

FY 2013

CONGRESSIONAL BUDGET JUSTIFICATION

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

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EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Appropriation Language

For necessary expenses for the Employee Benefits Security Administration [*\$183,500,000*]

\$183,153,000 (Department of Labor Appropriations Act)

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AMOUNTS AVAILABLE FOR OBLIGATION						
(Dollars in Thousands)						
	FY 2011 Enacted		FY 2012 Enacted		FY 2013 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
A. Appropriation	910	\$154,861	1,003	\$183,500	1,003	\$183,153
Reduction pursuant to enacted rescission in P.L. 112-74 in FY 2012	0	\$0	0	-\$347	0	\$0
Reduction pursuant to P.L. 112-10 in FY 2011	0	-\$310	0	\$0	0	\$0
Non-Expenditure transfer from DM to restore FY 2011 rescission	0	\$310	0	\$0	0	\$0
<i>Subtotal Appropriation</i>	<i>0</i>	<i>\$0</i>	<i>0</i>	<i>\$0</i>	<i>0</i>	<i>\$0</i>
(adjusted)	910	\$154,861	1,003	\$183,153	1,003	\$183,153
Offsetting Collections From:						
Reimbursements	0	\$8,500	0	\$8,500	0	\$8,000
Non-Expenditure transfer from DM pursuant to P.L. 112-10	0	\$4,502	0	\$0	0	\$0
<i>Subtotal</i>	<i>910</i>	<i>\$167,863</i>	<i>1,003</i>	<i>\$191,653</i>	<i>1,003</i>	<i>\$191,153</i>
B. Gross Budget Authority	910	\$167,863	1,003	\$191,653	1,003	\$191,153
Non-Expenditure transfer from DM to restore FY 2011 rescission	0	-\$310	0	\$0	0	\$0
Offsetting Collections						
Deduction:	0	\$0	0	\$0	0	\$0
Reimbursements	0	-\$8,500	0	-\$8,500	0	-\$8,000
Non-Expenditure transfer from DM pursuant to P.L. 112-10	0	-\$4,502	0	\$0	0	\$0
<i>Subtotal</i>	<i>0</i>	<i>-\$13,312</i>	<i>0</i>	<i>-\$8,500</i>	<i>0</i>	<i>-\$8,000</i>
C. Budget Authority Before the Committee	910	\$154,551	1,003	\$183,153	1,003	\$183,153
Non-Expenditure transfer from DM to restore FY 2011 rescission	0	\$310	0	\$0	0	\$0
Offsetting Collections From:						
Reimbursements	0	\$8,500	0	\$8,500	0	\$8,000
IT Crosscut	0	\$0	0	\$0	0	\$0
Non-Expenditure transfer from DM pursuant to P.L. 112-10	0	\$4,502	0	\$0	0	\$0
<i>Subtotal</i>	<i>0</i>	<i>\$13,312</i>	<i>0</i>	<i>\$8,500</i>	<i>0</i>	<i>\$8,000</i>
D. Total Budgetary Resources	910	\$167,863	1,003	\$191,653	1,003	\$191,153
Other Unobligated Balances	0	\$0	0	\$0	0	\$0
Unobligated Balance Expiring	0	-\$88	0	\$0	0	\$0
E. Total, Estimated Obligations	910	\$167,775	1,003	\$191,653	1,003	\$191,153

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SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2012 Enacted	FY 2013 Request	Net Change
Budget Authority			
General Funds	\$183,153	\$183,153	\$0
Total	\$183,153	\$183,153	\$0

Full Time Equivalents

General Funds	1,003	1,003	0
Total	1,003	1,003	0

Explanation of Change	FY 2012 Base		Trust Funds		FY 2013 Change General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Increases:								
A. Built-Ins:								
To Provide For:								
Costs of pay adjustments	1,003	\$94,906	0	\$0	0	\$354	0	\$354
Personnel benefits	0	\$0	0	\$0	0	\$0	0	\$0
One day more of pay	0	\$0	0	\$0	0	\$501	0	\$501
Federal Employees Compensation Act (FECA)	0	\$179	0	\$0	0	\$109	0	\$109
Travel and transportation of persons	0	\$2,972	0	\$0	0	\$0	0	\$0
Transportation of things	0	\$106	0	\$0	0	\$0	0	\$0
Rental payments to GSA	0	\$10,699	0	\$0	0	\$0	0	\$0
Communications, utilities, and miscellaneous charges	0	\$677	0	\$0	0	\$0	0	\$0
Printing and reproduction	0	\$1,280	0	\$0	0	\$0	0	\$0
Advisory and assistance services	0	\$0	0	\$0	0	\$0	0	\$0
Other services	0	\$3,998	0	\$0	0	\$0	0	\$0
Working Capital Fund	0	\$15,046	0	\$0	0	\$0	0	\$0
Other government accounts (DHS Charges)	0	\$533	0	\$0	0	\$0	0	\$0
Other purchases of goods and services from Government accounts	0	\$0	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	\$0	0	\$0	0	\$0	0	\$0
Supplies and materials	0	\$742	0	\$0	0	\$0	0	\$0
Equipment	0	\$1,079	0	\$0	0	\$0	0	\$0
Insurance claims and indemnities	0	\$0	0	\$0	0	\$0	0	\$0
Built-Ins Subtotal	1,003	+\$132,217	0	\$0	0	+\$964	0	+\$964

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Explanation of Change	FY 2012 Base		Trust Funds		FY 2013 Change General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
B. Programs:								
Total Increase	1,003	+\$132,217	0	\$0	0	+\$964	0	+\$964
Decreases:								
A. Built-Ins:								
To Provide For:								
Personnel benefits	0	\$25,836	0	\$0	0	-\$12	0	-\$12
Research & Development Contracts	0	\$9,800	0	\$0	0	-\$145	0	-\$145
Operation and maintenance of equipment	0	\$15,300	0	\$0	0	-\$807	0	-\$807
Built-Ins Subtotal	0	+\$50,936	0	\$0	0	-\$964	0	-\$964
B. Programs:								
Total Decrease	0	+\$50,936	0	\$0	0	-\$964	0	-\$964
Total Change	1,003	+\$183,153	0	\$0	0	\$0	0	\$0

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SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY								
(Dollars in Thousands)								
	FY 2011 Enacted		FY 2012 Enacted		FY 2013 Request		Diff. FY13 Req. / FY12 Enacted	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Enforcement and Participant Assistance	799	128,941	875	145,243	875	145,243	0	0
General Funds	799	128,941	875	145,243	875	145,243	0	0
Policy and Compliance Assistance	88	18,956	102	31,205	102	31,205	0	0
General Funds	88	18,956	102	31,205	102	31,205	0	0
Executive Leadership, Program Oversight and Administration	26	6,654	26	6,705	26	6,705	0	0
General Funds	26	6,654	26	6,705	26	6,705	0	0
Total	913	154,551	1,003	183,153	1,003	183,153	0	0
General Funds	913	154,551	1,003	183,153	1,003	183,153	0	0

NOTE: FY 2011 reflects actual FTE.

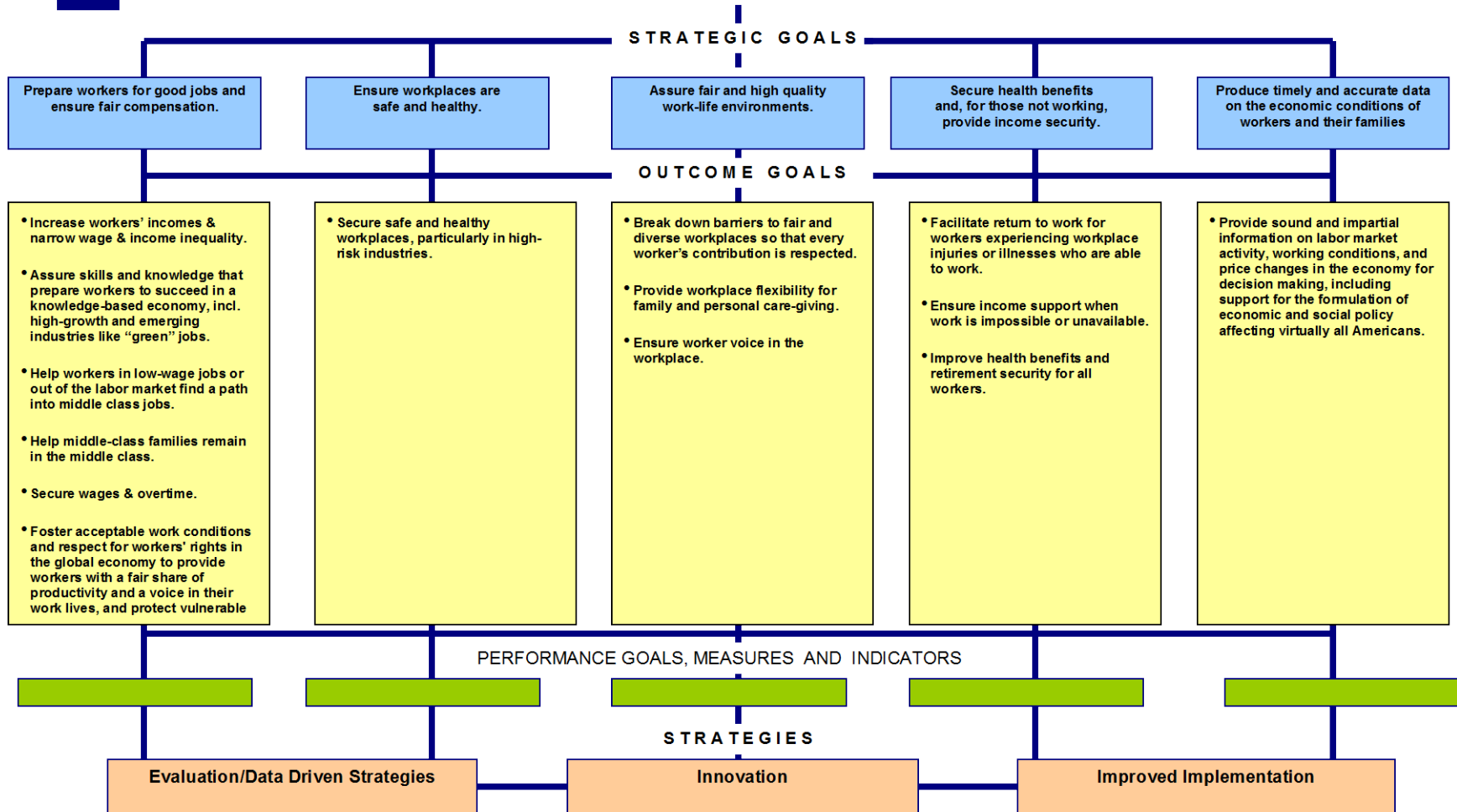
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BUDGET AUTHORITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2011 Enacted	FY 2012 Enacted	FY 2013 Request	Diff. FY13 Req./ FY12 Enacted
	Full-Time Equivalent				
	Full-time Permanent	906	999	999	0
	Other	4	4	4	0
	Total	910	1,003	1,003	0
	Average ES Salary	\$173,998	\$166,461	\$167,294	\$833
	Average GM/GS Grade	12/6	12/6	12/6	0
	Average GM/GS Salary	\$89,525	\$88,094	\$88,535	\$441
	Average Salary of Ungraded Positions	0	0	0	0
11.1	Full-time permanent	83,064	92,130	92,860	730
11.3	Other than full-time permanent	176	176	185	9
11.5	Other personnel compensation	2,600	2,600	2,609	9
11.8	Special personal services payments	0	0	0	0
11.9	Total personnel compensation	85,840	94,906	95,654	748
12.1	Civilian personnel benefits	23,186	26,015	26,219	204
21.0	Travel and transportation of persons	2,365	2,972	2,972	0
22.0	Transportation of things	75	106	106	0
23.1	Rental payments to GSA	8,800	10,699	10,699	0
23.3	Communications, utilities, and miscellaneous charges	646	677	677	0
24.0	Printing and reproduction	435	1,280	1,280	0
25.1	Advisory and assistance services	0	0	0	0
25.2	Other services from non-Federal sources	3,006	3,998	3,998	0
25.3	Other goods and services from Federal sources 1/	15,469	15,579	15,579	0
25.4	Operation and maintenance of facilities	0	0	0	0
25.5	Research and development contracts	1,100	9,800	9,655	-145
25.7	Operation and maintenance of equipment	12,150	15,300	14,493	-807
26.0	Supplies and materials	679	742	742	0
31.0	Equipment	800	1,079	1,079	0
38.0	Depreciation Expense - Unfunded	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	Total	154,551	183,153	183,153	0
	1/Other goods and services from Federal sources				
	Working Capital Fund	14,983	15,046	15,046	0
	DHS Services	486	533	533	0

