

**FY 2016**

**CONGRESSIONAL BUDGET JUSTIFICATION**

**EMPLOYEE BENEFITS SECURITY ADMINISTRATION**

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# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## TABLE OF CONTENTS

Appropriation Language .....	1
Analysis of Appropriation Language.....	2
Amounts Available for Obligation.....	3
Summary of Changes .....	4
Summary Budget Authority and FTE by Activity .....	6
Budget Authority by Object Class .....	7
Authorizing Statutes.....	8
Appropriation History .....	9
Overview .....	10
Organization Chart.....	19
Budget Activities .....	21
Enforcement and Participant Assistance.....	21
Policy and Compliance Assistance .....	33
Executive Leadership, Program Oversight and Administration .....	43

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# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## APPROPRIATION LANGUAGE

For necessary expenses for the Employee Benefits Security Administration [\$181,000,000] \$207,455,000, of which not less than \$3,000,000 shall be made available through September 30, 2017, for the procurement of expert witnesses for enforcement litigation: *Provided*, That \$6,500,000 shall be made available through September 30, 2017, to assist in the start-up of retirement savings programs in states: *Provided further*, That, with respect to the previous proviso, the Secretary is authorized to transfer these amounts to “Departmental Management” for use by the Office of the Chief Evaluation Officer within the Department of Labor for grants to states and is authorized to grant a temporary waiver of the preemption provisions of Section 514 of the Employee Retirement Income Security Act of 1974 until September 30, 2017, (*Department of Labor Appropriations Act, 2015*).

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## ANALYSIS OF APPROPRIATION LANGUAGE

Language Provision	Explanation
“...of which not less than \$3,000,000 shall be made available through September 30, 2017, for the procurement of expert witnesses for enforcement litigation:...”	The pursuit of complex (ERISA) litigation by the Department would not be possible without employing qualified experts. The existing budget, procurement, and litigation environment has made it exceedingly difficult to effectively administer the expert witness program. To better comport with the scheduling of cases through the courts, DOL seeks a multi-year appropriation to support the administration of expert witness contracts for enforcement litigation. This language provision will support fees and expenses of witnesses as similarly promulgated in Division B, Title II of the Consolidated and Further Continuing Appropriations Act, 2015 for Commerce, Justice, Science, and related Agencies.
“... <i>Provided</i> , That \$6,500,000 shall be made available through September 30, 2017, to assist in the start-up of retirement savings programs in states:...”	Funds are requested to support a pilot that would implement different approaches to increasing retirement plan coverage in States. Funds are requested through FY 2017 to allow sufficient time for inter-agency collaboration to craft grant solicitations that meet technical and evaluation requirements; the posting of grant solicitations with time to allow selected States to develop effective grant proposals; providing technical briefings and conducting outreach to better inform potential grantees; and the evaluation of proposals based on solicitation criteria to select grantees. Two-year funding availability can help mitigate risk of lapsing appropriated funding and extends beyond one fiscal year the timeframe believed to be reasonably necessary to administer grants to selected States to develop retirement programs.
“... <i>Provided further</i> , That, with respect to the previous proviso, the Secretary is authorized to transfer these amounts to “Departmental Management” for use by the Office of the Chief Evaluation Officer within the Department of Labor for grants to states and is authorized to grant a temporary waiver of the preemption provisions of Section 514 of the Employee Retirement Income Security Act of 1974 until September 30, 2017...”	The DOL Office of the Chief Evaluation Officer with direct technical support from, and in collaboration with the Employee Benefits Security Administration (EBSA) will administer and manage the issuance of grants to selected States to establish state-based retirement programs. Further, DOL is unable to establish or execute a pilot project to establish state-based retirement programs without explicit authorization to waive preemption provisions promulgated in Section 514 of the Employee Retirement Income Security Act of 1974.

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

<b>AMOUNTS AVAILABLE FOR OBLIGATION</b>						
(Dollars in Thousands)						
	2014		2015		2016	
	FTE	Amount	FTE	Amount	FTE	Amount
<b>A. Appropriation</b>	<b>985</b>	<b>\$178,500</b>	<b>963</b>	<b>\$181,000</b>	<b>1,004</b>	<b>\$207,455</b>
<i>Subtotal Appropriation</i>	985	\$178,500	963	\$181,000	1,004	\$207,455
Offsetting Collections From:						
Reimbursements	0	\$5,932	0	\$8,000	0	\$8,000
<i>Subtotal</i>	985	\$184,432	963	\$189,000	1,004	\$215,455
<b>B. Gross Budget Authority</b>	<b>985</b>	<b>\$184,432</b>	<b>963</b>	<b>\$189,000</b>	<b>1,004</b>	<b>\$215,455</b>
Offsetting Collections To:						
Reimbursements	0	-\$5,932	0	-\$8,000	0	-\$8,000
<i>Subtotal</i>	985	\$178,500	963	\$181,000	1,004	\$207,455
<b>C. Budget Authority Before the Committee</b>	<b>985</b>	<b>\$178,500</b>	<b>963</b>	<b>\$181,000</b>	<b>1,004</b>	<b>\$207,455</b>
Offsetting Collections From:						
Reimbursements	0	\$5,932	0	\$8,000	0	\$8,000
<i>Subtotal</i>	985	\$184,432	963	\$189,000	1,004	\$215,455
<b>D. Total Budgetary Resources</b>	<b>985</b>	<b>\$184,432</b>	<b>963</b>	<b>\$189,000</b>	<b>1,004</b>	<b>\$215,455</b>
Unobligated Balance Expiring	-22	-\$79	0	\$0	0	\$0
<b>E. Total, Estimated Obligations</b>	<b>963</b>	<b>\$184,353</b>	<b>963</b>	<b>\$189,000</b>	<b>1,004</b>	<b>\$215,455</b>

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## SUMMARY OF CHANGES

(Dollars in Thousands)

	2015	2016	Net Change
<b>Budget Authority</b>			
General Funds	\$181,000	\$207,455	+\$26,455
Total	\$181,000	\$207,455	+\$26,455
<b>Full Time Equivalents</b>			
General Funds	963	1,004	41
Total	963	1,004	41

### 2016 Change

Explanation of Change	2015 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>Increases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
Costs of pay adjustments	963	\$92,228	0	\$0	0	\$1,060	0	\$1,060
Personnel benefits	0	\$28,105	0	\$0	0	\$342	0	\$342
One day more of pay	0	\$0	0	\$0	0	\$473	0	\$473
Federal Employees' Compensation Act (FECA)	0	\$164	0	\$0	0	\$2	0	\$2
Travel and transportation of persons	0	\$2,659	0	\$0	0	\$0	0	\$0
Transportation of things	0	\$16	0	\$0	0	\$0	0	\$0
Rental payments to GSA	0	\$11,231	0	\$0	0	\$242	0	\$242
Communications, utilities, and miscellaneous charges	0	\$445	0	\$0	0	\$0	0	\$0
Printing and reproduction	0	\$633	0	\$0	0	\$0	0	\$0
Advisory and assistance services	0	\$0	0	\$0	0	\$0	0	\$0
Other services from non-Federal sources	0	\$8,705	0	\$0	0	\$0	0	\$0
Working Capital Fund	0	\$13,721	0	\$0	0	\$2,774	0	\$2,774
Other Federal sources (DHS Charges)	0	\$670	0	\$0	0	\$0	0	\$0
Other goods and services from Federal sources	0	\$0	0	\$0	0	\$0	0	\$0
Research & Development Contracts	0	\$5,000	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	\$14,991	0	\$0	0	\$0	0	\$0
Supplies and materials	0	\$930	0	\$0	0	\$0	0	\$0
Equipment	0	\$1,502	0	\$0	0	\$0	0	\$0
Insurance claims and indemnities	0	\$0	0	\$0	0	\$0	0	\$0
<b>Built-Ins Subtotal</b>	<b>963</b>	<b>+\$181,000</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>+\$4,893</b>	<b>0</b>	<b>+\$4,893</b>

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Explanation of Change	2016 Change							
	2015 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>B. Programs:</b>								
Enforcement Program Modernization	844	\$150,085	0	\$0	7	\$7,590	7	\$7,590
State Retirement Plan Demonstration Project	93	\$27,758	0	\$0	0	\$6,500	0	\$6,500
Benefits Call Quality Assurance	844	\$150,085	0	\$0	10	\$3,315	10	\$3,315
Health Care Compliance and Enforcement	844	\$150,085	0	\$0	22	\$2,221	22	\$2,221
TSP Audit Improvement	844	\$150,085	0	\$0	2	\$1,936	2	\$1,936
<b>Programs Subtotal</b>			<b>0</b>	<b>\$0</b>	<b>41</b>	<b>+\$21,562</b>	<b>41</b>	<b>+\$21,562</b>
<b>Total Increase</b>	<b>963</b>	<b>+\$181,000</b>	<b>0</b>	<b>\$0</b>	<b>41</b>	<b>+\$26,455</b>	<b>41</b>	<b>+\$26,455</b>
<b>Decreases:</b>								
<b>A. Built-Ins:</b>								
To Provide For:								
<b>Built-Ins Subtotal</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>
<b>B. Programs:</b>								
<b>Total Decrease</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>
<b>Total Change</b>	<b>963</b>	<b>+\$181,000</b>	<b>0</b>	<b>\$0</b>	<b>41</b>	<b>+\$26,455</b>	<b>41</b>	<b>+\$26,455</b>

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

<b>SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY</b> (Dollars in Thousands)								
	2014		2015		2016		Diff. 2016 / 2015	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
<b>Enforcement and Participant Assistance</b>	<b>859</b>	<b>145,000</b>	<b>844</b>	<b>147,400</b>	<b>885</b>	<b>166,362</b>	<b>41</b>	<b>18,962</b>
General Funds	859	145,000	844	147,400	885	166,362	41	18,962
<b>Policy and Compliance Assistance</b>	<b>77</b>	<b>26,901</b>	<b>93</b>	<b>26,901</b>	<b>93</b>	<b>34,258</b>	<b>0</b>	<b>7,357</b>
General Funds	77	26,901	93	26,901	93	34,258	0	7,357
<b>Executive Leadership, Program Oversight and Administration</b>	<b>27</b>	<b>6,599</b>	<b>26</b>	<b>6,699</b>	<b>26</b>	<b>6,835</b>	<b>0</b>	<b>136</b>
General Funds	27	6,599	26	6,699	26	6,835	0	136
<b>Total</b>	<b>963</b>	<b>178,500</b>	<b>963</b>	<b>181,000</b>	<b>1,004</b>	<b>207,455</b>	<b>41</b>	<b>26,455</b>
<b>General Funds</b>	<b>963</b>	<b>178,500</b>	<b>963</b>	<b>181,000</b>	<b>1,004</b>	<b>207,455</b>	<b>41</b>	<b>26,455</b>

NOTE: 2014 reflects actual FTE.

