

FY 2024

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, [\$191,100,000] \$248,959,000, to remain available until September 30, 2025, of which up to \$3,000,000 shall be made available [through September 30, 2024] until expended for the procurement of expert witnesses for enforcement litigation. (*Department of Labor Appropriations Act, 2023.*)

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EXPLANATION OF LANGUAGE CHANGE

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

| AMOUNTS AVAILABLE FOR OBLIGATION | | | | | | |
|--|----------------------------|------------------|----------------------------|------------------|--------------------|------------------|
| (Dollars in Thousands) | | | | | | |
| | FY 2022 Revised Enacted | | FY 2023 Revised Enacted | | FY 2024 Request | |
| | FTE | Amount | FTE | Amount | FTE | Amount |
| A. Appropriation | 724 | \$185,500 | 724 | \$191,100 | 950 | \$248,959 |
| CARES Act (P.L. 116-127) | 0 | \$25 | 0 | \$0 | 0 | \$0 |
| No Surprises Act (P.L. 116-260) | 76 | \$23,779 | 117 | \$25,779 | 117 | \$25,779 |
| <i>Subtotal Appropriation</i> | <i>800</i> | <i>\$209,304</i> | <i>841</i> | <i>\$216,879</i> | <i>1,067</i> | <i>\$274,738</i> |
| Offsetting Collections From: | | | | | | |
| Reimbursements | 0 | \$6,696 | 0 | \$8,000 | 0 | \$8,000 |
| <i>Subtotal</i> | <i>800</i> | <i>\$216,000</i> | <i>841</i> | <i>\$224,879</i> | <i>1,067</i> | <i>\$282,738</i> |
| B. Gross Budget Authority | 800 | \$216,000 | 841 | \$224,879 | 1,067 | \$282,738 |
| CARES Act (P.L. 116-127) | 0 | -\$25 | 0 | \$0 | 0 | \$0 |
| No Surprises Act (P.L. 116-260) | -76 | -\$23,779 | -117 | -\$25,779 | -117 | -\$25,779 |
| Offsetting Collections To: | | | | | | |
| Reimbursements | 0 | -\$6,696 | 0 | -\$8,000 | 0 | -\$8,000 |
| <i>Subtotal</i> | <i>724</i> | <i>\$185,500</i> | <i>724</i> | <i>\$191,100</i> | <i>950</i> | <i>\$248,959</i> |
| C. Budget Authority Before the Committee | 724 | \$185,500 | 724 | \$191,100 | 950 | \$248,959 |
| No Surprises Act (P.L. 116-260) | 76 | \$23,779 | 117 | \$25,779 | 117 | \$25,779 |
| Offsetting Collections From: | | | | | | |
| Reimbursements | 0 | \$6,696 | 0 | \$8,000 | 0 | \$8,000 |
| Unobligated Balances From: | | | | | | |
| Brought Forward, October 1 (Expert Witness) | 0 | \$0 | 0 | \$1,629 | 0 | \$0 |
| Brought Forward, October 1 (CARES Act) | 0 | \$25 | 0 | \$0 | 0 | \$0 |
| <i>Subtotal</i> | <i>800</i> | <i>\$216,000</i> | <i>841</i> | <i>\$226,508</i> | <i>1,067</i> | <i>\$282,738</i> |
| D. Total Budgetary Resources | 800 | \$216,000 | 841 | \$226,508 | 1,067 | \$282,738 |
| FTE Lapse and Unobligated Balance Expiring | -56 | -\$5 | 0 | \$0 | 0 | \$0 |
| FTE Lapse and Unobligated Balance Carryover (Expert Witness) | 0 | -\$1,629 | 0 | \$0 | 0 | \$0 |
| FTE Overage and Unobligated Balance Carryover (NSA P.L. 116-260) | 40 | -\$247 | 0 | \$0 | 0 | \$0 |
| E. Total, Estimated Obligations | 784 | \$214,119 | 841 | \$226,508 | 1,067 | \$282,738 |

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SUMMARY OF CHANGES

(Dollars in Thousands)

| | FY 2023 Revised Enacted | FY 2024 Request | Net Change |
|------------------------------|----------------------------|--------------------|-------------------|
| Budget Authority | | | |
| General Funds | \$191,100 | \$248,959 | + \$57,859 |
| Total | \$191,100 | \$248,959 | + \$57,859 |
| | | | |
| Full Time Equivalents | | | |
| General Funds | 724 | 950 | 226 |
| Total | 724 | 950 | 226 |

| Explanation of Change | FY 2024 Change | | | | | | | |
|--|----------------|----------|-------------|--------|---------------|---------|-------|---------|
| | FY 2023 Base | | Trust Funds | | General Funds | | Total | |
| | FTE | Amount | FTE | Amount | FTE | Amount | FTE | Amount |
| Increases: | | | | | | | | |
| A. Built-Ins: | | | | | | | | |
| To Provide For: | | | | | | | | |
| Costs of pay adjustments | 724 | \$93,216 | 0 | \$0 | 0 | \$4,122 | 0 | \$4,122 |
| Personnel benefits | 0 | \$31,201 | 0 | \$0 | 0 | \$2,124 | 0 | \$2,124 |
| 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 | \$1,225 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Transportation of things | 0 | \$13 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Rental payments to GSA | 0 | \$10,805 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Rental payments to others | 0 | \$31 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Communications, utilities, and miscellaneous charges | 0 | \$179 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Printing and reproduction | 0 | \$1,145 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Advisory and assistance services | 0 | \$682 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Other services from non-Federal sources | 0 | \$10,315 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Working Capital Fund | 0 | \$23,005 | 0 | \$0 | 0 | \$1,497 | 0 | \$1,497 |
| Other Federal sources (DHS Charges) | 0 | \$753 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Other goods and services from Federal sources | 0 | \$15,636 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Research & Development Contracts | 0 | \$1,166 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Operation and maintenance of facilities | 0 | \$0 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Operation and maintenance of equipment | 0 | \$0 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Supplies and materials | 0 | \$1,311 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Equipment | 0 | \$20 | 0 | \$0 | 0 | \$0 | 0 | \$0 |
| Insurance claims and indemnities | 0 | \$0 | 0 | \$0 | 0 | \$0 | 0 | \$0 |