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Secretary's Vision: "Good Jobs for Everyone"



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PERFORMANCE STRUCTURE

Strategic and Outcome Goals Supporting Secretary Solis' Vision of <i>Good Jobs for Everyone</i>	Supporting Budget Activities
Strategic Goal 1 – Prepare Workers for Good Jobs and Ensure Fair Compensation	
1.1 Increase workers' incomes and narrowing wage and income inequality.	
1.2 Assure skills and knowledge that prepare workers to succeed in a knowledge-based economy, including in high-growth and emerging industry sectors like "green" jobs.	
1.3 Help workers who are in low-wage jobs or out of the labor market find a path into middle class jobs.	
1.4 Help middle-class families remain in the middle class.	
1.5 Secure wages and overtime.	
1.6 Foster acceptable work conditions and respect for workers' rights in the global economy to provide workers with a fair share of productivity and protect vulnerable people.	
Strategic Goal 2 – Ensure Workplaces Are Safe and Healthy	
2.1 Secure safe and healthy workplaces, particularly in high-risk industries.	
Strategic Goal 3 – Assure Fair and High Quality Work-Life Environments	
3.1 Break down barriers to fair and diverse work places so that every worker's contribution is respected.	
3.2 Provide workplace flexibility for family and personal care-giving.	
3.3 Ensure worker voice in the workplace.	
Strategic Goal 4 – Secure Health Benefits and, for Those Not Working, Provide Income Security	
4.1 Facilitate return to work for workers experiencing workplace injuries or illnesses who are able to work.	
4.2 Ensure income support when work is impossible or unavailable.	
4.3 Improve health benefits and retirement security for all workers.	(1) Enforcement and Participant Assistance (2) Policy and Compliance Assistance (3) Executive Leadership, Program Oversight and Administration
Strategic Goal 5 – Assure the Production of Timely and Accurate Data on Social and Economic Conditions of Workers and their Families	
5.1 Provide sound and impartial information on labor market activity, working conditions, and price changes in the economy for decision making, including support for the formulation of economic and social policy affecting virtually all Americans.	

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SIGNIFICANT ITEMS IN APPROPRIATIONS COMMITTEES' REPORTS

H.R. 2055 Conference Report – Joint Statement of Managers (page 9): The conference agreement includes a new provision relating to the “Definition of Fiduciary” regulation being developed by the Employee Benefits Security Administration (Regulatory Identification Number 1210-AB32). The conferees understand that it is the Secretary of Labor’s intention to formally withdraw this proposed rule upon the issuance of a new notice of proposed rulemaking (NPRM). This section shall not be construed as preventing the Secretary from publishing a new or revised NPRM relating to the definition of fiduciary, provided that interested parties and stakeholders are afforded sufficient opportunity to review and comment on the proposed rulemaking.

Response: During fiscal year 2012, the Secretary intends to issue a new notice of proposed rulemaking relating to the “Definition of Fiduciary” and formally withdraw the notice of proposed rulemaking relating to the definition of fiduciary issued on October 22, 2010 (Regulatory Identification Number 1210-AB32). DOL will ensure that interested parties and stakeholders are provided with a sufficient opportunity to review and comment on the new notice of proposed rulemaking.

Senate Report 112-84 (page 22): The Committee expects this appropriation to help EBSA better protect pension and health benefits for workers, retirees and their families. These funds will provide for increased enforcement capacity, continued investments in EBSA education and compliance assistance programs, and enhanced research and evaluation activities.
[Employee Benefits Security Administration]

Response: This appropriation provided resources that will enable EBSA to better protect pension and health benefits security for America’s workers, retirees and their families. The performance efforts for the enforcement program include conducting 3,921 civil and criminal investigations and achieving total enforcement results of an estimated \$1,095,062,000. EBSA anticipates responding to nearly 300,000 participant inquiries (an increase exceeding 20 percent) and will conduct 600 rapid response sessions for participants facing job loss. EBSA will also begin implementation of Multiple Employer Welfare Arrangement (MEWA) registration requirements that are designed to strengthen enforcement action against fraudulent MEWAs that defraud the worker and their families out of the health care benefits they have earned and rely on.

Senate Report 112-84 (page 22): The Committee commends EBSA for its cost reduction efforts, including the new paperless participant complaint system. The Committee requests that EBSA include in its fiscal year 2013 congressional budget justification information on additional steps it will take to carry out its responsibilities more cost effectively.

Response: EBSA has been proactive in efforts to achieve efficiencies in program operations and to reduce waste. Included in the fiscal year 2013 congressional budget justification are specific strategies that have been implemented to reduce costs for delivery of program technical training and achieve program operating efficiencies with the electronic ERISA Filing and Acceptance System (EFAST2). Prospective cost savings measures/strategies have been further outlined in the appropriate section of the budget Overview.

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AUTHORIZING STATUTES

Public Law / Act	Legislation	Statute No. / US Code	Volume No.	Page No.	Expiration Date
P.L. 93-406	Employee Retirement Income Security Act of 1974	88 Stat. 832/ 29 U.S.C. 1001 et. seq.	88	832	Indefinite
P.L. 99-335	Federal Employees' Retirement System Act of 1986	100 Stat. 514/ 5 U.S.C. 8401 et. seq.	100	514	Indefinite

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APPROPRIATION HISTORY					
(Dollars in Thousands)					
	Budget Estimates to Congress	House Allowance	Senate Allowance	Appropriations	FTE
2003...1/	\$117,044	\$117,044	\$114,000	\$116,283	861
2004...2/	128,605	128,605	121,300	124,040	930
2005...3/	132,345	132,345	132,345	131,213	887
2006...4/	137,000	137,000	134,900	133,551	875
2007...5/	143,573	141,573	141,573	148,573	855
2008...6/	147,425	142,925	143,262	139,313	855
2009...7/8/	147,871	0	139,313	143,419	835
2010...9/	154,861	154,060	155,662	154,861	910
2011...10/	161,995	0	161,995	159,363	910
2012...11/	197,528	159,363	195,528	183,153	1,003
2013	183,153	0	0	0	0

¹ Reflects a reduction of \$761 pursuant to P.L. 108-7

² Reflects a reduction of \$922 pursuant to the enacted rescissions in P.L. 108-199

³ Reflects a reduction of \$1,132 pursuant to the enacted rescissions in P.L. 108-447

⁴ Reflects a reduction of \$1,349 pursuant to the enacted rescission in P.L. 109-148

⁵ Reflects amounts provided under FY 2007 full year continuing resolution pursuant to P.L. 110-5 and FY 2007 supplemental P.L. 110-28

⁶ Reflects a reduction of \$2,477 pursuant to the enacted rescissions in P.L. 110-161, the FY 2008 estimate to Congress included \$5,500 for EFAST2 later removed based on funding provided in FY 2007 appropriation.

⁷ Excludes \$9,705 for the Recovery Act through a non-expenditure transfer from the Departmental Management (DM) account pursuant to P.L. 111-5

⁸ This bill was only reported out of Subcommittee and was not passed by the Full House.

⁹ Excludes \$4,434 emergency transfer pursuant to P.L. 111-17

¹⁰ Includes a non-expenditure transfer of \$4,502 from the Departmental Management (DM) account pursuant to P.L. 112-10.