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

<b>BUDGET AUTHORITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Diff. 2016 / 2015</b>
	Full-Time Equivalent				
	Full-time Permanent	981	959	1,000	41
	Other	4	4	4	0
	<b>Total</b>	<b>985</b>	<b>963</b>	<b>1,004</b>	<b>41</b>
	Average ES Salary	\$167,649	\$174,116	\$175,857	\$1,741
	Average GM/GS Grade	12/6	12/7	12/7	0
	Average GM/GS Salary	\$87,120	\$90,365	\$91,269	\$904
11.1	Full-time permanent	89,015	89,722	94,873	5,151
11.3	Other than full-time permanent	1,350	1,363	1,381	18
11.5	Other personnel compensation	1,046	1,143	1,143	0
11.8	Special personal services payments	0	0	0	0
11.9	<b>Total personnel compensation</b>	<b>91,411</b>	<b>92,228</b>	<b>97,397</b>	<b>5,169</b>
12.1	Civilian personnel benefits	27,921	28,269	29,883	1,614
21.0	Travel and transportation of persons	2,659	2,659	2,792	133
22.0	Transportation of things	16	16	25	9
23.1	Rental payments to GSA	10,545	11,231	11,672	441
23.3	Communications, utilities, and miscellaneous charges	445	445	455	10
24.0	Printing and reproduction	633	633	633	0
25.1	Advisory and assistance services	930	0	0	0
25.2	Other services from non-Federal sources	6,916	8,705	17,089	8,384
25.3	Other goods and services from Federal sources 1/	14,601	14,391	17,165	2,774
25.4	Operation and maintenance of facilities	0	0	0	0
25.5	Research and development contracts	5,000	5,000	5,000	0
25.7	Operation and maintenance of equipment	14,991	14,991	22,812	7,821
26.0	Supplies and materials	930	930	947	17
31.0	Equipment	1,502	1,502	1,585	83
38.0	Depreciation Expense - Unfunded	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	<b>Total</b>	<b>178,500</b>	<b>181,000</b>	<b>207,455</b>	<b>26,455</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	13,931	13,721	16,495	2,774
	DHS Services	670	670	670	0

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## AUTHORIZING STATUTES

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

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

<b>APPROPRIATION HISTORY</b>					
(Dollars in Thousands)					
	<b>Budget Estimates to Congress</b>	<b>House Allowance</b>	<b>Senate Allowance</b>	<b>Appropriations</b>	<b>FTE</b>
2006					
Base Appropriation...1/	\$137,000	\$137,000	\$134,900	\$133,550	875
2007					
Base Appropriation...2/	\$143,573	\$141,573	\$141,573	\$141,573	855
2008					
Base Appropriation...3/	\$147,425	\$142,925	\$143,262	\$139,313	855
2009					
Base Appropriation...4/5/	\$147,871	\$0	\$139,313	\$143,419	835
2010					
Base Appropriation...6/	\$156,060	\$154,060	\$155,662	\$154,861	910
2011					
Base Appropriation...7/	\$161,995	\$0	\$161,995	\$154,551	910
2012					
Base Appropriation...8/	\$197,528	\$159,363	\$195,528	\$183,153	1,003
2013					
Base Appropriation...9/	\$183,153	\$0	\$0	\$173,573	993
2014					
Base Appropriation...10/	\$179,104	\$0	\$0	\$178,500	985
2015					
Base Appropriation...11/	\$188,447	\$0	\$0	\$181,000	963
2016					
Base Appropriation	\$207,455	\$0	\$0	\$0	1,004

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

<sup>2</sup> Reflects amounts provided under FY 2007 full year continuing resolution pursuant to P.L. 110-5 and excludes \$7,000 for the one-time real transfer from Pension Benefit Guaranty Corporation (PBGC) pursuant to the FY 2007 supplemental P.L. 110-28

<sup>3</sup> Reflects a reduction of \$2,477 pursuant to the enacted rescissions in P.L. 110-161, the FY 2008 estimate to Congress included \$5,500 for EFAST2 later removed based on funding provided in FY 2007 appropriation.

<sup>4</sup> Excludes \$9,705 for the Recovery Act through a non-expenditure transfer from the Departmental Management (DM) account pursuant to P.L. 111-5

<sup>5</sup> This bill was only reported out of Subcommittee and was not passed by the Full House.

<sup>6</sup> Excludes \$4,434 for emergency transfer pursuant to P.L. 111-17

<sup>7</sup> Excludes a non-expenditure transfer of \$4,502 from the Departmental Management (DM) account pursuant to P.L. 112-10.

<sup>8</sup> Reflects a reduction of \$347 pursuant to the enacted rescission in P.L. 112-74 and does not reflect re-programming levels. Re-programming levels for FY 2012 is reflected in the Summary Budget Authority and FTE by Activity exhibit.

<sup>9</sup> Reflects a reduction of \$366 pursuant to the enacted rescission in P.L. 113-6 and a reduction of \$9,214 pursuant to Section 251A of the Balanced Budget and Emergency Deficit Control Act, as Amended, issued by the President on March 1, 2013.

<sup>10</sup> Reflects the full appropriation pursuant to P.L. 113-76 without enacted rescissions

<sup>11</sup> Reflects the full appropriation pursuant to P.L. 113-235 without enacted rescissions

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## OVERVIEW

### Introduction

The DOL Strategic Plan creates the roadmap for meeting the workplace and economic challenges we face as a nation. Contained within the plan are the strategies that DOL will use to protect the most vulnerable populations while ensuring broad compliance with the Employee Retirement Income Security Act of 1974 (ERISA) and related laws. In support of the strategic plan and the Secretary's vision of "*Promoting and Protecting Opportunity*," EBSA has a single outcome goal of "improving health benefits and retirement security for all workers." EBSA is charged with protecting more than 142 million workers, retirees and their families which are covered by nearly 677,000 private retirement plans, 2.4 million health plans, and similar numbers of other welfare benefit plans which together hold estimated assets of \$8.5 trillion.

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

### Employee Benefits Security Administration Programs

Retirement, health and other workplace related benefits of America's workers and their families are threatened by many factors, including fiduciary misconduct, conflicts of interest, excessive fees and improper denial of benefits. These problems are exacerbated when participants are uninformed about their benefits rights and responsibilities and plan sponsors are uninformed about their legal obligations. Consequently, EBSA utilizes an aggressive outreach, education, and participant assistance program to inform the public of their rights and benefits as well as to educate the regulated community regarding their responsibilities and obligations under the law. As addressed later in the budget justification, EBSA has numerous outreach and educational strategies to achieve this end. At the same time, EBSA's enforcement program seeks to ensure compliance with the law. Our enforcement program utilizes a series of approaches such as national/regional priorities, voluntary compliance programs, civil/criminal litigation, and research-based analysis to accomplish our mission. Finally, EBSA's economic research program continues to study economic issues regarding employee benefits in order to provide statistics and information for regulatory and legislative policy initiatives. The economic research program also supports enforcement projects with statistical and risk analysis. Given these strong individual program components and the extensive interaction between them, EBSA is able to function as a highly integrated and adaptive organization that is responsive to the complex environment in which it operates, thus enhancing its ability to improve employee health and retirement benefits security.

# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## Enforcement Program Workload and Performance Metrics Refinement

The Agency's primary objectives are to improve compliance with ERISA; recover losses and unjust profits resulting from misconduct by plan fiduciaries and service providers; and increase the deterrent impact of its enforcement efforts on employee benefit plans, participants and beneficiaries. An effective enforcement program has overlapping and related attributes that include: effective targeting, prompt detection and pursuit of violations; the successful pursuit of monetary recoveries; non-monetary results that promote compliance with ERISA; and the aggressive and timely pursuit of participant tips and complaints.

EBSA has refined enforcement program workload measures and performance metrics. These refinements are designed to increase the effectiveness of the enforcement program and to shift emphasis to more complex cases. The disadvantage of prior enforcement workload and performance measures is that they categorized all investigations as identical units, all of which were equally important to the Agency's mission (regardless of complexity, regulated entities, or plan number of affected plan participants). As a result, the measures rewarded front-line enforcement staff for pursuing numerous investigations that could be quickly processed, without regard to the cases' importance. Similarly, the Agency gave undue weight to cases that yielded quick and easy results, such as cases involving technical violations, bonding, small delays in payment, or technical reporting and disclosure violations.

To improve results under the enforcement program, EBSA will adopt a more refined approach to performance measurement that avoids reliance on the number of cases processed as an important component of its metrics for the civil and criminal enforcement program. Accordingly, EBSA has implemented new metrics that provide incentives to support its strategic objectives. These metrics include:

- a) Total civil investigative time spent on the conduct of major cases;
- b) Timeliness of non-major cases closed or referred for litigation; and,
- c) Timeliness of criminal cases closed or referred for prosecution.

**Target (Civil) – Increase total civil investigative time spent on major enforcement cases from 12 percent to 15 percent.** EBSA will invest more time and resources on major cases that are likely to have a far greater potential impact on participants and plans. The shift in emphasis to more challenging and complex enforcement cases will take time to come to fruition. In particular, EBSA will need to enhance the skills of front line enforcement staff through extensive financial training in order to conduct complex, financial, and resource intensive driven cases.

**Target (Civil) – 85 percent of non-major civil cases will be closed or referred for litigation within 30 months of case opening.** EBSA seeks to promptly detect, pursue and correct violations, and to be aggressive in pursuing tips and complaints from the public. The basis of this goal is the review of five year historical averages for this performance metric. This metric excludes civil cases involving delinquent employee contributions, abandoned plans, bonding,

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Health-Part 7, and other reporting and disclosure of non-fiduciary breaches that should be closed or referred for litigation within 18 months of case opening.

**Target (Civil) – 71 percent of select non-major civil cases will be closed or referred for litigation within 18 months of case opening.** Select non-major civil cases include delinquent employee contributions, abandoned plans, bonding, Health-Part 7, and other reporting and disclosure of non-fiduciary breaches. The issues raised by these select civil cases are generally less complex or stem from participant complaints.

