

**FY 2025**

**CONGRESSIONAL BUDGET JUSTIFICATION**

**EMPLOYEE BENEFITS SECURITY ADMINISTRATION**

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# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

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# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## APPROPRIATION LANGUAGE

*For necessary expenses for the Employee Benefits Security Administration, \$205,663,000, to remain available until September 30, 2026, of which up to \$3,000,000 shall be made available until expended for the procurement of expert witnesses for enforcement litigation.*

Note.--A full-year 2024 appropriation for this account was not enacted at the time the Budget was prepared; therefore, the Budget assumes this account is operating under the Continuing Appropriations Act, 2024 and Other Extensions Act (Division A of Public Law 118-15, as amended). The amounts included for 2024 reflect the annualized level provided by the continuing resolution.

# **EMPLOYEE BENEFITS SECURITY ADMINISTRATION**

## **ANALYSIS OF APPROPRIATION LANGUAGE**

The Department requests two-year availability to increase flexibility for program execution. The annual uncertainty in the appropriations timing results in delayed hiring and rushed execution of contracts. The multi-year availability would reduce the impact of short-term continuing resolutions at no cost to the annual appropriations bill. This change would also enhance staff oversight of the programs they are administering.

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

<b>AMOUNTS AVAILABLE FOR OBLIGATION</b>						
(Dollars in Thousands)						
	<b>FY 2023 Enacted</b>		<b>FY 2024 Estimate</b>		<b>FY 2025 Request</b>	
	<b>FTE</b>	<b>Amount</b>	<b>FTE</b>	<b>Amount</b>	<b>FTE</b>	<b>Amount</b>
<b>A. Appropriation</b>	<b>724</b>	<b>\$191,100</b>	<b>724</b>	<b>\$191,100</b>	<b>738</b>	<b>\$205,663</b>
	0	\$0	0	\$0	0	\$0
No Surprises Act (P.L. 116-260)	117	\$25,779	117	\$25,779	29	\$6,445
<i>Subtotal Appropriation</i>	<i>841</i>	<i>\$216,879</i>	<i>841</i>	<i>\$216,879</i>	<i>767</i>	<i>\$212,108</i>
Offsetting Collections From:						
Reimbursements	0	\$6,691	0	\$8,000	0	\$8,000
<i>Subtotal</i>	<i>841</i>	<i>\$223,570</i>	<i>841</i>	<i>\$224,879</i>	<i>767</i>	<i>\$220,108</i>
<b>B. Gross Budget Authority</b>	<b>841</b>	<b>\$223,570</b>	<b>841</b>	<b>\$224,879</b>	<b>767</b>	<b>\$220,108</b>
	0	\$0	0	\$0	0	\$0
No Surprises Act (P.L. 116-260)	-117	-\$25,779	-117	-\$25,779	-29	-\$6,445
Offsetting Collections To:						
Reimbursements	0	-\$6,691	0	-\$8,000	0	-\$8,000
<i>Subtotal</i>	<i>724</i>	<i>\$191,100</i>	<i>724</i>	<i>\$191,100</i>	<i>738</i>	<i>\$205,663</i>
<b>C. Budget Authority Before the Committee</b>	<b>724</b>	<b>\$191,100</b>	<b>724</b>	<b>\$191,100</b>	<b>738</b>	<b>\$205,663</b>
No Surprises Act (P.L. 116-260)	117	\$25,779	117	\$25,779	29	\$6,445
Offsetting Collections From:						
Reimbursements	0	\$6,691	0	\$8,000	0	\$8,000
Unobligated Balances From:						
Brought Forward, October 1 (Expert Witness)	0	\$0	0	\$1,195	0	\$0
Brought Forward, October 1 (CARES Act)	0	\$0	0	\$0	0	\$0
<i>Subtotal</i>	<i>841</i>	<i>\$223,570</i>	<i>841</i>	<i>\$226,074</i>	<i>767</i>	<i>\$220,108</i>
<b>D. Total Budgetary Resources</b>	<b>841</b>	<b>\$223,570</b>	<b>841</b>	<b>\$226,074</b>	<b>767</b>	<b>\$220,108</b>
FTE Lapse and Unobligated Balance Expiring	-6	-\$561	0	\$0	0	\$0
FTE Lapse and Unobligated Balance Carryover (Expert Witness)	0	-\$1,195	0	\$0	0	\$0
FTE Overage and Unobligated Balance Carryover (NSA P.L. 116-260)	-2	\$0	0	\$0	0	\$0
<b>E. Total, Estimated Obligations</b>	<b>833</b>	<b>\$221,814</b>	<b>841</b>	<b>\$226,074</b>	<b>767</b>	<b>\$220,108</b>

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2024 Estimate	FY 2025 Request	Net Change
<b>Budget Authority</b>			
General Funds	\$191,100	\$205,663	+\$14,563
<b>Total</b>	\$191,100	\$205,663	+\$14,563
 <b>Full Time Equivalents</b>			
General Funds	724	738	14
<b>Total</b>	724	738	14

Explanation of Change	FY 2025 Change							
	FY 2024 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>Increases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
Costs of pay adjustments	724	\$88,417	0	\$0	0	\$6,227	0	\$6,227
Personnel benefits	0	\$37,952	0	\$0	0	\$2,670	0	\$2,670
Employee health benefits	0	\$0	0	\$0	0	\$0	0	\$0
Federal Employees' Compensation Act (FECA)	0	\$0	0	\$0	0	\$0	0	\$0
Benefits for former personnel	0	\$30	0	\$0	0	\$0	0	\$0
Travel and transportation of persons	0	\$906	0	\$0	0	\$0	0	\$0
Transportation of things	0	\$8	0	\$0	0	\$0	0	\$0
Rental payments to GSA	0	\$11,390	0	\$0	0	\$0	0	\$0
Rental payments to others	0	\$27	0	\$0	0	\$0	0	\$0
Communications, utilities, and miscellaneous charges	0	\$167	0	\$0	0	\$0	0	\$0
Printing and reproduction	0	\$827	0	\$0	0	\$0	0	\$0
Advisory and assistance services	0	\$1,680	0	\$0	0	\$0	0	\$0
Other services from non-Federal sources	0	\$6,696	0	\$0	0	\$0	0	\$0
Working Capital Fund	0	\$23,116	0	\$0	0	\$697	0	\$697
Other Federal sources (DHS Charges)	0	\$753	0	\$0	0	\$0	0	\$0
Other goods and services from Federal sources	0	\$17,800	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	\$5	0	\$0	0	\$0	0	\$0
Supplies and materials	0	\$1,310	0	\$0	0	\$0	0	\$0
Equipment	0	\$16	0	\$0	0	\$0	0	\$0
Grants, subsidies, and contributions	0	\$0	0	\$0	0	\$0	0	\$0

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## FY 2025 Change

Explanation of Change	FY 2024 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Insurance claims and indemnities	0	\$0	0	\$0	0	\$0	0	\$0
<b>Built-Ins Subtotal</b>	<b>724</b>	<b>+\$191,100</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>+\$9,594</b>	<b>0</b>	<b>+\$9,594</b>
<b>B. Programs:</b>								
SECURE 2.0 Implementation	0	\$0	0	\$0	12	\$4,672	12	\$4,672
Implementation of the Customer Experience Initiative	0	\$0	0	\$0	2	\$350	2	\$350
<b>Programs Subtotal</b>			<b>0</b>	<b>\$0</b>	<b>14</b>	<b>+\$5,022</b>	<b>14</b>	<b>+\$5,022</b>
<b>Total Increase</b>	<b>724</b>	<b>+\$191,100</b>	<b>0</b>	<b>\$0</b>	<b>14</b>	<b>+\$14,616</b>	<b>14</b>	<b>+\$14,616</b>
<b>Decreases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
Federal Employees' Compensation Act (FECA)	0	\$0	0	\$0	0	-\$53	0	-\$53
<b>Built-Ins Subtotal</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>-\$53</b>	<b>0</b>	<b>-\$53</b>
<b>B. Programs:</b>								
<b>Total Decrease</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>-\$53</b>	<b>0</b>	<b>-\$53</b>
<b>Total Change</b>	<b>724</b>	<b>+\$191,100</b>	<b>0</b>	<b>\$0</b>	<b>14</b>	<b>+\$14,563</b>	<b>14</b>	<b>+\$14,563</b>

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

<b>SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY</b>								
(Dollars in Thousands)								
	FY 2023 Enacted		FY 2024 Estimate		FY 2025 Request		Diff. FY25 Request/ FY24 Estimate	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>Enforcement and Participant Assistance</b>	<b>628</b>	<b>155,758</b>	<b>625</b>	<b>161,375</b>	<b>625</b>	<b>169,535</b>	<b>0</b>	<b>8,160</b>
General Funds	628	155,758	625	161,375	625	169,535	0	8,160
<b>Policy and Compliance Assistance</b>	<b>52</b>	<b>28,239</b>	<b>56</b>	<b>19,051</b>	<b>68</b>	<b>24,607</b>	<b>12</b>	<b>5,556</b>
General Funds	52	28,239	56	19,051	68	24,607	12	5,556
<b>Executive Leadership, Program Oversight and Administration</b>	<b>38</b>	<b>7,103</b>	<b>43</b>	<b>10,674</b>	<b>45</b>	<b>11,521</b>	<b>2</b>	<b>847</b>
General Funds	38	7,103	43	10,674	45	11,521	2	847
<b>Employee Benefits Security Programs</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total</b>	<b>718</b>	<b>191,100</b>	<b>724</b>	<b>191,100</b>	<b>738</b>	<b>205,663</b>	<b>14</b>	<b>14,563</b>
<b>General Funds</b>	<b>718</b>	<b>191,100</b>	<b>724</b>	<b>191,100</b>	<b>738</b>	<b>205,663</b>	<b>14</b>	<b>14,563</b>

NOTE: FY 2023 reflects actual FTE.