¹¹ Reflects a reduction of \$347 pursuant to the enacted rescission in P.L. 112-74

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OVERVIEW

Introduction

The DOL Strategic Plan creates the roadmap for continuing to meet the workplace and economic challenges we face as a nation. Contained within the plan are the strategies which DOL will use to accomplish the Secretary's vision: *Good Jobs for Everyone*. The Secretary defines *good jobs* as, among many other factors, jobs that provide health benefits and retirement security. In support of the Secretary's vision, EBSA has a single outcome goal of "improving health benefits and retirement security for all workers." EBSA is charged with protecting more than 140 million workers, retirees and their families which are covered by an estimated 707,000 private retirement plans, 2.5 million health plans, and similar numbers of other welfare benefit plans which together hold estimated assets of \$6 trillion.

The retirement and health benefits security of workers, retirees, and their families continue to be significant factors in the overall financial security of the American public. EBSA's mission and programs are pivotal in providing benefit security to the public and increasing their confidence that their retirement, health and other benefits will be there when needed. EBSA's mission is carried out in a complex and evolving economic and regulatory environment where the public's demands, needs, and perceptions are influenced by many factors. In order to enhance benefit security and maintain the public confidence in our private sector based benefits system, EBSA administers an integrated program of regulation, compliance assistance and education, civil and criminal enforcement, research and analysis.

Employee Benefits Security Administration Programs

EBSA's programs are developed and implemented in response to many internal and external factors, such as: the Administration's priorities; Congressional actions; public concerns; our experience with civil and criminal investigations; participant inquiries; and research and trends or vulnerabilities identified in the private sector benefit security universe. Once regulations are promulgated, EBSA utilizes an aggressive outreach, education, and participant assistance program to inform the public of their rights and benefits as well as educating the regulated community regarding their responsibilities and obligations under the law. As addressed later in the budget presentation, EBSA has numerous outreach and educational strategies to achieve this end. At the same time, EBSA's enforcement program ensures compliance with the law. Our enforcement program utilizes a series of approaches (national/regional priorities, voluntary compliance programs, civil/criminal litigation, Sample Investigation Program, etc.) to achieve this end. Finally, EBSA's research program continues to analyze and study the benefit universe to identify emerging trends. Given these strong individual program components and the extensive interaction between them, EBSA is able to function as a highly integrated and adaptive organization that is responsive to the complex environment in which it operates, thus enhancing its ability to improve employee health and retirement benefits security.

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Retirement, health and other workplace related benefits of America's workers and their families are threatened by many factors, including fiduciary misconduct, conflicts of interest, excessive fees and improper denial of benefits. These problems are exacerbated when participants are uninformed about their benefits rights and responsibilities and plan sponsors are uninformed about their legal obligations. Our strategy is to bring plan sponsors and their benefit plans into compliance with the law using an integrated approach. As a general matter, this strategy is included in the following programs:

- 1) A vigorous enforcement program;
- 2) A proactive regulatory agenda; and
- 3) A targeted research agenda and a strong participant assistance, outreach and public education program.

FY 2013 Request

The FY 2013 budget request for EBSA provides \$183,153,000 and 1,003 FTE. The FY 2013 budget request, if approved, provides the resources for EBSA to continue to enhance pension and health benefits security for America's workers and their families. Specifically, EBSA estimates that during FY 2013, it will: achieve \$1,172,108,000 in total monetary results (including \$173,000,000 for participant benefit recoveries) by conducting 3,915 civil investigations and responding to nearly 300,000 participant inquiries; obtain 105 indictments by conducting 320 criminal investigations; complete 4,330 reporting compliance reviews; conduct 600 rapid response sessions held for individuals facing job loss; conduct 200 Congressional office briefings; and complete 11 webcasts and 11 compliance seminars for plan sponsors and participants.

During FY 2013, EBSA expects to implement regulations that significantly enhance the Department's enforcement authority relating to Multiple Employer Welfare Arrangements (MEWAs) by utilizing the authority provided to the Secretary in the Affordable Care Act (ACA). The planned increases in interpretative and other technical assistance projects primarily involve MEWA registration and Mental Health Parity and Addiction Equity Act (MHPAEA) compliance efforts. EBSA estimates completing a total of 4,747 interpretive and other associated technical assistance projects/plan inquiries and targeted technical assistance in FY 2013.

With regard to the new MEWA registration requirements and health care related enforcement tools, the requested resources will enable EBSA to develop and implement compliance related programs to aid in the Agency's oversight and audit initiatives to combat health care fraud. These efforts will include developing compliance related materials and providing training for the agency's Benefits Advisors and Investigators upon issuance of final MEWA regulatory provisions. Detailed presentations on the MEWA regulatory provisions will also be provided to new field office Investigators and Benefits Advisors who attend the agency's Basic Training seminars. EBSA will develop materials and conduct compliance workshops across the country to educate industry professionals about the new MEWA provisions and will enhance the MEWA Registration Form to facilitate more detailed investigations of entities that may not have sufficient reserves to pay legitimate health care claims.

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In FY 2013, EBSA will continue to: develop and implement regulations implementing the ACA in conjunction with the Departments of Health and Human Services (HHS) and Treasury; design and conduct several health benefit studies; and develop and implement education, outreach, and assistance programs, as well as develop and implement additional enforcement strategies that support new requirements applied to employer sponsored health plans.

To date, EBSA has published 11 interim final regulations in eight packages, one notice of proposed rulemaking, as well as three requests for information to solicit comments on specific provisions of the ACA and participated in two public forums. Guidance and other technical assistance was also issued including technical releases, model notices, more than 50 Frequently Asked Questions (FAQs), as well as assistance to the Internal Revenue Service (IRS) with the development and clearance of IRS Notices and assistance to HHS in the clearance and publication of associated regulations. EBSA also conducted research and issued reports as mandated by the ACA. This research included submission to Congress of the annual Self-Insured Group Health Plan Report, and assistance in the preparation of the Study on Large Group Health Plans, the Wellness Study and the Essential Health Benefits Study. EBSA also provided health care plan training for its investigative staff and developed a checklist for compliance and enforcement.

Cutting Waste and More Effective Program Operations

EBSA has been proactive in support of the President's Campaign to Cut Waste and in achieving efficiencies in program operations. Specific program operating efficiencies and cost reductions have been attained through: (a) consolidating or eliminating research services and subscriptions and/or using more cost effective, online subscriptions; (b) eliminating agency-specific communications lines and consolidating them into the DOL-wide communication system; (c) transforming technical program training manuals to electronic format, and reducing travel costs by selecting the location of training programs based on the predominant duty station of the participants; (d) reducing costs for the IRS, PBGC and DOL through the implementation of the modernized, wholly-electronic Employee Retirement Income Security Act (ERISA) Filing and Acceptance System (EFAST2); and (e) eliminating the seldom used toll-free Publication Fulfillment Center thus reducing contracting costs. These efficiencies will continue to pay dividends in FY 2013. Going forward, EBSA will continue working with the department to consolidate our telephone switch with the DOL-wide telephone switch and will leverage information technology systems to modernize the ERISA public disclosure room. This will include digitizing collections of filings and making them available on the web and encouraging requesters to access the information over the web and walking them through it rather than fulfilling the requests in hard copy and mailing them out.

Finally, through a DOL-wide effort, EBSA is exploring options for a consolidation of its field office structure to improve overall efficiency and effectiveness of program operations and services being provided to participants and beneficiaries. EBSA has been engaged in an extensive review and analysis of its overall organizational structure and anticipate completing this review in the very near future. The objective of the consolidation is to increase the efficiency and effectiveness of program operations and services being provided to participants and beneficiaries. We anticipate that through consolidation we will reduce management or

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overhead positions so that they may be redeployed to front line enforcement activities. The criteria for consolidation efforts will include the substantial size of our universe, scope of coverage, concentration of Form 5500 filings, participant inquiry patterns, location of financial services providers, and plan types so that we may ensure that our new organizational structure will be responsive to our mission needs.

Selected Workload and Productivity

To maximize the impact of program resources, EBSA targets its investigative resources towards plans that it believes, based on a variety of factors, appear likely to be in violation of the law. Targeting likely violators, correcting violations, and publicizing our successes will deter bad actors and result in greater compliance with the Employee Retirement Income Security Act (ERISA). EBSA has entered the second year of the Sample Investigation Program (SIP) that will lead to measuring overall compliance with ERISA and the impact of EBSA investigations on the compliance rate. In FY 2011, EBSA processed 259 SIP cases. A sizeable percentage of the overall SIP sample consists of small plans, particularly 401(k) plans, which were investigated more quickly than larger, more complex cases. The average unit time for processing a SIP investigation was 9.45 days compared to 17 days for all other civil investigations processed in FY 2011. EBSA will be continuing the SIP initiative to evaluate the effectiveness of its enforcement program along with other enforcement approaches (national/regional priorities, voluntary compliance programs, civil/criminal litigation, etc.) to ensure compliance with ERISA. Finally, EBSA accepted and processed nearly 27,000 applications received by its two major voluntary compliance programs in FY 2011. Voluntary compliance programs include the Voluntary Fiduciary Correction Program (VFCP) and the Delinquent Filer Voluntary Compliance Program (DFVCP).

In FY 2013, consistent with the DOL Strategic Plan, EBSA will more fully report data on the percent of employee benefit plans in compliance with the civil provisions of ERISA. EBSA will also continue collecting data on randomized investigations that will result in measuring the effectiveness of investigations when compared to plans that have not been investigated. These new approaches, first implemented during FY 2011 and first reported in FY 2012, will attempt to measure the performance and effectiveness of our enforcement program on a broader scale and will rely on statistical techniques of random sampling in data collection. EBSA will begin to make projections about the behaviors and conditions within very large groups of regulated entities by systematically collecting data from hundreds (a sample) of those entities. These samples are designed to inform EBSA about the level of compliance with ERISA among employee benefit plans and the impact of EBSA investigations on that compliance level.