**Target (Criminal) – 75 percent of criminal cases closed or referred for prosecution within 18 months of case opening.** This timeliness measure affects the criminal enforcement program. An analysis of the historical data indicates that the earlier a case is referred for prosecution, the higher the probability of a criminal result (e.g. indictment or guilty plea). For example, over 87 percent of cases with an indictment were referred within one year of case opening. The basis of the 87 percent numerical goal is the review of five year historical averages for this performance metric, as well as careful consideration of the Agency's interest in increasing the time devoted to more complex criminal investigations.

In 2016, the Department will continue to focus on implementation and enforcement of health care laws, helping workers transform retirement savings into secure lifetime income, and protecting plan participants. EBSA will continue its successful strategy of bringing plan sponsors and their benefit plans into compliance with the law using an integrated approach. As a general matter, this strategy includes:

- 1) Vigorous Enforcement;
- 2) Informative Compliance Assistance;
- 3) Proactive Regulation;
- 4) Targeted Research;
- 5) Strong Consumer Outreach and Education; and,
- 6) Effective Participant Assistance and Outstanding Customer Service

### **FY 2016 Request**

The Secretary's vision of "*Promoting and Protecting Opportunity*," by protecting the retirement and health benefits security of workers and their families is supported by this budget request of \$207,455,000 and 1,004 FTE. EBSA also seeks appropriations language changes in FY 2016 that will: (a) authorize a multi-year appropriation to administer the expert witness program; (b) provide multi-year funding availability for a pilot project to establish state-based retirement programs; (c) include authorization to transfer amounts appropriated for the state-based retirement pilot project to the Departmental Management (DM) Chief Evaluation Office (CEO) for grant administration; and (d) authorize the related ability to grant a temporary waiver of preemption provisions promulgated in Section 514 of ERISA for the duration of the pilot project to establish state-based retirement programs.

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

The FY 2016 resource request includes the following program increases:

- **\$7,590,000 and 7 FTE for enforcement program modernization.** This request encompasses \$7,590,000 and 7 FTE (includes \$6,116,000 for Information Technology) for the enforcement and participant assistance budget activity. These resources will ensure: (1) development and implementation of advanced training programs that focus on health plans and financial institutions for field investigators and auditors who conduct complex major cases; and (2) development of advanced investigative tools that will enhance health and retirement benefits analysis and targeting. This request is vital to EBSA's efforts to improve capacity and develop the expertise to conduct major cases that are likely to have a far greater potential impact on participants and plans.
- **\$3,315,000 and 10 FTE for Benefits Call Quality Assurance (BCQA).** This request encompasses \$3,315,000 and 10 FTE (includes \$1,425,000 for Information Technology) to implement a Benefits Call Quality Assurance (BCQA) program and monitoring protocol throughout the country. EBSA responds to over 230,000 inquiries annually from participants seeking information on a full range of employee benefit plan issues that includes, but is not limited to issues involving 401(k) plans, defined benefit plans, health care benefit plans, COBRA eligibility, and the Affordable Care Act (ACA). The growing complexity of inquiries and employee benefit plan arrangements have made it increasingly difficult to effectively monitor the quality and accuracy of technical information being delivered by telephone to participants and stakeholders. The Benefits Call Quality Assurance program will ensure that accurate and professional service is provided to stakeholders and participants thereby improving opportunities to increase participant benefit recoveries, enforcement leads and customer service.
- **\$2,221,000 and 22 FTE for health care compliance and enforcement.** This request encompasses resources for EBSA to enhance the Health Benefits Security Project (HBSP) that consolidates longstanding health benefits security initiatives and associated regulations, including plan level and service provider investigations, to ensure the provision of promised health benefits. EBSA also seeks to build on the foundation of dedicated resources provided for health care enforcement and compliance.
- **\$1,936,000 and 2 FTE for expanding the scope of TSP fiduciary audits.** This request will enable EBSA to provide focused oversight on the TSP's overall internal control operating environment and perform more in-depth reviews to improve IT security, thereby reducing the risk of security breaches that compromise employee benefits security.
- **\$6,500,000 (two-year funding availability) for a state-based retirement plan demonstration project.** This request encompasses \$6,500,000 and will provide resources to implement different approaches to increasing retirement plan coverage, such as state-based 401(k) plans or state-based auto-IRAs. Total funding for this project includes resources for state implementation grants and state program evaluations. DOL is seeking appropriations language changes that will: provide two-year funding availability through September 30, 2017; authorize the transfer of amounts appropriated for this

## **EMPLOYEE BENEFITS SECURITY ADMINISTRATION**

project to the Departmental Management (DM) Chief Evaluation Office for grant administration; and authorize a temporary waiver of preemption provisions promulgated in Section 514 of ERISA until expiration of the pilot project to establish state-based retirement programs.

This request also includes built-in adjustments for inflation and mandatory increases totaling \$4,893,000.

### **FY 2016 Activities, Strategies, and Program Results**

During FY 2016, EBSA will continue to focus its enforcement program on major cases. The Major Case Enforcement Initiative will concentrate resources on areas that have the greatest impact on the protection of plan assets and participants' benefits (e.g., professional fiduciaries and service providers with responsibility for large amounts of plan assets and benefits).

Health investigations will continue to be a larger part of the investigative mix, and similar to major cases (health enforcement cases involving the systematic denial of health benefits are classified as "Major"), will result in increasing case unit times because they require more resources and take more investigative time to complete. With regard to the Multiple Employer Welfare Arrangement (MEWA) registration requirements and health care-related enforcement tools, EBSA will continue to implement compliance related programs to aid in the Agency's oversight and audit initiatives to combat health care fraud. EBSA will also continue to develop materials and conduct compliance workshops across the country to educate industry professionals about the new MEWA provisions and will enhance the MEWA Registration Form to facilitate targeting entities for investigation that may not have sufficient reserves to pay legitimate health care claims.

Under the Federal Employees Retirement System Act of 1986 (FERSA), the Secretary of Labor is directed to oversee compliance with the Act's fiduciary standards applicable to the Thrift Savings Plan (TSP). As such, EBSA will continue to pursue the development of improved mechanisms for overseeing the performance of the Thrift Savings Plan (TSP). EBSA will seek to improve TSP IT security and operations with solutions that include, but are not limited to: greater accountability and oversight of the Federal Retirement Thrift Investment Board; a formal process by which stakeholders can be made aware of critical concerns associated with TSP operations; and establishment of an entity with statutory authority to compel corrective or remedial action by the TSP Board.

Additionally, subjecting employee benefit plans to annual audits by an independent qualified public accountant is an important part of ERISA's financial reporting protections and provides a first-line defense for plan participants against financial mismanagement. Several studies performed by the Department of Labor, however, show a persistent and unacceptably high rate of audit deficiencies, including a significant increase in audit quality lapses among accounting firms performing employee benefit plan audits. The Department has very limited ability to address these audit quality failures because of outdated statutory provisions that have remained unchanged since ERISA was enacted in 1974. Under a legislative proposal to amend ERISA financial reporting protections, DOL would be given authority to address the problems of

## EMPLOYEE BENEFITS SECURITY ADMINISTRATION

deficient plan audits and failures among plan auditors to comply with professional standards while minimizing the burden on employers who choose to provide their employees with access to a plan.

In FY 2016, EBSA anticipates using performance measures that include: allocating 15 percent of total investigative time on major case enforcement; closing or referring for litigation 85 percent of its non-major cases within 30 months of case opening; closing or referring for litigation 71 percent of its other non-major cases (includes delinquent employee contribution, abandoned plan, bonding, health-part 7 and non-fiduciary breach cases) within 18 months of case opening; and closing or referring 75 percent of criminal cases for prosecution within 18 months of case opening. EBSA will also track (as a performance indicator) participant benefit recoveries and assets restored to plans through the civil enforcement program, projecting a two to five percent increase from the current five-year rolling average of \$224,800,000. Legacy enforcement and participant assistance workload and demand measures continuing into FY 2016 include, but are not limited to: responding to an estimated 250,000 participant inquiries; obtaining 97 indictments through the criminal investigation program; completing 4,330 reporting compliance reviews; conducting 734 rapid response sessions for individuals facing job loss; conducting 200 Congressional office briefings; and completing 10 webcasts and 10 compliance seminars for plan sponsors and participants.

In FY 2016, EBSA will continue to develop regulatory projects related to Title I of ERISA in order to address Departmental priorities through the regulatory agenda. It is anticipated that major projects will include guidance to facilitate compliance with the fiduciary, reporting and disclosure requirements of ERISA. Major regulatory projects that will continue to be priorities for EBSA include: (1) amending section 408(b)(2) of ERISA to improve fee disclosure for welfare plans; (2) amending the claims procedure regulation to strengthen, improve, and update the current rules governing the internal claims and appeals process; (3) implementing section 1511 of the ACA for automatic enrollment in health plans of employees of large employers; and (4) revising the Form 5500 Series to enhance the agency's ability to collect employee benefit plan data that best meet the needs of changing compliance projects, programs, and activities. EBSA will continue to promulgate regulations implementing the ACA in conjunction with the Departments of Health and Human Services (HHS) and Treasury; continue health benefit studies (including the annual self-insured report to Congress); and implement education, outreach, and assistance programs, as well as pursue additional enforcement strategies that support new requirements for employer sponsored health plans. EBSA estimates completing a total of 4,797 interpretive and other associated technical assistance projects/plan inquiries; regulatory projects for research, health plan standards, and exemptions; and other targeted technical assistance in FY 2016.

EBSA is also seeking a change to ERISA Sec. 502(l), which establishes a mandatory civil penalty against any fiduciary who breaches his or her responsibilities under certain sections of ERISA, and against any other person who knowingly participates in such breach or violation. The penalty under this section is 20 percent of the "applicable recovery amount" paid pursuant to any settlement agreement or court order. The mandatory nature of this penalty is problematic, especially when the funds available for recovery are inadequate to fully compensate the plan and pay the civil penalties. In such cases, the penalty often comes at the expense of a larger recovery

## **EMPLOYEE BENEFITS SECURITY ADMINISTRATION**

to the plan, as money that could have gone to making plan participants whole instead goes to paying a penalty to the Treasury. Making the imposition of those penalties discretionary instead of mandatory would provide EBSA more flexibility in cases where penalties could possibly crowd out recoveries to plan participants. As an example, in 401(k) cases, the risk, expense, and uncertainty of litigation will often justify settlements for less than the full amount of the plan's losses. Accordingly, part of the settlement amount is inevitably allocated to the penalty. While there is a financial hardship waiver option regarding the penalty, the criteria associated with granting the waiver are exacting and typically preclude waiver of the penalty.