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| Explanation of Change | FY 2024 Change | | | | | | | |
|--|----------------|-------------------|-------------|------------|---------------|------------------|------------|------------------|
| | FY 2023 Base | | Trust Funds | | General Funds | | Total | |
| | FTE | Amount | FTE | Amount | FTE | Amount | FTE | Amount |
| Built-Ins Subtotal | 724 | +\$190,733 | 0 | \$0 | 0 | +\$7,743 | 0 | +\$7,743 |
| B. Programs: | | | | | | | | |
| Enforcement Program Restoration | 0 | \$0 | 0 | \$0 | 145 | \$27,083 | 145 | \$27,083 |
| Advancement of Racial and Economic Equity | 0 | \$0 | 0 | \$0 | 35 | \$6,522 | 35 | \$6,522 |
| Missing Participants Program | 0 | \$0 | 0 | \$0 | 22 | \$5,000 | 22 | \$5,000 |
| SECURE 2.0 Implementation | 0 | \$0 | 0 | \$0 | 12 | \$4,672 | 12 | \$4,672 |
| Outreach and Education Program | | | | | | | | |
| Modernization | 0 | \$0 | 0 | \$0 | 12 | \$2,844 | 12 | \$2,844 |
| Employee Benefits Restoration Program | 0 | \$0 | 0 | \$0 | 0 | \$2,162 | 0 | \$2,162 |
| Cybersecurity Investigations | 0 | \$0 | 0 | \$0 | 0 | \$2,000 | 0 | \$2,000 |
| Programs Subtotal | | | 0 | \$0 | 226 | +\$50,283 | 226 | +\$50,283 |
| Total Increase | 724 | +\$190,733 | 0 | \$0 | 226 | +\$58,026 | 226 | +\$58,026 |
| Decreases: | | | | | | | | |
| A. Built-Ins: | | | | | | | | |
| To Provide For: | | | | | | | | |
| Federal Employees' Compensation Act (FECA) | 0 | \$367 | 0 | \$0 | 0 | -\$167 | 0 | -\$167 |
| Built-Ins Subtotal | 0 | +\$367 | 0 | \$0 | 0 | -\$167 | 0 | -\$167 |
| B. Programs: | | | | | | | | |
| Total Decrease | 0 | +\$367 | 0 | \$0 | 0 | -\$167 | 0 | -\$167 |
| Total Change | 724 | +\$191,100 | 0 | \$0 | 226 | +\$57,859 | 226 | +\$57,859 |

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

| SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY | | | | | | | | |
|---|----------------------------|----------------|----------------------------|----------------|--------------------|----------------|---|---------------|
| (Dollars in Thousands) | | | | | | | | |
| | FY 2022 Revised Enacted | | FY 2023 Revised Enacted | | FY 2024 Request | | Diff. FY24 Request / FY23 Revised Enacted | |
| | FTE | Amount | FTE | Amount | FTE | Amount | FTE | Amount |
| Enforcement and Participant Assistance | 595 | 151,173 | 628 | 155,758 | 807 | 202,596 | 179 | 46,838 |
| General Funds | 595 | 151,173 | 628 | 155,758 | 807 | 202,596 | 179 | 46,838 |
| | | | | | | | | |
| Policy and Compliance Assistance | 47 | 27,445 | 61 | 28,239 | 98 | 37,045 | 37 | 8,806 |
| General Funds | 47 | 27,445 | 61 | 28,239 | 98 | 37,045 | 37 | 8,806 |
| | | | | | | | | |
| Executive Leadership, Program Oversight and Administration | 26 | 6,882 | 35 | 7,103 | 45 | 9,318 | 10 | 2,215 |
| General Funds | 26 | 6,882 | 35 | 7,103 | 45 | 9,318 | 10 | 2,215 |
| | | | | | | | | |
| Employee Benefits Security Programs | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | | | | | | | | |
| Total | 668 | 185,500 | 724 | 191,100 | 950 | 248,959 | 226 | 57,859 |
| General Funds | 668 | 185,500 | 724 | 191,100 | 950 | 248,959 | 226 | 57,859 |

NOTE: FY 2022 reflects actual FTE.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

| BUDGET AUTHORITY BY OBJECT CLASS | | | | | |
|---|--|--|--|----------------------------|--|
| (Dollars in Thousands) | | | | | |
| | | FY 2022 Revised Enacted | FY 2023 Revised Enacted | FY 2024 Request | Diff. FY24 Request / FY23 Revised Enacted |
| | Full-Time Equivalent | | | | |
| | Full-time Permanent | 767 | 724 | 945 | 221 |
| | Other | 4 | 10 | 10 | 0 |
| | Total | 771 | 734 | 955 | 221 |
| | Average ES Salary | \$199,253 | \$201,965 | \$212,467 | \$10,502 |
| | Average GM/GS Grade | 12/9 | 12/4 | 12/4 | 0 |
| | Average GM/GS Salary | \$108,121 | \$118,991 | \$125,179 | \$6,188 |
| | | | | | |
| 11.1 | Full-time permanent | 85,794 | 89,785 | 119,978 | 30,193 |
| 11.3 | Other than full-time permanent | 907 | 907 | 907 | 0 |
| 11.5 | Other personnel compensation | 2,415 | 2,524 | 2,524 | 0 |
| 11.8 | Special personal services payments | 0 | 0 | 0 | 0 |
| 11.9 | Total personnel compensation | 89,116 | 93,216 | 123,409 | 30,193 |
| 12.1 | Civilian personnel benefits | 28,848 | 31,568 | 44,697 | 13,129 |
| 13.0 | Benefits for former personnel | 30 | 30 | 30 | 0 |
| 21.0 | Travel and transportation of persons | 575 | 1,225 | 2,306 | 1,081 |
| 22.0 | Transportation of things | 5 | 13 | 221 | 208 |
| 23.0 | Rent, Communications, and Utilities | 0 | 0 | 0 | 0 |
| 23.1 | Rental payments to GSA | 10,390 | 10,805 | 11,194 | 389 |
| 23.2 | Rental payments to others | 31 | 31 | 31 | 0 |
| 23.3 | Communications, utilities, and miscellaneous charges | 390 | 179 | 559 | 380 |
| 24.0 | Printing and reproduction | 1,000 | 1,145 | 1,145 | 0 |
| 25.1 | Advisory and assistance services | 716 | 682 | 3,574 | 2,892 |
| 25.2 | Other services from non-Federal sources | 9,624 | 10,315 | 16,255 | 5,940 |
| 25.3 | Other goods and services from Federal sources 1/ | 28,657 | 39,394 | 40,891 | 1,497 |
| 25.4 | Operation and maintenance of facilities | 0 | 0 | 0 | 0 |
| 25.5 | Research and development contracts | 1,000 | 1,166 | 1,166 | 0 |
| 25.7 | Operation and maintenance of equipment | 13,730 | 0 | 855 | 855 |
| 26.0 | Supplies and materials | 1,165 | 1,311 | 1,596 | 285 |
| 31.0 | Equipment | 223 | 20 | 1,030 | 1,010 |
| 38.0 | Depreciation Expense - Unfunded | 0 | 0 | 0 | 0 |
| 42.0 | Insurance claims and indemnities | 0 | 0 | 0 | 0 |
| | Total | 185,500 | 191,100 | 248,959 | 57,859 |
| | | | | | |
| | 1/Other goods and services from Federal sources | | | | |
| | Working Capital Fund | 27,267 | 23,005 | 24,502 | 1,497 |
| | DHS Services | 670 | 753 | 753 | 0 |
| | GSA Services | 597 | 12,253 | 12,253 | 0 |
| | HHS Services | 123 | 2,786 | 2,786 | 0 |