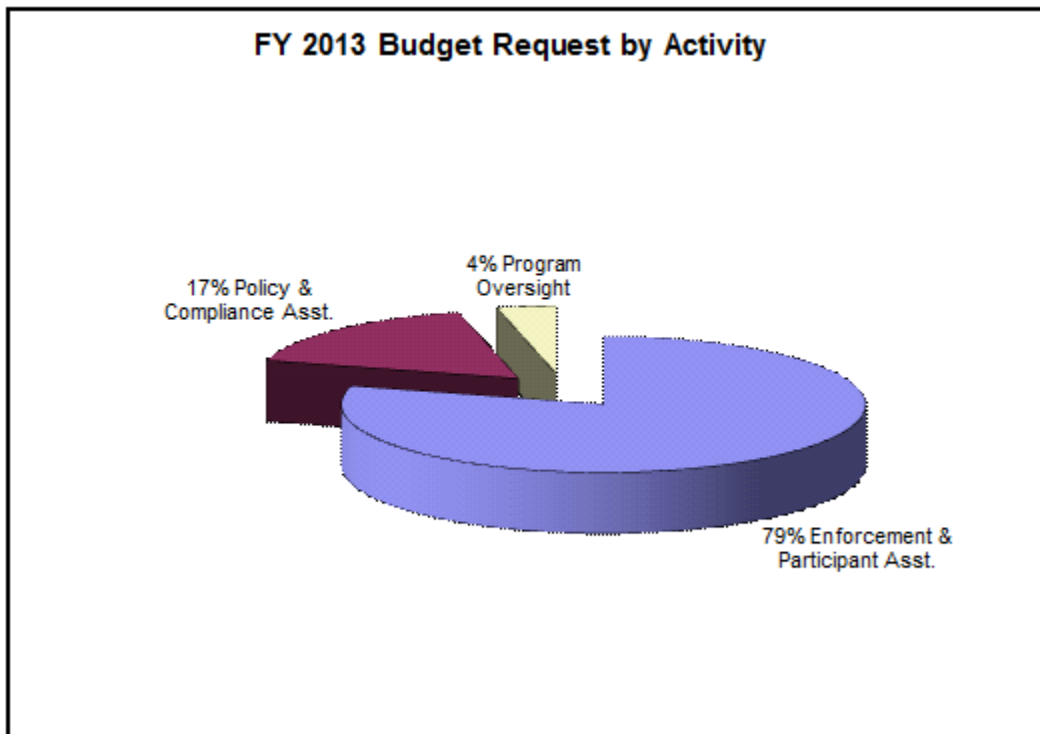
EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Cost Model

The FY 2013 budget request for EBSA provides \$183,153,000 and 1,003 FTE. Three program activities encompass the EBSA budget and include the:

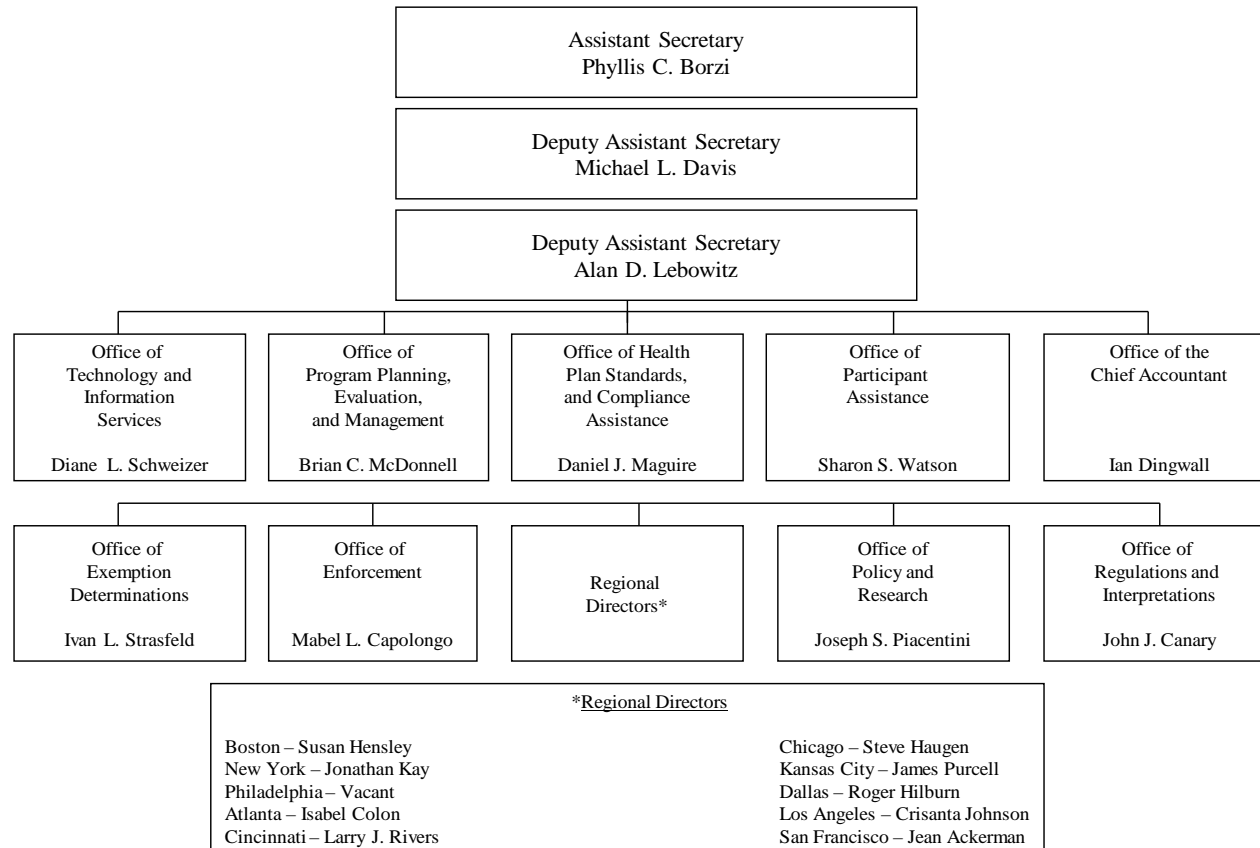
- Enforcement and Participant Assistance budget activity with FY 2013 requested resources of \$145,243,000 and 875 FTE.
- Policy and Compliance Assistance budget activity with FY 2013 requested resources of \$31,205,000 and 102 FTE.
- Executive Leadership, Program Oversight and Administration with FY 2013 requested resources of \$6,705,000 and 26 FTE.

EBSA resources are devoted to accomplishing DOL Strategic Goal 4: Secure health benefits and, for those not working, provide income security. EBSA program efforts directly support the Secretary's vision of providing *Good Jobs for Everyone* by improving health benefits and retirement security for all workers.



EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Employee Benefits Security Administration



ENFORCEMENT AND PARTICIPANT ASSISTANCE

BUDGET AUTHORITY BEFORE THE COMMITTEE				
(Dollars in Thousands)				
	FY 2011 Enacted	FY 2012 Enacted	FY 2013 Request	Diff. FY 13 Req. / FY 12 Enacted
Budget Authority	128,941	145,243	145,243	0
FTE	799	875	875	0

NOTE: FY 2011 reflects actual FTE. Authorized FTE for FY 2011 was 796.

Introduction

Within this activity, EBSA develops and implements a comprehensive enforcement program using civil and criminal investigations that target the most egregious and persistent violators, as well as voluntary compliance programs. The enforcement program detects and investigates civil and criminal violations of ERISA and other related criminal laws and, as appropriate, refers them to the Solicitor’s Office for civil litigation or to prosecutors for criminal prosecution; ensures that employee benefit plan annual reports are filed timely and accurately; and determines that public accountant audits of employee benefit plans comply with professional standards. To help plan sponsors and fiduciaries comply with ERISA’s complex provisions, this activity administers the Fiduciary Education program that informs plan sponsors and their service providers about their basic fiduciary responsibilities under the law.

EBSA implemented two highly successful self-correction programs designed to encourage voluntary compliance which enables the agency to better leverage resources. Our Voluntary Fiduciary Correction Program (VFCP) encourages plan officials to voluntarily comply with ERISA’s fiduciary and prohibited transactions provisions by self-correcting certain specified violations of the law and obtaining relief from payment of excise taxes. The Delinquent Filer Voluntary Compliance Program (DFVCP) encourages voluntary compliance with the annual reporting requirements under ERISA by giving delinquent plan administrators a way to avoid higher civil penalty assessments. Together, these two programs provide efficient mechanisms for self-identifying and correcting violations which allows investigative resources to be directed to other, more complex issues.

Complementing the investigative arm of the enforcement program, EBSA’s participant assistance staff responds to inquiries from the public who are seeking information or have a complaint about their benefits. Our Benefits Advisors are able to assist the public in understanding their rights under their plans and are often able to informally resolve disputes thereby obtaining benefits for these workers and their families. This informal dispute resolution process enables EBSA to answer individuals’ complaints without utilizing the more resource intensive investigative process, allowing EBSA to direct its investigative resources to more egregious and wide-spread violations of ERISA. The participant assistance program is also the source of some of our best investigative leads, producing several hundred cases per year—cases that, in the absence of this program, might not have been discovered.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

EBSA helps to inform the public with regard to benefits issues, who can then monitor their own benefits and hopefully obtain correction before serious financial damage is done. EBSA educates the plan participants and officials by conducting outreach and education programs regarding their rights and responsibilities under ERISA. Benefits will be more secure if plan officials are knowledgeable about their duties and responsibilities under ERISA placing them in a better position comply with the law. Furthermore, better informed plan participants are more prepared to ensure they receive all the benefits to which they are entitled under their plan and to bring potential violations to the attention of EBSA. The program includes three education campaigns: (1) the Retirement Savings Education Campaign (RSEC); (2) the Health Benefits Education Campaign (HBEC); and, (3) the Fiduciary Education Campaign. These programs target plan sponsors and officials, service providers, and plan participants to inform them of their respective rights and responsibilities under ERISA. In the outreach and education area, EBSA has worked cooperatively with private and public sector organizations such as the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, the Financial Planners Board and state commissioners of insurance. In addition to these three campaigns, EBSA also conducts outreach to dislocated workers through rapid response events accomplished in conjunction with states and other DOL agencies. Outreach is also conducted via public awareness events such as congressional staff briefings, job fairs and other venues.