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

<b>BUDGET AUTHORITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2023 Enacted</b>	<b>FY 2024 Estimate</b>	<b>FY 2025 Request</b>	<b>Diff. FY25 Request / FY24 Estimate</b>
	Full-Time Equivalent				
	Full-time Permanent	723	720	734	14
	Other	1	4	4	0
	<b>Total</b>	<b>724</b>	<b>724</b>	<b>738</b>	<b>14</b>
	Average ES Salary	\$201,965	\$212,467	\$212,467	\$0
	Average GM/GS Grade	12/4	12/4	12/4	0
	Average GM/GS Salary	\$118,991	\$125,179	\$127,682	\$2,503
11.1	Full-time permanent	89,785	85,124	93,171	8,047
11.3	Other than full-time permanent	907	937	937	0
11.5	Other personnel compensation	2,524	2,356	2,394	38
11.8	Special personal services payments	0	0	0	0
11.9	<b>Total personnel compensation</b>	<b>93,216</b>	<b>88,417</b>	<b>96,502</b>	<b>8,085</b>
12.1	Civilian personnel benefits	31,568	37,952	41,282	3,330
13.0	Benefits for former personnel	30	30	30	0
21.0	Travel and transportation of persons	1,225	906	906	0
22.0	Transportation of things	13	8	8	0
23.0	Rent, Communications, and Utilities	0	0	0	0
23.1	Rental payments to GSA	10,805	11,390	11,571	181
23.2	Rental payments to others	31	27	27	0
23.3	Communications, utilities, and miscellaneous charges	179	167	168	1
24.0	Printing and reproduction	1,145	827	830	3
25.1	Advisory and assistance services	682	1,680	1,699	19
25.2	Other services from non-Federal sources	10,315	6,696	6,707	11
25.3	Other goods and services from Federal sources 1/	39,394	41,669	43,310	1,641
25.4	Operation and maintenance of facilities	0	0	472	472
25.5	Research and development contracts	1,166	0	19	19
25.7	Operation and maintenance of equipment	0	5	784	779
26.0	Supplies and materials	1,311	1,310	1,332	22
31.0	Equipment	20	16	16	0
38.0	Depreciation Expense - Unfunded	0	0	0	0
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	<b>Total</b>	<b>191,100</b>	<b>191,100</b>	<b>205,663</b>	<b>14,563</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	23,005	23,116	24,757	1,641
	DHS Services	753	753	753	0
	GSA Services	12,253	14,563	14,563	0
	HHS Services	2,786	123	123	0

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## SIGNIFICANT ITEMS IN APPROPRIATIONS COMMITTEES' REPORTS

### *Implementation of Employee Ownership Initiative:*

Within available resources, the Committee expects EBSA to create and widely disseminate educational materials focused on promoting best practices in employee ownership through the Employee Ownership Initiative authorized by section 346 of the SECURE 2.0 Act of 2022. The Committee requests EBSA to describe in its fiscal year 2025 CJ actions completed and planned related to the initiative.

EBSA continues to implement the Employee Ownership Initiative authorized by section 346 of the SECURE 2.0 Act, known as the WORK Act. Since the legislation did not provide for additional resources, EBSA will continue to use existing resources to increase access to information regarding employee ownership and business ownership succession planning by updating its webpage with educational materials and resources. The agency continued stakeholder engagement to determine community needs regarding outreach and education events and materials. EBSA also began staffing the newly created Division of Employee Ownership and will conduct outreach activities and provide education about the possibilities and benefits of employee ownership programs to key groups and stakeholders such as trade associations, employees, and employers. The agency will also continue to leverage the use of social media to further drive its messaging in these areas.

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## AUTHORIZING STATUTES

<b>Public Law / Act</b>	<b>Legislation</b>	<b>Statute No. / US Code</b>	<b>Volume No.</b>	<b>Page No.</b>	<b>Expiration Date</b>
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

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

<b>APPROPRIATION HISTORY</b>					
(Dollars in Thousands)					
	<b>Budget Estimates to Congress</b>	<b>House Allowance</b>	<b>Senate Allowance</b>	<b>Appropriations</b>	<b>FTE</b>
2015					
Base Appropriation...1/	\$188,447			\$181,000	963
2016					
Base Appropriation...2/	\$207,455	\$180,699	\$168,930	\$181,000	949
2017					
Base Appropriation...3/	\$205,761			\$181,000	925
2018					
Base Appropriation...4/	\$183,926	\$175,600		\$181,000	860
2019					
Base Appropriation...5/	\$189,500			\$181,000	840
2020					
Base Appropriation...6/	\$193,500	\$183,155		\$181,000	826
2021					
Base Appropriation...7/	\$192,738			\$181,000	805
2022					
Base Appropriation...8/9/	\$218,475	\$218,475		\$185,500	724
2023					
Base Appropriation	\$233,867	\$233,867		\$191,100	724
2024					
Base Appropriation...10/	\$248,959		\$191,100		724
2025					
Base Appropriation	\$205,663				738

<sup>1</sup> Reflects the full appropriation pursuant to P.L. 113-76 without enacted rescissions.

<sup>2</sup> Reflects the full appropriation pursuant to P.L. 113-235 without enacted rescissions.

<sup>3</sup> Reflects the full appropriation pursuant to P.L. 114-113 without enacted rescissions.

<sup>4</sup> Reflects the full appropriation pursuant to P.L. 115-31 without enacted rescissions.

<sup>5</sup> Reflects the full appropriation pursuant to P.L. 115-141 without enacted rescissions.

<sup>6</sup> Reflects the full appropriation pursuant to P.L. 115-245 without enacted rescissions.

<sup>7</sup> Reflects the full appropriation pursuant to P.L. 116-93 without enacted rescissions and impact of Shared Services Realignment.

<sup>8</sup> Reflects the full appropriation pursuant to P.L. 116-260 without enacted rescissions.

<sup>9</sup> This bill was passed by the House. It was not taken up by the Senate Appropriations Subcommittee or the full Senate Appropriations Committee.

<sup>10</sup> The full-year FY 2024 appropriation was not enacted at the time the budget was prepared.

# **EMPLOYEE BENEFITS SECURITY ADMINISTRATION**

## **OVERVIEW**

The mission of the Employee Benefits Security Administration (EBSA) is to ensure the security of the retirement, health, and other workplace-related benefits of America's workers and their families. The agency accomplishes this mission by developing effective regulations; assisting and educating workers, plan sponsors, fiduciaries, and service providers; and vigorously enforcing the law.

Although EBSA is a small agency, currently employing less than 850 people, it is responsible for protecting more than 153 million workers, retirees, and their families who are covered by approximately 765,000 private retirement plans, 2.8 million health plans, and 619,000 other welfare benefit plans. Together, these plans hold estimated assets of \$12.7 trillion.

In addition, the agency has important interpretive and regulatory responsibilities with respect to IRAs, which hold about \$10.8 trillion in assets. It is also responsible for auditing the federal Thrift Savings Plan (TSP), which is the world's largest employee contributory plan with more than 6.85 million participants and \$814 billion in assets.

### **Employee Benefits Security Programs**

To enhance benefits security and maintain public confidence in the private benefits system in support of the Acting Secretary's vision to Advance Equity, Build the Team, and Unleash Agencies' Full Power, EBSA administers an integrated program consisting of the following strategic activities:

1. Comprehensive Strategic Enforcement;
2. Informative Compliance Assistance;
3. Regulation;
4. Targeted Research;
5. Consumer Outreach and Public Education; and,
6. Participant Assistance and Customer Service.

Within this integrated approach, EBSA's programs execute vital agency national and regional priorities through civil and criminal investigations, voluntary compliance programs and compliance assistance, consumer outreach, litigation, and program and project evaluation.

The agency also provides regulatory, interpretive, and technical guidance regarding ERISA and other laws that affect employee benefit plans. As part of this function, EBSA issues regulations, opinions, rulings, forms, and other guidance. Current efforts are focused on interpreting and implementing the provisions of the SECURE 2.0 Act and the No Surprises Act.

The research program informs the agency's regulatory, enforcement, and legislative work, and provides important information to the public and policymakers on benefit plans.

Meanwhile, the outreach, education, and participant assistance programs inform workers and their families of their rights and benefits. It also educates the regulated community on their responsibilities and obligations under the law.

EBSA will continue to increase its focus on cybersecurity and develop improved investigative

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techniques to better address cybersecurity threats and breaches relation to employee benefit plans. EBSA will carry out fiduciary audit oversight efforts on conducting post implementation cybersecurity reviews of the new recordkeeping system that was implemented in June 2022 by the Thrift Savings Plan (TSP) and continue coordination with other government cybersecurity resources to prevent cybersecurity criminal activities.

To measure the effectiveness of its programs, EBSA takes a careful performance measurement approach. The agency avoids the use of enforcement metrics that give undue weight to cases that yield quick and easy results and will instead continue to stress its Major Case initiative, which dedicates more resources to investigations that have the greatest potential to impact large numbers of plans and participants.

EBSA's enforcement metrics will include the following quantitative measures, among others.

- Major Case Monetary recoveries per Terminated Vested Participant Program (TVPP) Major Case staff day
- Monetary recoveries on Major TVPP Cases closed per staff day
- Timeliness of civil non-major cases closed or referred for litigation

For the two monetary recovery metrics, the agency will separately track and report those metrics for health investigations, pension, and non-health welfare plan cases.

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## Equity

EBSA is committed to thoughtfully and intentionally focusing on equity as a routine part of how the agency prepares budget proposals and requests. For FY 2025, EBSA proposes program increases that promote and advance equity through enforcement of the Employee Retirement Income Security Act (ERISA).<sup>1</sup> EBSA would emphasize:

- healthcare fraud protections,
- auditing plans for violations of mental health and substance use disorder benefit parity requirements,
- addressing how outreach and education programs can be expanded to engage underserved communities and vulnerable populations,
- creating a lost and found portal to allow people in underserved communities to access retirement benefits.

The agency is also committed to prioritizing Diversity, Equity, Inclusion and Accessibility training as well as leadership development, mentorship, and affinity group outreach, in alignment with the President's and the Acting Secretary's strategic vision.

In FY 2025, EBSA will continue to promote equity for underserved and disadvantaged populations by working to expand access to quality, affordable healthcare and by pursuing national enforcement priorities and policies designed to have the greatest impact on plans and their participants.

Several of EBSA's existing national enforcement initiatives focus on problems affecting underserved communities, including the agency's high priority project to enforce the Mental Health Parity and Addiction Equity Act (MHPAEA) as well as the Protecting Benefit Distribution project, which covers the Terminated Vested Participant Program, abandoned plans, and financially distressed sponsors. By their nature, these projects focus on underserved individuals and communities, including vulnerable elderly populations and individuals with mental health and substance use disorders.

The agency aims to strengthen its efforts to locate missing retirement plan participants and emphasize mental health and substance use disorder parity enforcement and disability plan cases. By focusing on these programs, EBSA anticipates that there will be more cases that reach workers in underserved populations and that monetary and non-monetary recoveries for underserved communities will markedly increase.

EBSA will also continue to reach out to underserved populations who generally save less for retirement, individuals for whom English is not a primary language, those nearing retirement, and new entrants into the workforce.

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<sup>1</sup> Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

<sup>2</sup> Executive Order 14035, Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce.

