

FY 2017

CONGRESSIONAL BUDGET JUSTIFICATION

BLACK LUNG DISABILITY TRUST FUND

This page is intentionally left blank.

BLACK LUNG DISABILITY TRUST FUND

TABLE OF CONTENTS

| | |
|---|----|
| Appropriation Language | 1 |
| Analysis of Appropriation Language..... | 2 |
| Amounts Available for Obligation..... | 3 |
| Summary of Changes | 4 |
| Budget Authority by Object Class | 6 |
| Authorizing Statutes..... | 7 |
| Appropriation History..... | 8 |
| Overview..... | 9 |
| Budget Activities | 11 |
| Black Lung Disability Trust Fund | 11 |

This page is intentionally left blank.

BLACK LUNG DISABILITY TRUST FUND

(Including Transfer of Funds)

APPROPRIATION LANGUAGE

Such sums as may be necessary from the Black Lung Disability Trust Fund (the "Fund"), to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (6), and (7) of the Internal Revenue Code of 1986; and repayment of, and payment of interest on advances, as authorized by section 9501(d)(4) of that Act. In addition, the following amounts may be expended from the Fund for fiscal year [2016] 2017 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): not to exceed [\$35,244,000] \$38,246,000 for transfer to the Office of Workers' Compensation Programs, "Salaries and Expenses"; not to exceed [\$30,279,000] \$30,594,000 for transfer to Departmental Management, "Salaries and Expenses"; not to exceed [\$327,000] \$330,000 for transfer to Departmental Management, "Office of Inspector General"; and not to exceed \$356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury. (*Department of Labor Appropriations Act, 2016.*)

BLACK LUNG DISABILITY TRUST FUND

ANALYSIS OF APPROPRIATION LANGUAGE

“Such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d) (1), (2), (6) and (7), of the Internal Revenue Code...”

This language provides indefinite budget authority for the payment of all benefits from the Trust Fund.

“...and repayment of advances and payment of interest on advances, as authorized by section 9501(d)(4) of that Act...”

This language provides for repayment of advances and interest payments on advances from the Trust Fund.

"... for expenses of operation and administration of the Black Lung Benefits program, as authorized by Section 9501(d)(5) of that Act..."

This language provides for the payment of administrative costs associated with the operation and administration of the Trust Fund.

BLACK LUNG DISABILITY TRUST FUND

| AMOUNTS AVAILABLE FOR OBLIGATION | | | | | | |
|---|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| (Dollars in Thousands) | | | | | | |
| | FY 2015 Enacted | | FY 2016 Enacted | | FY 2017 Request | |
| | FTE | Amount | FTE | Amount | FTE | Amount |
| A. Appropriation | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Definite | 0 | \$64,407 | 0 | \$66,206 | 0 | \$69,526 |
| Sequestration Reduction Pursuant to P.L. 113-235 for FY 2015 | 0 | -\$4,701 | 0 | \$0 | 0 | \$0 |
| Sequestration Reduction Pursuant to P.L. 114-113 for FY 2016 | 0 | \$0 | 0 | -\$4,502 | 0 | \$0 |
| Indefinite | 0 | \$261,386 | 0 | \$277,385 | 0 | \$302,115 |
| <i>Subtotal, Appropriation</i> | <i>0</i> | <i>\$321,092</i> | <i>0</i> | <i>\$339,089</i> | <i>0</i> | <i>\$371,641</i> |
| Bond Repayment and Payment on Advances | 0 | \$891,769 | 0 | \$981,213 | 0 | \$1,190,930 |
| | | | | | | |
| B. Gross Budget Authority | 0 | \$1,212,861 | 0 | \$1,320,302 | 0 | \$1,562,571 |
| Bond Repayment and Payment on Advances | 0 | -\$891,769 | 0 | -\$981,213 | 0 | -\$1,190,930 |
| | | | | | | |
| C. Budget Authority Before Committee | 0 | \$321,092 | 0 | \$339,089 | 0 | \$371,641 |
| Bond Repayment and Payment on Advances | 0 | \$891,769 | 0 | \$981,213 | 0 | \$1,190,930 |
| | | | | | | |
| D. Total Budgetary Resources | 0 | \$1,212,861 | 0 | \$1,320,302 | 0 | \$1,562,571 |
| | | | | | | |
| E. Total, Estimated Obligations | 0 | \$1,212,861 | 0 | \$1,320,302 | 0 | \$1,562,571 |