Also included in this budget activity is EBSA's program to ensure that the regulated community files its employee benefit plan annual reports (Form 5500) timely and accurately via the modernized wholly-electronic ERISA Filing Acceptance System (EFAST2). Implemented in January 2010, EFAST2 has created more transparency by publicly disclosing plan information through the Internet, and by providing a free web-based program that plan administrators can use to meet the new electronic filing requirement at no additional cost to them. Annually, EFAST2 electronically receives and processes the 1.2 million Form 5500s that are filed with DOL. The system is operated by DOL on behalf of itself, the IRS and the PBGC. EBSA also operates the ERISA Information System (EIS) that provides plan data for our enforcement, research, and policy development programs. Together these systems support enforcement-related targeting, comprise essential databases for the agency's research and regulatory activities, and are the primary sources of employee benefit plan information to Congress and interested stakeholders, including plan participants and beneficiaries. The EFAST2 system is also the primary source of employee benefit plan data for the IRS, the PBGC, the Government Accountability Office (GAO) and others. The benefit plan data provided by EFAST2 supports IRS oversight of private-sector retirement and health plans and directly impacts the PBGC's ability to manage its risk from underfunded defined benefit plans.

Reimbursable Account

Program Description: A reimbursable account is established in EBSA to receive funds from other Federal agencies (IRS and PBGC) to support the EFAST2 system and other work involving pension or health care issues performed on their behalf.

FY 2013 Request: The FY 2013 request level of \$8,000,000 for this purpose will allow EBSA to collect and obligate funds for any authorized reimbursable work associated with the EFAST2 and other reimbursable agreements with the IRS and other agencies.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2008	\$116,590	738
2009	\$119,691	723
2010	\$129,199	796
2011	\$131,137	796
2012	\$145,243	875

FY 2013

Enforcement

EBSA seeks \$145,243,000 and 875 FTE for the enforcement and participant assistance budget activity. This budget enables EBSA to continue to support the Secretary's outcome goal of improving health benefits and retirement security for all workers through enforcement of ERISA provisions and effectively responding to an estimated 300,000 participant inquiries. EBSA will continue to focus resources toward creating a more evaluative, innovative, and constantly improving program that increases compliance with ERISA and achieves efficiencies in enforcement program operations. Field offices will be required to place special investigative emphasis on national enforcement projects and will respond to emerging issues by developing regional enforcement initiatives.

Participant Assistance

EBSA will continue its three education campaigns: (1) the Retirement Savings Education Campaign (RSEC); (2) the Health Benefits Education Campaign (HBEC); and, (3) the Fiduciary Education Campaign. EBSA will update, print and distribute publications which explain participant rights as well as recent changes in employee benefits laws and conduct local seminars and national webcasts for its compliance assistance constituencies. EBSA will continue to participate in rapid response sessions to reach dislocated workers and will continue to update and distribute educational materials with the latest information on managing benefits through job loss.

EBSA will leverage its resources by partnering with numerous organizations such as the Social Security Administration (SSA), AARP, Financial Literacy Education Commission (FLEC), Women Investing for a Secure Retirement (WISER), labor unions, insurance commissioners, Internal Revenue Service (IRS), Department of Health and Human Services (HHS), Services Society of Human Resource Management (SHRM), the American Institute of Certified Public Accountants (AICPA), the Society of Actuaries, and others to reach our targeted audiences. We will also maintain a Web site and utilize webcasts as an efficient way to inform stakeholders about our programs, services and initiatives and to assist the regulated community with compliance. EBSA conducts numerous webcasts which are attended by thousands of stakeholders each year. These sessions are archived on our Web site for future review by other interested parties. EBSA remains convinced that partnering with worker and community-based

ENFORCEMENT AND PARTICIPANT ASSISTANCE

organizations to educate workers, small business owners, and others about ERISA's requirements is an effective way to create broad-based compliance.

FY 2012

In FY 2012, EBSA will target the most egregious and persistent violators, protect vulnerable populations, and impose penalties and other remedies that are consistent with the seriousness of the violation, including identifying and aggressively pursuing appropriate cases for criminal prosecution. In FY 2012, EBSA estimates it will achieve \$1,095,062,000 in total monetary results (including \$172,410,000 for participant benefit recoveries) by conducting 3,611 civil investigations and responding to 300,000 participant inquiries; secure 93 indictments by conducting 310 criminal investigations; and complete 4,330 reporting compliance reviews. EBSA also estimates responding to approximately 100,000 EFAST2 help-desk inquiries. Compared with FY 2011 results, these estimates include conducting 147 additional civil and criminal investigations that will increase assets restored to plans and participants, prohibited transactions corrected, and plan assets protected over \$35,000,000. In support of the Secretary's vision of *Good Jobs For Everyone* by improving health benefit and retirement security for all workers, EBSA will continue its evaluation of the effectiveness of its enforcement program. These efforts are intended to produce the following data points:

- **Compliance:** The percent of employee benefit plans in compliance with the civil provisions of ERISA. Interim data will be reported for this measure in FY 2012 with the first baseline compliance measure based on a full set of investigation results available in FY 2013.
- **Impact of an Investigation:** The percentage point difference in compliance rate between employee benefit plans recently investigated and other employee benefit plans. Interim data for this measure will be reported in FY 2013 with the first baseline impact of an investigation measure based on a full set of investigation results available in FY 2015.
- **Participant assistance program customer satisfaction index.** Gallup completed the customer outcome and satisfaction evaluation of the participant assistance program. Consistent with the survey protocol, EBSA provided closed inquiry data to Gallup and achieved a year-end score of 66 percent. The baseline of 66 percent represents the stakeholders that rated EBSA a 4 or 5 on a 5-point scale for overall satisfaction.

In FY 2012, EBSA's Benefits Advisors will educate participants, beneficiaries and plan sponsors about their rights and obligations under ERISA, and assist individuals in obtaining retirement and health benefits that have been improperly denied through an informal negotiation process with the employer. The Benefits Advisors will inform the employer about their responsibilities under the law and facilitate informal dispute resolution of the complaint without formal investigation or litigation. When they receive a complaint from a participant that indicates a fiduciary breach by the employer or a problem that impacts all or several participants in the plan that cannot be resolved informally, the Benefits Advisor will make a referral to the enforcement staff for possible investigation. These types of referrals from the Benefits Advisors are an excellent source of cases.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

EBSA estimates it will respond to nearly 300,000 participant inquiries in FY 2012 (including health related inquiries). Benefits Advisors will also participate in an estimated 600 Rapid Response sessions to provide benefits information to individuals facing job loss, will brief 200 Congressional office staff and other participant advocates, and will conduct 10 webcasts and 10 compliance seminars to inform participants and plan sponsors about their rights and responsibilities.

FY 2011

Enforcement

In FY 2011, EBSA closed 3,472 civil cases and obtained monetary results of nearly \$1,394,000,000. These monetary results were achieved through an aggressive enforcement program integrated with an effective participant assistance program. Participant assistance investigatory leads resulted in the opening of 900 enforcement cases with associated monetary results of over \$478,000,000 (a subset of the \$1,394,000,000). FY 2011 was an unprecedented year for participant assistance benefit recoveries. The rolling average for total benefit recoveries in the previous 5 fiscal years is \$132,500,000. EBSA secured two large recoveries that totaled \$275,800,000 in FY 2011 that, standing alone, exceeded total recovery results for participants for each of the previous 5 fiscal years. EBSA does not anticipate or estimate that such anomalies will occur in future years. In partnership with other Departmental, federal, state, and local authorities, EBSA also closed 302 criminal cases in FY 2011 that resulted in 129 individuals being indicted and 75 cases being closed with guilty pleas and/or convictions. This demonstrates that EBSA's strategies for enforcement targeting and partnering with other law enforcement organizations is effective in finding the most egregious and persistent violators.

EBSA also actively involved the regulated community in efforts to identify and remedy violations with two highly successful self-correction programs designed to encourage voluntary compliance. The VFCP and the DFVCP encourage plan officials to identify and remedy certain ERISA violations. In FY 2011, EBSA verified \$8,985,000 in restored assets by closing 1,922 applications under the VFCP and 25,020 delinquent filers have come into compliance with ERISA's filing requirements under the DFVCP.

Participant Assistance, Outreach and Education

The EBSA Participant Assistance Program assists workers in obtaining promised benefits that have been inappropriately denied and helps workers understand their benefits rights and to make informed decisions about their health and pension benefits. In FY 2011, EBSA's Benefits Advisors responded to 233,780 inquiries (including 17,642 Recovery Act related inquiries) and recovered over \$478,000,000 for participants through informal dispute resolution. EBSA is already responding to the increase in inquiries resulting from the passage of the ACA and will continue to do so as mandated regulations implementing the new law become effective.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

EBSA conducts education and outreach events for workers, employers, plan officials, service providers and members of Congress and their staffs. In FY 2011, these nationwide activities include assisting dislocated workers who were facing job loss by participating in 675 rapid response sessions, using a train-the-trainer format to inform congressional staff in 183 district offices of EBSA programs for their use in constituent services, providing employees with information concerning their rights under the law, and educating employers and their service providers of their obligations under ERISA. In FY 2011, EBSA conducted 1,831 outreach activities reaching 159,467 individuals, including three compliance seminars in coordination with state insurance commissioners, the IRS, HHS, SHRM, AICPA, VETS and Wage and Hour, six compliance and consumer webcasts, 209 regional presentations and 37 workshops. One of our webcasts highlighted the new interactive website for small business owners (www.choosingaretirementsolution.org) developed in partnership with the AICPA. Another webcast focused on the online “Taking the Mystery out of Retirement Planning” retirement tool, and on “Savings Fitness” – conducted entirely in Spanish. Over 11,000 individuals participated in the live webcasts and over 10,000 viewed the archived copies on our Web site. In FY 2011, EBSA also produced and printed three new and 24 revised publications, including the new “Troubleshooters Guide,” “Your Genetic Information and Your Health Plan,” and “Taking the Mystery out of Retirement Planning” in Spanish. Over 573,000 publications were distributed via our toll-free publication hotline and at outreach events in FY 2011. All the publications are available and accessible on line. EBSA’s Web site has become the primary means of reaching the public. In FY 2011, the Web site hosted over three million visitors who viewed almost 10 million pages.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