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

AUTHORIZING STATUTES

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

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

| APPROPRIATION HISTORY | | | | | |
|------------------------------|---|----------------------------|-----------------------------|-----------------------|------------|
| (Dollars in Thousands) | | | | | |
| | Budget Estimates to Congress | House Allowance | Senate Allowance | Appropriations | FTE |
| 2014 | | | | | |
| Base Appropriation...1/ | \$179,104 | | | \$178,500 | 985 |
| 2015 | | | | | |
| Base Appropriation...2/ | \$188,447 | | | \$181,000 | 963 |
| 2016 | | | | | |
| Base Appropriation...3/ | \$207,455 | \$180,699 | \$168,930 | \$181,000 | 949 |
| 2017 | | | | | |
| Base Appropriation...4/ | \$205,761 | | | \$181,000 | 925 |
| 2018 | | | | | |
| Base Appropriation...5/ | \$183,926 | \$175,600 | | \$181,000 | 860 |
| 2019 | | | | | |
| Base Appropriation...6/ | \$189,500 | | | \$181,000 | 840 |
| 2020 | | | | | |
| Base Appropriation...7/ | \$193,500 | \$183,155 | | \$181,000 | 826 |
| 2021 | | | | | |
| Base Appropriation...8/ | \$192,738 | | | \$181,000 | 805 |
| 2022 | | | | | |
| Base Appropriation...9/ | \$218,475 | \$218,475 | | \$185,500 | 724 |
| 2023 | | | | | |
| Base Appropriation | \$233,867 | \$233,867 | | \$191,100 | 724 |
| 2024 | | | | | |
| Base Appropriation | \$248,959 | | | | 950 |

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

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

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

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

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

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

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

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

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

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.

Although EBSA is a small agency, currently employing less than 850 people, it is responsible for protecting more than 152 million workers, retirees, and their families who are covered by approximately 747,000 private retirement plans, 2.5 million health plans, and 673,000 other welfare benefit plans. Together, these plans hold estimated assets of \$11.7 trillion.

In addition, the agency has important interpretive and regulatory responsibilities with respect to IRAs, which hold about \$11 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 6.75 million participants and \$725 billion in assets.

Employment-based benefit plans are vital to millions of people's financial security and physical wellbeing. In alignment with the Secretary of Labor's policy priorities, including "Invest and Value the Nation's Care Economy" and "Support a Lifetime of Worker Empowerment," EBSA protects the public interest in workplace benefits and increases confidence that promised benefits will be available when needed.

Employee Benefits Security Programs

To enhance benefits security and maintain public confidence in the private benefits system in support of the Secretary's vision to empower workers morning, noon, and night, 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 enforcement program executes the agency's national and regional priorities through civil and criminal investigations, voluntary compliance programs and compliance assistance, 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 of 2022 and the No Surprises Act.

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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.

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.

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Equity

EBSA is committed to thoughtfully and intentionally focusing on equity as a routine part of how the agency prepares budget proposals and requests.¹ For FY 2024, EBSA proposes program increases that promote and advance equity through enforcement of the Employee Retirement Income Security Act (ERISA). 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.

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 priorities² and the Secretary's strategic vision.

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 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.

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

² Executive Order 14035, Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce.

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Consolidated Appropriations Act, 2021

The No Surprises Act and Title II Transparency provisions within the Consolidated Appropriations Act, 2021 (CAA) included many amendments to ERISA that give health plan participants 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 Department of Labor (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.

Recognizing the size of the tasks assigned to the agencies, the CAA appropriated \$500 million dollars 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 2023 from that funding.

While the appropriation expires at the end of 2024, most of the statutory requirements added by the No Surprises Act and Title II Transparency provisions are permanent and the Departments will have substantial ongoing enforcement, regulatory, outreach, and reporting responsibilities with respect to the new law.

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 65 receive their benefits from these plans. In total, approximately 2.5 million ERISA-covered group health plans provide health benefits to an estimated 133 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

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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 healthcare plan loopholes, a mandatory 10-year budget for mental health and substance use disorder audits, and the renewal of the supplemental appropriation regarding the No Surprises Act.

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 2024 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 2023 President's Budget and the 2022 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 spanned 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 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.

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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 2024 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 450 NQTLs from an estimated 134 plans and issuers. EBSA also has 23 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 and has not yet requested plan specific comparative analyses.

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 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. A one-time lump-sum 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 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 such as enforcement of plan, issuer, and provider compliance; complaints collection and

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investigation; as well as auditing comparative analyses of non-quantitative treatment limits for mental health and substance-use disorder plan benefits. 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 2024, this funding would be available to HHS, DOL, and Treasury for continued implementation of the law until expended.

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 take an out-of-network ground ambulance ride 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.

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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.³

EBSA would use this data to improve the Department's current missing participant programs⁴ that reunites individuals with their unclaimed retirement accounts. Since FY 2021, EBSA's enforcement program has recovered over \$2.1 billion for over 23,000 retirees. Since the program's inception in FY 2017, EBSA's terminated vested enforcement program has recovered more than \$6.2 billion in forgotten funds for over 100,000 retirees over the course of that time. In addition, during that same time period, EBSA's participant assistance program recovered over \$309 million for over 6,200 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,⁵ more likely to move,⁶ 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 need, 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.

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

⁴ 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.

⁵ 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](#)

⁶ 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 \(census.gov\)](#)

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FY 2024 Request

EBSA seeks \$248,959,000 and 950 FTE to support the Administration's priorities. This resource request includes program increases of \$50,283,000 and 226 FTE to:

- restore the enforcement program to levels prior to reductions;⁷
- advance racial and economic equity with strong health enforcement, regulation, outreach, and education with an emphasis on underserved communities;
- establish a dedicated Missing Participants Program that will promote the financial security of America's workers;
- restore employee benefits programs that were reduced for 8 consecutive years because of funding limitations;
- implement SECURE 2.0 mandates;
- modernize the outreach and education program; and
- reduce vulnerability of the TSP to cybersecurity risks and attacks.

Also included are mandatory built-in increases of \$7,743,000 for estimated enacted pay adjustments, Working Capital Fund expenses, and FECA adjustments.

EBSA also 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.

\$27,083,000 and 145 FTE to Restore the Enforcement Program

EBSA's budget remained flat for 8 consecutive years, while it absorbed annual mandatory increases in salaries, working capital fund assessments, and other expenses. As the budget declined, the agency had no option but to downsize.

The impact on the enforcement program has been particularly severe. EBSA has been unable to pursue many critical investigations necessary to ensure the solvency of self-funded health plans, the security of retirement benefits, and the integrity of plan assets. In this austere budget environment, EBSA pursued Major Cases and enforcement efforts designed to have the greatest impact on plans and their participants.

From the end of FY 2015 to the end of FY 2020, EBSA lost 89 investigators (nearly 22 percent of current investigative staff), which it cannot currently afford to replace. If each of those lost investigators had obtained the average recovery for EBSA investigators in FY 2020, the agency

⁷ Pursuant to Section 251A of the Balanced Budget and Emergency Deficit Control Act issued on March 1, 2013.