BLACK LUNG DISABILITY TRUST FUND

SUMMARY OF CHANGES

(Dollars in Thousands)

| | FY 2016 Enacted | FY 2017 Request | Net Change |
|-------------------------|--------------------|--------------------|------------|
| Budget Authority | | | |
| General Funds | \$0 | \$0 | \$0 |
| Trust Funds | \$339,089 | \$371,641 | +\$32,552 |
| Total | \$339,089 | \$371,641 | +\$32,552 |

| | | | |
|------------------------------|---|---|---|
| Full Time Equivalents | | | |
| General Funds | 0 | 0 | 0 |
| Total | 0 | 0 | 0 |

| Explanation of Change | FY 2016 Base | | FY 2017 Change | | | | | |
|--|--------------|-------------------|--------------------|-----------------------|----------------------|-------------------------|--------------|------------------|
| | FTE | Amount | Trust Funds FTE | Trust Funds Amount | General Funds FTE | General Funds Amount | Total FTE | Total Amount |
| Increases: | | | | | | | | |
| A. Built-Ins: | | | | | | | | |
| To Provide For: | | | | | | | | |
| Costs of pay adjustments | 0 | \$61,704 | 0 | \$620 | 0 | \$0 | 0 | \$620 |
| Built-Ins Subtotal | 0 | +\$61,704 | 0 | +\$620 | 0 | \$0 | 0 | +\$620 |
| B. Programs: | | | | | | | | |
| BLDTF Payment of Bond Interest | 0 | \$121,295 | 0 | \$26,102 | 0 | \$0 | 0 | \$26,102 |
| BLDTF Payment of Interest on Advances | 0 | \$1,404 | 0 | \$5,815 | 0 | \$0 | 0 | \$5,815 |
| Sequestration Restoration-BLDTF | 0 | \$0 | 0 | \$4,502 | 0 | \$0 | 0 | \$4,502 |
| Coal Miner Health Initiative-OWCP | 0 | \$0 | 0 | \$1,500 | 0 | \$0 | 0 | \$1,500 |
| Black Lung Field Operations Support-OWCP | 0 | \$0 | 0 | \$600 | 0 | \$0 | 0 | \$600 |
| VoiP IVT IT Initiative – OWCP | 0 | \$0 | 0 | \$600 | 0 | \$0 | 0 | \$600 |
| Programs Subtotal | 0 | \$0 | 0 | +\$39,119 | 0 | \$0 | 0 | +\$39,119 |
| Total Increase | 0 | +\$184,403 | 0 | +\$39,739 | 0 | \$0 | 0 | +\$39,739 |
| Decreases: | | | | | | | | |
| A. Built-Ins: | | | | | | | | |
| To Provide For: | | | | | | | | |
| Built-Ins Subtotal | 0 | \$0 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| B. Programs: | | | | | | | | |
| BLDTF Benefits | 0 | \$154,686 | 0 | -\$7,187 | 0 | \$0 | 0 | -\$7,187 |
| Programs Subtotal | 0 | \$154,686 | 0 | -\$7,187 | 0 | \$0 | 0 | -\$7,187 |
| Total Decrease | 0 | +\$154,686 | 0 | -\$7,187 | 0 | \$0 | 0 | -\$7,187 |

BLACK LUNG DISABILITY TRUST FUND

| Explanation of Change | FY 2017 Change | | | | | | | |
|-----------------------|----------------|------------|-------------|-----------|---------------|--------|-------|-----------|
| | FY 2016 Base | | Trust Funds | | General Funds | | Total | |
| | FTE | Amount | FTE | Amount | FTE | Amount | FTE | Amount |
| Total Change | 0 | +\$339,089 | 0 | +\$32,552 | 0 | \$0 | 0 | +\$32,552 |

