medical Leave Act

In order to promote work and family balance, WHD is implementing its FMLA enforcement policies to promote a more comprehensive approach to compliance. These strategies will provide a more in-depth review of the employer's business practices and leave policies with the objective of making a broader impact on compliance, rather than resolving one individual complaint. For many middle class and low wage workers, FMLA may be the only job protection that is available for these individuals. The recent survey of employers and employees leave taking under FMLA, which builds upon the findings from prior surveys completed in 1995 and 2000, will help refine and develop policies and enforcement strategies.⁶

Wage Determinations

The McNamara-O'Hara Service Contract Act (SCA) and Davis-Bacon and Related Acts (DBRA) prevailing wage requirements provide a floor for the payment of wages. The prevailing wage programs provide protections to local workers who may be disadvantaged by competition from outside labor offering their services at wages lower than those in the locality. Current and accurate prevailing wage rates provide a level of income consistent with local labor markets. Workers in traditional low-wage industries, such as residential construction, janitorial, and guard services, receive the assurance of a prevailing wage when they are employed on federally-funded or assisted contracts. Workers benefit only if the wages issued by the Department are accurate, up-to-date, and truly reflective of what is prevailing in the locality. Increased automation, building on the modernization of WHD's IT system included in the FY 2015 request, will improve the quality and timeliness of the wage rates. Both systems need to be modernized and updated to more agile systems that can be adapted to changes in procedures and policies.

Effect of Increased Funding

At the increased funding level which will increase investigator FTE, along with the focus on modernizing WHD's talent management and IT systems, WHD will be an efficient, effective enforcement agency for the 21st century. WHD will be able to increase its directed enforcement to 50 percent of its investigations, and increase the percent of investigations in priority industries. A more nimble IT system will allow WHD to coordinate its business processes across all of the Acts it enforces. The number and quality of investigations WHD conducts will increase, and that

⁶ Available: <http://www.dol.gov/whd/fmla/survey/>.

WAGE AND HOUR DIVISION

increase will lead to decreased non-compliance in the industries where WHD has historically seen high violation levels. These effects of the increased funding directly supports the goals of securing wages and overtime and protecting workers' rights.

WAGE AND HOUR DIVISION

BUDGET ACTIVITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2013 Enacted	FY 2014 Enacted	FY 2015 Request	Diff. FY15 Request / FY14 Enacted
11.1	Full-time permanent	105,951	105,342	122,677	17,335
11.3	Other than full-time permanent	0	1,450	1,450	0
11.5	Other personnel compensation	1,429	2,126	2,126	0
11.9	Total personnel compensation	107,380	108,918	126,253	17,335
12.1	Civilian personnel benefits	32,317	32,599	36,876	4,277
13.0	Benefits for former personnel	0	0	0	0
21.0	Travel and transportation of persons	6,725	6,000	8,044	2,044
22.0	Transportation of things	28	15	15	0
23.1	Rental payments to GSA	10,569	11,000	14,121	3,121
23.2	Rental payments to others	28	20	20	0
23.3	Communications, utilities, and miscellaneous charges	3,597	4,184	4,941	757
24.0	Printing and reproduction	620	540	718	178
25.1	Advisory and assistance services	2,955	3,946	3,946	0
25.2	Other services from non-Federal sources	5,508	3,750	4,479	729
25.3	Other goods and services from Federal sources 1/	22,668	24,319	29,356	5,037
25.4	Operation and maintenance of facilities	0	800	800	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	19,432	25,689	32,664	6,975
26.0	Supplies and materials	1,100	1,260	1,551	291
31.0	Equipment	2,257	1,290	1,982	692
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	Total	215,184	224,330	265,766	41,436
	1/Other goods and services from Federal sources				
	Working Capital Fund	18,323	19,120	22,952	3,832
	DHS Services	1,076	1,076	1,076	0
	GSA Services	181	181	181	0
	Services by Other Government Departments	3,088	3,942	5,147	1,205

WAGE AND HOUR DIVISION

CHANGES IN FY 2015

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	\$1,403
Personnel benefits	0
Employee health benefits	0
Moving allowance	0
Federal Employees' Compensation Act (FECA)	9
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	1,244
Rental payments to others	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services from non-Federal sources	0
Working Capital Fund	1,340
Other Federal sources (DHS Charges)	0
Other goods and services from Federal sources	936
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 **\$4,932**

Net Program **\$36,504**

Direct FTE **305**

	Estimate	FTE
Base	\$229,262	1,809
Program Increase	\$36,504	305
Program Decrease	\$0	0