FINDING 2: <u>PERFORMANCE MEASUREMENT SYSTEM</u>

> The UST Program's management information system is used
> to track over 7,500 fraud referrals made to law enforcement
> authorities between January 1988 and September 2001 and
> to measure UST Program performance. The information
> contained in the tracking system was not fully reliable
> because of: inaccurate, missing, or inconsistent data; lack
> of standard data protocols; and lack of review by
> UST Program personnel to ensure the accuracy and
> completeness of the data. In addition, the tracking system
> did not cover the UST Program's own efforts to investigate
> bankruptcy fraud cases, and there was no national system
> to track civil enforcement actions. As a result, the
> UST Program was not in a position to conduct complete and
> accurate trend analyses of fraudulent activity to help target
> attention to the greatest risks. Also, the Department and
> the UST Program itself may rely on incomplete and
> inaccurate data to measure the UST Program's performance
> and make funding and resource allocation decisions.

Tracking and Reporting Requirements

According to the UST Manual, the EOUST is required to maintain a
database to track criminal fraud referrals made by the UST Program to
U.S. Attorneys, the FBI, or other law enforcement authorities.[28] At the end
of each calendar quarter, the EOUST provides each UST with a report
detailing the referrals made by the region based on data submitted. The
referrals are divided into open and closed categories.

Each region or district office tracks its referrals until the referral is
closed through prosecution or a decision by the U.S. Attorney to decline, or
not prosecute, the case. The UST region or office is also to submit an
updated report to the EOUST each quarter providing information on new
referrals and the status of all open referrals, paying particular attention to
those that are more than one year old.

According to data from the Criminal Referral Tracking System, the
USTs made 7,564 fraud referrals to law enforcement from January 1988 to

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[28] The UST Program maintains a separate tracking system for criminal fraud referrals
because the referral information is confidential, whereas the Automated Case Management
System (ACMS) is accessible to all UST Program employees.

September 2001.[29] The EOUST uses the tracking system primarily for performance measurement reporting and for internal management reports. Based on the audit results presented later in this finding, the UST Program's data system is materially unreliable. However, we are reporting information from the system as the only available data on fraud referrals, convictions and potential loss. When system data is considered in context with other available evidence, the conclusions in this report are valid.

The 7,564 fraud referrals made between 1988, when tracking began, and September 2001 resulted in 1,038 indictments and 837 convictions, or an overall conviction rate of 11 percent of the referrals. In addition, the UST Program identified about $11 billion in potential losses.[30] The following table shows by regional office the number of referrals, convictions, conviction rates, and potential losses. The table shows considerable variation in the number of referrals, convictions, and conviction rates. Los Angeles had the most referrals at 2,834 and convictions at 164 — although the region's conviction rate was under 6 percent — and Cleveland had the least referrals at 94 with none resulting in a conviction. Cedar Rapids had the highest conviction rate, nearly 34 percent, although it produced only 145 referrals. Fourteen of the 21 regions made referrals that resulted in a conviction rate exceeding the UST Program average. According to unverified data in the tracking system, Denver at a reported $10 billion accounted for 93 percent of potential losses due to fraud.[31] However, as discussed in the upcoming section of this report dealing with the tracking system, 72 percent of cases referred for prosecution did not identify the amount of loss.

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[29] As discussed subsequently in this report, we found that the data system contains errors and omissions. However, we are reporting information from the system because it is the best overall data available on fraud referrals, convictions, and potential losses.

[30] Potential losses are estimated by the UST's office after the initial investigation. The FBI agent or the AUSA assigned to the case identifies the actual loss to the estate after further investigation. Also, another source for this entry may be a court order requiring restitution.

[31] We did not audit the Denver Regional Office and therefore did not verify the $10 billion figure reported in the tracking system.

UST Program's Data on Referrals, Convictions, and Potential Loss by Regions As of September 2001				
Regional Office	**Number of Referrals**	**Number of Convictions**	**Conviction Rate**	**Potential Loss**
Boston, MA	410	43	10.49	$213,679,014
Manhattan, NY	404	46	11.39	$86,247,200
Philadelphia, PA	386	36	9.33	$30,960,472
Columbia, SC	278	34	12.23	$485,032
New Orleans, LA	130	24	18.46	$32,546,225
Dallas, TX	271	38	14.02	$11,955,602
Houston, TX	142	16	11.27	$14,164,478
Memphis, TN	359	47	13.09	$23,522,526
Cleveland, OH	94	0	0	$36,910,600
Indianapolis, IN	104	20	19.23	$4,159,833
Chicago, IL	205	38	18.54	$3,209,500
Cedar Rapids, IA	145	49	33.79	$96,040,778
Kansas City, MO	184	36	19.57	$8,362,554
Phoenix, AZ	135	29	21.48	$11,554,000
San Diego, CA	185	57	30.81	$2,571,261
Los Angeles, CA	2,834	164	5.79	$1,230,000
San Francisco, CA	243	35	14.40	$38,667,095
Seattle, WA	318	60	18.87	$17,846,741
Denver, CO	132	13	9.85	$10,051,356,500
Wichita, KS	159	14	8.81	$31,883,242
Atlanta, GA	446	38	8.52	$74,359,829
Total	**7,564**	**837**	**11.07**	**$10,791,712,482**

Source: EOUST