BLACK LUNG DISABILITY TRUST FUND

| BUDGET AUTHORITY BY OBJECT CLASS | | | | |
|---|----------------------------|----------------------------|----------------------------|--|
| (Dollars in Thousands) | | | | |
| | FY 2015 Enacted | FY 2016 Enacted | FY 2017 Request | Diff. FY17 Request / FY16 Enacted |
| Departmental Management | 28,184 | 28,220 | 30,594 | 2,374 |
| Treasury Administrative Costs | 330 | 332 | 356 | 24 |
| Office of Inspector General | 303 | 305 | 330 | 25 |
| OWCP- Division of Coal Mine Workers | 30,889 | 32,847 | 38,246 | 5,399 |
| <i>Subtotal</i> | <i>59,706</i> | <i>61,704</i> | <i>69,526</i> | <i>7,822</i> |
| Benefits | 164,000 | 154,686 | 147,499 | -7,187 |
| Payment of Bond Interest | 96,840 | 121,295 | 147,397 | 26,102 |
| Payment of Interest on Advances | 546 | 1,404 | 7,219 | 5,815 |
| Total | 321,092 | 339,089 | 371,641 | 32,552 |

BLACK LUNG DISABILITY TRUST FUND

AUTHORIZING STATUTES

| Public Law / Act | Legislation | Statute No. / US Code | Volume No. | Page No. | Expiration Date |
|------------------|--|------------------------|------------|----------|-----------------|
| PUB. L. 91-173 | Federal Coal Mine Health and Safety Act of 1969, (now called Federal Mine Safety and Health Act of 1977), Title IV, Black Lung Benefits Act, PUB. L. 91-173, Black Lung Benefits Revenue Act of 1977, PUB. L. 95-227, as amended in 1981 by PUB. L. 97-119 | 30 U.S.C. 901, et seq. | | | N/A |
| PUB. L. 107-275 | Black Lung Consolidation of Administrative Responsibility Act and Section 3615 of the Emergency Supplemental Appropriations Act, 2003, PUB. L. 108-83 | | | | N/A |
| PUB. L. 110-343 | Emergency Economic Stabilization Act of 2008 | | | | N/A |

BLACK LUNG DISABILITY TRUST FUND

| APPROPRIATION HISTORY | | | | | |
|------------------------------|---|----------------------------|-----------------------------|-----------------------|------------|
| (Dollars in Thousands) | | | | | |
| | Budget Estimates to Congress | House Allowance | Senate Allowance | Appropriations | FTE |
| 2007 | | | | | |
| Base Appropriation | \$1,071,000 | \$1,070,432 | \$1,070,432 | \$1,065,434 | |
| 2008 | | | | | |
| Base Appropriation | \$1,068,000 | | | \$1,066,000 | |
| 2009 | | | | | |
| Base Appropriation | \$1,074,000 | | \$1,072,000 | \$9,320,683 | |
| 2010 | | | | | |
| Base Appropriation...1/ | \$300,099 | \$302,408 | \$302,408 | \$302,494 | |
| 2011 | | | | | |
| Base Appropriation...2/ | \$367,452 | \$297,686 | \$297,686 | \$296,152 | |
| 2012 | | | | | |
| Base Appropriation...3/ | \$300,495 | \$301,415 | \$301,415 | \$295,000 | |
| 2013 | | | | | |
| Base Appropriation...4/ | \$307,806 | | | \$292,669 | |
| 2014 | | | | | |
| Base Appropriation...5/ | \$316,559 | | | \$312,305 | |
| 2015 | | | | | |
| Base Appropriation...6/ | \$321,087 | | | \$321,092 | |
| 2016 | | | | | |
| Base Appropriation...7/ | \$341,467 | \$341,466 | \$341,467 | \$339,089 | |
| 2017 | | | | | |
| Base Appropriation | \$371,641 | | | | |

^{1/} Appropriation does not include amount for exchange of assets transactions of \$353,424 for bond principal.