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## Consolidated Appropriations Act, 2021 (No Surprises Act, 2021)

While the supplemental appropriation related to this work expires at the end of calendar year (CY) 2024, most of the statutory requirements added by the No Surprises Act and Title II Transparency provisions are permanent, and the Department will have substantial ongoing enforcement, regulatory, outreach, and reporting responsibilities with respect to the new law.

Recognizing the size of the tasks assigned to the agencies, the Consolidated Appropriations Act, 2021 (CAA) appropriated \$500 million over a 4-year period for implementation. The 4-year appropriation earmarked the funds for DOL, the Department of Health and Human Services (HHS), and the Department of the Treasury, but it did not specify the allocation of funds between agencies. EBSA received \$25,779,000 in FY 2024 from that funding.

The No Surprises Act and Title II Transparency provisions within the CAA include many amendments to ERISA that give health plan participants and beneficiaries important new rights. The new provisions included fundamental changes to the law governing surprise medical bills, price transparency, fee disclosure, prescription drug coverage, reporting requirements, and enforcement of the legal requirements for parity between mental health/substance use disorder and medical/surgical benefits.

The CAA tasked EBSA with writing regulations and sub-regulatory guidance and creating regulatory and dispute resolution structures. It also imposed aggressive statutory deadlines for rulemaking and instituted reporting requirements, including reports on full implementation and enforcement.

Implementing these new provisions requires EBSA and the DOL to hire and maintain new staff with diverse backgrounds in legal, economic, and policy analysis; develop new analytic tools and structures; dramatically increase its health enforcement efforts, particularly with respect to MHPAEA; and conduct training, education, and outreach.

In FY 2025, EBSA will continue to follow the Departments' unified regulatory agenda and strive to complete four rules as part of the requirements of The No Surprises Act and Title II Transparency:

- **Advanced Explanations of Benefits (EOB)**  
*PHS Act sec. 2799A-1(f), ERISA sec. 716(f), IRC sec.9816(f)*
- **Insurance Card Transparency**  
*PHS Act sec. 2799A-1(e), ERISA sec. 716(e), IRC sec.9816(e)*
- **Provider Directory Accuracy**  
*PHS Act sec. 2799A-5, ERISA sec. 720, IRC sec. 9820*
- **Continuity of Care**  
*PHS Act sec. 2799A-3, ERISA sec. 718, IRC sec. 9818*

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## *Access to Mental Health and Substance Use Disorder Coverage*

The Department has primary authority for enforcing MHPAEA with respect to private sector employment-based group health plans. The overwhelming majority of America's workers under age 65 receive their benefits from these plans. In total, approximately 2.8 million ERISA-covered group health plans provide health benefits to an estimated 131 million members of the American public. EBSA's jurisdiction and responsibilities extend to all these plans and plan participants.

The CAA amended MHPAEA to strengthen DOL's mental health parity enforcement authority and require DOL to audit group health plans and issuers that impose non-quantitative treatment limitations (NQTLs) for mental health and substance use disorders.

To comply with MHPAEA's implementing regulations, plans and issuers must ensure that the processes, strategies, evidentiary standards, and other factors used when applying an NQTL to mental health and substance use disorder benefits are comparable to, and are applied no more stringently than, those used in applying the limitation to medical/surgical benefits in the same classifications.

The CAA provides a mechanism for the Department to request comparative analyses from plans and issuers to examine whether a NQTL complies with MHPAEA. If it does not, plans and issuers must specify the corrective actions they will take and provide additional comparative analyses that demonstrate compliance no later than 45 days after the initial determination.

## **Legislative Recommendations and Proposals**

EBSA's recommended legislative proposals for Congress address strengthening MHPAEA protections and health plan loopholes, mandatory funding for mental health and substance use disorder audits, and the renewal of the supplemental appropriation regarding the No Surprises Act and MHPAEA.

### *Recommendations to Congress to Strengthen MHPAEA*

As the primary federal regulator of MHPAEA, DOL is uniquely positioned to evaluate and identify areas where there are impediments to full enforcement of the law.

The FY 2025 Budget further strengthens consumer protections by closing various loopholes that have resulted in disparate coverage practices, and, most importantly, by requiring all plans to cover mental health and substance use disorder services.

Consistent with the FY 2024 President's Budget request and the 2023 MHPAEA Report to Congress, this budget includes proposals aimed at strengthening MHPAEA's consumer protections and better positioning the Department to enforce the law. These proposals span three critical areas essential to achieving meaningful mental health and substance use disorder parity: enhanced enforcement, ensuring and protecting coverage of promised benefits, and requiring group health plans and health insurance issuers to further prove compliance:

1. Grant authority (through legislative action) for DOL to assess civil monetary penalties for parity violations to greatly strengthen the protections of MHPAEA. In the absence of

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

the authority to impose civil monetary penalties, DOL is limited in its ability to ensure appropriate corrective action in response to non-compliance findings.

2. Amend ERISA to expressly provide DOL with the authority to directly pursue parity violations by entities that provide administrative services to ERISA group health plans (including health insurance issuers that provide administrative services to ERISA plans and third-party administrators).
3. Amend ERISA to expressly state that participants and beneficiaries – and DOL on their behalf – may recover amounts lost if their claims were wrongly denied in violation of MHPAEA, ensuring that participants and beneficiaries are made whole.
4. Consider amending MHPAEA to ensure that mental health and substance use disorder benefits are defined in an objective and uniform manner pursuant to external benchmarks that are based on nationally recognized standards.
5. Consider ways to permanently expand access to telehealth and remote care services.

### *Mandatory Funding to Perform Audits Related to Mental Health and Substance Use Disorders*

The FY 2025 Budget proposes to provide DOL with \$275 million in mandatory funding over 10 years to increase capacity for agencies to perform mental health and substance use disorder audits (including investigating reimbursement rates as NQTLs) and act against non-compliant actors. This amount includes \$240 million for EBSA and \$35 million for the Office of the Solicitor.

These enhanced oversight and compliance efforts would increase the number of large group market health plans and issuers that are complying with the mental health parity requirements under MHPAEA.

EBSA estimates that about 410,000 ERISA-covered group health plans are subject to MHPAEA. Currently, EBSA is employing approximately 90 FTE under CAA funding for NQTL enforcement, which has included requesting and reviewing comparative analyses for over 470 NQTLs from an estimated 180 plans and issuers. EBSA also has 30 investigations into service providers that administer benefits for many self-funded plans. In these investigations, EBSA aims to find and broadly correct possible NQTL violations.

Given the high level of non-compliance identified by EBSA during its initial enforcement effort in FY 2021, EBSA expects the proposed mandatory MHPAEA funding will enable the agency to double efforts to audit plans and issuers for MHPAEA violations. Although the ratio of FTE to health plans will only improve slightly given the large number of health plans, EBSA will continue to use a proven strategic approach to have the greatest impact by identifying potential MHPAEA violations at plan-level investigations and then pursuing corrective action through service providers.

### *Replenish and Extend the No Surprises Act Implementation Fund*

The No Surprises Act and Title II Transparency provisions created crucial new consumer protections from surprise medical bills and entrusted the Departments of HHS, Labor, and the Treasury with many

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

new or enhanced enforcement, oversight, data collection, and program operation requirements. To implement the law, the Departments scaled up expertise and resources for rulemaking, technical builds, enforcement, and staffing. As mentioned above in the No Surprises Act section, a one-time appropriation of \$500 million was provided to the Departments for implementation of the No Surprises Act and Title II Transparency provisions. While the appropriation expires at the end of CY 2024, most of the statutory requirements added by the No Surprises Act and Title II Transparency provisions are permanent, and the Departments will have ongoing responsibilities. These ongoing responsibilities include enforcement of plan, issuer, and provider compliance; complaints collection and investigation; and auditing comparative analyses of non-quantitative treatment limits for mental health and substance-use disorder plan benefits, as noted above. This proposal provides \$500 million in additional mandatory funding for continued implementation of the No Surprises Act and Title II Transparency provisions, ensuring the Departments will have sufficient funding to enforce this law in the future.

Beginning in FY 2025, this funding would be available to HHS, DOL, and Treasury for continued implementation of the law until expended.

As previously stated, without this additional funding, EBSA will have no choice but to dramatically reduce its operations, leading to a severe reduction of its ability to protect the interests of health and retirement plan participants and their families. The supplemental funding currently supports 117 FTEs who have specialized technical and operational expertise to ensure the consumer protections and industry oversight is being carried out as envisioned by the law. Additional implementation funding is critical to EBSA's ability to maintain this workforce and their institutional knowledge, as well as to continue building upon existing work to ensure industry compliance with MHPAEA. Absent renewed funding, this already-strapped agency will experience a precipitous drop in staffing, with drastically fewer staff to meet its ongoing and increasing obligations as a whole.

With existing supplemental funding, EBSA has built enforcement, outreach, and training structures to support MHPAEA efforts.

NQTL Activities: From February 2021 through FY23, EBSA received corrective action plans from 66 plans in response to initial determination letters. These corrective action plans addressed 97 NQTLs (70 unique NQTLs). Examples of corrections obtained that benefit the public include the removal of Applied Behavioral Analysis (ABA) therapy exclusions for autism treatment; removal of exclusions for medication-assisted treatment for opioid use disorder; removal of nutrition counseling exclusions for treatment of eating disorders; removal of limitations on drug testing for substance use disorders; and the elimination of blanket pre-certification requirements for mental health and substance use disorders.

EBSA is evaluating these corrective action plans, and some corrective action is already underway or completed. EBSA has achieved corrections of NQTL violations outside of a formal corrective action plan, as many plans and service providers have voluntarily corrected NQTL issues at earlier stages of the review process. EBSA has well over 100 investigations that are ongoing and focused on evaluating hundreds of NQTL concerns. These investigations are time-consuming and resource intensive. They typically span multiple fiscal years and require much more investigative work outside of requesting and reviewing written comparative analyses produced by the plans and

## **EMPLOYEE BENEFITS SECURITY ADMINISTRATION**

issuers. Elimination of the NSA funding would greatly impact EBSA's enforcement efforts to ensure access to MH/SUD benefits that so many plan participants desperately need.

**Consumer and Plan Sponsor Outreach:** Continued access to NSA funding allows EBSA to update the delivery of electronic agency content to raise awareness, increase usability, and improve understanding of complex technical information available to the public and Plan Sponsors. This funding allows the agency to focus on reaching underserved communities and the broad multicultural audience it supports. By providing outreach and education on the NSA and mental health and substance use disorder parity protections to workers, EBSA fulfills a crucial aspect of its mission in providing critical information to the public and does so in a variety of languages including Spanish, Arabic, Chinese, Korean, and French, to name a few.

