

FY 2008

CONGRESSIONAL BUDGET JUSTIFICATION

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

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CONGRESSIONAL BUDGET JUSTIFICATION

TABLE OF CONTENTS

	Page No.
General Statement	1
EBSA Organization Chart.....	7
Appropriation Language.....	8
Amounts Available for Obligation.....	9
Summary of Changes.....	10
Summary Budget Authority and FTE by Activity.....	11
Budget Authority By Object Class.....	12
Appropriation History.....	13
Budget Activities:	
Enforcement and Participant Assistance.....	14
Policy and Compliance Assistance.....	21
Executive Direction, Program Oversight & Administration.....	27
Performance Budget Issue Paper: Enhanced Technology – Form 5500 Electronic Receipt and Processing.....	32
Performance Chapter:	
Performance Summary.....	38
Budget Authority by Strategic Goal.....	48
Total Budgetary Resources by Activity.....	49
Distribution of Other Appropriated Resources.....	50
Summary of Performance and Resource Levels.....	51
PART Recommendations and Status.....	53
Efficiency Measures.....	54

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

GENERAL STATEMENT

Introduction

The Employee Benefits Security Administration (EBSA) is responsible for the administration and enforcement of Title I of the Employee Retirement Income Security Act of 1974 (ERISA), in both civil and criminal areas. ERISA established broad standards of responsibility for those who are charged with managing the more than 700,000 covered retirement plans, approximately 2.5 million covered health plans, and similar numbers of other welfare benefit plans, such as those providing life or disability insurance. The employee benefit plans under EBSA's jurisdiction hold nearly \$5 trillion in assets and cover approximately 150 million Americans. Through EBSA, (DOL) is seeking to achieve its goal of a secure retirement and greater access to health benefits for the nation's workforce through a combination of aggressive enforcement, compliance and participant assistance, fiduciary education and legislative changes.

The Department has published its new 5-year Strategic Plan (FY 2006-2011) in accordance with the Government Performance and Results Act (GPRA). Consistent with the DOL 2006 – 2011 Strategic Plan, the EBSA budget will support and advance the Secretary's 2nd Strategic Goal – A Competitive Workforce and the 4th Strategic Goal – Strengthened Economic Protections.

As part of the strategic plan update, EBSA improved upon and refined its existing performance measures. EBSA will measure the success of its enforcement responsibilities by reporting on the percent of civil cases closed with corrected fiduciary violations, with subordinate measures that target important national enforcement initiatives such as the Employee Contribution Project, the Health Fraud/Multiple Employer Welfare Arrangement Project and the new Consultant/Advisor Project (CAP), among others. The CAP will focus on the receipt of improper, undisclosed compensation by pension consultants and other investment advisers. For criminal cases, EBSA will monitor and report those cases that are accepted for prosecution, a more demanding measure than the previous indicator, under which EBSA measured cases referred for criminal litigation. Through these performance measures, DOL demonstrates its success in targeting and pursuing wrongdoers.

FY 2008 Agency Request

EBSA requests a total of \$147,425,000 and 855 FTE. Included in this request are built-in increases totaling \$5,834,000; a program increase of \$2,540,000 to restore funds for inflationary costs and reductions that were not provided under a full year C.R., and a program increase of \$5,500,000 for the development costs of EFAST2, a universal electronic replacement for the current EFAST system that will be used to more efficiently process the Form 5500, filed by 1.2 million pension, health, and other employee benefit plans. EBSA will also reallocate \$2,500,000 (FY 2008 only) from base funding for development costs of the EFAST2 electronic filing system (total cost to develop the EFAST2 system is \$15,000,000, \$7,000,000 of which will be provided by the PBGC). The data EBSA collects through the Form 5500 filing is vital to enforcement efforts at the Department of Labor and the IRS, and is used widely by the PBGC, the Federal Reserve and hundreds of other public and private data users. The information collected is the only comprehensive data source for \$4.5 trillion held in employee benefit plans. To achieve the savings necessary for the one-time reallocation, EBSA is reducing expenditures on pension and

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

GENERAL STATEMENT

health education programs, research, support for the older filing system, and equipment. EBSA is also discontinuing the payment of independent fiduciaries to close out abandoned plans. This program is no longer needed because regulations facilitating the close-out of abandoned plans were finalized in 2006.

DOL is proposing that \$7,000,000 of the \$15,000,000 total needed for EFAST2 development be funded by the PBGC. The EFAST2 total cost breakdown and funding source by organization and percentage is as follows:

EFAST2 Funding Proposal (Dollars in Thousands)		
Funding Organization	Estimated Amount	Contribution Percentage
DOL (EBSA Request)	\$5,500 ¹	36.6%
DOL (EBSA Contribution)	\$2,500	16.7%
DOL (PBGC Cost Share)	\$7,000	46.7%
<u>Totals:</u>	<u>\$15,000</u>	<u>100%</u>

The current EFAST system – which EBSA took over from the IRS in FY 1999 – has reached the end of its useful life. The inherent inefficiencies in the maintenance of the current EFAST system result in increased costs to filers, the government and taxpayers generally, but may also result in increased risks to the benefit security of participants and beneficiaries due to erroneous data or delayed enforcement.