### **Prior Year (PY) Selected Workload and Accomplishments**

In FY 2014, EBSA processed 3,928 civil cases that included 2,541 cases closed with a result that benefited plan participants. EBSA has focused on monetary recoveries that are directly paid to plans, participants, and their beneficiaries, whether in the form of loss recoveries, disgorgement of unjust enrichment, or increased benefit payments. To that end, EBSA recovered \$35,940,000 in participant benefits and \$356,210,000 through the informal dispute resolution of participant complaints while restoring \$162,635,000 to benefit plans for a total of \$554,785,000. EBSA enforcement efforts also included documented "prohibited transactions corrected" of \$146,545,000 and the protection of plan assets involving \$76,984,000. EBSA also specifically recovered \$6,333,000 in monetary results under the civil health enforcement program in FY 2014. Under the Abandoned Plan Program, EBSA facilitated the distribution of 4,192 account balances totaling \$18,377,000 to plan participants. During this period, EBSA also processed 26,665 applications received by its two major voluntary compliance programs, the Voluntary Fiduciary Correction Program (VFCP) and the Delinquent Filer Voluntary Compliance Program (DFVCP).

EBSA utilizes its criminal enforcement program to pursue the most egregious violators. Criminal investigations are often conducted jointly with other federal and state law enforcement agencies or in consultation with the appropriate local law enforcement authority. EBSA's criminal investigations, as well as its participation in criminal investigations with other law enforcement agencies, can result in the indictment, conviction, and sentencing of individuals, including plan officials, corporate officers, and service providers, for offenses against employee benefit plans. In FY 2014, EBSA closed 365 criminal cases that resulted in 106 indictments and 85 cases closed with guilty pleas and/or convictions.

In FY 2014, EBSA conducted 1,819 outreach activities reaching 62,069 individuals. Included in the 1,819 outreach activities are 353 compliance assistance activities, 1,077 participant assistance activities (836 were rapid response sessions), and 389 public awareness activities. In support of health care reform, EBSA conducted 1,311 ACA outreach activities reaching 40,167 individuals. Also during this period, EBSA distributed nearly 539,000 publications via our toll-free publication hotline and at outreach events. All the publications are available and accessible online. EBSA's Web site has become the primary means of reaching the public. In FY 2014, the Web site hosted over 8.7 million visitors, viewing over 10.9 million pages. Additionally, EBSA's benefits advisors responded to 213,664 inquiries (including 15,790 ACA-related inquiries) and recovered \$356,210,000 through the informal dispute resolution of participant complaints.

## **EMPLOYEE BENEFITS SECURITY ADMINISTRATION**

The established milestones for regulatory projects in FY 2014 were successfully accomplished. EBSA completed coordination with HHS and Treasury on the second Mental Health Parity and Addiction Equality Act (MHPAEA) Report to Congress. The 2014 MHPAEA report was transmitted to Congress on September 19, 2014. Additionally, EBSA transmitted the 2014 Self-Insured Group Health Plans Report to Congress on October 29, 2014.

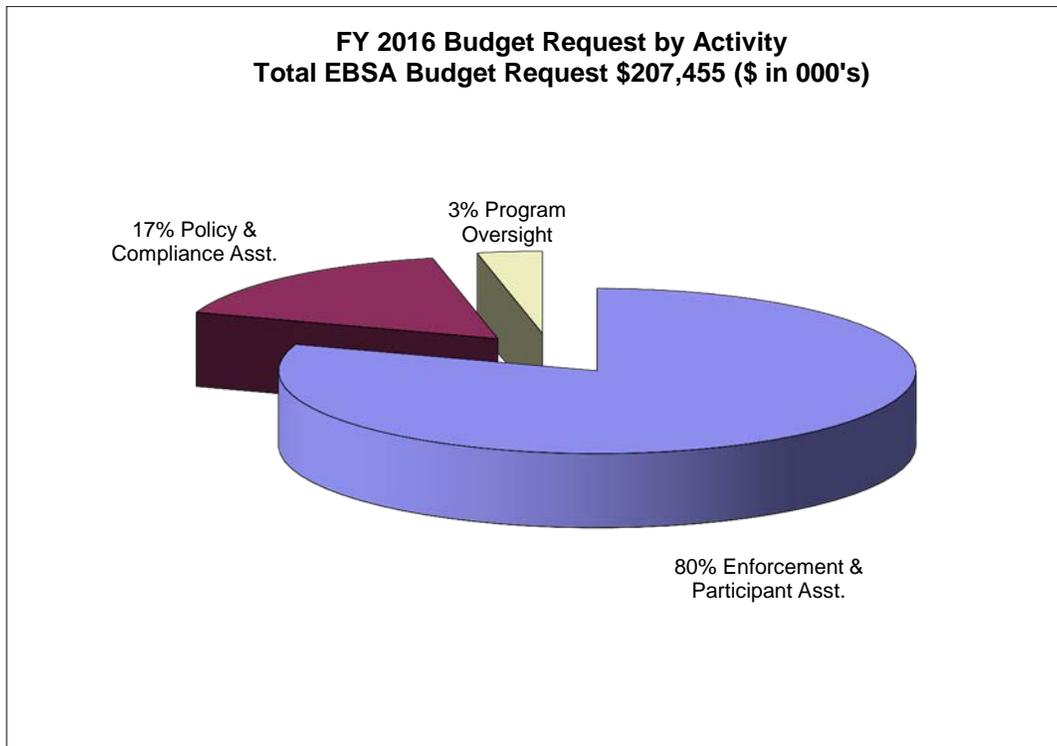
# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## Cost Model

The FY 2016 budget request for EBSA seeks \$207,455,000 and 1,004 FTE. This resource request includes built-in adjustments for inflation and mandatory increases totaling \$4,893,000 and program increases for enforcement program modernization, benefits call quality assurance program, health care compliance and enforcement, expanding the scope of TSP fiduciary audits, and a pilot project to establish state-based retirement programs totaling \$21,562,000 and 41 FTE. Three program activities encompass the EBSA budget and include:

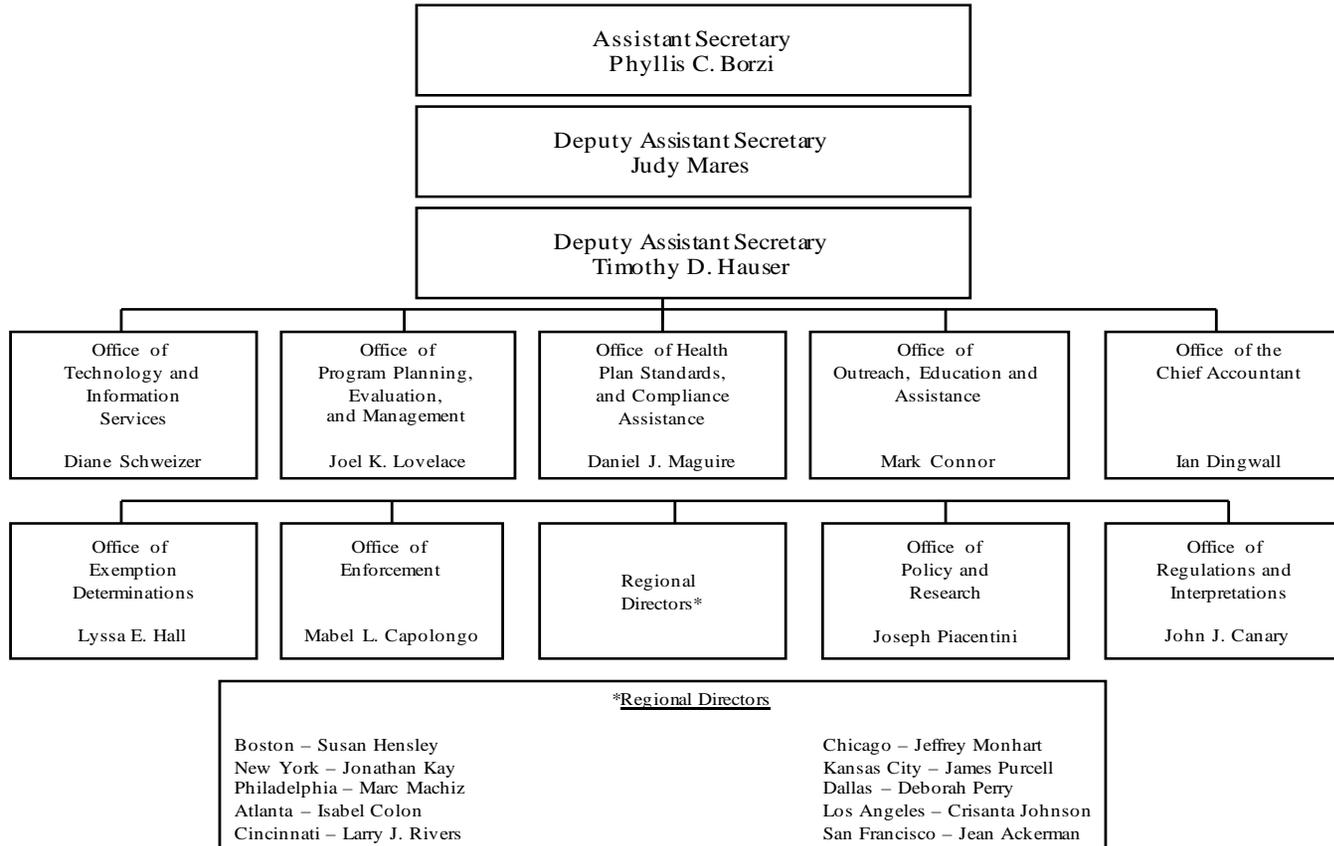
- Enforcement and Participant Assistance budget activity with FY 2016 requested resources of \$166,362,000 and 885 FTE.
- Policy and Compliance Assistance budget activity with FY 2016 requested resources of \$34,258,000 and 93 FTE.
- Executive Leadership, Program Oversight and Administration with FY 2016 requested resources of \$6,835,000 and 26 FTE.

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



# EMPLOYEE BENEFITS SECURITY ADMINISTRATION

## Employee Benefits Security Administration





## ENFORCEMENT AND PARTICIPANT ASSISTANCE

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Diff. 2016 / 2015</b>
<b>Activity Appropriation</b>	<b>145,000</b>	<b>147,400</b>	<b>166,362</b>	<b>18,962</b>
FTE	859	844	885	41

NOTE: FY 2014 reflects actual FTE. Authorized FTE for FY 2014 was 857.