The agency also provides outreach to plan sponsors and service providers to assist them in complying with these provisions. Reduction in funding would all but halt these important education and outreach services not only to the public but to plan sponsors who depend on EBSA's guidance regarding the MHPAEA provisions. As a result, workers and their families would have far fewer opportunities and ability to understand their rights with respect to mental health parity and access to care, and plan sponsors would lose the benefit of assistance in understanding and being able to carry out their obligations.

**Training:** As previously mentioned, the supplemental funding currently supports 117 FTEs who have specialized technical and operational expertise to ensure the consumer protections and industry oversight is being carried out as envisioned by the law. This does not happen in a vacuum. Elimination or reduction in NSA funding would greatly impact the technical expertise and institutional knowledge that is crucial for EBSA investigators and Benefits Advisors to successfully implement the NSA provisions that help the public and provide needed compliance assistance to the industry.

In addition to EBSA's important work on MHPAEA, renewed supplemental funding would allow the agency to continue enforcing the CAA's network accuracy requirements, an initiative that requires the support of outside vendors. EBSA would also be able to continue its work on numerous regulatory and guidance efforts under the CAA, including not only finalization of its important regulatory package on MHPAEA, but also additional proposed and final rulemaking on the federal NSA Independent Dispute Resolution process, final rulemaking related to the air ambulance reporting provisions, and a proposed rule on provider directory accuracy provisions.

Given the complexity of the NSA requirements and the number of provisions which still require rulemaking and guidance, the supplemental funding would allow the Department to continue to make a large investment of resources and staff on numerous regulatory and guidance projects that are necessary to achieve NSA goals and mandates. EBSA would extend its resource commitment to support the ground ambulance and patient billing federal advisory committee.

Because of the expected loss of supplemental funding under the CAA at the end of CY 2024, EBSA must dramatically reduce the scope of its hiring efforts. With the lapse in critical CAA funding in Q2 of FY 2025, the agency will depend on attrition over FY 2024 to lose over 100 FTEs that were covered by this supplemental funding. Without any other budgetary recourse, this will result in a net loss of approximately 117 FTEs to EBSA as compared to previous years (and a loss of 279 FTEs from a total staff of 1,003 in 2013).

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

As a result, EBSA will not be able to sustain the current volume and pace of MHPAEA NQTL enforcement activity and MHPAEA education and outreach. Existing NQTL investigations will move much more slowly to resolution, and the agency will be less able to respond to new NQTL leads. EBSA will have to make difficult choices when considering new investigations. Because EBSA is committed to prioritizing MHPAEA enforcement, the end of supplemental funding will also have a profoundly negative impact on EBSA's ability to enforce other parts of ERISA applicable to welfare and pension plans.

### *Extend Surprise Billing Protections to Ground Ambulances*

Under the No Surprises Act, Americans are protected from most forms of surprise medical bills. Ground ambulance services, however, are excluded from these important protections. Beginning in 2025, this proposal extends surprise billing protections to ground ambulance bills across the commercial market. As a result, people who are transported by an out-of-network ground ambulance during an emergency would only be subject to their in-network cost-sharing amount. Unresolved disagreements between the plan or issuer and ground ambulance provider over payment for these services would be settled through the Federal Independent Dispute Resolution Process.

### *Improve Access to Behavioral Healthcare in the Private Insurance Market*

The budget strengthens and improves consumer protections by requiring all plans and issuers, including group health plans, to provide mental health and substance use disorder benefits. In addition, it seeks to improve compliance with behavioral health parity standards by requiring plans and issuers to use medical necessity criteria for behavioral health services that are consistent with the criteria developed by nonprofit medical specialty associations, as well as putting medical necessity at the forefront of care decisions instead of profit. It also authorizes the Secretaries of HHS, Labor, and Treasury to regulate behavioral health network adequacy, and to issue regulations on a standard for parity in reimbursement rates based on the results of comparative analyses submitted by plans and issuers.

### *Require Coverage of Three Behavioral Health Visits and Three Primary Care Visits without Cost-Sharing*

Access to primary care and behavioral health services improves long-term health outcomes by promoting prevention and early detection of potentially serious conditions. However, even small out-of-pocket costs may deter consumers from seeking medical care, including behavioral health services. About half of U.S. adults say they or a family member put off care because of the cost. Members of racial and ethnic minority groups are especially likely to forego necessary care, and in addition experience more difficulty accessing behavioral health services than white people.

This proposal seeks to improve health outcomes by requiring all plans and issuers to cover three primary care visits and three behavioral health visits each year without charging a copayment, coinsurance, or deductible-related fee.

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

### *Receive Access to Proprietary SSA/Medicare Data*

EBSA also seeks approval to dramatically improve its efforts to ensure that missing participants receive the benefits to which they are entitled. Through legislation, EBSA proposes to gain access to Social Security Administration (SSA) and Medicare data to improve its ability to locate missing participants. Previously, EBSA utilized SSA's letter-forwarding services to help locate missing plan participants. SSA stopped processing those requests in 2014, citing the availability of commercial locator services and other online search websites<sup>3</sup>.

EBSA would use this data to improve the Department's current missing participant programs<sup>4</sup> that reunites individuals with their unclaimed retirement accounts. Since the program's inception in FY 2017, EBSA's terminated vested enforcement program has recovered more than \$6.6 billion in forgotten funds for over 109,000 retirees over the course of that time. In addition, during that same time period, EBSA's participant assistance program recovered over \$1.6 billion for over 32,000 participants. Providing EBSA with access to the government's existing records will improve DOL's ability to reconnect retirees with their hard-earned retirement savings that otherwise would remain unclaimed.

The agency's efforts to locate missing participants improve economic equity by focusing on elderly, retired persons who often have little income and few assets apart from their retirement benefits. These efforts have also increasingly focused on low-wage earners, immigrants, and undocumented workers, who are less likely to own a home<sup>5</sup>, more likely to move<sup>6</sup>, and therefore more vulnerable to losing benefits due to plans' inability to locate them.

The importance and impact of locating missing participants and finding abandoned plan account owners is critical to EBSA's work in reuniting participants and beneficiaries with their hard-earned retirement benefits. When plans lose track of their participants and fail to pay them the benefits they earned, retirees can be forced to choose between basic needs like medicine or groceries.

Plan sponsors rely solely on other methods to attempt to locate missing participants and it is not expected that this will place any additional burdens on plans sponsors. With this data, which is already in the Federal government's possession, EBSA could help many more participants and beneficiaries receive the benefits they earned and so clearly need.

### *Employee Ownership Initiative*

EBSA continues to implement the Employee Ownership Initiative authorized by section 346 of the SECURE 2.0 Act, known as the WORK Act. Since the legislation did not provide for additional resources, EBSA will continue to use existing resources to increase access to information regarding employee ownership and business ownership succession planning by updating its webpage with educational materials and resources. The agency continued stakeholder engagement to determine community needs regarding outreach and education events and materials. EBSA also began staffing the newly created Division of Employee Ownership and will conduct outreach activities and provide education about the possibilities and benefits of employee ownership programs to key groups and stakeholders such as trade associations, employees, and employers. The agency will also continue to leverage the use of social media to further drive its messaging in these areas.

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

<sup>3</sup> <https://www.ssa.gov/foia/ltrfwding.html>

<sup>4</sup> These programs include the Terminated Vested Participant Project conducted by EBSA's enforcement and benefits advisor divisions and the Pension Benefit Guaranty Corporation (PBGC) initiative, which is a collaboration between the PBGC and EBSA's benefits advisors.

<sup>5</sup> Desilver, Drew. "As National Eviction Ban Expires, a Look at Who Rents and Who Owns in the U.S." Pew Research Center Fact Tank. August 2, 2021. Accessed at [Who rents and who owns in the U.S. | Pew Research Center](#)

<sup>6</sup> Census. "General Mobility, by Race and Hispanic Origin and Region, and by Sex, Age, Relationship to Householder, Educational Attainment, Marital Status, Nativity, Tenure and Poverty Status: 2020 to 2021. November 2021. Accessed at [Geographic Mobility: 2020 to 2021 \(census.gov\)](#)

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## FY 2025 Request

EBSA seeks \$205,663,000 and 738 FTE to support the Administration's priorities. This resource request includes program increases of \$5,022,000 and 14 FTE to:

- implement SECURE 2.0 mandates
- implement a new Customer Experience Initiative

Also included are mandatory built-in increases of \$9,541,000 for estimated enacted pay increases and other adjustments.

The demands the CAA imposed on the agency exceed its anticipated funding levels, and the constraints on the agency have only been compounded by the addition of numerous new regulatory and guidance projects required by SECURE 2.0, none of which have been funded as of yet.

EBSA seeks to disaggregate the single Employee Benefits Security Programs budget activity into three distinct budget activities.

- Enforcement and Participant Assistance
- Policy and Compliance Assistance
- Executive Leadership, Administration and Program Oversight.

EBSA's resource request encompasses programmatic efforts that promote equity through ERISA enforcement and administration as follows.

### ***\$4,672,000 and 12 FTE to Implement SECURE 2.0***

Although the Consolidated Appropriations Act, 2023, included mandates for implementing SECURE 2.0, which encompasses a wide range of critically important retirement-focused reforms, the Act did not appropriate any additional resources for implementation.

The SECURE 2.0 Act similarly enacted a broad range of amendments to existing law and created entirely new provisions focused on increasing retirement savings, improving rules governing the administration of retirement plans, and lowering the cost of setting up retirement plans. Some provisions have already gone into effect (starting Jan. 1, 2023), while others will go into effect in 2024, 2025, and later. The Department is tasked with conducting studies, submitting reports to Congress, establishing a database, opening new initiatives, issuing multiple regulations, providing other formal guidance, and consulting with the Treasury Department/IRS and PBGC on various regulatory/sub-regulatory projects assigned to those agencies. Some of the key projects for DOL are:

- In consultation with the Secretary of the Treasury, DOL is required to create and maintain online searchable database known as the Retirement Savings Lost and Found that allows retirement savers who have lost track of their retirement plan to search for the contact information of their plan administrator to make a claim for benefits. The project also involves related collections of information.

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

- DOL must develop and issue guidance and regulations for a prohibited transaction exemption for certain automatic portability transactions intended to reduce leakage of retirement savings out of ERISA plans and help address missing participant issues through a system that automatically rolls over retirement savings to a new employer's plan when employees change jobs.
- DOL is obligated to provide implementation and compliance assistance guidance for plan sponsors and employees regarding the addition of newly authorized pension-linked emergency savings accounts to the individual account retirement plans offered to employees. This project also involves implementing collections of information for oversight and in order to provide a mandated report to Congress.
- DOL must conduct a review for purposes of a report to Congress and implement multiple reporting and disclosure provisions, including new disclosure requirements for defined benefit and defined contribution retirement plans covered by ERISA, as well as provisions relating more generally to effectiveness, simplification, and consolidation of retirement plan disclosures.
- DOL must conduct a review of the Department's Interpretive Bulletin concerning fiduciary standards under ERISA applicable to the selection of an annuity provider for the purpose of benefit distributions from a defined benefit pension plan when the pension plan intends to transfer liability for benefits to an annuity provider. The review is to include a determination of whether amendments are warranted, and report to Congress on the findings of the review, including an assessment of any risks to participants.