DETAILED WORKLOAD AND PERFORMANCE				
	FY 2011 Enacted		FY 2012 Enacted	FY 2013 Request
	Target	Result	Target	Target
Enforcement and Participant Assistance				
Investigations Processed:				
Civil	2,900	3,472	3,611	3,915
Criminal	200	302	310	320
Total	3,100	3,774	3,921	4,235
Inquiries Answered (Participants)				
Field Offices	233,000	222,860	286,400	294,200
National Office	12,000	10,920	10,000	2,200
Total	245,000	233,780	296,400	296,400
Strategic Goal 4: Secure health benefits and, for those not working, provide income security	--	--	--	--
Outcome Goal 4.3: Improve health benefits and retirement security for all workers	--	--	--	--
Percent of employee benefit plans in compliance with civil provisions of ERISA	--	--	.00% (base)	--
Percentage point difference in compliance rate between employee benefit plans recently investigated and other employee benefit plans	--	--	--	.00% (base)
Participant assistance program customer satisfaction index	.00% (base)	66.00%	68.00%	70.00%
Voluntary Fiduciary Correction Program Applications Processed	2,000	1,968	2,000	2,000
Delinquent Filer Voluntary Compliance Program Applications Processed	20,500	25,020	20,500	20,500
Indictments	82	129	93	105
Reporting Compliance Reviews	4,000	4,971	4,330	4,330
CPA Firm Inspections	4	5	3	3
Percent of inquiries responded to within one business day	95.00%	99.97%	99.00%	99.00%
Rapid Response Sessions Held for Individuals Facing Job Loss	300	675	600	600
Congressional Offices Briefed	200	236	200	200
Webcasts Conducted for Plan Sponsors and Participants	10	8	10	11
Compliance Seminars for Plan Sponsors and Participants	5	7	10	11
Percent of COBRA applications processed in 14 days or less	.00%	100.00%	--	--
EFAST Help Desk Inquiries by Contractors	90,000	108,054	90,000	90,000

ENFORCEMENT AND PARTICIPANT ASSISTANCE

DETAILED WORKLOAD AND PERFORMANCE				
	FY 2011 Enacted		FY 2012 Enacted	FY 2013 Request
	Target	Result	Target	Target
EFAST Help Desk inquiries referred to EBSA	10,000	11,431	10,000	10,000
Percent of EFAST Help Desk inquiries referred to EBSA responded to within 24 hours	95.00%	98.00%	95.00%	95.00%

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

Performance and Workload Information

In FY 2012, consistent with the DOL Strategic Plan, EBSA will more fully report interim data on the percent of employee benefit plans in compliance with the civil provisions of ERISA. EBSA will also continue collecting data on randomized investigations that will result in measuring the effectiveness of investigations when compared to plans that have not been investigated.

In FY 2013, EBSA estimates it will achieve over \$1,172,000,000 in total monetary results (including \$173,000,000 for participant benefit recoveries) by: conducting 3,915 civil investigations; securing 105 indictments by conducting 320 criminal investigations; completing 4,330 reporting compliance reviews, responding to nearly 300,000 participant inquiries; conducting 600 rapid response sessions held for individuals facing job loss; conducting 200 Congressional office briefings; and completing 11 webcasts and 11 compliance seminars for plan sponsors and participants. EBSA also estimates responding to approximately 100,000 EFAST2 help-desk inquiries.

EBSA's projects a call volume of nearly 300,000 in FY 2013 and estimates that recoveries obtained through informal, voluntary resolution of benefit disputes between employers, plan officials and participants will be approximately \$173,000,000. The FY 2013 budget request provides the resources to ensure that all workers have access to a secure retirement and to adequate and affordable health coverage, supporting the Secretary's strategic vision of *Good Jobs for Everyone*.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

BUDGET ACTIVITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2011 Enacted	FY 2012 Enacted	FY 2013 Request	Diff. FY13 Req./ FY12 Enacted
11.1	Full-time permanent	69,650	77,074	77,667	593
11.3	Other than full-time permanent	57	57	65	8
11.5	Other personnel compensation	2,151	2,151	2,159	8
11.8	Special personal services payments	0	0	0	0
11.9	Total personnel compensation	71,858	79,282	79,891	609
12.1	Civilian personnel benefits	19,600	21,990	22,157	167
21.0	Travel and transportation of persons	2,243	2,712	2,712	0
22.0	Transportation of things	50	71	71	0
23.1	Rental payments to GSA	7,308	8,780	8,780	0
23.3	Communications, utilities, and miscellaneous charges	410	431	431	0
24.0	Printing and reproduction	203	1,048	1,048	0
25.1	Advisory and assistance services	0	0	0	0
25.2	Other services from non-Federal sources	2,103	3,149	3,149	0
25.3	Other goods and services from Federal sources 1/	12,973	12,858	12,858	0
25.4	Operation and maintenance of facilities	0	0	0	0
25.7	Operation and maintenance of equipment	11,031	13,527	12,751	-776
26.0	Supplies and materials	548	591	591	0
31.0	Equipment	614	804	804	0
38.0	Depreciation Expense - Unfunded	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	Total	128,941	145,243	145,243	0
1/Other goods and services from Federal sources					
	Working Capital Fund	12,578	12,421	12,421	0
	DHS Services	395	437	437	0

ENFORCEMENT AND PARTICIPANT ASSISTANCE

CHANGES IN FY 2013

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	\$297
Personnel benefits	-27
One day more of pay	397
Federal Employees Compensation Act (FECA)	109
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services	0
Working Capital Fund	0
Other government accounts (DHS Charges)	0
Other purchases of goods and services from Government accounts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	-776
Supplies and materials	0
Equipment	0
Insurance claims and indemnities	0

Built-Ins Subtotal **\$0**

Net Program **\$0**

Direct FTE **0**

	Estimate	FTE
Base	\$145,243	875

POLICY AND COMPLIANCE ASSISTANCE

BUDGET AUTHORITY BEFORE THE COMMITTEE				
(Dollars in Thousands)				
	FY 2011 Enacted	FY 2012 Enacted	FY 2013 Request	Diff. FY 13 Req. / FY 12 Enacted
Budget Authority	18,956	31,205	31,205	0
FTE	88	102	102	0

NOTE: FY 2011 reflects actual FTE. Authorized FTE for FY 2011 was 88.

Introduction

The Policy and Compliance Assistance activity will directly support the Secretary's strategic vision of providing *Good Jobs for Everyone* by sustaining and strengthening EBSA's health care and retirement plan regulatory programs. We routinely evaluate and adjust our regulatory activities to achieve the Secretary's priorities. We also provide meaningful compliance assistance and engage the regulated community in designing and implementing compliance assistance tools and materials, a key Secretarial strategic principle.

This activity formulates policy, promulgates regulations and provides interpretations and other guidance to the regulated community under Title I of ERISA. EBSA will implement an aggressive regulatory agenda that includes, among other things: (1) developing and implementing a regulation to facilitate compliance with the requirement that retirement plans automatically provide participants and certain beneficiaries with individual pension benefit statements; (2) amending the Department's claims procedure regulation to improve protections for participants and beneficiaries and update the internal claims and appeals process for all employee benefit plans; (3) developing and implementing a regulation to establish requirements for service providers to disclose fee and expense information to welfare benefit plan fiduciaries; and (4) developing and implementing an amendment to a new transparency regulation for 401(k) and other pension plans that would require covered service providers, in addition to providing required fee and investment expense information, to also furnish a "guide" or roadmap to assist plan fiduciaries in identifying and locating the potentially complex information that must be disclosed and which may be located in multiple documents. EBSA will also continue its research activities of employer-sponsored pension and health benefit plans.

Additionally, EBSA will continue implementing the ACA by promulgating regulations, developing compliance assistance tools and materials, and providing technical assistance. Further, EBSA intends to issue a new notice of proposed rulemaking relating to the "Definition of Fiduciary." EBSA will ensure that interested parties and stakeholders are provided with a sufficient opportunity to review and comment on the new notice of proposed rulemaking.

With the increase in the regulatory activity for both pension and health care benefits, EBSA will continue to strengthen its research program which plays a pivotal role in supporting the regulatory agenda and policy formulation of the agency. EBSA performs three major, non-discretionary research functions:

POLICY AND COMPLIANCE ASSISTANCE

- *Economic research* – Section 513 of ERISA directs the Secretary of Labor to conduct research and produce statistics on employee benefit programs (the ACA includes many additional specific areas of research);
- *Regulatory impact analysis* – Agencies must assess their regulations’ economic costs and benefits as required under Executive Order 12866, the Regulatory Flexibility Act and the Paperwork Reduction Act; and
- *Legislative and policy development and analysis* – EBSA is a lead agency for many of the Administration’s employee benefits legislative and policy activities.

Through this activity, EBSA also issues individual and class exemptions from the prohibited transaction provisions of ERISA. These exemptions are necessary to facilitate transactions between employee benefit plans and related parties, such as service providers, that would otherwise be prohibited but that are considered beneficial to employee benefit plans. EBSA is working on the development of new class exemptions, the amendment of existing class exemptions and the issuance of interpretive guidance in connection with the Department’s further consideration of a proposed regulation defining investment advice fiduciaries under ERISA, as well as the implementation of the Dodd Frank Wall Street Reform and Consumer Protection Act.

Finally, this activity also provides ongoing compliance and technical assistance to small businesses, plan officials, and the general public to improve their understanding of the complex provisions of ERISA and their compliance with statutory requirements.