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would have recovered an additional \$3.4 million per day – or, on an annual basis, more than three times EBSA’s entire \$191.1 million budget.

EBSA currently has less than 1 investigator for every 12,000 plans.

An especially stark example of how the agency’s limited budget impacts health protections is EBSA’s inability to take a proactive approach to protecting plan participants from fraudulent and mismanaged Multiple Employer Welfare Arrangements (MEWAs). While EBSA implemented strategies to leverage its limited investigative resources, it has had to forgo investigations in multiple areas, including emerging investments in the financial markets, aggressive targeting of M-1 non-filers of MEWAs, and resource intensive cases like disability plans.

Similarly, EBSA has been unable to dedicate sufficient investigative resources to risky investment practices involving illiquid and hard-to-value assets, cybersecurity, and numerous categories of cases involving health and disability plans.

\$6,522,000 and 35 FTE to Advance Racial and Economic Equity

To advance racial and economic equity throughout the agency and the population we serve, EBSA will continue to prioritize employee engagement and create a renewed focus on Diversity, Equity, Inclusion, and Accessibility training; leadership development; mentorship; and affinity group outreach.

With additional resources, EBSA will have the capacity to conduct outreach 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. EBSA will also update fact sheets/publications for women and other underrepresented groups and make its publications available in more languages.

The agency will conduct additional rapid response sessions for individuals facing job loss; additional webinars conducted for plan sponsors/participants; and additional compliance seminars for participants/plan sponsors who are historically underserved, marginalized, or adversely affected by economic, racial, or gender inequities.

\$5,000,000 and 22 FTE to Establish Missing Participants Program

EBSA seeks \$5,000,000 and 22 FTE to establish a dedicated program for ensuring that missing participants receive the benefits to which they are entitled.

The agency’s enforcement and compliance assistance programs have recovered billions of dollars for retired elderly workers and their beneficiaries after the plans lost track of them or were unable to contact them. Many people were living on very limited incomes without even knowing they had substantial retirement benefits available. These efforts to find missing participants enhanced the quality of life for many elderly people who were living at the financial margins.

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EBSA also intends to increase its focus on industries with high shares of foreign-born workers to determine if they have disproportionate incidents of missing participants. As part of this effort, EBSA will determine if these workers face any specific impediments to receiving benefits.

If these resources are approved, this program will play a significant role in improving economic equity and allow the agency to focus on vulnerable missing participants

Without additional funding, EBSA will need to reduce and limit its current efforts to serve missing participants. Consequently, the significant, positive return on investment that the program generates for taxpayers will be diminished. In FY 2021, the agency recovered an extraordinary \$220,614 per investigator per day through these efforts alone, recovering a total of more than \$1.5 billion for 16,024 missing participants.

\$2,162,000 to Restore the Employee Benefits Program

EBSA has had to significantly reduce employee benefits programs for research, outreach and education, program evaluations, litigation support, advisory/contract services, and steady-state maintenance funding for major internal systems. The increase of \$2,612,000 will support basic assistance activities that have been foregone or underfunded in recent years.

For example, the electronic filing system used by benefit plans to prepare and submit Form 5500 Annual Returns/Reports, known as EFAST, needs additional resources to update software architecture and to make it more robust. This effort would also include improving public disclosure functionality to significantly improve how the Form 5500 data is presented to public and plan participants. The updates would also make free Form 5500 filing module (IFILE) more user-friendly which is cost prohibitive outside of a modernization effort.

In its administration of the funds, EBSA will give special attention to opportunities to advance equity and promote access to EBSA's services and ERISA-covered benefits for people who are historically underserved, marginalized, or adversely affected by economic, racial, or gender inequities.

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

The Consolidated Appropriations Act, 2023, included mandates for implementing SECURE 2.0, which covers a wide range of retirement-focused issues, but the legislation did not appropriate any additional resources for implementation.

The SECURE 2.0 Act includes a broad collection of amendments to existing law and 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 initiatives, issuing multiple regulations, providing other formal guidance, and consulting with the Treasury Department/IRS and PBGC on various

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regulatory/sub-regulatory projects assigned to those agencies. Some of the key projects for DOL are:

- In consultation with the Secretary of the Treasury, create and maintaining an 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.
- 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.
- Provide implementation and compliance assistance guidance for plan sponsors and employees regarding the addition of newly authorized 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.
- 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.
- 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.

Significant investments of FTE and operating funds will need to be made for the Department to successfully complete its multiple and varied assignments that are fundamental to achieving the objectives of SECURE 2.0.

\$2,884,000 and 12 FTE to Modernize the Outreach and Education Program

EBSA seeks \$2,884,000 and 11 FTE to modernize the outreach and education program with a national campaign to inform the public about ERISA and other laws within the agency's jurisdiction, including MHPAEA, the No Surprises Act, the Affordable Care Act. By expanding our outreach efforts to participants and beneficiaries, EBSA will be able to inform more Americans of their rights and protections under these laws and make them aware of the direct assistance EBSA provides when they are denied their benefits or have questions about their rights. Due to EBSA's increased focus on targeting individuals in underserved communities, this expanded outreach effort will benefit those Americans with the most need, including those of limited English proficiency. For employers, especially small businesses, EBSA's ability to deliver timely updates on new laws and guidance to the regulated community promotes

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awareness and understanding of the new provisions and ensures that those employers will provide participants and beneficiaries their promised benefits. Lastly, EBSA's enhanced education campaign will allow the agency to translate more presentations, publications, and website materials into additional languages⁸ in order to increase access of our services to all Americans.

Key components of this initiative will include target audience identification and development market penetration targets. It will use multiple mediums, formats, and platforms to promote and distribute mass communication products, including digital, social media, and mainstream media content focused on increasing awareness of ERISA's provisions and protections. EBSA will also engage in broader public outreach and education on retirement and health plans and improve the quality and effectiveness of the information it provides about available assistance and resources.

The agency plans to carefully review how to communicate with underserved communities and deliver content in a culturally relevant manner most effectively. EBSA will establish focus groups to determine what messaging, formats, and channels are most effective and what information is most needed. The agency aims to reach communities speaking Spanish, Chinese, Vietnamese, Korean, Haitian Creole, Tagalog, French, Arabic, Russian, and Portuguese.

These efforts and resources will enable EBSA to better communicate with underserved communities in a way that is likely to have the greatest positive impact.

\$2,000,000 to Reduce the TSP's Cybersecurity Vulnerability

EBSA is responsible for oversight and administration of the TSP, whose critical infrastructure poses outsized cybersecurity risks, as EBSA has repeatedly documented – and as both DOL's Inspector General and Congress have repeatedly noted.

TSP compliance audits have repeatedly revealed significant cybersecurity risks. The TSP is a highly visible system that holds the retirement savings of federal civilian workers, members of the armed services, and members of Congress and their staff. EBSA has faced significant resource constraints for the conduct of TSP audits and investigations.

The additional resources will enable EBSA to recruit and hire investigators with cybersecurity backgrounds and to fund specialized training required for staff to identify patterns or targets to open plan- or service-level investigations as well as bringing more resources to bear on investigations of TSP-managed service providers. This is critical to ensure the security of \$759 billion in assets for the 6.75 million TSP participants.