^{2/} Appropriation does not include amounts for exchange of assets transactions of \$379,286 for bond principal and \$60,000 for short-term advances.

^{3/} Appropriation does not include amounts for exchange of assets transactions of \$394,297 for bond principal and \$107,749 for short-term advances.

^{4/} Appropriation includes sequestration amount of -\$2,999 and does not include amounts for exchange of assets transactions of \$396,403 for bond principal and \$214,000 for short-term advances.

^{5/} Appropriation includes sequestration amount of -\$4,254 and does not include amounts for exchange of assets transactions of \$397,383 for bond principal and \$401,000 for short-term advances.

^{6/} Budget Estimate does not include amounts for exchange of assets transactions of \$395,769 for bond principal and \$541,696 for short-term advances.

^{7/} Budget Estimate does not include amounts for exchange of assets transactions of \$396,213 for bond principal and \$585,000 for short-term advances.

BLACK LUNG DISABILITY TRUST FUND

Overview

The Black Lung Disability Trust Fund (BLDTF) was established by the Black Lung Benefits Revenue Act of 1977, as amended December 29, 1981, companion legislation to the Black Lung Benefits Reform Act of 1977, to implement the shift of fiscal responsibility for Black Lung benefit payments from the Federal Government to the coal industry. The BLDTF is jointly administered by the Secretaries of Labor, Treasury, and Health and Human Services and provides for payment of benefits, administrative expenses, and interest on advances related to the operation of the program. Resources for the Trust Fund are derived from: an excise tax on each ton of coal sold or used domestically; reimbursements from responsible mine operators for interim payments; interest, fines and penalties assessed to responsible mine operators; and short-term advances from the Treasury. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), enacted April 7, 1986, raised excise tax rates from \$1.00 to \$1.10 per ton on underground-mined coal and from 50 to 55 cents per ton on surface-mined coal, in either case not to exceed 4.4 percent of the sale price, through December 31, 1995. The legislation also provided for a five-year moratorium on interest payments that ended on September 30, 1990. The Omnibus Budget Reconciliation Act of 1987 continued that tax structure until 2014.

The Emergency Economic Stabilization Act of 2008 (the EES Act), enacted on October 3, 2008, authorized the restructuring of the BLDTF debt by: (1) extending current coal excise tax rates of \$1.10 per ton on underground-mined coal and \$0.55 per ton on surface-mined coal until December 31, 2018 (and then reverting to the 1978 levels, or \$0.50 per ton on underground coal, and \$0.25 per ton on surface coal); (2) providing a one-time appropriation for the BLDTF to repay the market value of parts of the outstanding repayable advances and accrued interest; and (3) refinancing the remainder of the outstanding debt through the issuance of zero-coupon bonds. Pursuant to the Act, these amounts are to be retired using the BLDTF's annual operating surpluses until all of its remaining obligations have been paid. Pre-payments will be made when operating surpluses exceed the amount of the zero-coupon bond, and short-term borrowing authority will be utilized if operating surpluses are not sufficient. Based on the current-law estimates for coal tax receipts, \$1,026,069,000 in short-term borrowing authority will be required in FY 2017 to fund obligations and exchange of assets amounts. This is a projected increase in borrowing authority necessitated by a combination of level coal tax estimates and increasing interest rates. This amount plus estimated interest of \$21,240,000 will be repaid in FY 2018.

The payment of benefits directly supports the Department's *Strategic Goal 4: Secure retirement, health, and other employee benefits and, for those not working, provide income security*, and *Strategic Objective 4.1: Provide income support when work is impossible or unavailable and facilitate return to work* by providing income support and medical care for beneficiaries who are unable to perform their previous coal mine work due to occupational lung disease.