### **Introduction**

Within this activity, EBSA develops and implements a comprehensive enforcement program using civil and criminal investigations that target the most egregious and persistent violators, as well as voluntary compliance programs. The enforcement program detects and investigates civil and criminal violations of ERISA and other related criminal laws and, as appropriate, refers them 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. To help plan sponsors and fiduciaries comply with ERISA’s complex provisions, this activity administers the Fiduciary Education program that informs plan sponsors and their service providers about their basic fiduciary responsibility under the law.

EBSA implemented two highly successful self-correction programs designed to encourage voluntary compliance in order 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 certain 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 which allows investigative resources to focus on other, more complex issues.

Complementing the investigative arm of the enforcement program, 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 are able to assist the public in understanding their rights under their plans and are often able to informally resolve disputes thereby obtaining benefits for these workers and their families. This informal dispute resolution process enables EBSA to effectively respond to participant complaints without utilizing the more resource intensive investigative process, allowing EBSA to direct its investigative resources to more egregious and widespread violations of ERISA. The participant assistance program is also the source of some of our best investigative leads, producing several hundred cases per year—cases that, in the absence of this program, might not have been discovered.

EBSA works to inform the public with regard to benefits issues, and increased knowledge of their rights enables participants to effectively monitor their own benefits. EBSA educates plan participants and officials by conducting outreach and education programs regarding their rights and responsibilities under ERISA. Benefits will be more secure if plan officials are more knowledgeable and therefore in a better position to be in compliance. Furthermore, better

## **ENFORCEMENT AND PARTICIPANT ASSISTANCE**

informed plan participants are better prepared to ensure they receive all the benefits to which they are entitled under their plan and to bring potential violations to the attention of EBSA. The program includes three education campaigns: (1) the Retirement Savings Education Campaign (RSEC); (2) the Health Benefits Education Campaign (HBEC); and, (3) the Fiduciary Education Campaign. These programs target plan sponsors and officials, service providers, and plan participants to inform them of their respective rights and responsibilities under ERISA. As part of its outreach and education efforts, EBSA worked cooperatively with private and public sector organizations such as the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, the Certified Financial Planner Board and state commissioners of insurance. 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.

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

### **Enforcement Program Direction and Performance Metrics Refinement**

EBSA has implemented changes and refinements in program direction and performance reporting that will significantly impact the investigative methodology, prioritization and allocation of enforcement program resources. Given the changes and refinements, EBSA anticipates allocating 15 percent of total investigative time on major case enforcement, closing or referring for litigation 85 percent of its non-major cases within 30 months of case opening, closing or referring for litigation 71 percent of its other non-major cases (includes delinquent employee contribution, abandoned plan, bonding, health-part 7 and non-fiduciary breach cases) within 18 months of case opening, and closing or referring 75 percent of criminal cases for prosecution within 18 months of case opening in FY 2016. EBSA also estimates increasing participant benefit recoveries and assets restored to plans by two to five percent from the current five-year rolling average of \$224,800,000.

## ENFORCEMENT AND PARTICIPANT ASSISTANCE

We believe that a particularly important indicator of program effectiveness focuses on the monetary recoveries that are directly paid to plans, participants, and their beneficiaries, whether in the form of loss recoveries, disgorgement of unjust enrichment, or increased benefit payments. Assets restored to plans, participant benefit recoveries and the informal resolution of participant complaints directly impact the financial well-being of plans, participants and their beneficiaries.

### **Reimbursable Account**

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

FY 2016 Request: The FY 2016 request level of \$8,000,000 for this purpose will allow EBSA to collect and obligate funds for any authorized reimbursable work associated with the electronic filing system and other reimbursable agreements with the IRS and PBGC.

### **Five-Year Budget Activity History**

<b><u>Fiscal Year</u></b>	<b><u>Funding</u></b> (Dollars in Thousands)	<b><u>FTE</u></b>
2011	\$128,941	796
2012	\$145,243	875
2013	\$140,965	865
2014	\$145,000	857
2015	\$147,400	844

### **FY 2016**

EBSA seeks \$166,362,000 and 885 FTE for the enforcement and participant assistance budget activity. This request includes a program increase of \$15,062,000 and 41 FTE and includes built-in adjustments for inflation and mandatory increases totaling \$3,900,000. This budget request provides resources that will: (a) enable implementation of a benefits call quality assurance program and monitoring protocol throughout the country; (b) modernize the enforcement program to improve case analysis and targeting; (c) provide an advanced support program for investigators and auditors who conduct major cases, particularly in investigations involving financial institutions and health plans; (d) enhance the Health Benefits Security Project (HBSP) that consolidates longstanding health benefits security initiatives and associated regulations; and (e) strengthen the TSP audit program enabling EBSA to provide focused oversight on the TSP's overall internal control operating environment. EBSA also seeks an appropriation language change authorizing multi-year funding for the management and administration of expert witnesses who consult with and testify on behalf of the Federal Government.

## **ENFORCEMENT AND PARTICIPANT ASSISTANCE**

This budget also enables EBSA to work more aggressively in support of the goal to improve health benefits and retirement security for all workers; sustain effective implementation of the ACA; and ensure that EBSA has the capability to effectively respond to the inquiry demand of participants and stakeholders. EBSA will continue to focus enforcement resources toward creating a more evaluative, innovative, and constantly improving program that increases compliance with ERISA. For example, EBSA will continue the major case enforcement initiative and implement the benefits call quality assurance initiative. Field offices will also be required to place special investigative emphasis on national enforcement projects and will respond to emerging issues by developing regional enforcement initiatives.

Legacy enforcement and participant assistance program workload and demand measures continuing into FY 2016 include, but are not limited to: securing 97 indictments through the criminal enforcement program; processing an estimated 22,000 applications through our voluntary compliance programs (Voluntary Fiduciary Correction Program and Delinquent Filer Voluntary Compliance Program); completing 4,330 reporting compliance reviews; responding to approximately 65,000 Electronic Filing Acceptance System help-desk inquiries; responding to 250,000 participant inquiries; conducting 734 rapid response sessions held for individuals facing job loss; conducting 200 Congressional office briefings; and completing 10 webcasts and 10 compliance seminars for plan sponsors and participants.

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. As resources permit, EBSA will update, print and distribute publications which explain participant rights, plan sponsor responsibilities as well as recent changes in employee benefits laws and conduct local seminars and national webcasts for its compliance assistance constituencies. EBSA will continue to participate in rapid response sessions to reach dislocated workers and will continue to update and distribute educational materials with the latest information on managing benefits through job loss.

EBSA will leverage its resources by partnering with numerous organizations such as the Social Security Administration (SSA), AARP, Financial Literacy Education Commission (FLEC), Women Investing for a Secure Retirement (WISER), labor unions, 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), the Society of Actuaries, and others to reach our targeted audiences. We will also maintain a Web site and utilize webcasts as an efficient way to inform stakeholders about our programs, services and initiatives and to assist the regulated community with compliance. EBSA conducts numerous webcasts which are attended by thousands of stakeholders each year. These sessions are archived on our Web site for future review by other interested parties. EBSA 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.

## ENFORCEMENT AND PARTICIPANT ASSISTANCE

### FY 2015

EBSA will fully implement changes designed to increase the effectiveness of the enforcement program in FY 2015. EBSA's primary objectives include: improving overall compliance with ERISA; recovering losses and unjust profits resulting from misconduct by plan fiduciaries and service providers; and increasing the deterrent impact of enforcement efforts on persons who might otherwise violate the rights of employee benefit plans, participants and beneficiaries. The effectiveness of the EBSA enforcement program should be reflected, in part, in its success in recovering losses for employee benefit plans, increasing the benefits paid to participants and beneficiaries, and compelling fiduciaries and service providers to disgorge wrongful gains. In FY 2015, EBSA has committed to place particular investigative emphasis on the following national enforcement projects:

- Contributory Plans Criminal Project (CPCP) — CPCP targets the most egregious and persistent violators, and protects the most vulnerable populations, by pursuing the criminal prosecution of individuals who commit crimes involving contributory health and retirement plans;
- Health Benefits Security Project (HBSP) — HBSP focuses on group health plans and their service providers to achieve impactful results through targeted investigations that seek monetary recoveries and global corrections of problematic practices or plan terms that violates ERISA.
- Rapid ERISA Action Team (REACT) — REACT provides an expedited response to protect the rights and benefits of plan participants when the plan sponsor faces severe financial hardship or bankruptcy. The financial challenges that a company faces may pose a great risk to the assets of an employee benefit plan.
- Employee Stock Ownership Plan (ESOP) — ESOP transactions present the potential for fiduciary self-dealing and conflicted interests. This project ensures that such transactions are primarily for the benefit of participants and beneficiaries, particularly regarding material issues such as the valuation of employer securities in purchase and sale transactions involving these plans.
- Fiduciary Service Provider Compensation Project (FSPCP) — FSPCP continues agency enforcement efforts to promote transparency by service providers of direct and indirect compensation and mitigates fiduciary service provider self-dealing.

EBSA will continue efforts to implement newly expanded authority provided to the Secretary in health care reform laws. These laws include a number of provisions relating to civil and criminal multiple employer welfare arrangement (MEWA) investigations. A MEWA is an entity that offers or provides coverage for medical care to the employees of two or more employers. New health reform laws include provisions that require MEWA entities to register with DOL and expand enforcement authority to include ex parte cease and desist and summary seizure orders. These types of investigations are resource-intensive and will require EBSA to allocate additional resources to effectively enforce the new health care provisions and other ERISA provisions such as the Act's fiduciary provisions. EBSA will continue to develop materials and conduct compliance workshops across the country to educate industry professionals about the new MEWA provisions and will enhance the MEWA Registration Form to facilitate targeting entities for investigation that may not have sufficient reserves to pay legitimate health care claims.

## **ENFORCEMENT AND PARTICIPANT ASSISTANCE**

Health and Human Services (HHS) will also identify areas where more enforcement action is necessary and share the information with EBSA for use in enforcement activities.

EBSA will continue legacy enforcement and participant assistance program workload and demand measures involving criminal indictments, voluntary compliance program applications, reporting compliance reviews, EFAST help-desk inquiries, participant inquiries, rapid response sessions, Congressional office briefings, Webcasts and compliance seminars. EBSA will also continue the primary education campaigns for retirement savings education, health benefits education, and fiduciary education in FY 2015.