⁸ Including Arabic, Chinese – Simplified, Chinese – Traditional, Haitian Creole, Korean, Portuguese, Russian, Spanish, Tagalog, and Vietnamese.

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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.

FY 2024 Activities, Strategies, and Program Workload

As outlined above, in FY 2024, 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 benefits 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.

Important workload and demand measures for FY 2024 include, but are not limited to:

- responding to an estimated 175,000 participant inquiries,
- obtaining major case monetary recoveries per major case staff day of \$62,822 and monetary recoveries on major cases closed per staff day of \$54,705,
- obtaining 136 indictments through the criminal investigation program,
- completing 3,762 reporting compliance reviews,
- conducting 775 rapid response sessions for individuals facing job loss,
- conducting 250 congressional office briefings, and
- completing 18 webcasts and 18 compliance seminars for plan sponsors and participants.

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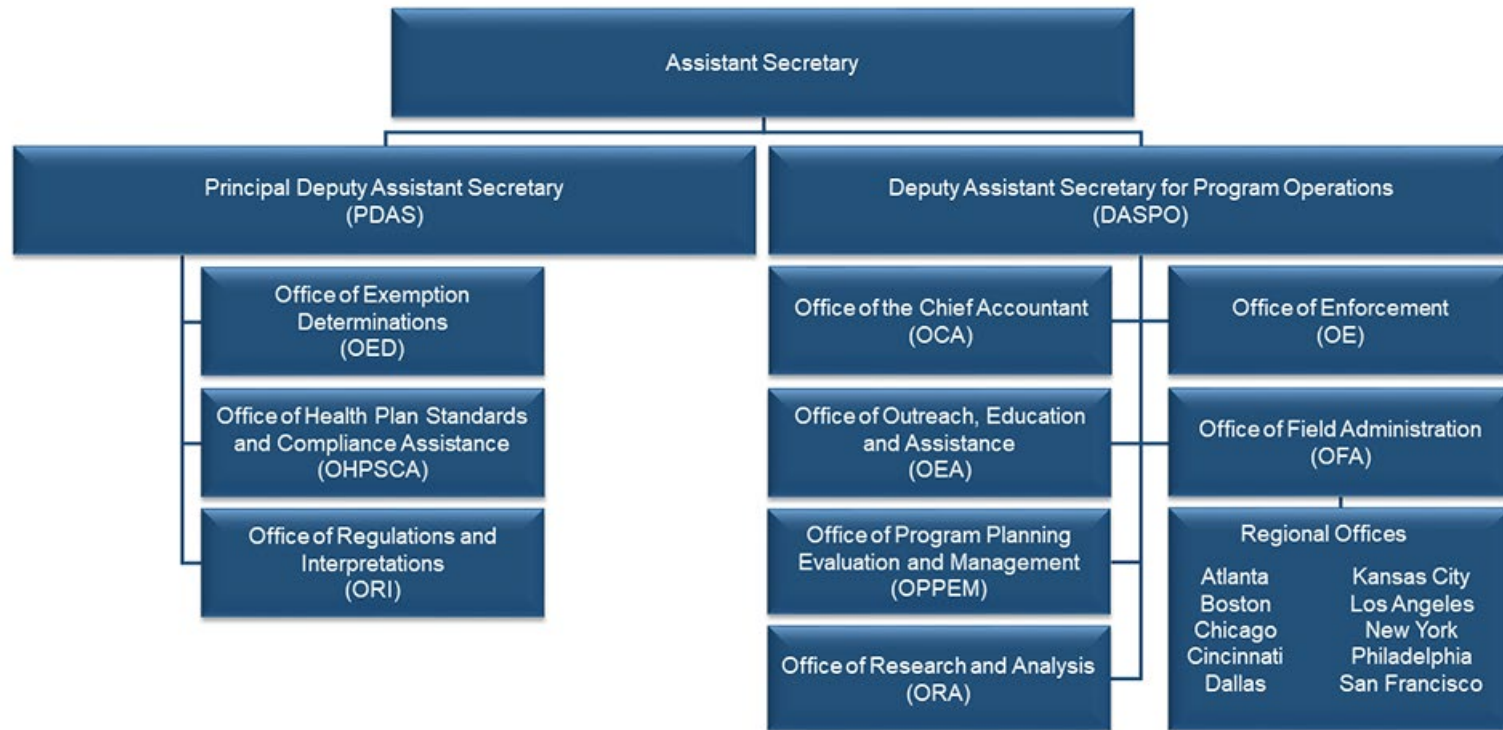
EBSA will continue to carry out the agency's interpretive activities concerning the provisions of ERISA and related statutes through the timely issuance of advisory opinions and field assistance bulletins that address interpretive issues that the regulated community raises or DOL considers significant. EBSA will complete an estimated 4,045 interpretive and technical assistance projects/plan inquiries.

EBSA will also pursue a proactive regulatory agenda that includes completing 395 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 2024, 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 350 days.

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ORGANIZATION CHART



ENFORCEMENT AND PARTICIPANT ASSISTANCE

| BUDGET AUTHORITY BEFORE THE COMMITTEE | | | | |
|--|--|--|----------------------------|--|
| (Dollars in Thousands) | | | | |
| | FY 2022 Revised Enacted | FY 2023 Revised Enacted | FY 2024 Request | Diff. FY24 Request / FY23 Revised Enacted |
| Activity Appropriation | 151,173 | 155,758 | 202,596 | 46,838 |
| FTE | 595 | 628 | 807 | 179 |

NOTE: FY 2022 reflects actual FTE. Authorized FTE for FY 2022 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 6.75 million participants and \$725 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.

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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.

Five-Year Budget Activity History

| <u>Fiscal Year</u> | <u>Funding</u> (Dollars in Thousands) | <u>FTE</u> |
|--------------------|--|------------|
| 2019 | \$147,400 | 744 |
| 2020 | \$147,400 | 730 |
| 2021 | \$147,400 | 710 |
| 2022 | \$0 | 0 |
| 2023 | \$0 | 0 |

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FY 2024

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.

To accomplish this, EBSA seeks \$202,596,000 and 807 FTE for the enforcement and participant assistance budget activity. This resource request includes program increases of \$40,702,000 and 179 FTE.

FY 2023

The FY 2023, EBSA continues to focus on basic Agency enforcement and compliance assistance activities which have been underfunded in recent years. EBSA will give special attention to opportunities to advance equity and promote access to Agency services and ERISA-covered benefits for people who are historically underserved, marginalized, or adversely affected by economic, racial, or gender inequities. EBSA will also expand targeting efforts that focus on unregulated third-party administrators to identify weaknesses in security systems; hire and develop cybersecurity experts; include effective cybersecurity reviews as an integral part of routine investigations; and expand its data systems to capture cybersecurity complaints.

In FY 2023, EBSA will also continue 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 have 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.

