

FY 2020

CONGRESSIONAL BUDGET JUSTIFICATION

WAGE AND HOUR DIVISION

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WAGE AND HOUR DIVISION

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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, [\$229,000,000] \$232,568,000.

(Department of Labor Appropriations Act, 2019.)

WAGE AND HOUR DIVISION

AMOUNTS AVAILABLE FOR OBLIGATION						
(Dollars in Thousands)						
	FY 2018 Enacted		FY 2019 Enacted		FY 2020 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
A. Appropriation	1,355	\$227,500	1,297	\$229,000	1,304	\$232,568
Reimbursements (CMP's)	0	\$2,800	0	\$2,800	0	\$2,800
H-1B L Fraud Fees (Collected)	281	\$53,000	214	\$48,000	214	\$48,000
Transfer from ETA SUIESO (Pursuant to P.L. 115-141 Sec. 102)	0	\$1,500	0	\$0	0	\$0
<i>Subtotal</i>	<i>1,636</i>	<i>\$284,800</i>	<i>1,511</i>	<i>\$279,800</i>	<i>1,518</i>	<i>\$283,368</i>
B. Gross Budget Authority	1,636	\$284,800	1,511	\$279,800	1,518	\$283,368
Reimbursements (CMP's)	0	-\$2,800	0	-\$2,800	0	-\$2,800
H-1B L Fraud Fees (Collected)	-281	-\$53,000	-214	-\$48,000	-214	-\$48,000
Transfer from ETA SUIESO (Pursuant to P.L. 115-141 Sec. 102)	0	-\$1,500	0	\$0	0	\$0
C. Budget Authority Before Committee	1,355	\$227,500	1,297	\$229,000	1,304	\$232,568
Reimbursements (CMP's)	0	\$2,800	0	\$2,800	0	\$2,800
H-1B L Fraud Fees Actual	281	\$53,000	214	\$48,000	214	\$48,000
Transfer from ETA SUIESO (Pursuant to P.L. 115-141 Sec. 102)	0	\$1,500	0	\$0	0	\$0
D. Total Budgetary Resources	1,636	\$284,800	1,511	\$279,800	1,518	\$283,368
FTE Lapsed and Unobligated Balance Expiring	-24	-\$1,015	0	\$0	0	\$0
E. Total, Estimated Obligations	1,612	\$283,785	1,511	\$279,800	1,518	\$283,368

WAGE AND HOUR DIVISION

SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2019 Enacted	FY 2020 Request	Net Change
Budget Authority			
General Funds	\$277,000	\$280,568	+\$3,568
Total	\$277,000	\$280,568	+\$3,568
Full Time Equivalents			
General Funds	1,511	1,518	7
Total	1,511	1,518	7

Explanation of Change	FY 2020 Change							
	FY 2019 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Increases:								
A. Built-Ins:								
To Provide For:								
Costs of pay adjustments	1,511	\$142,241	0	\$0	0	\$0	0	\$0
Personnel benefits	0	\$46,651	0	\$0	0	\$0	0	\$0
Employee health benefits	0	\$0	0	\$0	0	\$0	0	\$0
Moving allowance	0	\$0	0	\$0	0	\$0	0	\$0
One day more of pay	0	\$0	0	\$0	0	\$617	0	\$617
Federal Employees' Compensation Act (FECA)	0	\$1,127	0	\$0	0	\$0	0	\$0
Benefits for former personnel	0	\$0	0	\$0	0	\$0	0	\$0
Travel and transportation of persons	0	\$0	0	\$0	0	\$0	0	\$0
Transportation of things	0	\$1	0	\$0	0	\$0	0	\$0
Rental payments to GSA	0	\$0	0	\$0	0	\$0	0	\$0
Rental payments to others	0	\$14	0	\$0	0	\$0	0	\$0
Communications, utilities, and miscellaneous charges	0	\$1,297	0	\$0	0	\$0	0	\$0
Printing and reproduction	0	\$250	0	\$0	0	\$0	0	\$0
Advisory and assistance services	0	\$2,399	0	\$0	0	\$0	0	\$0
Other services from non-Federal sources	0	\$600	0	\$0	0	\$0	0	\$0
Working Capital Fund	0	\$0	0	\$0	0	\$0	0	\$0
Other Federal sources (DHS Charges)	0	\$1,400	0	\$0	0	\$0	0	\$0
Other goods and services from Federal sources	0	\$6,767	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	\$4,837	0	\$0	0	\$0	0	\$0
Supplies and materials	0	\$193	0	\$0	0	\$0	0	\$0