### **FY 2014**

#### **Performance/Program Results**

##### **Enforcement**

In FY 2014, EBSA processed 3,928 civil cases that included 2,541 cases closed with a result that benefited plan participants. EBSA has focused on monetary recoveries that are directly paid to plans, participants, and their beneficiaries, whether in the form of loss recoveries, disgorgement of unjust enrichment, or increased benefit payments. To that end, EBSA recovered \$35,940,000 in participant benefits and \$356,210,000 through the informal dispute resolution of participant complaints while restoring \$162,635,000 to benefit plans for a total of \$554,785,000. Although not directly recovered for or benefiting individual participant accounts or plan balances, EBSA enforcement efforts also included documented “prohibited transactions corrected” of \$146,545,000 and the protection of plan assets involving \$76,984,000.

EBSA also specifically recovered \$6,333,000 in monetary results under the civil health enforcement program in FY 2014. Under the Abandoned Plan Program, EBSA facilitated the distribution of 4,192 account balances totaling \$18,377,000 to plan participants. During this period, EBSA also processed 26,665 applications received by its two major voluntary compliance programs, the Voluntary Fiduciary Correction Program (VFCP) and the Delinquent Filer Voluntary Compliance Program (DFVCP). In partnership with other Departmental, federal, state, and local authorities, EBSA also closed 365 criminal cases that resulted in 106 indictments and 85 cases closed with guilty pleas and/or convictions. This demonstrates that EBSA’s strategies for enforcement targeting and partnering with other law enforcement organizations is effective in finding the most egregious and persistent violators.

EBSA also actively involved the regulated community in efforts to identify and remedy violations through two highly successful self-correction programs designed to encourage voluntary compliance. The Voluntary Fiduciary Correction Program (VFCP) and the Delinquent Filer Voluntary Compliance Program (DFVCP) encourage plan officials to identify and remedy certain ERISA violations. During FY 2014, EBSA verified \$20,230,000 in restored assets by closing 1,605 applications under the VFCP and 25,060 delinquent filers have come into compliance with ERISA’s filing requirements under the DFVCP.

## **ENFORCEMENT AND PARTICIPANT ASSISTANCE**

### **Participant Assistance, Outreach and Education**

The EBSA Participant Assistance Program assists workers in obtaining promised benefits that have been inappropriately denied and helps workers understand their benefits rights so they can make informed decisions about their health and retirement benefits. During FY 2014, EBSA's benefits advisors responded to 213,664 inquiries (including 15,790 ACA-related inquiries) and recovered \$356,210,000 for participants through informal dispute resolution. EBSA is already responding to the increase in inquiries resulting from the passage of the ACA and will continue to do so.

During FY 2014, EBSA conducted education and outreach events for workers, employers, plan officials, service providers and members of Congress and their staffs. These nationwide activities included assisting dislocated workers who are facing job loss by participating in 836 rapid response sessions reaching 22,633 workers; using a train-the-trainer format to inform Congressional staff in 198 district offices of EBSA programs for their use in constituent services; providing employees with information concerning their rights under the law and educating employers and their service providers of their obligations under ERISA. During FY 2014, EBSA conducted a total of 1,819 outreach activities reaching 62,069 individuals. Included in these outreach activities are 1,077 regional participant assistance activities that included 40 briefings, 7 exhibits, 123 presentations, and 9 workshops that reached 84,702 participants; and compliance assistance activities that included 9 briefings, 292 presentations, and 38 workshops reaching 16,388 participants or stakeholders of the regulated community.

During FY 2014, EBSA conducted 1,311 ACA specific outreach activities reaching 40,167 individuals and nearly 539,000 publications were distributed via our toll-free publication hotline and at outreach events. All the publications are available and accessible on line. EBSA's Web site has become the primary means of reaching the public and in FY 2014 the Web site hosted over 8.7 million visitors, viewing over 10.9 million pages.

## ENFORCEMENT AND PARTICIPANT ASSISTANCE

<b>DETAILED WORKLOAD AND PERFORMANCE</b>					
		<b>2014</b>		<b>2015</b>	<b>2016</b>
		<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Enforcement and Participant Assistance</b>					
<b>Strategic Goal 4 - Secure retirement, health, and other employee benefits and, for those not working, provide income security</b>					
<b>Strategic Objective 4.2 - Improve health benefits and retirement security for all workers</b>					
<b>Investigations Processed:</b>					
EBSA-1	Civil Investigations Processed	3,674	3,928	3,106	--
EBSA-2	Criminal Investigations Processed	320	365	332	--
EBSA-1a	Health Related Civil Investigations Processed	699	777	932	--
EBSA-2a	Health Related Criminal Investigations Processed	79	95	100	--
EBSA-ENF	Percentage point difference in compliance rate between employee benefit plans recently investigated and other employee benefit plans	TBD	--	TBD	TBD
EBSA-ENF	Delinquent Filer Voluntary Compliance Program Applications Processed	20,500	25,060	20,500	20,500
EBSA-ENF	Indictments	105[e]	106	97[e]	97[e]
EBSA-ENF	Reporting Compliance Reviews	4,330	4,034	4,330	4,330
EBSA-ENF	CPA Firm Inspections	5	0	10	10
EBSA-OEA	Rapid Response Sessions Held for Individuals Facing Job Loss	734[p]	836	734[p]	734[p]
EBSA-ENF	EFAST Help Desk Inquiries by Contractors	90,000	38,706	58,000	58,000
EBSA-OEA	EFAST Help Desk inquiries referred to EBSA	10,000	4,688	7,000	7,000

## ENFORCEMENT AND PARTICIPANT ASSISTANCE

<b>DETAILED WORKLOAD AND PERFORMANCE</b>					
		<b>2014</b>		<b>2015</b>	<b>2016</b>
		<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
EBSA-OEA	Inquiries Answered (Participants)	250,000	213,664	250,000	250,000
EBSA-OE-01	Total Investigative Staff Time Spent on Major Cases	10.00%	12.90%	12.00%	15.00%
EBSA-OE/OPR-10	Percent of Employee Benefit Plans in Compliance with Civil Provisions of ERISA	--	TBD	--	--
EBSA-OE-02	Civil Non-Major Case Timeliness – Percent of Non-Major Civil Cases Closed or Referred for Litigation in the fiscal year within 30 Months of Case Opening Except for Category EBSA-OE-02a Cases	--	--	85.00%	85.00%
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	--	--	71.00%	71.00%
EBSA-OE-02b	Criminal Case Timeliness – Percent of Criminal Cases Closed or Referred for Litigation in the fiscal year within 18 Months of Case Opening	--	--	75.00%	75.00%
EBSA-OE-03	Voluntary Fiduciary Correction Program Applications Processed	1,600[p]	1,605	1,600[p]	1,600[p]
EBSA-OEA-09	Participant Assistance Program Customer Satisfaction Index	72.00%	70.00%	72.00%	72.00%

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

## ENFORCEMENT AND PARTICIPANT ASSISTANCE

### Workload Summary

#### FY 2016

Based on refinements in enforcement program direction and performance reporting, EBSA estimates increasing participant benefit recoveries and assets restored to plans by two to five percent from the current five-year rolling average of \$224,800,000. Successfully meeting this estimate will result in a \$4,496,000 to \$11,240,000 increase in monetary recoveries that are directly paid to plans, participants, and their beneficiaries, whether in the form of loss recoveries, disgorgement of unjust enrichment, or increased benefits payments. In the conduct of civil and criminal investigations, EBSA anticipates allocating 15 percent of total investigative time on major case enforcement, closing or referring for litigation 85 percent of its non-major cases within 30 months of case opening, closing or referring for litigation 71 percent of its other non-major cases (includes delinquent employee contribution, abandoned plan, bonding, health-part 7 and non-fiduciary breach cases) within 18 months of case opening, and closing or referring 75 percent of criminal cases for prosecution within 18 months of case opening.

Legacy enforcement program workload and demand measures continuing into FY 2016 include, but are not limited to: securing 97 indictments through the criminal enforcement program; completing 4,330 reporting compliance reviews; processing an estimated 22,000 applications through our voluntary compliance programs (Voluntary Fiduciary Correction Program and Delinquent Filer Voluntary Compliance Program); and responding to approximately 65,000 Electronic Filing Acceptance System help-desk inquiries.

EBSA will continue to operate and administer a strong consumer outreach and public education program in FY 2016. We anticipate receiving 250,000 participant inquiries and estimate that recoveries obtained through informal, voluntary resolution of benefit disputes between employers, plan officials and participants will be approximately \$223,800,000. Additionally, EBSA will: conduct 734 rapid response sessions held for individuals facing job loss; conduct 200 Congressional office briefings; and complete 10 webcasts and 10 compliance seminars for plan sponsors and participants. This budget request supports the strategic plan and the Secretary's vision of "*Promoting and Protecting Opportunity*," thereby securing opportunities for America's workers to retire with dignity and economic security.

## ENFORCEMENT AND PARTICIPANT ASSISTANCE

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Diff. 2016 / 2015</b>
11.1	Full-time permanent	75,762	76,439	81,380	4,941
11.3	Other than full-time permanent	1,204	1,216	1,232	16
11.5	Other personnel compensation	676	772	772	0
11.8	Special personal services payments	0	0	0	0
11.9	<b>Total personnel compensation</b>	<b>77,642</b>	<b>78,427</b>	<b>83,384</b>	<b>4,957</b>
12.1	Civilian personnel benefits	23,707	24,041	25,587	1,546
21.0	Travel and transportation of persons	2,521	2,521	2,654	133
22.0	Transportation of things	16	16	25	9
23.1	Rental payments to GSA	8,647	9,305	9,701	396
23.3	Communications, utilities, and miscellaneous charges	291	291	301	10
24.0	Printing and reproduction	433	433	433	0
25.1	Advisory and assistance services	930	0	0	0
25.2	Other services from non-Federal sources	5,711	7,431	9,315	1,884
25.3	Other goods and services from Federal sources 1/	11,934	11,767	13,873	2,106
25.4	Operation and maintenance of facilities	0	0	0	0
25.7	Operation and maintenance of equipment	11,447	11,447	19,268	7,821
26.0	Supplies and materials	730	730	747	17
31.0	Equipment	991	991	1,074	83
38.0	Depreciation Expense - Unfunded	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	<b>Total</b>	<b>145,000</b>	<b>147,400</b>	<b>166,362</b>	<b>18,962</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	11,387	11,220	13,326	2,106
	DHS Services	547	547	547	0

# ENFORCEMENT AND PARTICIPANT ASSISTANCE

## CHANGES IN 2016

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$902
Personnel benefits	291
One day more of pay	402
Federal Employees' Compensation Act (FECA)	2
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	197
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	2,106
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** **\$3,900**

**Net Program** **\$15,062**

**Direct FTE** **41**

	Estimate	FTE
<b>Base</b>	<b>\$151,300</b>	<b>844</b>
<b>Program Increase</b>	<b>\$15,062</b>	<b>41</b>
<b>Program Decrease</b>	<b>\$0</b>	<b>0</b>

## POLICY AND COMPLIANCE ASSISTANCE

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Diff. 2016 / 2015</b>
<b>Activity Appropriation</b>	<b>26,901</b>	<b>26,901</b>	<b>34,258</b>	<b>7,357</b>
FTE	77	93	93	0

NOTE: FY 2014 reflects actual FTE. Authorized FTE for FY 2014 was 102.