The Department will have to make large investments of FTE and operating funds in order to successfully complete its multiple and varied assignments under SECURE 2.0. These critical investments will improve the retirement security for Americans across the country.

### *\$350,000 and 2 FTE to implement the Customer Experience Initiative*

To support the Administration's initiative to rebuild trust in Government by transforming the federal customer experience and service delivery as mandated by Executive Order 14058, EBSA requests \$350,000 and 2 FTE.

With this initiative, EBSA seeks to enhance the availability of timely, impartial, and accurate information to improve health and retirement outcomes. EBSA's website provides essential information to individuals to assist with preparations for diverse life events that impact their health and retirement benefits. The website also serves as a comprehensive resource for employers, plans, and service providers for complying with the Employee Retirement Income Security Act (ERISA), policies, regulations, guidance, and voluntary correction programs. EBSA's work will focus on customer outreach as it produces materials and publications that are practical and easy to understand.

Implementation of this initiative will further support EBSA's efforts to deliver the level of service that the public expects and deserves. It will allow EBSA to enhance the website and resources for

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

customer experience, ensuring effectiveness and efficiency. Resources for this initiative will also ensure the agency's outreach continues to be fair and transparent while protecting the privacy of the people it serves.

### *Changing Expert Witness Procurement Appropriations to No-Year Funds*

EBSA also continues to seek a statutory language change to make expert witness procurement appropriations available until expended (no-year funds), rather than available for 2 years as currently provided.

Since being authorized 2-year funding availability, the agency has been able to better manage expert contracts that necessarily span multiple years, avoid the premature lapse of expert resources, and ensure the continued provision of expert assistance during periods of budget uncertainty.

An appropriation authorizing "no-year" funding for the expert witness program would further improve administration of the program. EBSA would be able to procure expert witness services to support litigation of complex ERISA enforcement cases without interruption or disruption throughout the year. The agency would also be able to expend resources based on case needs and court-imposed timelines, rather than the peculiarities and limitations of the procurement and budget calendars, which often are not well-aligned with court deadlines.

### *Changing Appropriation Language to Make Base Funding Available for Two Years*

The Department requests two-year availability to increase flexibility for program execution. The annual uncertainty in the appropriations timing results in delayed hiring and rushed execution of contracts. The multi-year availability would reduce the impact of short-term continuing resolutions at no cost to the annual appropriations bill. This change would also enhance staff oversight of the programs they are administering.

### **FY 2025 Activities, Strategies, and Program Workload**

As outlined above, in FY 2025, EBSA plans to:

- focus on Major Care investigations designed to have the greatest impact,
- increase investigations and services that assist underserved communities,
- prioritize enforcement of MHPAEA and the Protecting Benefit Distribution project,
- promote cybersecurity, and
- continue to pursue claims based on the full range of ERISA issues.

EBSA specifically intends to increase investigation of a wide variety of critical health enforcement issues related to preventive services, pharmacy benefit managers, newborn screening rules, expansion of the Women's Health and Cancer Rights Act initiative, the adequacy and reasonableness of explanations of benefits and other plan disclosures, and compliance with regulations related to healthcare claims. The agency will also work with states on MHPAEA compliance, including among fully insured small group products.

## **EMPLOYEE BENEFITS SECURITY ADMINISTRATION**

Important workload and demand measures for FY 2025 include, but are not limited to:

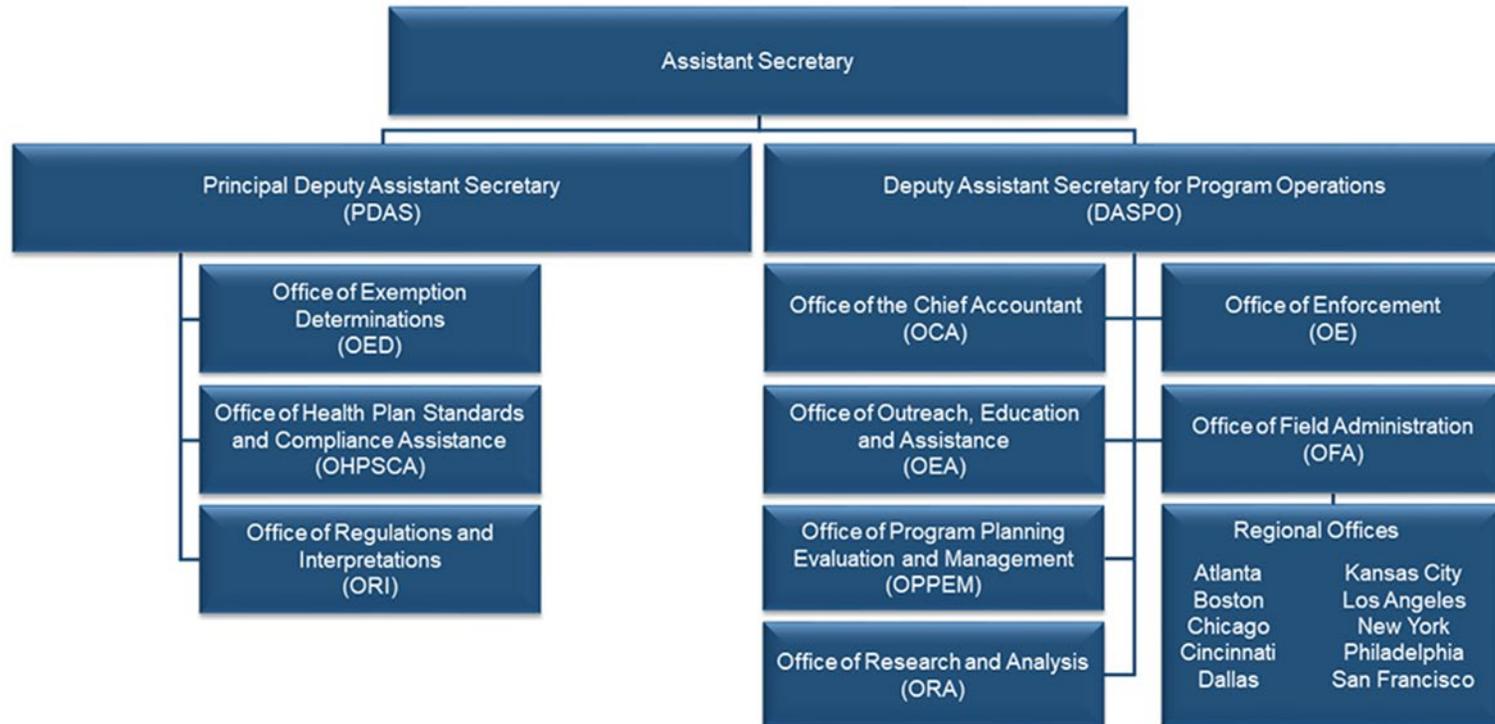
- responding to an estimated 201,000 participant inquiries,
- obtaining 70 indictments through the criminal investigation program,
- completing 3,600 reporting compliance reviews,
- conducting 700 rapid response sessions for individuals facing job loss,
- conducting 250 congressional office briefings, and
- completing 11 webcasts and 8 compliance seminars for plan sponsors and participants.

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 that address interpretive issues that the regulated community raises or DOL considers significant. EBSA will complete an estimated 3,902 interpretive and technical assistance projects/plan inquiries.

EBSA will also pursue a proactive regulatory agenda that includes completing 320 regulatory projects to better protect healthcare and retirement benefits. These projects include providing guidance, developing regulatory standards, conducting statistical research, working on policy, analyzing regulations, and issuing ERISA exemptions.

In FY 2025, EBSA will allocate sufficient resources to close, propose, or grant an estimated 42 individual exemption actions, complete project work on five class exemptions, and attain an exemption processing time of less than 500 days.

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION ORGANIZATION CHART



## ENFORCEMENT AND PARTICIPANT ASSISTANCE

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>FY 2023 Enacted</b>	<b>FY 2024 Estimate</b>	<b>FY 2025 Request</b>	<b>Diff. FY25 Request / FY24 Estimate</b>
<b>Activity Appropriation</b>	<b>155,758</b>	<b>161,375</b>	<b>169,535</b>	<b>8,160</b>
FTE	628	625	625	0

NOTE: FY 2023 reflects actual FTE. Authorized FTE for FY 2023 was 628.

### **Introduction**

Through this budget activity, EBSA develops and implements a comprehensive enforcement program using civil and criminal investigations that focus on the most egregious and persistent violators, while also implementing 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 for civil litigation or to prosecutors for criminal prosecution; ensures that annual reports are filed timely and accurately; and determines that public accountant audits of employee benefit plans comply with professional standards. EBSA also has audit responsibilities with respect to the federal Thrift Savings Plan (TSP), which is the world’s largest employee contributory plan with more than 6.85 million participants and \$814 billion in assets. To help plan sponsors and fiduciaries comply with ERISA’s complex provisions, EBSA administers the Fiduciary Education program that informs plan sponsors and their service providers about their basic fiduciary responsibilities under the law.

EBSA implements two self-correction programs designed to encourage voluntary compliance to better leverage its resources. The Agency’s Voluntary Fiduciary Correction Program (VFCP) encourages plan officials to voluntarily comply with ERISA’s fiduciary and prohibited transactions provisions by self-correcting specified violations of the law. The Delinquent Filer Voluntary Compliance Program (DFVCP) encourages voluntary compliance with the annual reporting requirements under ERISA. Together, these two programs provide an efficient mechanism for self-identifying and correcting violations, enabling the Agency to focus more investigative resources on other, more complex issues.

Complementing the Agency’s investigative work, EBSA’s participant assistance staff responds to inquiries from members of the public who are seeking information or have complaints about their benefits. The Agency’s benefits advisors assist the public in understanding their rights under their plans and are often able to resolve disputes informally thereby obtaining benefits for workers and their families.

This informal dispute resolution process enables EBSA to respond effectively to participant complaints without using the more resource intensive investigative process and promotes EBSA’s ability to direct its investigative resources to more egregious and widespread violations of ERISA. The participant assistance program is also the source of some of the Agency’s best investigative leads, producing several hundred cases per year—cases that, in the absence of this program, may never have been discovered.