Through the Enforcement and Participant Assistance budget activity, EBSA will continue to focus its employee benefits security activities on Major Cases. The Major Case Initiative will concentrate resources on areas that have 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 amounts of plan assets and benefits). Additional FTE allocated to Major Cases can potentially generate similar or additional results, especially if allocated toward the “missing participants” program described above. EBSA will also continue the work of

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the MHPAEA Enforcement Working Group to establish case procedural strategies and to identify focus areas under the project. Because DOL shares interpretive and enforcement jurisdiction of MHPAEA with the Departments of Health and Human Services and the Treasury, EBSA will continue to work with its federal and state agency partners to ensure timely promulgation of regulations and consistent enforcement of mental health law provisions.

EBSA will continue its three education campaigns: (1) the Retirement Savings Education Campaign (RSEC); (2) the Health Benefits Education Campaign (HBEC); and (3) the Fiduciary Education Campaign. To the extent resources are available, EBSA will update, print, and distribute publications which explain participant rights and plan sponsor responsibilities. The Agency will also conduct local seminars and national webcasts for its compliance assistance constituencies. EBSA will continue to participate in rapid response sessions to reach dislocated workers and will continue to update and distribute educational materials with the latest information on managing benefits through job loss.

EBSA will leverage its resources by partnering with numerous organizations such as the Social Security Administration (SSA), American Association for Retired Persons (AARP), labor unions, state insurance commissioners, IRS, Department of Health and Human Services (HHS), Society of Human Resource Management (SHRM), the American Institute of Certified Public Accountants (AICPA), and others to reach target audiences. The Agency will also maintain a Web site and use webcasts as an efficient way to inform stakeholders about its programs, services, and initiatives and to assist the regulated community with compliance. EBSA conducts numerous webcasts which are attended by thousands of stakeholders each year. These sessions are archived on EBSA's Web site for future review by other interested parties. EBSA continues to believe that partnering with worker and community-based organizations to educate workers, small business owners, and others about ERISA's requirements is an effective way to create broad-based compliance.

FY 2022

EBSA closed or referred for litigation 76 percent of its non-Major Cases (including delinquent employee contribution, abandoned plan, bonding, health part 7 and non-fiduciary breach cases) within 18 months of case opening. Other benefits security program workload and demand measures that were achieved in FY 2022 included, but were not limited to: responded to approximately 176,000 participant inquiries; processed approximately 23,800 applications through the Agency's voluntary compliance programs (Voluntary Fiduciary Correction Program and Delinquent Filer Voluntary Compliance Program); obtained 103 indictments through the criminal investigation program; completed over 3,500 reporting compliance reviews; responded to approximately 21,600 Electronic Filing Acceptance System help-desk inquiries; conducted over 1,600 rapid response sessions for individuals facing job loss; conducted approximately 250 Congressional office briefings; and completed 10 webcasts for plan sponsors and participants.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

| WORKLOAD AND PERFORMANCE SUMMARY | | | | | |
|---|--|--|---------------|--|----------------------------|
| | | FY 2022 Revised Enacted | | FY 2023 Revised Enacted | FY 2024 Request |
| | | Target | Result | Target | Target |
| Enforcement and Participant Assistance | | | | | |
| Strategic Goal 2 - Ensure Safe Jobs, Essential Protections, and Fair Workplaces | | | | | |
| Strategic Objective 2.3 - Improve the security of retirement, health, and other workplace-related benefits for America's workers and their families. | | | | | |
| EBSA-OE-01 | Major Case Monetary Recoveries per TVPP Major Case Staff Day | -- | -- | \$193,406 | TBD |
| EBSA-OE-13 | Major Cases - Pension and Non-Health Welfare Monetary Recoveries per Major Cases Staff Day | -- | -- | \$40,947 | TBD |
| EBSA-OE-14 | Major Case - Health Monetary Recoveries per Major Case Staff Day | -- | -- | \$9,921 | TBD |
| EBSA-OE-15 | Monetary Recoveries per on Major TVPP Cases Closed per Staff Day | -- | -- | \$230,902 | TBD |
| EBSA-OE-16 | Monetary Recoveries on Major Cases Pension and Non-Health Welfare Closed per Staff Day | -- | -- | \$32,335 | TBD |
| EBSA-OE-17 | Monetary Recoveries on Major Health Cases Closed per Staff Day | -- | -- | \$12,812 | 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% | 76% | 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 policy choice to deemphasize the types of investigations (e.g., TVPP investigations) that typically produce historically high monetary recoveries.

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.

EBSA also has shifted focus and substantial resources to support MHPAEA and CAA enforcement. While these 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.

In addition, 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 2024, 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 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

ENFORCEMENT AND PARTICIPANT ASSISTANCE

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.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

| BUDGET ACTIVITY BY OBJECT CLASS | | | | | |
|--|--|--|--|----------------------------|--|
| (Dollars in Thousands) | | | | | |
| | | FY 2022 Revised Enacted | FY 2023 Revised Enacted | FY 2024 Request | Diff. FY24 Request / FY23 Revised Enacted |
| 11.1 | Full-time permanent | 73,729 | 76,982 | 100,511 | 23,529 |
| 11.3 | Other than full-time permanent | 697 | 697 | 697 | 0 |
| 11.5 | Other personnel compensation | 2,012 | 2,100 | 2,100 | 0 |
| 11.8 | Special personal services payments | 0 | 0 | 0 | 0 |
| 11.9 | Total personnel compensation | 76,438 | 79,779 | 103,308 | 23,529 |
| 12.1 | Civilian personnel benefits | 23,179 | 25,603 | 35,857 | 10,254 |
| 13.0 | Benefits for former personnel | 30 | 30 | 30 | 0 |
| 21.0 | Travel and transportation of persons | 450 | 1,100 | 1,934 | 834 |
| 22.0 | Transportation of things | 5 | 13 | 181 | 168 |
| 23.0 | Rent, Communications, and Utilities | 0 | 0 | 0 | 0 |
| 23.1 | Rental payments to GSA | 8,550 | 8,845 | 9,037 | 192 |
| 23.2 | Rental payments to others | 31 | 31 | 31 | 0 |
| 23.3 | Communications, utilities, and miscellaneous charges | 180 | 89 | 331 | 242 |
| 24.0 | Printing and reproduction | 726 | 920 | 920 | 0 |
| 25.1 | Advisory and assistance services | 611 | 611 | 3,503 | 2,892 |
| 25.2 | Other services from non-Federal sources | 8,187 | 9,110 | 14,820 | 5,710 |
| 25.3 | Other goods and services from Federal sources 1/ | 20,918 | 28,926 | 30,138 | 1,212 |
| 25.4 | Operation and maintenance of facilities | 0 | 0 | 0 | 0 |
| 25.7 | Operation and maintenance of equipment | 11,185 | 0 | 855 | 855 |
| 26.0 | Supplies and materials | 618 | 691 | 896 | 205 |
| 31.0 | Equipment | 65 | 10 | 755 | 745 |
| 38.0 | Depreciation Expense - Unfunded | 0 | 0 | 0 | 0 |
| 42.0 | Insurance claims and indemnities | 0 | 0 | 0 | 0 |
| | Total | 151,173 | 155,758 | 202,596 | 46,838 |
| | | | | | |
| | 1/Other goods and services from Federal sources | | | | |
| | Working Capital Fund | 19,774 | 15,446 | 16,658 | 1,212 |
| | DHS Services | 547 | 630 | 630 | 0 |
| | GSA Services | 597 | 12,253 | 12,253 | 0 |