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FY 2020 Change

Explanation of Change	FY 2019 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Equipment	0	\$900	0	\$0	0	\$0	0	\$0
Grants, subsidies, and contributions	0	\$0	0	\$0	0	\$0	0	\$0
Insurance claims and indemnities	0	\$1,416	0	\$0	0	\$0	0	\$0
Built-Ins Subtotal	1,511	+\$210,093	0	\$0	0	+\$617	0	+\$617
B. Programs:								
WCF-Worker Protection IT								
Modernization Efforts	0	\$0	0	\$0	0	\$2,500	0	\$2,500
Compliance Assistance	0	\$0	0	\$0	7	\$1,068	7	\$1,068
Programs Subtotal			0	\$0	7	+\$3,568	7	+\$3,568
Total Increase	1,511	+\$210,093	0	\$0	7	+\$4,185	7	+\$4,185
Decreases:								
A. Built-Ins:								
To Provide For:								
Travel and transportation of persons	0	\$2,924	0	\$0	0	-\$62	0	-\$62
Rental payments to GSA	0	\$14,218	0	\$0	0	-\$76	0	-\$76
Working Capital Fund	0	\$49,765	0	\$0	0	-\$479	0	-\$479
Built-Ins Subtotal	0	+\$66,907	0	\$0	0	-\$617	0	-\$617
B. Programs:								
Total Decrease	0	+\$66,907	0	\$0	0	-\$617	0	-\$617
Total Change	1,511	+\$277,000	0	\$0	7	+\$3,568	7	+\$3,568

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SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY¹ (Dollars in Thousands)								
	FY 2018 ² Enacted		FY 2019 Enacted		FY 2020 Request		Diff. FY20 Request / FY19 Enacted	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Wage and Hour Division	1,350	229,000	1,297	229,000	1,304	232,568	7	3,568
General Funds	1,350	229,000	1,297	229,000	1,304	232,568	7	3,568
Wage Hour H-1B	262	53,000	214	48,000	214	48,000	0	0
General Funds	262	53,000	214	48,000	214	48,000	0	0
Total	1,612	282,000	1,511	277,000	1,518	280,568	7	3,568
General Funds	1,612	282,000	1,511	277,000	1,518	280,568	7	3,568

NOTE: 2018 reflects actual FTE.

¹ Note: H-1B Fees - This account is not appropriated.

² FY 2018 Budget Authority reflects a transfer of \$1.500 million from ETA SUIESO as reported in the Department's budget operating plan.

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BUDGET AUTHORITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2018 Enacted	FY 2019 Enacted	FY 2020 Request	Diff. FY20 Request / FY19 Enacted
	Full-Time Equivalent				
	Full-time Permanent	1,612	1,511	1,518	7
	Total	1,612	1,511	1,518	7
	Average ES Salary	\$183,875	\$184,269	\$188,011	\$3,742
	Average GM/GS Grade	11	11	11	0
	Average GM/GS Salary	\$70,002	\$71,394	\$73,117	\$1,723
11.1	Full-time permanent	146,146	138,081	139,247	1,166
11.3	Other than full-time permanent	871	1,598	1,598	0
11.5	Other personnel compensation	2,559	2,562	2,562	0
11.8	Special personal services payments	0	0	0	0
11.9	Total personnel compensation	149,576	142,241	143,407	1,166
12.1	Civilian personnel benefits	50,294	47,778	48,062	284
13.0	Benefits for former personnel	50	0	0	0
21.0	Travel and transportation of persons	4,420	2,924	2,862	-62
22.0	Transportation of things	2	1	1	0
23.0	Rent, Communications, and Utilities	0	0	0	0
23.1	Rental payments to GSA	13,825	14,218	14,142	-76
23.2	Rental payments to others	10	14	14	0
23.3	Communications, utilities, and miscellaneous charges	1,495	1,297	1,297	0
24.0	Printing and reproduction	240	250	250	0
25.1	Advisory and assistance services	1,670	2,399	2,399	0
25.2	Other services from non-Federal sources	1,802	600	600	0
25.3	Other goods and services from Federal sources 1/	54,603	57,932	60,188	2,256
25.4	Operation and maintenance of facilities	0	0	0	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	3,378	4,837	4,837	0
26.0	Supplies and materials	325	193	193	0
31.0	Equipment	304	900	900	0
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	6	1,416	1,416	0
	Total	282,000	277,000	280,568	3,568
	1/Other goods and services from Federal sources				
	Working Capital Fund	47,703	49,765	49,286	-479
	DHS Services	1,619	1,400	1,400	0
	Services by DOL Agencies	5,000	6,381	6,616	235
	GSA Services	146	199	199	0
	Services by Other Government Departments	119	173	173	0