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2008	\$17,545	92
2009	\$18,198	88
2010	\$18,994	88
2011	\$21,571	88
2012	\$31,205	102

FY 2013

EBSA seeks \$31,205,000 and 102 FTE for the Policy and Compliance Assistance budget activity. This budget will enable EBSA to continue effective implementation of new health care legislation (including the Affordable Care Act) as well as support the Department’s regulatory strategies of *Plan-Prevent-Protect* and *Openness and Transparency*. Fiduciary education, regulations, exemptions, compliance assistance, policy and research, and interpretive guidance have and will continue to substantially contribute to the protection of employee pension and health benefits. EBSA estimates an increase of 900 interpretations, regulatory projects, and other technical assistance in support of the Secretary’s strategic vision of *Good Jobs for Everyone* in FY 2013. This increase is directly related to the ACA’s Multiple Employer Welfare Arrangement (MEWA) and the Mental Health Parity and Addiction Equity Act (MHPAEA) regulatory implementation activities.

POLICY AND COMPLIANCE ASSISTANCE

Additionally, with regard to the new MEWA registration requirements and health care related enforcement tools, the resources requested will enable EBSA to develop and implement compliance related programs to aid in the agency's oversight and audit initiatives to combat health care fraud. These efforts will include developing compliance related materials and providing training for the agency's Benefits Advisors and Investigators upon issuance of final MEWA regulatory provisions. Detailed presentations for MEWA regulatory provisions will also be provided to field office Investigators and Benefit Advisors who attend the Agency's Basic Training seminars. EBSA will develop materials to conduct Compliance Workshops across the country to educate industry professionals about new MEWA provisions and will enhance the MEWA Registration Form to facilitate more detailed investigations of entities that may not have sufficient reserves to pay legitimate health care claims.

In FY 2013, EBSA will also continue the collaboration with the Departments of Health and Human Services (HHS) and Treasury to support and participate in the development of regulations, regulatory impact statements and economic analyses, and guidance needed for implementation of the provisions of the ACA. EBSA will: (1) continue to develop regulations to implement the provisions of ACA within specified timeframes; (2) continue to administer new responsibilities for the registration requirements of and enforcement tools for Multiple Employer Welfare Arrangements; (3) continue to support new and comprehensive compliance assistance programs; (4) continue the implementation of new and significantly expanded enforcement strategies and (5) support health benefit related research reports, surveys and studies.

EBSA will begin to undertake a reexamination of benefit plan reporting and disclosure requirements and programs in a continued effort to modernize and improve them. This reexamination will enable EBSA to better understand how we can minimize compliance burdens on the regulated community, make sure information requested in the Form 5500 is pertinent, better target our regulatory and enforcement resources, and provide a more effective basis for policy decisions. The adequacy of existing plan disclosures of financial and investment information will be assessed.

FY 2012

EBSA will continue to carry out the agency's interpretive activities concerning the provisions of ERISA and related statutes through the timely issuance of advisory opinions and field assistance bulletins addressing relevant interpretive issues raised by the regulated community or considered significant by the Department. EBSA will continue to develop its research in health and pension matters, including the annual report to Congress providing information on self-insured health plans. EBSA will also continue to review and process class and individual exemption applications with the ultimate objective of protecting plans and their participants and beneficiaries while facilitating necessary business transactions. The Department's consideration of a proposed regulation defining investment advice fiduciaries as well as its responsibilities under the Dodd Frank Wall Street Reform and Consumer Protection Act will continue to generate work related to the need for new class exemptions and/or amendments to existing class exemptions and the issuance of interpretive guidance. Through these programs, we provide guidance and engage the regulated community in achieving compliance while protecting the benefits of workers, retirees and their families.

POLICY AND COMPLIANCE ASSISTANCE

EBSA will continue the development of health care related regulations, interpretive guidance and other materials. These materials will both encourage and facilitate compliance with the new law and regulations. For example, EBSA will develop and disseminate compliance assistance tools and materials, including investigative and compliance assistance check sheets that will provide clarifications to group health plans, health insurance issuers, participants, beneficiaries, and other interested stakeholders regarding compliance with the ACA. These check sheets will be designed to facilitate broad based compliance among group health plans and health insurance issuers. EBSA will also conduct research into characteristics of employment-based health insurance plans, self-insured plans and wellness programs. In FY 2012, EBSA will continue to advance the goals of health care reform by publishing compliance assistance guidance regarding the health plan coverage provisions of ERISA, including the Genetic Information Nondiscrimination Act (GINA), the Mental Health Parity and Addiction Equity Act (MHPAEA), and the special enrollment and notice provisions added to the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA).

Using regulatory changes to produce greater openness and transparency is an integral part of EBSA's compliance strategy. These efforts will not only enhance the EBSA enforcement toolkit, but will encourage greater levels of compliance by the regulated community and enhance awareness among workers of their rights and benefits.

FY 2011

In FY 2011, EBSA pursued a proactive regulatory agenda that included completing 378 regulatory projects for the advancement of health care reform and retirement security. These projects include providing guidance, developing regulatory standards, conducting statistical research, policy, regulatory analysis, and issuing ERISA exemptions. EBSA conducted several research projects related to the ACA, including research leading to the submission to Congress of the annual Self-Insured Group Health Plan Report, and assistance to HHS in the preparation of the Study on Large Group Health Plans, the Wellness Study, and the Essential Health Benefits Report.

In FY 2011, EBSA developed and implemented companion regulations that come into force in 2012, which will improve disclosures regarding service provider fees and investment expenses to both workers and plan sponsors. In FY 2011, EBSA published a final regulation establishing requirements that, for the first time, ERISA plan fiduciaries give workers with 401(k)-type retirement plans quarterly statements of plan fees and expenses deducted from their accounts and core information about investments available under their plan including the cost of these investments. EBSA developed a final rule that is expected to be published in early 2012, that amends existing standards under ERISA section 408(b)(2) for ERISA plans contracting or making reasonable arrangements for services. This rule establishes new requirements for key pension plan service providers (such as record-keepers, brokers, banks, and insurers) to disclose information to plan sponsors about the fees they receive, both directly from the plan and indirectly in the form of revenue sharing from other parties dealing with the plan. These new rules on fee disclosures are meant to ensure that workers as well as employers and other plan sponsors get disclosures about retirement plan fees and investment expenses that are clearer and

POLICY AND COMPLIANCE ASSISTANCE

easier to understand. We believe the greater transparency afforded by these rules will enable plan sponsors and workers to make better decisions about their retirement plans and 401(k) investments, which should result in cost savings for both.

Additionally, EBSA completed 654 technical and compliance assistance projects involving Part 7 of ERISA providing technical/compliance assistance to plan sponsors and employers for ACA health plan standards in FY 2011. In the area of exemptions, EBSA finalized an amendment to the In-House Asset Manager (INHAM) class exemption and published two advisory opinions on existing class exemptions, including guidance on the operation of the Qualified Professional Asset Manager (QPAM) class exemption in the context of a stable value program and guidance as to whether investment advice fiduciaries can utilize PTE 86-128, a class exemption providing relief for the receipt of fees by fiduciaries, in connection with the execution of securities transactions. EBSA has performed a substantial amount of work analyzing the need for additional exemptive relief in connection with the Department's consideration of a proposed regulation defining investment advice fiduciaries.

POLICY AND COMPLIANCE ASSISTANCE

DETAILED WORKLOAD AND PERFORMANCE				
	FY 2011 Enacted		FY 2012 Enacted	FY 2013 Request
	Target	Result	Target	Target
Policy and Compliance Assistance				
Interpretations & Other Technical Assist				
Health Plan Standards	1,900	1,747	1,900	2,800
Regulations & Interpretations	1,700	1,728	1,700	1,700
Total	3,600	3,475	3,600	4,500
Strategic Goal 4: Secure health benefits and, for those not working, provide income security	--	--	--	--
Outcome Goal 4.3: Improve health benefits and retirement security for all workers	--	--	--	--
Participant assistance program customer satisfaction index	--	66.00%	68.00%	70.00%
Percent of employee benefit plans in compliance with civil provisions of ERISA	--	--	(base)	--
Percentage point difference in compliance rate between employee benefit plans recently investigated and other employee benefit plans	--	--	--	.00% (base)
Regulations/Projects	250	254	253	246
Individual Exemptions & Expro (Proposed & Granted)	130	124	130	130
Section 502(l) Waivers	6	6	6	6
Exemption Processing Time (avg #days)	430	394	400	400

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

POLICY AND COMPLIANCE ASSISTANCE

Performance and Workload Summary

EBSA will be positioned to meet anticipated increases for interpretative and other technical assistance projects. The significant portion of regulatory workload increases will be to meet MEWA registration and MHPAEA program requirements. EBSA will complete an estimated 4,500 interpretive and other associated technical assistance projects/plan inquiries and targeted technical assistance. EBSA also estimates completing 246 regulatory projects involving interpretive issues, health plan standards, research statistical projects, policy and legislative analysis projects, regulatory analysis projects, MHPAEA implementation and MEWA registration requirements.

Additionally, EBSA will review and process class and individual exemption applications with the ultimate objective of protecting plans and their participants and beneficiaries while facilitating necessary business transactions. Specifically, EBSA has allocated sufficient resources to close, propose or grant an estimated 130 individual exemption actions (includes EXPRO), complete project work on five (5) class exemptions and reduce exemption processing time to 400 days. Through these programs, we provide guidance and engage the regulated community in achieving compliance while protecting the benefits of workers, retirees and their families.