ENFORCEMENT AND PARTICIPANT ASSISTANCE

CHANGES IN FY 2024

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

| | |
|--|---------|
| Costs of pay adjustments | \$3,339 |
| Personnel benefits | 1,720 |
| Federal Employees' Compensation Act (FECA) | -135 |
| 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 | 1,212 |
| 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 |
| Insurance claims and indemnities | 0 |

Built-Ins Subtotal **\$6,136**

Net Program **\$40,702**

Direct FTE **179**

| | Estimate | FTE |
|-------------------------|------------------|------------|
| Base | \$161,894 | 628 |
| Program Increase | \$40,702 | 179 |
| Program Decrease | \$0 | 0 |

POLICY AND COMPLIANCE ASSISTANCE

| BUDGET AUTHORITY BEFORE THE COMMITTEE | | | | |
|--|--|--|----------------------------|--|
| (Dollars in Thousands) | | | | |
| | FY 2022 Revised Enacted | FY 2023 Revised Enacted | FY 2024 Request | Diff. FY24 Request / FY23 Revised Enacted |
| Activity Appropriation | 27,445 | 28,239 | 37,045 | 8,806 |
| FTE | 47 | 61 | 98 | 37 |

NOTE: FY 2022 reflects actual FTE. Authorized FTE for FY 2022 was 61.

Introduction

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.

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.

POLICY AND COMPLIANCE ASSISTANCE

Five-Year Budget Activity History

| <u>Fiscal Year</u> | <u>Funding</u> (Dollars in Thousands) | <u>FTE</u> |
|--------------------|--|------------|
| 2019 | \$26,901 | 71 |
| 2020 | \$26,901 | 71 |
| 2021 | \$26,901 | 68 |
| 2022 | \$0 | 0 |
| 2023 | \$0 | 0 |

FY 2024

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

EBSA seeks \$37,045,000 and 98 FTE for the Policy and Compliance Assistance budget activity. This resource request includes program increases of \$7,669,000 and 37 FTE for: 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 investigations and efforts to perform and improve audits related to mental health and substance use disorder (MH/SUD) benefits.

This budget provides resources that enables EBSA 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 will continue to substantially contribute to the protection of employee pension and health benefits.

EBSA will continue to address interpretive issues under ERISA and related statutes through the timely issuance of advisory opinions and field assistance bulletins. EBSA will complete an estimated 4,045 interpretive and other associated technical assistance projects, plan inquiries and instances of targeted technical assistance. EBSA will also pursue a proactive regulatory agenda that includes completing 395 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.

EBSA will also pursue 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). EBSA will also continue to advance the Administration’s priority to expand access to quality, affordable health care by expanding its efforts under the Mental Health Parity and Addiction Equity Act (MHPAEA). EBSA will also continue to conduct rulemaking and regulatory efforts required by the Consolidated Appropriations Acts of 2021 and 2023 and will work proactively to enforce and administer these new provisions.

POLICY AND COMPLIANCE ASSISTANCE

FY 2023

In FY 2023, EBSA the Policy and Compliance Assistance budget activity will focus 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 will promote the financial security of America’s workers.

EBSA will also continue 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 in FY 2024. This budget provides resources that enables EBSA to sustain and substantially support priorities established in the unified regulatory agenda. Fiduciary education, regulations, exemptions, compliance assistance, policy and research, and interpretive guidance have and will continue to substantially contribute to the protection of employee pension and health benefits.

In FY 2023, EBSA will continue 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 will pursue a regulatory agenda that includes completing regulatory projects for the advancement of health care reform and retirement security. These projects include providing guidance, developing regulatory standards, conducting statistical research, policy, regulatory analysis, and issuing ERISA exemptions.

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 is reviewing 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.

FY 2022

In FY 2022, EBSA carried out 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 also pursued a regulatory agenda that included completing regulatory projects for the advancement of health care reform (including surprise medical billing provisions) and retirement security. EBSA also continued to advance the Administration’s priority to expand the American public’s access to quality, affordable health care by publishing compliance assistance guidance regarding the health plan coverage provisions of ERISA such as the Mental Health Parity and Addiction Equity Act (MHPAEA). EBSA also conducted rulemaking and regulatory efforts required by the Consolidated Appropriations Act, 2021 and worked proactively to enforce and administer these new provisions.

EBSA provided guidance, engaged with the regulated community, and promoted compliance while protecting the benefits of workers, retirees, and their families. In addition, the Agency engaged in demanding program activities related to MEWAs, MHPAEA, and the Consolidated

POLICY AND COMPLIANCE ASSISTANCE

Appropriations Act, 2021. These program activities increased the Agency's workload substantially in FY 2022. EBSA responded to approximately 4,496 interpretive, targeted, and other associated technical assistance inquiries (including 368 related to MEWAs and 701 for MHPAEA implementation). EBSA also completed over 500 regulatory projects involving interpretive issues; health plan standards; research projects; and policy, legislative, and regulatory analyses projects; MHPAEA implementation; and MEWA registration and other requirements.

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 4,045 interpretive and other associated technical assistance projects, plan inquiries and instances of targeted technical assistance. EBSA will also pursue a proactive regulatory agenda that includes completing 395 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 2024, 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 350 days.

POLICY AND COMPLIANCE ASSISTANCE

| BUDGET ACTIVITY BY OBJECT CLASS | | | | | |
|--|--|--|--|----------------------------|--|
| (Dollars in Thousands) | | | | | |
| | | FY 2022 Revised Enacted | FY 2023 Revised Enacted | FY 2024 Request | Diff. FY24 Request / FY23 Revised Enacted |
| 11.1 | Full-time permanent | 8,934 | 9,512 | 14,881 | 5,369 |
| 11.3 | Other than full-time permanent | 193 | 193 | 193 | 0 |
| 11.5 | Other personnel compensation | 289 | 305 | 305 | 0 |
| 11.9 | Total personnel compensation | 9,416 | 10,010 | 15,379 | 5,369 |
| 12.1 | Civilian personnel benefits | 4,272 | 4,512 | 6,797 | 2,285 |
| 13.0 | Benefits for former personnel | 0 | 0 | 0 | 0 |
| 21.0 | Travel and transportation of persons | 70 | 70 | 275 | 205 |
| 22.0 | Transportation of things | 0 | 0 | 25 | 25 |
| 23.1 | Rental payments to GSA | 1,520 | 1,640 | 1,802 | 162 |
| 23.3 | Communications, utilities, and miscellaneous charges | 190 | 70 | 180 | 110 |
| 24.0 | Printing and reproduction | 249 | 200 | 200 | 0 |
| 25.1 | Advisory and assistance services | 84 | 50 | 50 | 0 |
| 25.2 | Other services from non-Federal sources | 1,170 | 863 | 1,043 | 180 |
| 25.3 | Other goods and services from Federal sources 1/ | 6,581 | 9,055 | 9,280 | 225 |
| 25.5 | Research and development contracts | 1,000 | 1,166 | 1,166 | 0 |
| 25.7 | Operation and maintenance of equipment | 2,302 | 0 | 0 | 0 |
| 26.0 | Supplies and materials | 525 | 598 | 658 | 60 |
| 31.0 | Equipment | 66 | 5 | 190 | 185 |
| | Total | 27,445 | 28,239 | 37,045 | 8,806 |
| | | | | | |
| | 1/Other goods and services from Federal sources | | | | |
| | Working Capital Fund | 6,374 | 6,428 | 6,653 | 225 |
| | DHS Services | 90 | 90 | 90 | 0 |
| | HHS Services | 117 | 2,537 | 2,537 | 0 |