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AUTHORIZING STATUTES

Public Law / Act	Legislation	Statute No. / US Code	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 (1936).	41 U.S.C. 6501-6511	N/A
PUB. L. 90-321	Consumer Credit Protection Act (Title III – Restriction on Garnishment) (1968).	15 U.S.C. 1671-1677	N/A
PUB. L. 87-581	Contract Work Hours and Safety Standards Act, as amended (1962).	40 U.S.C. 3701-3708	N/A
PUB. L. 89-286	McNamara-O’Hara Service Contract Act, as amended (1965).	41 U.S.C. 351-357	N/A
PUB. L. 74-403	Davis-Bacon Act, as amended and related acts (1931).	40 U.S.C. , Chapter 31, Subpart IV	N/A
PUB. L. 97-470	Migrant and Seasonal Agricultural Worker Protection Act (1983).	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. 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 Emergency Supplemental Appropriation Act (1998).	Title IV, sec. 414(b) and (c)	N/A

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Public Law / Act	Legislation	Statute No. / US Code	Expiration Date
PUB. L. 108-447	L-1 Visa and H-1B Visa Reform Act, Title IV of the Consolidated Appropriations Act, (2005).	Title IV, sec. 401-430	N/A
PUB. L. 89-209	National Foundation for the Arts and Humanities Act, Sections 5(i) and 7(g) (1965).	20 U.S.C. 954 (i) and 956 (g)	N/A

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APPROPRIATION HISTORY					
(Dollars in Thousands)					
	Budget Estimates to Congress	House Allowance	Senate Allowance	Appropriations	FTE
2010					
Base Appropriation	\$227,656			\$227,262	1,466
2011					
Base Appropriation	\$244,240			\$227,491	1,022
2012					
Base Appropriation	\$240,937		\$227,491	\$227,061	1,418
2013					
Base Appropriation	\$237,730			\$215,184	1,420
2014					
Base Appropriation	\$243,254			\$224,330	1,446
2015					
Base Appropriation	\$265,766			\$227,500	1,332
2016					
Base Appropriation	\$277,100	\$215,500	\$210,000	\$227,500	1,376
2017					
Base Appropriation	\$276,599			\$227,500	1,404
2018					
Base Appropriation...1/	\$230,068	\$217,500		\$227,500	1,355
2019					
Base Appropriation...2/	\$230,068		\$229,000	\$229,000	1,297
2020					
Base Appropriation	\$232,568				1,304

1/ 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.

2/ This bill was passed by the Senate. It was passed out of the House Subcommittee but was not reported out of the House Committee or by the full House.

NOTE: FTE shown only includes FTE funded from the WHD annual appropriation.

WAGE AND HOUR DIVISION

OVERVIEW

Introduction

The Wage and Hour Division (WHD) enforces minimum wage, overtime, and other wage laws under 29 U.S.C. 201, *et seq.*, so that America's workers receive wages required by law and businesses that play by the rules can operate on a level playing field. Collectively, these laws cover most private, state, and local government employment and protect more than 143 million of America's workers in more than 9.8 million establishments throughout the United States and its territories.

WHD enforces and administers:

- The minimum wage, overtime, child labor, anti-retaliation, and break time for nursing mothers provisions of the Fair Labor Standards Act (FLSA);
- The prevailing wage requirements and wage determination provisions of the Davis Bacon Act (DBA) and Related Acts (DBRA), the Service Contract Act (SCA), the Contract Work Hours and Safety Standards Act (CWHSA), the Walsh-Healey Act, and the Copeland Act, an anti-kickback law;
- The wages and working conditions under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA);
- The field sanitation and temporary labor camp standards in agriculture under the Occupational Safety and Health Act (OSH Act);
- The Family and Medical Leave Act (FMLA);
- The Employee Polygraph Protection Act (EPPA);
- The labor standards protections of the Immigration and Nationality Act (INA) for certain temporary nonimmigrant workers admitted to the U.S., including the labor protections of the H-1B, H-2A, and H-2B programs so that the employment of non-immigrant workers will not adversely affect the wages and working conditions of similarly employed US workers; and
- The garnishment provisions of the Consumer Credit Protection Act (CCPA).

In the last five years, WHD has helped more than 1.3 million workers and recovered more than \$1.3 billion dollars in back wages in total. In FY 2018 alone, WHD recovered over \$300 million in back wages—an all-time record for the agency. Since FY 2011, the agency has recovered more than \$260 million in back wages for more than 260,000 workers on average per year. WHD enforcement actions in FY 2018 found, on average, approximately \$1,150 for each employee due back wages. WHD achieves these results by focusing on those industries with a high prevalence and severity of violations and by responding to employee and third party complaints. The agency achieves its mission through these primary objectives:

- Implementing the President's Management Agenda (PMA)
- Developing policy and guidance that support the mission
- Improving compliance through enforcement and compliance assistance

WHD is advancing the key drivers of transformation in the PMA by modernizing information technology (IT) and business processes; increasing the use of data and evidence throughout the

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organization; and by building a workforce equipped with the skills and tools necessary to conduct effective enforcement and compliance assistance. WHD has steadily expanded the use of agile methods to develop technology that meets the needs of the American workforce and the regulated community; to develop and apply a range of statistical and administrative data towards strategic planning at all levels of the organization; to continually improve business processes; and to more fully leverage the skills and abilities of its workforce.