BLACK LUNG DISABILITY TRUST FUND

| BUDGET AUTHORITY BEFORE THE COMMITTEE | | | | |
|--|----------------------------|----------------------------|----------------------------|--|
| (Dollars in Thousands) | | | | |
| | FY 2015 Enacted | FY 2016 Enacted | FY 2017 Request | Diff. FY17 Request / FY16 Enacted |
| Activity Appropriation | 321,092 | 339,089 | 371,641 | 32,552 |
| FTE | 0 | 0 | 0 | 0 |

Introduction

The Black Lung Disability Trust Fund (BLDTF) is jointly administered by the Secretaries of Labor, Treasury, and Health and Human Services and provides for payment of benefits, administrative expenses, and interest on advances related to the operation of the program. Resources for the Trust Fund are derived from: an excise tax on each ton of coal sold or used domestically; reimbursements from responsible mine operators for interim payments; interest, fines and penalties assessed to responsible mine operators; and short-term advances from the Treasury.

The Trust Fund pays all Part C Black Lung benefits, including income maintenance and medical benefits, when no coal mine operator can be held liable for payments. Income maintenance payments are based on 37.5 percent of the GS-2, Step 1 salary level. The payment of benefits directly supports the Secretary's vision of *Promoting and Protecting Opportunity* and the Department of Labor's *Strategic Goal 4: Secure retirement, health, and other employee benefits and, for those not working, provide income security, and Strategic Objective 4.1: Provide income support when work is impossible or unavailable and facilitate return to work* by providing income support and medical care for beneficiaries who are unable to perform their previous coal mine work due to occupational lung disease. The Trust Fund also pays for the costs incurred by the Department of Treasury in the collection of the coal excise tax and for managing the Trust Funds, for the costs of the appeals process to the Office of Administrative Law Judges (OALJ) and the Benefits Review Board (BRB), legal costs associated with the Solicitor of Labor (SOL), and for costs incurred by the Office of Inspector General (OIG). Black Lung Program benefits, which pertain to Black Lung claims filed on or before December 31, 1973, are paid under the appropriation for Special Benefits for Disabled Coal Miners, also referred to as Black Lung Program Part B.

Five-Year Budget Activity History

| <u>Fiscal Year</u> | <u>Funding</u> (Dollars in Thousands) | <u>FTE</u> |
|---------------------------|---|-------------------|
| 2012 | \$295,000 | 0 |
| 2013 | \$292,669 | 0 |
| 2014 | \$312,305 | 0 |
| 2015 | \$321,092 | 0 |
| 2016 | \$339,089 | 0 |

BLACK LUNG DISABILITY TRUST FUND

FY 2017

In order to meet estimated obligations for Part C of the Black Lung Program, the FY 2017 Request is \$371,641,000. This represents a total increase of \$32,552,000 from FY 2016 Enacted level. The amounts for definite obligations include the following amounts to be transferred: \$38,246,000 for the Office of Workers' Compensation Programs' (OWCP) Salaries and Expenses costs associated with administering the Black Lung Program, which are discussed in OWCP's Salaries and Expenses section of the budget; \$30,594,000 for the administrative costs of the Departmental Management (DM) account including adjudication activities and legal services which are discussed in the DM section of the budget; \$330,000 for OIG administrative costs; and \$356,000 for the Department of Treasury. Estimated amounts for indefinite obligations include: \$147,499,000 for benefit payments; \$147,397,000 for payments of bond interest; and \$7,219,000 for interest on short-term advances. The requested amount does not include amounts for exchange of assets transactions. These include \$393,126,000 for payment of bond principal and \$797,804,000 for repayment of estimated short-term advances. In addition to coal tax receipts and other income, an estimated \$1,026,069,000 in short-term advances will be required to fund obligations and exchange of assets transactions.

The Affordable Care Act (ACA) of 2010 reinstated two provisions in the Act that had been removed in 1981 for claims filed on or after January 1, 1982. Both of these provisions, including automatic entitlement to benefits for survivors of miners who have been awarded benefits, and a presumption that a miner who has at least 15 years of qualifying coal mine employment and has a totally disabling lung condition has pneumoconiosis (black lung disease) even in the absence of a negative x-ray, are favorable to claimants.

While beneficiary counts have been declining in the Black Lung Program, the average number of incoming claims received is expected to increase by eight percent over the FY 2016 estimate of 7,400 to 8,000. The requested increase for administrative costs in FY 2017 will provide necessary funding to keep pace with workload volumes.