### **Introduction**

The Policy and Compliance Assistance activity will directly support the Secretary’s strategic objective of *Creating More Opportunity for More People* by sustaining health care and regulatory reform programs, strengthening regulatory programs, and supporting efforts to deter and correct worker misclassification as it relates to the denial of health benefits and retirement security. EBSA constantly seeks to improve our policy and regulatory programs. We routinely evaluate and adjust our regulatory activities to achieve the Secretary’s priorities. We also provide meaningful compliance assistance and engage the regulated community in designing and implementing compliance assistance tools and materials.

This activity formulates policy, promulgates regulations and provides interpretations and other guidance to the regulated community under Title I of ERISA. EBSA 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. In addition to high priority ACA regulatory activities, EBSA addresses the security of employee benefits through other non-ACA regulatory activities. This activity will 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.

Through this activity, EBSA will continue its research activities relating to employer-sponsored pension and health benefit plans. Additionally, EBSA will continue implementing the ACA by promulgating regulations, developing compliance assistance tools and materials, and providing technical assistance. With the increase in regulatory activity for both pension and health care benefits, EBSA will continue to strengthen its research program which plays a pivotal role in supporting the regulatory agenda and policy formulation of the agency. EBSA performs three major, non-discretionary research functions:

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

## POLICY AND COMPLIANCE ASSISTANCE

Through this activity, EBSA also issues individual and class exemptions from the prohibited transaction provisions of ERISA. These exemptions are necessary to facilitate transactions between employee benefit plans and related parties, such as service providers, that would otherwise be prohibited but that are considered beneficial to employee benefit plans. Finally, this activity also provides ongoing compliance and technical assistance to small businesses, plan officials, and the general public to improve their understanding of the complex provisions of ERISA and their compliance with statutory requirements.

### Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2011	\$18,956	88
2012	\$31,205	102
2013	\$26,009	102
2014	\$26,901	102
2015	\$26,901	93

### FY 2016

EBSA seeks \$34,258,000 and 93 FTE for the policy and compliance assistance budget activity. This request includes a program increase of \$6,500,000 and includes built-in adjustments for inflation and mandatory increases totaling \$857,000. This budget request provides resources that will: (a) provide for a pilot project to examine different approaches to increasing retirement plan coverage, such as state-based 401(k) plans or state-based auto-IRAs (includes associated appropriations language changes for two-year funding availability and transfer authority within DOL for the pilot project) and (b) enable EBSA to sustain and fully support effective implementation of the ACA as well as support the Department's regulatory strategies of *Plan-Prevent-Protect* and *Openness and Transparency*. Fiduciary education, regulations, exemptions, compliance assistance, policy and research, and interpretive guidance have and will continue to substantially contribute to the protection of employee pension and health benefits.

In FY 2016, EBSA will pursue a regulatory program that is designed to safeguard the retirement security of participants and beneficiaries by protecting their rights and benefits under pension plans and by encouraging, fostering, and promoting openness, transparency, and communication with respect to the management and operations of such plans. EBSA's rulemaking will help assure workers' retirement security by reducing harmful conflicts of interest in the retirement savings marketplace so that the millions of plan sponsors, workers, and retirees get the impartial advice they have a right to expect when they rely on an adviser to help them invest their retirement savings.

EBSA will continue to pursue initiatives that encourage the offering of lifetime annuities or similar lifetime benefit distribution options for participants and beneficiaries of defined contribution plans. EBSA is developing a proposal relating to the presentation of a participant's accrued benefits (account balance) as a lifetime income stream of payments. EBSA is also developing proposed amendments to a safe harbor regulation that will provide plan fiduciaries

## **POLICY AND COMPLIANCE ASSISTANCE**

with more certainty that they have discharged their obligations under section 404(a)(1)(B) of ERISA in selecting an annuity plan provider and contract for benefit distributions from an individual account retirement plan.

This activity 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. With the proposed resources for this activity in FY 2016, EBSA will be positioned to meet anticipated increases in interpretative and other technical assistance projects. A significant portion of these increases will be to support MEWA registration requirements. EBSA will complete an estimated 3,850 interpretive and other associated technical assistance projects/plan inquiries and targeted technical assistance. EBSA will also pursue a proactive regulatory agenda that includes completing 262 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. It is estimated that over 31 percent of technical assistance to the regulated community and regulatory projects will be devoted to ACA-related health plan regulations and standards.

Finally, EBSA will review and process class and individual exemption applications with the ultimate objective of protecting plans and their participants and beneficiaries while facilitating necessary business transactions. Specifically, EBSA has allocated sufficient resources to close, propose or grant an estimated 65 individual exemption actions (includes EXPRO), complete project work on six (6) class exemptions and reduce exemption processing time to 250 days.

### **FY 2015**

In FY 2015, EBSA will continue its collaboration with the Departments of Health and Human Services (HHS) and Treasury to support and participate in the development of regulations, regulatory impact statements and economic analyses, and guidance needed for implementation of health care reform initiatives.

EBSA will: (1) continue to develop regulations to implement health benefits security initiatives within specified timeframes; (2) continue to administer new responsibilities for the registration requirements of and enforcement tools for Multiple Employer Welfare Arrangements; (3) continue to support new and comprehensive compliance assistance programs; (4) continue the implementation of new and expanded enforcement strategies; and (5) support a number of health benefit related research studies.

This activity will continue to carry out the agency's interpretive work concerning the provisions of ERISA and related statutes through the issuance of advisory opinions and field assistance bulletins addressing relevant interpretive issues raised by the regulated community or considered significant by the Department. In FY 2015, EBSA will be positioned to meet the anticipated workload for interpretative and other technical assistance projects. EBSA will complete an estimated 3,850 interpretive and other associated technical assistance projects/plan inquiries and targeted technical assistance. EBSA will also pursue a proactive regulatory agenda that includes

## **POLICY AND COMPLIANCE ASSISTANCE**

completing 262 regulatory projects for the advancement of health care reform and retirement security. These projects include providing guidance, developing regulatory standards, conducting statistical research, policy, regulatory analysis, and issuing ERISA exemptions.

EBSA's regulatory program also includes initiatives involving Annual Funding Notices and Standards for Brokerage Windows. In addition, EBSA will continue to issue guidance implementing the health reform provisions of the Affordable Care Act to help provide better quality health care for America's workers and their families. EBSA's regulations reduce discrimination in health coverage, promote better access to quality coverage, and protect the ability of individuals and businesses to keep their current health coverage. Many regulations are joint rulemakings with the Departments of Health and Human Services and the Treasury.

Finally, EBSA will review and process class and individual exemption applications with the ultimate objective of protecting plans and their participants and beneficiaries while facilitating necessary business transactions. Specifically, EBSA has allocated sufficient resources to close, propose or grant an estimated 65 individual exemption actions (includes exemption actions that meet requirements for expeditious processing – EXPRO), complete project work on six (6) class exemptions and reduce average exemption processing time to 250 days. Through these programs, we provide guidance and engage the regulated community in achieving compliance while protecting the benefits of workers, retirees and their families.

### **FY 2014**

In FY 2014, EBSA pursued a proactive regulatory agenda that included completing 271 regulatory projects for the advancement of health care reform and retirement security, including 60 ACA projects. Specifically, 22 percent of regulatory projects (60 of 271 projects) were directly related to the implementation and administration of health care reform initiatives in areas involving health plan standards, MEWA registration, statistical research, policy and legislative analysis, and regulatory analysis. These efforts encompassed regulations involving: pension benefit statements; conflicts of interest rule – definition of fiduciary investment advice; target date disclosure; guide or similar requirement for Section 408(b)(2) disclosures; selection of annuity providers – safe harbor for individual account plans; amendments to excepted benefits; ninety-day waiting period limitation under the ACA; electronic filing of apprenticeship and training notices, and top hat plan statements; and notice of proposed rulemaking for health care continuation coverage.

Additionally, EBSA completed 982 technical and compliance assistance projects involving Part 7 of ERISA by providing technical/compliance assistance to plan sponsors and employers for health plan standards involving health care reform; 612 technical and compliance assistance projects for health plan standards involving benefits security; 902 interpretive and technical assistance projects; 342 projects involving MHPAEA implementation; and 264 projects involving MEWA registration in FY 2014.

## **POLICY AND COMPLIANCE ASSISTANCE**

On October 29, 2014, EBSA transmitted the 2014 annual Self-Insured Group Health Plan Report to Congress and successfully coordinated the completion of the second Mental Health Parity and Addiction Equality Act (MHPAEA) Congressional report with the Departments of Treasury and HHS. In the area of exemptions, EBSA completed 62 individual exemption actions (includes EXPRO), processed three (3) class exemptions and processed these exemptions within an average of 314 days in FY 2014.