In FY 2020, WHD will continue applying these approaches towards the goal of increasing organizational effectiveness and efficiency. WHD will pursue opportunities to consolidate offices where possible, engage the field in the development of new tools and approaches, and develop innovative programs that allow WHD to meet the challenges of the changing economy and workforce. WHD has fostered a pipeline of exceptional employees poised for advancement along administrative, professional, and managerial career tracks using career development programs launched in 2017. To remain effective, WHD must continually adapt its training and technology to ensure the workforce is equipped with the knowledge, skills, and tools to be successful.

WHD's request includes an increase of 7 FTE and \$1,068,000 from the 2019 Enacted level to implement modernized compliance assistance that will enable the agency to develop and deliver employer-focused resources and tools. WHD aims to deliver compliance assistance using methods and tools consistent with the private sector in order to better serve employers and stakeholders. WHD seeks to educate and communicate using approaches that reflect an audience that is increasingly accustomed to conducting its business online. Developing user-centric products and tools requires investing in the skills, expertise, and technology to remain effective and relevant in a rapidly changing landscape.

WHD is also seeking an increase of \$2,500,000 to fund the Department's Worker Protection IT Modernization efforts. Consistent with Departmental and government-wide transformation goals, WHD is seeking resources that will bolster efforts to modernize its IT infrastructure. WHD remains dependent on a highly inefficient legacy data structure to support its mission critical activities. WHD has undertaken an incremental, agile approach in transitioning to a cloud-based system. Working in close collaboration with the Department's Office of the Chief Information Officer (OCIO), WHD is leveraging learning from other government enforcement agencies to design a system that will support continuous business process improvements. While this transition is expected to have an outsized impact on long-term organizational effectiveness and efficiency, those gains cannot be realized without an upfront investment in building the necessary architecture and capacity to drive these transformational efforts.

To carry out its mission, WHD uses the complete set of tools it has available for enforcement, including thorough investigations; referrals to the Office of the Solicitor for litigation; collection of back wages, liquidated damages, and the use of civil monetary penalties; revocation and debarment of contractors and certificate holders; enhanced compliance agreements; and its hot goods authority. WHD enforcement helps protect job opportunities for Americans and safeguards working conditions of workers in the U.S. Consistent with the President's Executive Order on Buy American and Hire American, WHD rigorously enforces those laws within its jurisdiction governing the administration and enforcement of non-immigrant visa programs.

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From FY 2013 to FY 2018, WHD concluded more than 3,300 investigations of employers' adherence to the labor provisions of H-visa programs, finding more than \$64 million in back wages for more than 33,000 workers, and assessing more than \$28 million in civil money penalties. WHD coordinates with DOL and other federal law enforcement federal agencies, as appropriate, in carrying out those responsibilities. WHD is focusing enforcement and planning activities on industries with a high prevalence of H-program workers.

WHD recognizes the role of stakeholder input in developing effective compliance assistance and the potential of partnerships with industry for increasing compliance. The new nationwide program, the Payroll Audit Independent Determination (PAID) program, facilitates resolution of potential overtime and minimum wage violations under the FLSA. The program's primary objectives are to resolve such claims expeditiously and without litigation, to improve employers' compliance with overtime and minimum wage obligations, and to ensure that more employees receive the back wages they are owed faster. Under PAID, employers are encouraged to conduct audits and, if they discover overtime or minimum wage violations, to self-report those violations. Employers may then work in good faith with WHD to correct their mistakes and to quickly provide all back wages due to their affected employees. Implementation of the PAID Program includes ongoing assessments of lessons learned in order to promote positive outcomes for both employers and their employees. The PAID Program benefits all parties involved—employers, employees, and the taxpayers.