FY 2016

The FY 2016 Enacted level is \$339,089,000 to meet estimated obligations for Part C of the Black Lung Program. The amounts for definite obligations include the following amounts transferred: \$32,847,000 for the Office of Workers' Compensation Programs' (OWCP) Salaries and Expenses costs associated with administering the Black Lung Program which are discussed in OWCP's Salaries and Expenses section of the budget; \$28,220,000 for the administrative costs of the Departmental Management (DM) account including adjudication activities and legal services which are discussed in the DM section of the budget; \$305,000 for OIG administrative costs; and \$332,000 for the Department of Treasury. Estimated amounts for indefinite obligations include: \$154,686,000 for benefit payments; \$121,295,000 for payments of bond interest; and \$1,404,000 for interest on short-term advances. The requested amount does not include amounts for exchange of assets transactions. These include \$396,213,000 for payment of bond principal and \$585,000 for repayment of estimated short-term advances. In addition to coal tax receipts and other income, an estimated \$797,804,000 in short-term advances will be required to fund obligations and exchange of assets transactions.

BLACK LUNG DISABILITY TRUST FUND

FY 2015

The FY 2015 Enacted level was \$321,092,000 to meet estimated obligations for Part C of the Black Lung Program. The amounts for definite obligations included the following amounts transferred: \$30,889,000 for OWCP Salaries and Expenses costs to administer the program; \$28,184,000 for the adjudication activities and legal services of the Departmental Management account; \$303,000 for OIG administrative costs; and \$330,000 for the Department of Treasury. Amounts for indefinite obligations included: \$164,000,000 for benefit payments, \$96,840,000 for payments of bond interest and \$546,000 for interest on short-term advances. The requested amount does not include amounts for exchange of assets transactions of \$395,769,000 for payment of bond principal and \$496,000,000 for repayment of estimated short-term advances. In addition to coal tax receipts and other income, \$585,000,000 in short-term advances was required to fund obligations and exchange of assets transactions.

BLACK LUNG DISABILITY TRUST FUND

| DETAILED WORKLOAD AND PERFORMANCE | | | | | |
|--|---|---------------|----------------------------|----------------------------|-----------|
| | FY 2015 Enacted | | FY 2016 Enacted | FY 2017 Request | |
| | Target | Result | Target | Target | |
| Black Lung Disability Trust Fund | | | | | |
| Strategic Goal 4 - Secure retirement, health, and other employee benefits and, for those not working, provide income security | | | | | |
| Strategic Objective 4.1 - Provide income support when work is impossible or unavailable and facilitate return to work | | | | | |
| BLDTF WL 1 | Claims Received | 7,300 | 6,818 | 7,400[r] | 8,000[e] |
| BLDTF WL 2 | Trust Fund Beneficiaries | 17,580 | 13,064 | 16,000[r] | 15,600[e] |
| BLDTF WL 3 | Beneficiaries Paid by Responsible Operators | 4,370 | 4,889 | 5,200[r] | 5,200[e] |
| BLDTF WL 4 | Medical benefits only recipients | 1,100 | 731 | 700[r] | 700[e] |

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

BLACK LUNG DISABILITY TRUST FUND

Workload Summary

In FY 2017, the Trust Fund request will continue to provide for the payment of benefits and ongoing medical treatment costs and the administrative expenses of Part C program operations, adjudicatory and litigation costs in support of the Secretary's vision of *Promoting and Protecting Opportunity* and the Department's *Strategic Goal 4: Secure retirement, health, and other employee benefits and, for those not working, provide income security*, and *Strategic Objective 4.1: Provide income support when work is impossible or unavailable and facilitate return to work*. Monthly compensation and ongoing medical treatment benefits will be paid to an estimated average of 15,600 recipients from the BLDTF in FY 2017. The program will monitor cash and medical treatment payments disbursed in the private sector by coal mine operators to approximately 5,200 additional recipients under Part C; and will process an estimated 8,000 incoming claims in FY 2017. Greater detail on workload associated with this program can be found in the workload summary discussion for Disabled Coal Mine Workers Compensation (DCMWC).