POLICY AND COMPLIANCE ASSISTANCE

BUDGET ACTIVITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2011 Enacted	FY 2012 Enacted	FY 2013 Request	Diff. FY13 Req./ FY12 Enacted
11.1	Full-time permanent	10,214	11,856	11,968	112
11.3	Other than full-time permanent	2	2	3	1
11.5	Other personnel compensation	350	350	351	1
11.9	Total personnel compensation	10,566	12,208	12,322	114
12.1	Civilian personnel benefits	2,681	3,120	3,151	31
21.0	Travel and transportation of persons	74	212	212	0
22.0	Transportation of things	22	32	32	0
23.1	Rental payments to GSA	1,103	1,467	1,467	0
23.3	Communications, utilities, and miscellaneous charges	119	129	129	0
24.0	Printing and reproduction	157	157	157	0
25.2	Other services from non-Federal sources	721	608	608	0
25.3	Other goods and services from Federal sources 1/	2,013	2,294	2,294	0
25.5	Research and development contracts	1,100	9,800	9,655	-145
25.7	Operation and maintenance of equipment	204	873	873	0
26.0	Supplies and materials	69	89	89	0
31.0	Equipment	127	216	216	0
	Total	18,956	31,205	31,205	0
	1/Other goods and services from Federal sources				
	Working Capital Fund	1,948	2,225	2,225	0
	DHS Services	65	69	69	0

POLICY AND COMPLIANCE ASSISTANCE

CHANGES IN FY 2013

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	\$45
Personnel benefits	12
One day more of pay	88
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Other services	0
Working Capital Fund	0
Other government accounts (DHS Charges)	0
Other purchases of goods and services from Government accounts	0
Research & Development Contracts	-145
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0

Built-Ins Subtotal **\$0**

Net Program **\$0**

Direct FTE **0**

	Estimate	FTE
Base	\$31,205	102

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

BUDGET AUTHORITY BEFORE THE COMMITTEE				
(Dollars in Thousands)				
	FY 2011 Enacted	FY 2012 Enacted	FY 2013 Request	Diff. FY 13 Req. / FY 12 Enacted
Budget Authority	6,654	6,705	6,705	0
FTE	26	26	26	0

NOTE: FY 2011 reflects actual FTE. Authorized FTE for FY 2011 was 26.

Introduction

The EBSA Executive Leadership, Program Oversight and Administration budget activity provides the overall leadership and direction for the policy, regulatory, enforcement and all other program and administrative activities that support the Secretary’s strategic vision of *Good Jobs for Everyone*. This activity supports the Secretary’s strategic vision through our component program offices and will improve pension and health benefits security with increased enforcement, strengthened regulatory programs to effectively implement reform legislation, and improve transparency through public disclosure and proactive participant assistance and outreach programs.

This budget activity is also responsible for the development and implementation of the agency’s administrative policy, strategic planning, and operational guidance by: (a) planning and overseeing human capital management programs to build, sustain, and effectively deploy the skilled, knowledgeable, diverse, and high-performing workforce needed to meet current and emerging needs; (b) providing leadership in the development of the agency’s training goals and delivery mechanisms; (c) providing leadership in the development of long-term and annual performance plans and reports; (d) overseeing the development and implementation of the agency’s Continuity of Operations Plan (COOP) to ensure timely and effective continuation of critical agency operations in the event of a major disruption; (e) planning and directing the analysis, justification, execution and evaluation of the agency budget, integrating the agency’s strategic performance goals with budget formulation and execution; (f) providing advice and oversight regarding the prudent management and use of resources and compliance with governing laws and regulations; and, (g) planning and coordinating the overall facilities management plan including space, telecommunications, mail, and printing management.

Through this activity, EBSA also carries out its responsibilities under the Debt Collection and Debt Collection Improvement Acts, specifically, those related to debts arising from civil penalties assessed under ERISA sections 502(c), 502(i) and 502(l).

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2008	\$5,178	25
2009	\$5,530	24
2010	\$6,668	26
2011	\$6,655	26
2012	\$6,705	26

FY 2013

EBSA seeks \$6,705,000 and 26 FTE for the Executive Leadership, Program Oversight and Administration budget activity. This budget will enable EBSA to continue to provide the leadership and administrative support for all of the agency's programs including enforcement, participant assistance, policy, compliance assistance, and regulatory initiatives. EBSA will utilize human capital, financial and other information systems to provide decision-makers with the timely analysis required to monitor and update strategic plans and to measure the results of program and management initiatives.

Through this budget activity, EBSA will ensure effective and consistent employee and labor relations; promote a positive labor management relationship with the employees' exclusive representatives; plan and execute Executive Orders and Departmental special emphasis programs such as those for Historically Black Colleges and Universities, Hispanic Serving Institutions, Tribal Colleges and Universities, Asian American and Pacific Islanders, and individuals with disabilities; develop policy and operational guidance regarding the prudent management and use of resources in compliance with governing laws and regulations; and, oversee the agency's procurement, travel and other financial management activities.

Lastly, during FY 2013, EBSA will continue to effectively administer its responsibilities for the management of debts arising from the assessment of civil penalties under ERISA sections 502(c)(2), 502(i) and 502(l). This will be accomplished in accordance with the requirements of the Debt Collection and Debt Collection Improvement Acts.

FY 2012

In FY 2012, the Executive Leadership, Program Oversight and Administration budget activity will continue to ensure the execution of functions that include: (a) human capital management programs to build, sustain, and effectively deploy the skilled, knowledgeable, diverse, and high-performing workforce needed to meet current and emerging needs; (b) development of strategic training goals and delivery mechanisms that meet both programmatic and individual needs; (c) development of long term and annual performance plans and reports; (d) development and implementation of the agency Continuity of Operations Plan for continuation of critical agency operations in the event of a major disruption; (e) formulation, execution and evaluation of the agency budget; and (f) overall facilities management planning including space, telecommunications, mail, and printing management.

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

FY 2011

Extensive discussions of the agency achievements are found in the Overview and other budget activity sections. However, the following are a few of the significant accomplishments in the administrative areas. Effective human capital management requires us to identify and recruit qualified candidates, train and develop them for current positions and prepare them for progressively more responsible positions within EBSA. These positions include occupations such as Investigators, Auditors, Benefits Advisors and Employee Benefits Law Specialists. To identify and recruit qualified, diverse entry-level employees, our recruitment teams conducted on-campus recruiting at local colleges and universities throughout the country. We utilized internship programs at undergraduate, graduate and professional institutions. In FY 2011, 50 employees (includes Student Temporary Employment Program and Student Career Employment Program employees) were hired through recruitment and hiring programs. To enhance employee development and succession planning, we utilized intra-agency development assignments, OPM-sponsored management development training, and Graduate School sponsored classes and seminars, and other management development assignments (e.g., developmental details, EBSA management conferences and seminars, annual employee needs assessments). Seventy-nine EBSA employees completed such developmental assignments in FY 2011.

We continued our extensive internal training curriculum to ensure that our employees develop and maintain the technical knowledge needed to successfully meet our strategic and performance objectives. The training curriculum consisted of a two-part Basic Training Course, Criminal Enforcement Training Course, Benefit Plan Accounting Course, and an independent study course for the Introduction to Employee Benefits and Fiduciary Conduct. In FY 2011, EBSA trained approximately 172 employees in technical, professional and leadership areas, expending more than 9,000 hours on training. These courses are designed to provide a foundation of legal knowledge and an understanding of industry practices required to effectively regulate the employee benefits industry and provide compliance assistance to stakeholders. Additionally, 23 employees completed Federal Law Enforcement Training Center (FLETC) courses to enhance their skills in areas unique to conducting criminal employee benefit plan investigations.

Lastly, EBSA effectively administered its responsibilities under the Debt Collection and Debt Collection Improvement Acts resulting in net final assessments of approximately \$23,046,000 and net collections of approximately \$20,957,000 in FY 2011.

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

DETAILED WORKLOAD AND PERFORMANCE				
	FY 2011 Enacted		FY 2012 Enacted	FY 2013 Request
	Target	Result	Target	Target
Executive Leadership, Program Oversight and Administration				
Strategic Goal 4: Secure health benefits and, for those not working, provide income security	--	--	--	--
Outcome Goal 4.3: Improve health benefits and retirement security for all workers	--	--	--	--
Participant assistance program customer satisfaction index	--	66.00%	68.00%	70.00%
Percent of employee benefit plans in compliance with civil provisions of ERISA	--	--	.00% (base)	--
Percentage point difference in compliance rate between employee benefit plans recently investigated and other employee benefit plans	--	--	--	.00% (base)

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

Performance and Workload Summary

The proposed FY 2013 budget level for the Executive Leadership, Program Oversight and Administration budget activity ensures the execution of functions that include: (a) human capital management programs to build, sustain, and effectively deploy the skilled, knowledgeable, diverse, and high-performing workforce needed to meet current and emerging needs; (b) development of strategic training goals and delivery mechanisms that meet both programmatic and individual needs; (c) development of long term and annual performance plans and reports; (d) development and implementation of the Agency Continuity of Operations Plan for continuation of critical agency operations in the event of a major disruption; (e) formulation, execution and evaluation of the Agency budget; and (f) overall facilities management planning including space, telecommunications, mail, and printing management.

**EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND
ADMINISTRATION**

BUDGET ACTIVITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2011 Enacted	FY 2012 Enacted	FY 2013 Request	Diff. FY13 Req./ FY12 Enacted
11.1	Full-time permanent	3,200	3,200	3,225	25
11.3	Other than full-time permanent	117	117	117	0
11.5	Other personnel compensation	99	99	99	0
11.9	Total personnel compensation	3,416	3,416	3,441	25
12.1	Civilian personnel benefits	905	905	911	6
21.0	Travel and transportation of persons	48	48	48	0
22.0	Transportation of things	3	3	3	0
23.1	Rental payments to GSA	389	452	452	0
23.3	Communications, utilities, and miscellaneous charges	117	117	117	0
24.0	Printing and reproduction	75	75	75	0
25.2	Other services from non-Federal sources	182	241	241	0
25.3	Other goods and services from Federal sources 1/	483	427	427	0
25.7	Operation and maintenance of equipment	915	900	869	-31
26.0	Supplies and materials	62	62	62	0
31.0	Equipment	59	59	59	0
	Total	6,654	6,705	6,705	0
	1/Other goods and services from Federal sources				
	Working Capital Fund	457	400	400	0
	DHS Services	26	27	27	0

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

CHANGES IN FY 2013

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments		\$12
Personnel benefits		3
One day more of pay		16
Federal Employees Compensation Act (FECA)		0
Travel and transportation of persons		0
Transportation of things		0
Rental payments to GSA		0
Communications, utilities, and miscellaneous charges		0
Printing and reproduction		0
Other services		0
Working Capital Fund		0
Other government accounts (DHS Charges)		0
Operation and maintenance of equipment		-31
Supplies and materials		0
Equipment		0

Built-Ins Subtotal **\$0**

Net Program **\$0**

Direct FTE **0**

	Estimate	FTE
Base	\$6,705	26