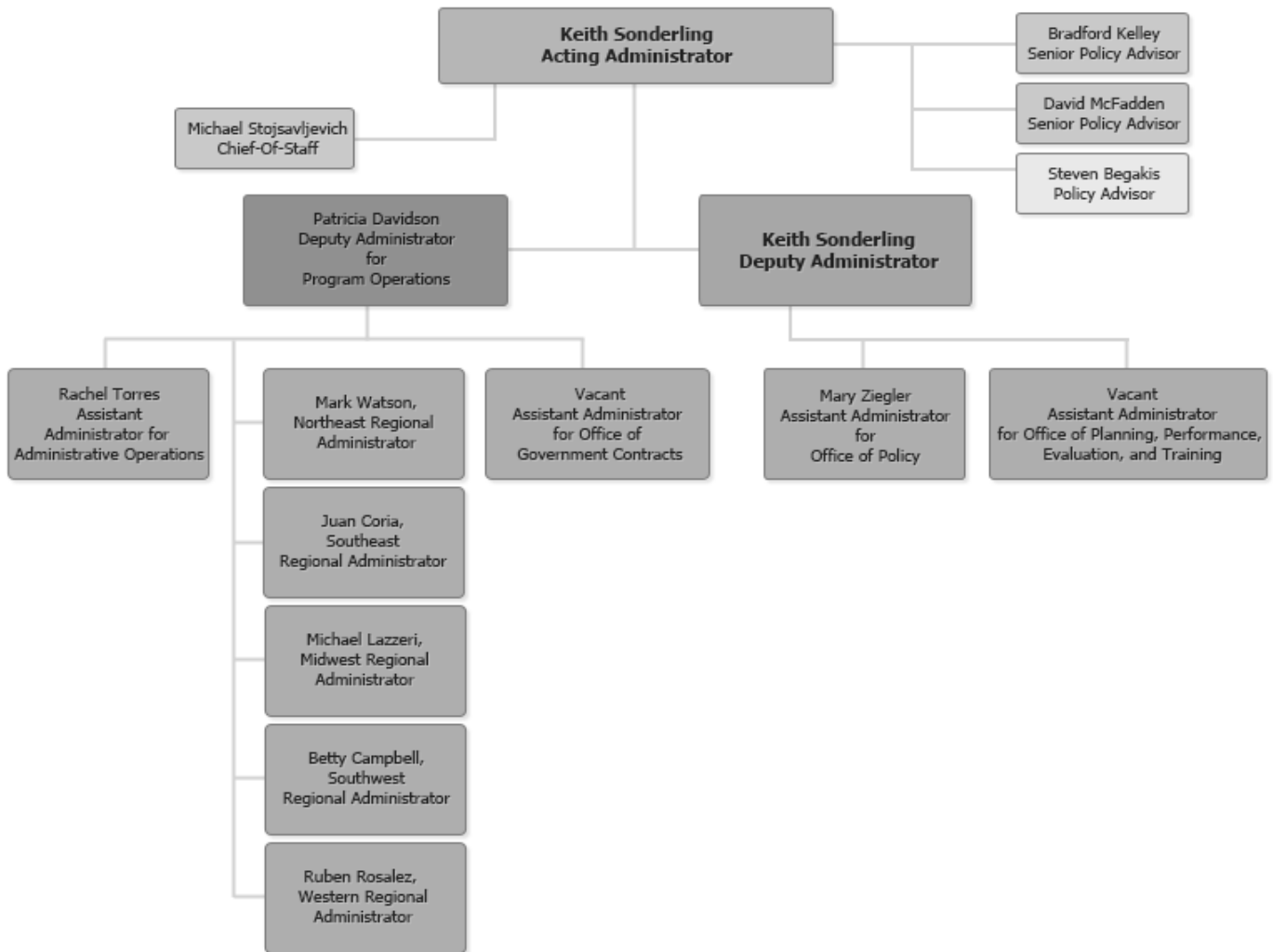
In the wake of natural disasters, WHD mobilizes to provide widespread compliance assistance to ensure that employers and employees have the information and the tools they need. In response to devastating hurricanes and wildfires in 2018, WHD was on the ground to provide information and to ensure that employers understood that their requirements and the protections afforded to employees under the statutes enforced by WHD are not waived during periods of natural disasters and recovery efforts. In the year after hurricanes Harvey, Irma and Maria, WHD recovered \$16,332,657 in unpaid wages for 11,212 employees engaged in recovery work in those territories.

By combining data-driven enforcement with well-designed compliance assistance and outreach, WHD reaches a broader number and cross-section of workers and businesses. WHD complements its enforcement with outreach and education to employers. Rather than rely on traditional text-heavy fact sheets and presentations, WHD has experimented with new ways to share information through visual design, infographics, videos, interactive web-based tools, and offers accessible and usable means in multiple contexts and formats. In 2017, WHD reinstated the opinion letter process to further assist employers in understanding how to comply with the laws enforced by WHD. In 2018, WHD released more than 30 opinion letters and modernized the process by including search functionality on the Department's website, allowing users to search opinion letters by key word, year, topic, and a variety of other filters.³ The FY 2020 Budget will allow WHD to significantly build on these efforts.

³ An opinion letter is an official, written opinion by WHD on how a particular law applies in specific circumstances presented by the person or entity requesting the letter. Opinion letters represent official statements of agency policy.