## ENFORCEMENT AND PARTICIPANT ASSISTANCE

EBSA educates plan participants and officials by conducting outreach and education programs regarding their rights and responsibilities under ERISA. Benefits are more secure when plan officials and plan participants know their rights and responsibilities. Plan participants are in the best position to ensure they receive all the benefits to which they are entitled and to bring potential violations to the attention of EBSA, when they know their rights. Accordingly, EBSA's enforcement and participant assistance activities include three education campaigns: (1) the Retirement Savings Education Campaign (RSEC); (2) the Health Benefits Education Campaign (HBEC); and (3) the Fiduciary Education Campaign. These campaigns target plan sponsors and officials, service providers, and plan participants to inform them of their rights and responsibilities under ERISA. In addition to these three campaigns, EBSA also conducts outreach to dislocated workers through rapid response events delivered in conjunction with states and other DOL agencies. Outreach is also conducted via public awareness events such as Congressional office briefings, job fairs, and other venues. In support of the President's Executive Order on Equity, EBSA conducts outreach toward underserved workers and employers reaching underserved populations.

EBSA also has responsibility to ensure that the regulated community files its employee benefit plan annual reports (Form 5500) timely and accurately via an electronic filing system. This electronic filing system promotes transparency by providing for the public disclosure of plan information, and by providing a free web-based program that plan administrators can use to meet the electronic filing requirement at no additional cost to them. Annually, the electronic filing system receives and processes approximately 1.2 million Forms 5500 that are filed with DOL, Internal Revenue Service (IRS) and the Pension Benefit Guaranty Corporation (PBGC). EBSA also operates the ERISA Information System (EIS) that provides plan data for the Agency's enforcement, research, and policy development programs.

Together these systems support enforcement-related activities, comprise essential databases for the Agency's research and regulatory activities, and are the primary sources of employee benefit plan information for Congress and interested stakeholders, including plan participants and beneficiaries. The electronic filing system is also the primary source of employee benefit plan data for the IRS, the PBGC, the Government Accountability Office (GAO) and others. The data provided by the electronic filing system support IRS oversight of private-sector retirement and health plans and directly affect the PBGC's ability to manage the risks associated with underfunded defined benefit plans.

# ENFORCEMENT AND PARTICIPANT ASSISTANCE

## Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2020	\$147,400	730
2021	\$147,400	710
2022	\$0	0
2023	\$0	0
2024	\$0	0

NOTE: A full-year 2024 appropriation for this account was not enacted at the time the budget was prepared.

## FY 2025

EBSA strives for a balanced enforcement program with a diverse inventory of case types, sizes, and issues. The agency will continue to leverage its investigative resources by stressing its Major Case initiative, which dedicates more resources to investigations that have the greatest potential to impact large numbers of plans and participants. The agency also believes it is critical to follow up on participant complaints, regardless of size. Such cases may result in corrections with small dollar values but are directly responsive to the public, critically important to the individual participants affected, and deter future violations. Participant complaint cases often involve issues that are seldom pursued by private attorneys and advocates, such as diverted or delayed employee contributions to ERISA-covered plans.

EBSA has increasingly shifted its focus to health-related cases, particularly with enforcement and administration of the Mental Health Parity and Addiction Equity Act (MHPAEA), No Surprises Act and transparency provisions of P.L. 116-260. With supplemental funding provided under these CAA provisions (CAA funding sunsets in FY 2024), EBSA will continue to employ resources to audit plans and issuers for non-quantitative treatment limitations (NQTLs) that fail to comply with MHPAEA. Given the high level of non-compliance identified during initial enforcement efforts, EBSA anticipates additional funding will be required for a continuing enforcement presence and investigative efforts with respect to MHPAEA violations. EBSA currently funds approximately 117 FTEs through the CAA supplemental funding. As previously mentioned, without additional funding, EBSA will have no choice but to dramatically reduce the size of its investigative staff over the course of FY 2024 to ensure that it can live within its means. It would be hard to overstate the negative impact of the precipitous loss of so many investigators on this already small and resource-starved agency's ability to protect the interests of health and retirement plan participants and their families.

## FY 2024

Figures for FY 2024 are an estimate. Discretionary amounts shown for FY 2024 reflect an annualized Continuing Resolution (Division A of P.L. 118-15, as amended), as a full-year appropriation, had not been enacted at the time the budget was produced. Mandatory amounts are equal to the FY 2024 President's Budget and do not reflect sequestration.

## **ENFORCEMENT AND PARTICIPANT ASSISTANCE**

In FY 2024, EBSA anticipates increasing targeted inspections, investigations, evaluations, and compliance assistance with respect to underserved communities. In addition to the continued focus on Major Cases, EBSA will prioritize enforcement of the Mental Health Parity and Addiction Equity Act (MHPAEA) and the Protecting Benefit Distribution project, which covers the Terminated Vested Participant Program (TVPP), abandoned plans, and financially distressed sponsors. These programs have a built-in emphasis on underserved individuals and communities, including vulnerable elderly populations, and individuals with mental health and substance use disorders. Other important areas of focus will include promoting cybersecurity, implementing SECURE 2.0, and enforcing the new rights and obligations created by the Consolidated Appropriations Acts of 2021 and 2023. EBSA will also continue to pursue claims based on the mismanagement of retirement assets, missing participants, and the full range of issues arising under Title I of ERISA.

### **FY 2023**

In FY 2023, EBSA continued to focus on basic Agency enforcement and compliance assistance activities which had been underfunded in recent years. EBSA gave special attention to opportunities to advance equity and promote access to Agency services and ERISA-covered benefits for people who were historically underserved, marginalized, or adversely affected by economic, racial, or gender inequities. EBSA expanded targeting efforts that focus on unregulated third-party administrators to identify weaknesses in security systems; hired and developed cybersecurity experts; included effective cybersecurity reviews as an integral part of routine investigations; and expanded its data systems to capture cybersecurity complaints.

In FY 2023, EBSA also continued to strengthen its “missing participants” program by ensuring that eligible plan participants and beneficiaries receive the benefits to which they are entitled. EBSA enforcement and compliance assistance efforts recovered billions of dollars for retired elderly workers and their beneficiaries after the plans had lost track of them or been unable to contact them. Many of the beneficiaries entitled to recovered benefits were living on very limited incomes (e.g., minimal social security benefits), without even knowing they had substantial retirement benefits available to them.

## ENFORCEMENT AND PARTICIPANT ASSISTANCE

<b>WORKLOAD AND PERFORMANCE SUMMARY</b>					
		<b>FY 2023 Enacted</b>		<b>FY 2024 Estimate</b>	<b>FY 2025 Request</b>
		<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Enforcement and Participant Assistance</b>					
<b>Strategic Goal 2 - Ensure Safe Jobs, Essential Protections, and Fair Workplaces</b>					
<b>Strategic Objective 2.3 - Improve the security of retirement, health, and other workplace-related benefits for America’s workers and their families.</b>					
EBSA-OE-01	Major Case Monetary Recoveries per TVPP Major Case Staff Day	\$193,406	\$99,155	\$183,000	TBD
EBSA-OE-13	Major Cases - Pension and Non-Health Welfare Monetary Recoveries per Major Cases Staff Day	\$40,947	\$46,435	\$39,500	TBD
EBSA-OE-14	Major Case - Health Monetary Recoveries per Major Case Staff Day	\$9,921	\$7,798	\$9,700	TBD
EBSA-OE-15	Monetary Recoveries per on Major TVPP Cases Closed per Staff Day	\$230,902	\$80,847	\$208,900	TBD
EBSA-OE-16	Monetary Recoveries on Major Cases Pension and Non-Health Welfare Closed per Staff Day	\$32,335	\$32,903	\$51,400	TBD
EBSA-OE-17	Monetary Recoveries on Major Health Cases Closed per Staff Day	\$12,812	\$6,360	\$11,900	TBD
EBSA-OE-02a	Percent of Delinquent Employee Contribution, Abandoned Plan, Bonding, Health-Part 7 Violation, and Other Reporting and Disclosure Non-Fiduciary Breach Cases Closed or Referred for Litigation in the Fiscal Year within 18 Months of Case Opening	76%	78%	76%	76%

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

## ENFORCEMENT AND PARTICIPANT ASSISTANCE

### Workload and Performance Narrative

EBSA will continue to focus its efforts on Major Case investigations that hold the promise of having the greatest impact on the protection of plan assets and participants' benefits (e.g., cases involving professional fiduciaries and service providers with responsibility for large numbers of plans and large amounts of plan assets and benefits). EBSA has made a deliberate policy choice to deemphasize the types of investigations (e.g., TVPP investigations) that typically produce historically high monetary recoveries in favor of important investigations involving such issues as ensuring parity in mental health benefits, that are less readily quantifiable, but nevertheless just as important. Even so, DOL expects that its investment in the Major Case program will continue to achieve extraordinary results, including recoveries of tens of thousands of dollars per investigator per investigative day.

While EBSA's shift in focus and substantial resources to support MHPAEA and CAA enforcement efforts aim to improve access to healthcare and to make MHPAEA's promise of parity a reality for vast numbers of workers and dependents who need mental health and substance use disorder benefits, they do not typically result in large monetary recoveries, even as they improve access to benefits for thousands or tens of thousands of participants (e.g., as in successful efforts by the Department to eliminate blanket preauthorization requirements, categorical exclusions of Applied Behavioral Analysis (ABA) therapy for treatment of autism, and other parity violations). Although enforcement results will be less readily captured in simple quantitative measures tied to monetary recoveries, the impact of the agency's efforts on the health and material wellbeing of America's workers, retirees, and their families should be substantial.

Because of the disproportionate impact of TVPP investigations on monetary recoveries, in FY 2023, EBSA introduced revised metrics that break its major case program results into three areas:

- Major Case – TVPP;
- Major Case – Health, and
- Major Case – Pension and Non-Health Welfare (non-TVPP) (All Other).

With this more nuanced approach, EBSA can better focus on the monetary results and efficiencies it is achieving in different components of its enforcement program, without assigning undue weight to TVPP recoveries.

Again, even if one narrowly focuses on monetary recoveries and neglects all the other work the Agency performs and all the other results it achieves, EBSA projects that, as in years past, it will continue to obtain monetary recoveries for plan participants and beneficiaries that are many multiples of the additional sums expended on the Agency.