POLICY AND COMPLIANCE ASSISTANCE

CHANGES IN FY 2024

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

| | |
|--|-------|
| Costs of pay adjustments | \$618 |
| Personnel benefits | 319 |
| Federal Employees' Compensation Act (FECA) | -25 |
| 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 | 225 |
| 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 **\$1,137**

Net Program **\$7,669**

Direct FTE **37**

| | Estimate | FTE |
|-------------------------|-----------------|-----------|
| Base | \$29,376 | 61 |
| Program Increase | \$7,669 | 37 |
| Program Decrease | \$0 | 0 |

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

| BUDGET AUTHORITY BEFORE THE COMMITTEE | | | | |
|--|--|--|----------------------------|--|
| (Dollars in Thousands) | | | | |
| | FY 2022 Revised Enacted | FY 2023 Revised Enacted | FY 2024 Request | Diff. FY24 Request / FY23 Revised Enacted |
| Activity Appropriation | 6,882 | 7,103 | 9,318 | 2,215 |
| FTE | 26 | 35 | 45 | 10 |

NOTE: FY 2022 reflects actual FTE. Authorized FTE for FY 2022 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 offices responsible for enforcement 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 operational 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> |
|--------------------|--|------------|
| 2019 | \$6,699 | 25 |
| 2020 | \$6,699 | 25 |
| 2021 | \$6,699 | 27 |
| 2022 | \$0 | 0 |
| 2023 | \$0 | 0 |

FY 2024

EBSA seeks \$9,318,000 and 45 FTE for the Executive Leadership, Program Oversight and Administration budget activity. This budget enables EBSA to continue 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 will allow 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 will continue to effectively administer its responsibilities for the management of debts arising from the assessment of civil penalties under ERISA sections 502(c)(2), 502(i) and 502(l). This will be accomplished in accordance with the requirements of the Debt Collection and Debt Collection Improvement Acts.

FY 2023

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

With additional resources, EBSA will have the capacity to conduct outreach 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. EBSA will also update fact sheets/publications for women and other underrepresented groups and make its publications available in more languages.

This budget enables EBSA to continue to provide the leadership and administrative support for all 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. Additionally, through this activity, EBSA will ensure the proper execution of responsibilities to sustain the security of American's employee benefits.

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

FY 2022

In FY 2022, EBSA provided the leadership and administrative support for all of the Agency's programs including the establishment of the following: (a) human capital management programs to build, sustain, and effectively deploy the skilled, knowledgeable, diverse, and high-performing workforce needed to meet current and emerging needs; (b) training goals and delivery mechanisms that meet both programmatic and individual needs; (c) long-term and annual performance plans and reports; (d) the Agency's Continuity of Operations Plan (COOP) to ensure timely and effective continuation of critical Agency operations in the event of a major disruption; (e) the analysis, justification, execution and evaluation of the Agency's budget, and integrating the Agency's strategic performance goals with budget formulation and execution; (f) the prudent management and use of resources and compliance with governing laws and regulations; (g) overall facilities management plan including space, telecommunications, mail, and printing management.

Workload and Performance Narrative

EBSA will continue to provide the leadership and administrative support for all 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 2024, 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**

| BUDGET ACTIVITY BY OBJECT CLASS | | | | | |
|--|--|--|--|----------------------------|--|
| (Dollars in Thousands) | | | | | |
| | | FY 2022 Revised Enacted | FY 2023 Revised Enacted | FY 2024 Request | Diff. FY24 Request / FY23 Revised Enacted |
| 11.1 | Full-time permanent | 3,131 | 3,291 | 4,586 | 1,295 |
| 11.3 | Other than full-time permanent | 17 | 17 | 17 | 0 |
| 11.5 | Other personnel compensation | 114 | 119 | 119 | 0 |
| 11.9 | Total personnel compensation | 3,262 | 3,427 | 4,722 | 1,295 |
| 12.1 | Civilian personnel benefits | 1,397 | 1,453 | 2,043 | 590 |
| 13.0 | Benefits for former personnel | 0 | 0 | 0 | 0 |
| 21.0 | Travel and transportation of persons | 55 | 55 | 97 | 42 |
| 22.0 | Transportation of things | 0 | 0 | 15 | 15 |
| 23.1 | Rental payments to GSA | 320 | 320 | 355 | 35 |
| 23.2 | Rental payments to others | 0 | 0 | 0 | 0 |
| 23.3 | Communications, utilities, and miscellaneous charges | 20 | 20 | 48 | 28 |
| 24.0 | Printing and reproduction | 25 | 25 | 25 | 0 |
| 25.1 | Advisory and assistance services | 21 | 21 | 21 | 0 |
| 25.2 | Other services from non-Federal sources | 267 | 342 | 392 | 50 |
| 25.3 | Other goods and services from Federal sources 1/ | 1,158 | 1,413 | 1,473 | 60 |
| 25.5 | Research and development contracts | 0 | 0 | 0 | 0 |
| 25.7 | Operation and maintenance of equipment | 243 | 0 | 0 | 0 |
| 26.0 | Supplies and materials | 22 | 22 | 42 | 20 |
| 31.0 | Equipment | 92 | 5 | 85 | 80 |
| | Total | 6,882 | 7,103 | 9,318 | 2,215 |
| | | | | | |
| | 1/Other goods and services from Federal sources | | | | |
| | Working Capital Fund | 1,119 | 1,131 | 1,191 | 60 |
| | DHS Services | 33 | 33 | 33 | 0 |
| | HHS Services | 6 | 249 | 249 | 0 |

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

CHANGES IN FY 2024

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

| | |
|--|-------|
| Costs of pay adjustments | \$165 |
| Personnel benefits | 85 |
| Federal Employees' Compensation Act (FECA) | -7 |
| 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 | 60 |
| 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 **\$303**

Net Program **\$1,912**

Direct FTE **10**

| | Estimate | FTE |
|-------------------------|----------------|-----------|
| Base | \$7,406 | 35 |
| Program Increase | \$1,912 | 10 |
| Program Decrease | \$0 | 0 |