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ORGANIZATION CHART



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BUDGET AUTHORITY BEFORE THE COMMITTEE				
(Dollars in Thousands)				
	FY 2018 Enacted	FY 2019 Enacted	FY 2020 Request	Diff. FY20 Request / FY19 Enacted
Activity Appropriation	229,000	229,000	232,568	3,568
FTE	1,350	1,297	1,304	7

NOTE: FY 2018 reflects actual FTE. Authorized FTE for FY 2018 was 1,355.

Introduction

WHD prioritizes resources by using an evidence-based, multi-pronged approach to improve compliance which includes delivering compliance assistance to employers, conducting investigations in high-violation industries, engaging and educating private and public stakeholders, and using traditional and social media to inform employers, workers, consumers and the public about WHD’s work and about the resources available to them. WHD protects fair competition through investigations of employers that have gained an unfair advantage through violations of wage and hour laws. WHD also helps employers proactively address and prevent violations through new and innovative approaches to compliance assistance. WHD carries out enforcement and compliance assistance activities in areas and industries where data and research indicate that the problems are greatest and where workers are least likely to exercise their rights. Consistent with the President’s Executive Order on Buy American and Hire American, WHD rigorously enforces all laws within its jurisdiction governing the administration and enforcement of non-immigrant visa programs in order to protect American workers and guest workers.

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2015	\$227,500	1,332
2016	\$227,500	1,376
2017	\$227,500	1,404
2018	\$227,500	1,355
2019	\$229,000	1,297

FY 2020

At the FY 2020 Request Level, WHD requests \$232,568,000 and 1,304 FTE, which is \$3,568,000 and 7 FTE above the FY 2019 Enacted level. WHD’s budget includes a request for an increase of \$1,068,000 and 7 FTE for compliance assistance. The FY 2020 request also includes \$2,500,000 to support the Department’s Worker Protection Agencies’ IT Modernization efforts. In total, the Department is requesting \$20,000,000 for this initiative with resources requested in the following appropriations: Employee Benefits Security Administration, Office of Workers’ Compensation Programs, Office of Federal Contract Compliance Programs, Office of Labor-Management Standards, Wage and Hour Division, Occupational Safety and Health Administration, Mine Safety and Health Administration, and the Office of the Solicitor in the Departmental Management

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appropriation. These resources will be managed by OCIO on behalf of the worker protection agencies and OCIO will work in collaboration with the worker protection agencies to determine the specific funding requirements and where funding can best support the Department's IT modernization efforts.

With these funds, WHD can dedicate resources towards building a modern, cloud-based system that will achieve significant efficiency gains for the agency while eliminating the costs and risks of operating outdated systems. The FY 2020 request will be applied towards the development of a new system that aligns with forward-looking business processes and can support continuous process improvements. The existing legacy data structures are not sustainable and significantly limit the agency's ability to address long-standing operational inefficiencies, conduct sophisticated data analytics, and deploy new technology to support the WHD workforce and public. For example, WHD investigators and managers daily activities are slowed down by outdated workflows, slow system response times, redundant data entry, and an obsolete interface that hinders productivity, costing the agency thousands of hours per year. The resulting technical architecture will enable WHD to manage data as a valuable, strategic business asset, designed to support management decision-making and drive performance improvements. A dynamic, user-centric system is expected to significantly increase operational efficiencies, reduce costs, and allow for greater innovation in meeting the mission. Investigators and programmatic staff can dedicate more time and creativity towards higher value work while agency leadership can focus resources where data and evidence show WHD can have the greatest impact.

The request for additional resources to support compliance assistance will allow the agency to further modernize approaches to providing compliance assistance to the regulated community. WHD regularly issues press releases describing concluded cases where the facts of the case may serve to educate employees, other employers, or the particular industry in general about common violations and how to comply. WHD also maintains a Twitter account that amplifies nearly every press release with a social media distribution. The requested resources would build on the agency's recent track record of developing and delivering compliance assistance using new types of media and user-focused approaches. WHD developed [web-based calculators](#)⁴ to support employers participating in the FLSA 14(c) subminimum wage program, and the [Section 14\(c\) Online Certification Application](#)⁵ allows employers to submit their section 14(c) application electronically to WHD. In FY 2018, WHD released online [FLSA video modules](#)⁶ developed with significant stakeholder input. These viable proof-of-concepts demonstrate how WHD is working with industry to produce tools that help employers comply with the law. By adopting modern techniques from the private sector, WHD is building tools with a customer-centric focus, using iterative development approaches, and engaging customers in the process. Developing improved approaches to compliance assistance requires new skills, expertise, and dedicated resources. With additional FTE, WHD will hire additional outreach specialists in the field and experts in user-centered design to improve WHD materials and resources. WHD would develop and experiment with approaches for reaching a broader cross-section of employers, improving methods for delivering hands-on outreach and education, and investing in productive stakeholder relationships focused on addressing emerging issues of interest to a range of industries. WHD

⁴ <https://www.dol.gov/whd/sec14c/calculators/>

⁵ <https://section14c.dol.gov/#/>

⁶ <https://www.dol.gov/whd/flsa/videos.htm>

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will incorporate evaluation methods, including techniques from behavioral sciences, into the design and implementation of these new tools, allowing for timely feedback from end users and, where appropriate, the use of experimental study designs.