In FY 2025, EBSA also anticipates increasing targeted inspections, investigations, evaluations, and compliance assistance with respect to underserved communities. In addition to the continued focus on Major Cases, EBSA will prioritize enforcement of the Mental Health Parity and Addiction Equity Act (MHPAEA) and the Protecting Benefit Distribution project, which covers the Terminated Vested Participant Program (TVPP), abandoned plans, and financially distressed

## **ENFORCEMENT AND PARTICIPANT ASSISTANCE**

sponsors. These programs have a built-in emphasis on underserved individuals and communities, including vulnerable elderly populations, and individuals with mental health and substance use disorders. Other important areas of focus will include promoting cybersecurity and interpreting and implementing recent SECURE 2.0 legislation created by the Consolidated Appropriations Act of 2023. EBSA will also continue to pursue claims based on the mismanagement of retirement assets, missing participants, and the full range of issues arising under Title I of ERISA.

EBSA continues to implement the Employee Ownership Initiative authorized by section 346 of the SECURE ACT, known as the WORK Act. Since the legislation did not provide for additional resources, EBSA will continue to use existing resources to increase access to information regarding employee ownership and business ownership succession planning by updating its webpage with educational materials and resources.

## ENFORCEMENT AND PARTICIPANT ASSISTANCE

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2023 Enacted</b>	<b>FY 2024 Estimate</b>	<b>FY 2025 Request</b>	<b>Diff. FY25 Request / FY24 Estimate</b>
11.1	Full-time permanent	76,982	73,484	78,792	5,308
11.3	Other than full-time permanent	697	727	727	0
11.5	Other personnel compensation	2,100	1,964	1,964	0
11.8	Special personal services payments	0	0	0	0
11.9	<b>Total personnel compensation</b>	<b>79,779</b>	<b>76,175</b>	<b>81,483</b>	<b>5,308</b>
12.1	Civilian personnel benefits	25,603	32,762	35,025	2,263
13.0	Benefits for former personnel	30	30	30	0
21.0	Travel and transportation of persons	1,100	734	734	0
22.0	Transportation of things	13	6	6	0
23.0	Rent, Communications, and Utilities	0	0	0	0
23.1	Rental payments to GSA	8,845	9,223	9,223	0
23.2	Rental payments to others	31	25	25	0
23.3	Communications, utilities, and miscellaneous charges	89	135	135	0
24.0	Printing and reproduction	920	670	670	0
25.1	Advisory and assistance services	611	1,361	1,361	0
25.2	Other services from non-Federal sources	9,110	5,424	5,424	0
25.3	Other goods and services from Federal sources 1/	28,926	33,752	34,341	589
25.4	Operation and maintenance of facilities	0	0	0	0
25.7	Operation and maintenance of equipment	0	4	4	0
26.0	Supplies and materials	691	1,061	1,061	0
31.0	Equipment	10	13	13	0
38.0	Depreciation Expense - Unfunded	0	0	0	0
41.0	Grants, subsidies, and contributions	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	<b>Total</b>	<b>155,758</b>	<b>161,375</b>	<b>169,535</b>	<b>8,160</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	15,446	17,962	18,551	589
	DHS Services	630	630	630	0
	GSA Services	12,253	14,563	14,563	0

# ENFORCEMENT AND PARTICIPANT ASSISTANCE

## CHANGES IN FY 2025

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$5,308
Personnel benefits	2,305
Federal Employees' Compensation Act (FECA)	-42
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	0
Rental payments to others	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services from non-Federal sources	0
Working Capital Fund	589
Other Federal sources (DHS Charges)	0
Other goods and services from Federal sources	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Grants, subsidies, and contributions	0
Insurance claims and indemnities	0

**Built-Ins Subtotal** **\$8,160**

**Net Program** **\$0**

**Direct FTE** **0**

	Estimate	FTE
<b>Base</b>	<b>\$169,535</b>	<b>625</b>
<b>Program Increase</b>	<b>\$0</b>	<b>0</b>
<b>Program Decrease</b>	<b>\$0</b>	<b>0</b>



## POLICY AND COMPLIANCE ASSISTANCE

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>FY 2023 Enacted</b>	<b>FY 2024 Estimate</b>	<b>FY 2025 Request</b>	<b>Diff. FY25 Request / FY24 Estimate</b>
<b>Activity Appropriation</b>	<b>28,239</b>	<b>19,051</b>	<b>24,607</b>	<b>5,556</b>
FTE	52	56	68	12

NOTE: FY 2023 reflects actual FTE. Authorized FTE for FY 2023 was 61.

### **Introduction**

As a DOL enforcement agency, EBSA is committed to a compliance assistance strategy that assists the regulated community in complying with the laws and regulations under its purview. In this Administration, DOL has reinvested in compliance assistance as an important complement to investigative and complaint-driven enforcement activities. A mature compliance assistance strategy includes outreach, education, technical assistance, and innovative programs that help employers and service providers understand applicable laws and incentivize their compliance. EBSA will continue to report metrics and milestones centered on compliance assistance to measure its success alongside other enforcement strategies.

EBSA continuously seeks to improve policy and regulatory programs and routinely evaluates and adjusts regulatory activities. The Agency provides thoughtful and useful compliance assistance and engages the regulated community in designing and implementing compliance assistance tools and materials. EBSA formulates policy, promulgates regulations, and provides interpretations and other guidance to the regulated community under Title I of ERISA. The Agency also implements a proactive regulatory agenda that includes providing detail and clarity to the law by rulemaking, thereby offering a path to more secure health and retirement benefits.

EBSA will continue its research activities relating to employment-based pension and health benefit plans. EBSA performs three major, non-discretionary research functions:

- *Economic research* – Section 513 of ERISA directs the Secretary of Labor to conduct research and produce statistics on pension plans (and authorizes the Secretary to do so with respect to health and other welfare benefit plans).
- *Self-insured health plans* – The Patient Protection and Affordable Care Act (P.L. 111-148) requires the Secretary of Labor to submit to Congress an annual report on self-insured employee health benefit plans; and
- *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.

## POLICY AND COMPLIANCE ASSISTANCE

Through this budget activity, EBSA pursues discretionary research on health and other benefits, and assists in the development of Administration legislative policy to promote the President’s priorities. EBSA also issues administrative 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 beneficial to employee benefit plans. Additionally, EBSA provides ongoing compliance and technical assistance to small businesses, plan officials, and the public to improve compliance with statutory and regulatory requirements.

### Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2020	\$26,901	71
2021	\$26,901	68
2022	\$0	0
2023	\$0	0
2024	\$0	0

NOTE: A full-year 2024 appropriation for this account was not enacted at the time the budget was prepared.

### FY 2025

In FY 2025, EBSA will continue to assist employers (particularly small employers), plan sponsors, and their service providers in understanding and complying with their obligations under ERISA and related regulations and procedures. Subject to budget constraints, EBSA will strive to conduct at least 320 compliance activities nationally and regionally through webcasts, presentations, seminars, and workshops. At least 150 compliance activities will be health-related, with at least 100 mental health outreach activities. EBSA will pursue an ambitious and coordinated MHPAEA campaign that will promote best practices and compliance by employers; and promote mental health equity and access to care, especially for marginalized and vulnerable populations. EBSA will also track the number of compliance events that have the potential to impact a much greater number of clients or customers serviced by the professionals that attend the event.

In support of the President’s Executive Orders on Equity, EBSA will further target compliance assistance outreach toward underserved employers and groups with at least 130 compliance activities reaching underserved populations. For example, EBSA will continue to expand its offerings of underserved compliance assistance outreach to consulates, local underserved Chambers of Commerce (such as Latin American and LGBTQIA+ chapters), and small business groups. Subject to budget constraints, EBSA will continue to develop materials such as publications, website FAQs and fact sheets, videos, live workshops, and webcasts, and will update these tools to keep them current. Publications will be updated to include more culturally competent translations on the EBSA website.

The goal of these activities is to educate plan fiduciaries and their service providers about health and retirement laws, regulatory guidance, fiduciary responsibilities, retirement plan options for

## **POLICY AND COMPLIANCE ASSISTANCE**

small employers, new requirements under health laws, and other topics. Compliance assistance and educational programs involving the following topics will also be priorities in FY 2025:

- ERISA Part 7 regulations, guidance, and educational materials with a particular emphasis on MHPAEA and NQTLs, and new surprise billing regulations
- Retirement plan guidance, including lifetime income disclosures
- Promotion of EBSA's VFPC and DFVCP
- ERISA fiduciary requirements for small employers, service providers, and bankruptcy trustees
- ERISA requirements for reporting and disclosure, electronic filing, and auditing MEWAs
- Requirements for choosing, starting, and operating a retirement savings plan for small employers without a plan
- Abandoned plans
- Employee Ownership Initiative, which will promote worker ownership by providing expert technical assistance to assist employee efforts to become business owners or otherwise participate in worker ownership models, enable employers and employees to explore and assess the feasibility of transferring full or partial ownership to employees, provide education and training generally about different worker ownership options, and encourage employees and employers to start new employee-owned businesses.

To educate the regulated community about these topics, EBSA will conduct at least 5 compliance webinars and 12 in-person compliance seminars in FY 2025.

### **FY 2024**

Figures for FY 2024 are an estimate. Discretionary amounts shown for FY 2024 reflect an annualized Continuing Resolution (Division A of P.L. 118-15, as amended), as a full-year appropriation, had not been enacted at the time the budget was produced. Mandatory amounts are equal to the FY 2024 President's Budget and do not reflect sequestration.

In FY 2024, EBSA continued to address interpretive issues under ERISA and related statutes through the timely issuance of advisory opinions and field assistance bulletins.

EBSA worked for the establishment of a missing participants program; advancement of racial and economic equity through strong regulatory oversight with an emphasis on underserved communities; interpretation and implementation of various provisions of the SECURE 2.0 legislation passed by Congress, such as the establishment of an online searchable database for retirement Savings "lost and found." Regulatory efforts will also support health care fraud

## **POLICY AND COMPLIANCE ASSISTANCE**

investigations and efforts to perform and improve audits related to mental health and substance use disorder (MH/SUD) benefits.

EBSA continued to sustain and support priorities established in a unified regulatory agenda. Fiduciary education, regulations, exemptions, compliance assistance, policy and research, and interpretive guidance have and continued to substantially contribute to the protection of employee pension and health benefits.

EBSA continued to address interpretive issues under ERISA and related statutes through the timely issuance of advisory opinions and field assistance bulletins, and pursued a regulatory agenda that includes completing regulatory projects for the advancement of health care reform (e.g., projects relating to the surprise medical billing, transparency, and MHPAEA provisions of the CAA) and retirement security (e.g., projects relating to new Secure 2.0 provisions).

### **FY 2023**

In FY 2023, the Policy and Compliance Assistance budget activity focused on the advancement of racial and economic equity through strong health enforcement, regulation, outreach, and education, and establishment of a dedicated “Missing Participants” program that promoted the financial security of America’s workers.