## POLICY AND COMPLIANCE ASSISTANCE

<b>DETAILED WORKLOAD AND PERFORMANCE</b>				
	<b>2014</b>		<b>2015</b>	<b>2016</b>
	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Policy and Compliance Assistance</b>				
<b>Strategic Goal 4 - Secure retirement, health, and other employee benefits and, for those not working, provide income security</b>				
<b>Strategic Objective 4.2 - Improve health benefits and retirement security for all workers</b>				
<b>Interpretations &amp; Other Technical Assist</b>				
Health Plan Standards	2,800	2,200	2,800	2,150
Regulations & Interpretations	1,700	902	1,700	1,700
Participant assistance program customer satisfaction index	72.00%	70.00%	72.00%	72.00%
Percent of employee benefit plans in compliance with civil provisions of ERISA	TBD	--	TBD	TBD
Percentage point difference in compliance rate between employee benefit plans recently investigated and other employee benefit plans	TBD	--	TBD	TBD
Regulations/Projects	251	271	267	262
Individual Exemptions & EXPRO (Proposed & Granted)	130[e]	62	80[e]	65[e]
Section 502(l) Waivers	6	13	2	4
Exemption Processing Time (avg #days)	300	314	250	250

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

## **POLICY AND COMPLIANCE ASSISTANCE**

### **Workload Summary**

#### **FY 2016**

EBSA will be positioned to effectively complete interpretative and other technical assistance projects. EBSA will complete an estimated 3,850 interpretive and other associated technical assistance projects/plan inquiries and targeted technical assistance. EBSA also estimates completing 262 regulatory projects involving interpretive issues, health plan standards, research statistical projects, policy and legislative analysis projects, regulatory analysis projects, MHPAEA implementation and MEWA registration requirements.

Additionally, EBSA will review and process class and individual exemption applications with the ultimate objective of protecting plans and their participants and beneficiaries while facilitating necessary business transactions. Specifically, EBSA has allocated sufficient resources to close, propose or grant an estimated 65 individual exemption actions (includes EXPRO), complete project work on six (6) class exemptions and reduce exemption processing time to 250 days. Through these programs, we provide guidance and engage the regulated community in achieving compliance while protecting the benefits of workers, retirees and their families.

## POLICY AND COMPLIANCE ASSISTANCE

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Diff. 2016 / 2015</b>
11.1	Full-time permanent	10,123	10,123	10,278	155
11.3	Other than full-time permanent	130	130	132	2
11.5	Other personnel compensation	255	255	255	0
11.9	<b>Total personnel compensation</b>	<b>10,508</b>	<b>10,508</b>	<b>10,665</b>	<b>157</b>
12.1	Civilian personnel benefits	2,831	2,831	2,880	49
21.0	Travel and transportation of persons	27	27	27	0
22.0	Transportation of things	0	0	0	0
23.1	Rental payments to GSA	1,582	1,582	1,619	37
23.3	Communications, utilities, and miscellaneous charges	110	110	110	0
24.0	Printing and reproduction	200	200	200	0
25.2	Other services from non-Federal sources	739	772	7,272	6,500
25.3	Other goods and services from Federal sources 1/	1,927	1,894	2,508	614
25.5	Research and development contracts	5,000	5,000	5,000	0
25.7	Operation and maintenance of equipment	3,521	3,521	3,521	0
26.0	Supplies and materials	155	155	155	0
31.0	Equipment	301	301	301	0
	<b>Total</b>	<b>26,901</b>	<b>26,901</b>	<b>34,258</b>	<b>7,357</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	1,837	1,804	2,418	614
	DHS Services	90	90	90	0

# POLICY AND COMPLIANCE ASSISTANCE

## CHANGES IN 2016

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$117
Personnel benefits	38
One day more of pay	51
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	37
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Other services from non-Federal sources	0
Working Capital Fund	614
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** **\$857**

**Net Program** **\$6,500**

Direct FTE 0

	Estimate	FTE
<b>Base</b>	<b>\$27,758</b>	<b>93</b>
<b>Program Increase</b>	<b>\$6,500</b>	<b>0</b>
<b>Program Decrease</b>	<b>\$0</b>	<b>0</b>



## EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

<b>BUDGET AUTHORITY BEFORE THE COMMITTEE</b>				
(Dollars in Thousands)				
	2014	2015	2016	Diff. 2016 / 2015
<b>Activity Appropriation</b>	<b>6,599</b>	<b>6,699</b>	<b>6,835</b>	<b>136</b>
FTE	27	26	26	0

NOTE: FY 2014 reflects actual FTE. Authorized FTE for FY 2014 was 26.

### **Introduction**

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

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

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

# EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

## Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2011	\$6,654	26
2012	\$6,705	26
2013	\$6,599	26
2014	\$6,599	26
2015	\$6,699	26

## FY 2016

EBSA seeks \$6,835,000 and 26 FTE for the Executive Leadership, Program Oversight and Administration budget activity. This resource request includes built-in adjustments for inflation and mandatory increases totaling \$136,000. This budget enables EBSA to continue to provide the leadership and administrative support for all of the agency's programs including enforcement, participant assistance, policy, compliance assistance, and regulatory initiatives. EBSA will utilize human capital, financial and other information systems to provide decision-makers with the timely analysis required to monitor and update strategic plans and to measure the results of program and management initiatives. Additionally through this activity, EBSA will ensure the proper execution of responsibilities to sustain employee benefits security and health care reform.

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

The proposed FY 2016 budget level for the Executive Leadership, Program Oversight and Administration budget activity ensures the execution of functions that include: (a) human capital management programs to build, sustain, and effectively deploy the skilled, knowledgeable, diverse, and high-performing workforce needed to meet current and emerging needs; (b) development of strategic training goals and delivery mechanisms that meet both programmatic and individual needs; (c) development of long-term and annual performance plans and reports; (d) development and implementation of the Agency Continuity of Operations Plan for continuation of critical agency operations in the event of a major disruption; (e) formulation, execution and evaluation of the Agency budget; and (f) overall facilities management planning including space, telecommunications, mail, and printing management.

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

Lastly, during FY 2016, 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 2015**

In FY 2015, the Executive Leadership, Program Oversight and Administration budget activity will continue to ensure the execution of functions that include: (a) human capital management programs to build, sustain, and effectively deploy the skilled, knowledgeable, diverse, and high-performing workforce needed to meet current and emerging needs; (b) development of strategic training goals and delivery mechanisms that meet both programmatic and individual needs; (c) development of long term and annual performance plans and reports; (d) development and implementation of the agency Continuity of Operations Plan for continuation of critical agency operations in the event of a major disruption; (e) formulation, execution and evaluation of the agency budget; and (f) overall facilities management planning including space, telecommunications, mail, and printing management.

### **FY 2014**

Effective human capital management requires us to identify and recruit qualified candidates, train and develop them for current positions and prepare them for progressively more responsible positions within EBSA. To identify and recruit qualified, diverse entry-level employees, our recruitment teams conducted on-campus recruiting at local colleges and universities throughout the country. We utilized internship programs at undergraduate, graduate and professional institutions. In FY 2014, a total of 58 employees were hired through recruitment and hiring programs (includes 18 employees through the Career Pathways Program). To enhance employee development and succession planning, we utilized intra-agency development assignments, OPM-sponsored management development training, USDA Graduate School sponsored classes and seminars, and other management development assignments (e.g., developmental details, EBSA management courses and seminars, annual employee needs assessments). Forty-two (42) EBSA employees completed such developmental assignments during FY 2014.

We developed an extensive internal training curriculum to ensure that our employees maintain the technical knowledge needed to successfully meet our strategic and performance goals. The training curriculum consists of a two-part Basic Training Course, Benefits Advisor Training Course, Criminal Enforcement Training Course, Benefit Plan Accounting Course, and an independent study course for the Introduction to Employee Benefits and Fiduciary Conduct. In FY 2014, EBSA trained approximately 456 employees in technical, professional and leadership areas, resulting in over 28,000 hours of training. These courses are designed to provide a foundation of legal knowledge and an understanding of industry practices required to effectively regulate the employee benefits industry and provide compliance assistance.

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

Lastly, EBSA effectively administered its responsibilities under the Debt Collection and Debt Collection Improvement Acts resulting in net final assessments of approximately \$22,827,010 and net collections of approximately \$21,941,708 in FY 2014.

## EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

<b>DETAILED WORKLOAD AND PERFORMANCE</b>				
	<b>2014</b>		<b>2015</b>	<b>2016</b>
	<b>Target</b>	<b>Result</b>	<b>Target</b>	<b>Target</b>
<b>Executive Leadership, Program Oversight and Administration</b>				
<b>Strategic Goal 4 - Secure retirement, health, and other employee benefits and, for those not working, provide income security</b>				
<b>Strategic Objective 4.2 - Improve health benefits and retirement security for all workers</b>				
Participant assistance program customer satisfaction index	72.00%	70.00%	72.00%	72.00%
Percent of employee benefit plans in compliance with civil provisions of ERISA	TBD	--	TBD	TBD
Percentage point difference in compliance rate between employee benefit plans recently investigated and other employee benefit plans	TBD	--	TBD	TBD

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

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

## **Workload Summary**

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

**EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND  
ADMINISTRATION**

<b>BUDGET ACTIVITY BY OBJECT CLASS</b>					
(Dollars in Thousands)					
		<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Diff. 2016 / 2015</b>
11.1	Full-time permanent	3,130	3,160	3,215	55
11.3	Other than full-time permanent	16	17	17	0
11.5	Other personnel compensation	115	116	116	0
11.9	<b>Total personnel compensation</b>	<b>3,261</b>	<b>3,293</b>	<b>3,348</b>	<b>55</b>
12.1	Civilian personnel benefits	1,383	1,397	1,416	19
21.0	Travel and transportation of persons	111	111	111	0
22.0	Transportation of things	0	0	0	0
23.1	Rental payments to GSA	316	344	352	8
23.3	Communications, utilities, and miscellaneous charges	44	44	44	0
24.0	Printing and reproduction	0	0	0	0
25.2	Other services from non-Federal sources	466	502	502	0
25.3	Other goods and services from Federal sources 1/	740	730	784	54
25.7	Operation and maintenance of equipment	23	23	23	0
26.0	Supplies and materials	45	45	45	0
31.0	Equipment	210	210	210	0
	<b>Total</b>	<b>6,599</b>	<b>6,699</b>	<b>6,835</b>	<b>136</b>
	1/Other goods and services from Federal sources				
	Working Capital Fund	707	697	751	54
	DHS Services	33	33	33	0

# EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

## CHANGES IN 2016

(Dollars in Thousands)

### Activity Changes

#### Built-In

To Provide For:

Costs of pay adjustments	\$41
Personnel benefits	13
One day more of pay	20
Federal Employees' Compensation Act (FECA)	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	8
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Other services from non-Federal sources	0
Working Capital Fund	54
Other Federal sources (DHS Charges)	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0

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

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

**Direct FTE** **0**

	Estimate	FTE
<b>Base</b>	<b>\$6,835</b>	<b>26</b>
<b>Program Increase</b>	<b>\$0</b>	<b>0</b>
<b>Program Decrease</b>	<b>\$0</b>	<b>0</b>