FY 2019

Figures shown for FY 2019 reflect the FY 2019 full-year enacted appropriations of \$229,000,000.

In FY 2019, WHD is further defining and implementing a modernization roadmap, developed in close collaboration with the Department. Ongoing investments and implementation will continue in FY 2020. WHD has a renewed emphasis on the role of compliance assistance in serving the employer community. WHD will continue exploring ways to deliver more effective compliance assistance information using evidence-based approaches and leveraging new platforms and technology.

WHD completed two significant actions requested by the Committee on Appropriations. On September 26, 2018, WHD implemented Executive Order 13838, Exemption from Order 13658 for Recreational Services on Federal Lands, by publishing a [final rule](#).⁷ In FY 2018, prior to finalizing the implementing rule, WHD published [sub-regulatory guidance](#)⁸ to assist the field and public. WHD also clarified on its website, and in other public communications, eligibility under FMLA as it relates to living organ donation. On August 28, 2018, WHD issued opinion letter FMLA2018-2-A stating that organ donation can qualify as a “serious health condition” under FMLA. The [letter](#) is available to the public and searchable.⁹ Additionally, WHD is preparing sub-regulatory guidance to assist field enforcement and the public, including FAQs and updates to the Field Operations Handbook.

FY 2018

In FY 2018, WHD recovered a record \$304 million in back wages owed to over 265,000 workers. WHD continued to prioritize industries that demonstrate a history of violations. WHD tracks “no violation” rates as indicators of whether the agency is selecting the right employers for investigation. As a result, WHD exceeded targeted no violation rates for both agency-initiated and complaint-based investigations (21% target, 14% result). Compliance actions fell just below the planned level (29,500 target, 28,397 result), which is consistent with the decrease in FTE in FY 2018. WHD established a baseline of 1,436 outreach events and 12,003 outreach hours to employers, community organizations, industry associations, and other stakeholders, nationwide. Tracking outreach activities allows WHD to capture the agency’s compliance assistance efforts, which are a critical tool in addressing employer compliance.

⁷ <https://www.gpo.gov/fdsys/pkg/FR-2018-09-26/pdf/2018-20757.pdf>

⁸ <https://www.dol.gov/whd/flsa/eo13658/eo-aam.pdf>

⁹ <https://www.dol.gov/whd/opinion/search/index.htm?FMLA>

WAGE AND HOUR DIVISION

WORKLOAD AND PERFORMANCE SUMMARY¹⁰					
	FY 2018 Enacted		FY 2019 Enacted	FY 2020 Request	
	Target	Result	Target	Target	
Wage and Hour Division¹¹					
Strategic Goal 2 - Promote Safe Jobs and Fair Workplaces for All Americans					
Strategic Objective WHD 2.3 - Secure lawful wages and working conditions for America's workers.					
WHD-SEV-01	Percent of FLSA cases with severity score	--	--	--	TBD
WHD-Eff-01	Average hours spent in FLSA investigations with no back wages	--	--	35.0	34.0
WHD-DB-06	Percent of Building, Heavy, and Residential Wage Classifications Published at the County or Group Level	[base]	57%	56%	57%
WHD-CA-01	Number of Outreach Events to Employers	[base]	1,436	1,450	1,500
WHD-CA-02	Number of outreach hours to employers	[base]	12,003	12,150	12,500
WHD-E-02	Percent of agency-initiated investigations (excludes conciliations)	46%	53%	46%	46%
WHD-E-04	Percent of agency-initiated no violation cases	21%	14%	21%	20%
WHD-E-05	Percent of complaint no violation cases	21%	14%	21%	20%
WHD-E-01	Number of compliance actions	29,500	28,397	28,000	27,000

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

¹⁰ Strategic Objective 3.2 - WHD is currently exploring new measures that will better reflect its priorities in FMLA that better align with corporate wide compliance for protecting employee family leave.

¹¹ WHD is replacing its FMLA measure to better align with its objectives in this area.