EBSA continued to address required rulemaking and regulatory efforts supported by the multi-year supplemental appropriations for the Consolidated Appropriations Act, 2021 (P.L. 116-260); Consolidated Appropriations Act, 2023 (P.L. 117-328), which expires at the end of CY 2024.

In FY 2023, EBSA continued to address interpretive issues arising under ERISA and related statutes through the timely issuance of advisory opinions and field assistance bulletins based on issues raised by the regulated community or considered significant by the Department. EBSA pursued a regulatory agenda that included completing regulatory projects for the advancement of health care reform and retirement security. These projects included providing guidance, developing regulatory standards, conducting statistical research, policy, regulatory analysis, and issuing ERISA exemptions.

Through comprehensive compliance assistance and regulatory programs, EBSA provides guidance and engages the regulated community in achieving compliance while protecting the benefits of workers, retirees, and their families. In addition, EBSA reviewed the SECURE 2.0 legislation, coordinating with Treasury/IRS and PBGC on its respective and joint requirements under the legislation, and developing a list of regulatory priorities and strategy for the 2023 calendar year.

### **Workload and Performance Narrative**

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 complete an estimated 4,002 interpretive and other

## **POLICY AND COMPLIANCE ASSISTANCE**

associated technical assistance projects, responses to plan inquiries and instances of targeted technical assistance. EBSA will also pursue a proactive regulatory agenda that includes completing 360 regulatory projects to better protect health care and retirement benefits. These projects include providing guidance, developing regulatory standards, conducting statistical research, policy work, regulatory analysis, and issuing ERISA exemptions.

In FY 2025, EBSA will allocate sufficient resources to close, propose or grant an estimated 42 individual exemption actions (includes Expedited Processing – EXPRO), complete project work on five (5) class exemptions (including projects closed, proposed, or granted) and attain an exemption processing time of less than 500 days.

## POLICY AND COMPLIANCE ASSISTANCE

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2023 Enacted</b>	<b>FY 2024 Estimate</b>	<b>FY 2025 Request</b>	<b>Diff. FY25 Request / FY24 Estimate</b>
11.1	Full-time permanent	9,512	6,584	8,709	2,125
11.3	Other than full-time permanent	193	193	193	0
11.5	Other personnel compensation	305	281	310	29
11.9	<b>Total personnel compensation</b>	<b>10,010</b>	<b>7,058</b>	<b>9,212</b>	<b>2,154</b>
12.1	Civilian personnel benefits	4,512	2,936	3,742	806
13.0	Benefits for former personnel	0	0	0	0
21.0	Travel and transportation of persons	70	127	127	0
22.0	Transportation of things	0	1	1	0
23.1	Rental payments to GSA	1,640	1,598	1,779	181
23.3	Communications, utilities, and miscellaneous charges	70	24	25	1
24.0	Printing and reproduction	200	116	119	3
25.1	Advisory and assistance services	50	235	254	19
25.2	Other services from non-Federal sources	863	937	948	11
25.3	Other goods and services from Federal sources 1/	9,055	5,834	6,923	1,089
25.4	Operation and maintenance of facilities	0	0	472	472
25.5	Research and development contracts	1,166	0	19	19
25.7	Operation and maintenance of equipment	0	0	779	779
26.0	Supplies and materials	598	183	205	22
31.0	Equipment	5	2	2	0
	<b>Total</b>	<b>28,239</b>	<b>19,051</b>	<b>24,607</b>	<b>5,556</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	6,428	3,110	4,199	1,089
	DHS Services	90	90	90	0
	HHS Services	2,537	117	117	0

# POLICY AND COMPLIANCE ASSISTANCE

## CHANGES IN FY 2025

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$511
Personnel benefits	198
Federal Employees' Compensation Act (FECA)	0
Benefits for former personnel	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
Advisory and assistance services	0
Other services from non-Federal sources	0
Working Capital Fund	175
Other Federal sources (DHS Charges)	0
Other goods and services from Federal sources	0
Research & Development Contracts	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0

**Built-Ins Subtotal** **\$884**

**Net Program** **\$4,672**

**Direct FTE** **12**

	Estimate	FTE
<b>Base</b>	<b>\$19,935</b>	<b>56</b>
<b>Program Increase</b>	<b>\$4,672</b>	<b>12</b>
<b>Program Decrease</b>	<b>\$0</b>	<b>0</b>



# EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>FY 2023 Enacted</b>	<b>FY 2024 Estimate</b>	<b>FY 2025 Request</b>	<b>Diff. FY25 Request / FY24 Estimate</b>
<b>Activity Appropriation</b>	<b>7,103</b>	<b>10,674</b>	<b>11,521</b>	<b>847</b>
FTE	38	43	45	2

NOTE: FY 2023 reflects actual FTE. Authorized FTE for FY 2023 was 35.

## **Introduction**

Through This budget activity, EBSA ensures overall leadership and direction for the policy, regulatory, enforcement and all other program and administrative activities. This program function supports EBSA’s program office responsible for enforcement and regulatory programs that improve transparency through public disclosure and regulatory programs that improve transparency through public disclosure and helpful participant assistance and outreach programs to underserved communities and the general public. This function also provides for the development and implementation of the Agency’s administrative policy, strategic planning, and operation guidance by:

- 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;
- providing leadership in the development of the Agency’s training goals and delivery mechanisms;
- providing leadership in the development of long-term and annual performance management plans and reports;
- 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 or unexpected disruption;
- planning and directing the creation of the Agency’s budget, and integrating the Agency’s strategic performance goals with budget formulation and execution;
- planning and coordinating Information Technology activities on behalf of the agency with the Office of the Chief Information Officer; and,
- planning and coordinating the overall facilities management plan including space, records, telecommunications, mail, and printing management.

# EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

## Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2020	\$6,699	25
2021	\$6,699	27
2022	\$0	0
2023	\$0	0
2024	\$0	0

NOTE: A full-year 2024 appropriation for this account was not enacted at the time the budget was prepared.

### FY 2025

EBSA will continue to focus on diversity, equity, inclusion, and accessibility (DEIA) in its strategies for recruitment, retention, professional development, and career growth opportunities. In FY 2025, EBSA will undertake activities that as part of its strategic focus on DEIA and employee engagement. Because of the expected loss of supplemental funding under the CAA, however, EBSA also expects to dramatically reduce the scope of its hiring efforts over the course of the year, as it is forced to reduce staffing by approximately 117 FTEs during FY 2025.

### FY 2024

Figures for FY 2024 are an estimate. Discretionary amounts shown for FY 2024 reflect an annualized Continuing Resolution (Division A of P.L. 118-15, as amended), as a full-year appropriation, had not been enacted at the time the budget was produced. Mandatory amounts are equal to the FY 2024 President's Budget and do not reflect sequestration.

EBSA continued to provide the leadership and administrative support for all Agency programs including enforcement, participant assistance, policy, compliance assistance, and regulatory initiatives. Funding for this budget activity allowed it to continue supporting the establishment of a missing participants program, and the advancement racial and economic equity with strong regulatory oversight with an emphasis on underserved communities.

In FY 2024, EBSA continued 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 was accomplished in accordance with the requirements of the Debt Collection and Debt Collection Improvement Acts.

### FY 2023

In FY 2023, EBSA's Executive Leadership, Program Oversight and Administration budget activity focused on the advancement of racial and economic equity with strong health enforcement, regulation, outreach, and education. EBSA continued to prioritize employee engagement and create a renewed focus on Diversity, Equity, Inclusion, and Accessibility training; leadership development; mentorship; and affinity group outreach.

## **EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION**

EBSA also updated fact sheets/publications for women and other underrepresented groups and make its publications available in more languages.

EBSA continued to provide the leadership and administrative support for all the Agency's programs including enforcement, participant assistance, policy, compliance assistance, and regulatory initiatives. EBSA used real-time data, such as human capital, financial, participant assistance, outreach, and enforcement, to provide decision-makers with the timely analyses required to monitor and update strategic plans and to measure the results of program and management initiatives. Additionally, through this activity, EBSA ensure the proper execution of responsibilities to sustain the security of American's employee benefits.

### **Workload and Performance Narrative**

EBSA will continue to provide leadership and administrative support for all of the Agency's programs including enforcement, participant assistance, policy, compliance assistance, and regulatory initiatives. EBSA will use real-time data, such as human capital, financial, participant assistance, outreach, and enforcement, to provide decision-makers with the timely analyses required to monitor and update strategic plans and to measure the results of program and management initiatives.

In FY 2025, 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.

**EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND  
ADMINISTRATION**

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>FY 2023 Enacted</b>	<b>FY 2024 Estimate</b>	<b>FY 2025 Request</b>	<b>Diff. FY25 Request / FY24 Estimate</b>
11.1	Full-time permanent	3,291	5,056	5,670	614
11.3	Other than full-time permanent	17	17	17	0
11.5	Other personnel compensation	119	111	120	9
11.9	<b>Total personnel compensation</b>	<b>3,427</b>	<b>5,184</b>	<b>5,807</b>	<b>623</b>
12.1	Civilian personnel benefits	1,453	2,254	2,515	261
13.0	Benefits for former personnel	0	0	0	0
21.0	Travel and transportation of persons	55	45	45	0
22.0	Transportation of things	0	1	1	0
23.1	Rental payments to GSA	320	569	569	0
23.2	Rental payments to others	0	2	2	0
23.3	Communications, utilities, and miscellaneous charges	20	8	8	0
24.0	Printing and reproduction	25	41	41	0
25.1	Advisory and assistance services	21	84	84	0
25.2	Other services from non-Federal sources	342	335	335	0
25.3	Other goods and services from Federal sources 1/	1,413	2,083	2,046	-37
25.5	Research and development contracts	0	0	0	0
25.7	Operation and maintenance of equipment	0	1	1	0
26.0	Supplies and materials	22	66	66	0
31.0	Equipment	5	1	1	0
	<b>Total</b>	<b>7,103</b>	<b>10,674</b>	<b>11,521</b>	<b>847</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	1,131	2,044	2,007	-37
	DHS Services	33	33	33	0
	HHS Services	249	6	6	0

# EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

## CHANGES IN FY 2025

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$378
Personnel benefits	159
Federal Employees' Compensation Act (FECA)	-3
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	0
Rental payments to others	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services from non-Federal sources	0
Working Capital Fund	-37
Other Federal sources (DHS Charges)	0
Other goods and services from Federal sources	0
Research & Development Contracts	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0

**Built-Ins Subtotal** **\$497**

**Net Program** **\$350**

**Direct FTE** **2**

	Estimate	FTE
<b>Base</b>	<b>\$11,171</b>	<b>43</b>
<b>Program Increase</b>	<b>\$350</b>	<b>2</b>
<b>Program Decrease</b>	<b>\$0</b>	<b>0</b>