WAGE AND HOUR DIVISION

Workload and Performance Summary

WHD's performance measures are designed to monitor progress towards achieving compliance outcomes. WHD uses a balance of measures to evaluate whether the agency is effective, productive, and consistent in applying its strategies that are believed to improve outcomes. WHD is developing next-generation performance measures to drive continued growth and improvement. The current measures have been augmented with measures that balance enforcement priorities and compliance assistance needs. Changes to measures and the addition of contextual measures will inform the agency's approach to target-setting, which also aims for an appropriate balance of quantity, quality, and effectiveness.

To capture the scope of its compliance assistance activities, in FY 2018 WHD implemented baseline measures tracking outreach events to employers and the number of hours spent conducting outreach to employers. These measures align with WHD's commitment to direct engagement with industry leaders and the development of more modern compliance assistance methods. WHD internally tracks access and use of new compliance assistance tools and leverages feedback to improve compliance assistance products. FY 2020 targets reflect WHD's goal of ensuring that an active and productive compliance assistance program delivers information and resources strategically and effectively.

Estimated case action numbers reflect WHD's recent attrition and the need to dedicate resources to IT modernization. WHD maintains a dual emphasis on case quality and efficiency. WHD balances these goals using complementary measures. In FY 2020, WHD is implementing a severity index for cases registered under the FLSA, which will equip managers with better data to support strategic planning and case selection. The FY 2020 target for compliance actions reflects WHD's goal of emphasizing investigations where WHD finds the most severe violations over the overall number of compliance actions of any kind. In FY 2019, WHD is establishing new baselines for its priority industry measures to include only cases registered under the FLSA, which represent the majority of WHD cases.¹²

WHD continues to track cases with no violations (i.e., no violation rates) as an indicator of whether the agency is accurately selecting employers for investigation. In FY 2018, WHD reduced the rate of cases without a violation to 14 percent for both agency-initiated and complaint-based investigations. Concurrently, WHD further increased the proportion of agency-initiated investigations to 53 percent, surpassing the 46 percent target. These measures are successfully driving evidence-based strategies designed to maximize the agency's impact and outcomes.

¹² WHD compliance actions are registered under a primary statute (e.g., FLSA) in the enforcement database, but a case may involve violations of more than one statute. The previous priority industries measure included cases registered under all statutes, which, due to a range of factors, do not as closely align with priority industries that are chiefly determined by estimates of the prevalence of minimum wage and overtime violations.

WAGE AND HOUR DIVISION

BUDGET ACTIVITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2018 Enacted	FY 2019 Enacted	FY 2020 Request	Diff. FY20 Request / FY19 Enacted
11.1	Full-time permanent	117,727	117,283	118,449	1,166
11.3	Other than full-time permanent	635	1,362	1,362	0
11.5	Other personnel compensation	2,122	1,780	1,780	0
11.8	Special personal services payments	0	0	0	0
11.9	Total personnel compensation	120,484	120,425	121,591	1,166
12.1	Civilian personnel benefits	41,325	40,903	41,187	284
13.0	Benefits for former personnel	50	0	0	0
21.0	Travel and transportation of persons	3,620	2,124	2,062	-62
22.0	Transportation of things	2	1	1	0
23.1	Rental payments to GSA	13,825	14,218	14,142	-76
23.2	Rental payments to others	10	14	14	0
23.3	Communications, utilities, and miscellaneous charges	1,495	1,297	1,297	0
24.0	Printing and reproduction	240	250	250	0
25.1	Advisory and assistance services	1,284	1,995	1,995	0
25.2	Other services from non-Federal sources	1,802	600	600	0
25.3	Other goods and services from Federal sources 1/	41,814	40,182	42,438	2,256
25.4	Operation and maintenance of facilities	0	0	0	0
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	2,416	4,485	4,485	0
26.0	Supplies and materials	323	190	190	0
31.0	Equipment	304	900	900	0
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	6	1,416	1,416	0
	Total	229,000	229,000	232,568	3,568
	1/Other goods and services from Federal sources				
	Working Capital Fund	39,914	38,065	37,586	-479
	DHS Services	1,619	1,400	1,400	0
	Services by DOL Agencies	0	331	566	235
	GSA Services	146	199	199	0
	Services by Other Government Departments	119	173	173	0

WAGE AND HOUR DIVISION

CHANGES IN FY 2020

(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 more of pay	617
Federal Employees' Compensation Act (FECA)	0
Benefits for former personnel	0
Travel and transportation of persons	-62
Transportation of things	0
Rental payments to GSA	-76
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	-479
Other Federal sources (DHS Charges)	0
Other goods and services from Federal sources	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 **\$0**

Net Program **\$3,568**

Direct FTE **7**

	Estimate	FTE
Base	\$229,000	1,297
Program Increase	\$3,568	7
Program Decrease	\$0	0