EFAST2 will be used to meet information collection and disclosure requirements of the Pension Protection Act of 2006. In addition, once implemented, the EFAST2 system is projected to generate total savings of \$21,704,000 over a three-year period. We anticipate that processing time will be significantly reduced for Form 5500 filings, the quality of data filings will improve, and the response time for public disclosure of the Form 5500 data will be significantly reduced. EBSA believes these improvements for EFAST performance metrics are compelling and would significantly enhance pension and health benefits security.

In addition to EFAST2, the following program operations/initiatives will be continued and/or undertaken in FY 2008:

- EBSA will continue to conduct civil and criminal investigations to detect and correct fiduciary violations of ERISA. Often this can be achieved through voluntary settlements, but when necessary, litigation will be used to compel compliance and corrections.

¹ EBSA's request of \$5,500,000 for EFAST2 is based on the assumption that the project will receive no funding in 2007. If funding is secured during the FY 2007 appropriations process, this request will be reduced commensurately.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

GENERAL STATEMENT

- EBSA will continue participant assistance services that aid plan participants in understanding their rights and responsibilities under applicable employee benefits laws and procedures as well as help participants obtain benefits that have been incorrectly withheld.
- EBSA will continue to expand and improve its voluntary compliance programs to encourage greater participation and will continue to employ compliance assistance activities that encourage up-front compliance – as a necessary part of an overall strategy to protect worker benefits, and reduce regulatory burdens.
- EBSA will continue the necessary activities to achieve the President’s Management Agenda and support our integrated programs of enforcement, compliance assistance, fiduciary education, improved E-Government, and participant assistance to better protect the pension and health benefits of our nation’s workers, retirees and their families.

Issues, Outcomes, and Strategies

Integrity in the management and administration of pension and health funds is fundamental to the success of our voluntary system of employment-based benefits. Participants in our voluntary benefits system trust that employers and plan officials will meet their responsibilities in the management of pension and health plans and expect the government to enforce the law and take appropriate action against wrongdoers if they do not. Allegations of corporate and health plan fraud, late trading, improper market timing, excessive and undisclosed fees have focused plan sponsors and other fiduciaries on their responsibilities to the workers and retirees they are obligated to protect. Our own investigations have discovered a troubling lack of understanding among some fiduciaries of their responsibilities.

We know that the vast majority of plan sponsors and fiduciaries strive to comply with ERISA’s complex provisions; therefore, EBSA has established a Fiduciary Education Program and voluntary compliance programs designed to increase the knowledge of plan sponsors and their service providers about their basic fiduciary responsibilities and provide an efficient mechanism for self-identifying and correcting violations. In the current environment, EBSA’s challenge is to maintain the trust and confidence in the employee benefits system by developing and implementing public programs that encourage and protect employee pension and health care benefits. The Department’s strategic goals further this objective.

Pension Reform

Under-funded single employer defined benefit pension plan terminations are placing an increasing strain on the pension insurance system. To protect workers and retirees, and to encourage continued sponsorship of pension plans, the President signed the Pension Protection Act of 2006 (P.L. 109-280). The Act tightens minimum standards and improving incentives for funding plans adequately, and improves disclosure to workers, investors and regulators about pension plan funding status.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

GENERAL STATEMENT

The new legislation replaces multiple measures of pension liabilities with one measure, adjusts plan funding targets based on the pension plan sponsor's financial health, requires under-funded plans to forgo or immediately fund additional benefits they promise, and allows plan sponsors to make additional deductible contributions so they can create a funding cushion during good economic times. Under-funded plans will have a reasonable period of time in which to eliminate their un-funded liabilities.

Improved disclosure will help workers make informed decisions about their future retirements; and will provide workers, investors and regulators with more complete and timely information about the financial status of pension plans. The Pension Protection Act of 2006 also reformed the Pension Benefit Guaranty Corporation's (PBGC) premium structure to reflect more accurately the cost of the program, which currently has a \$19 billion deficit in the assets under the agency's management that are necessary to satisfy the pension promises it has already assumed and probable terminations facing the PBGC through fiscal year 2006. Flat rate premiums paid by all plan sponsors have been adjusted to reflect the growth in worker wages since 1991, when the current rate was set, and will be indexed going forward. Under-funded plans will no longer be able to use loopholes to avoid paying premiums.

EBSA has primary responsibility for developing over 25 regulations to implement the Pension Protection Act, and will reallocate resources as necessary within existing budget levels to meet a demanding work schedule negating a requirement to request additional resources.

Health Care Benefits

Health insurance scams threaten vulnerable small business employers and employees. Insurance failures hurt workers and their families who are seldom equipped to absorb large dollar losses. Small employers are particularly challenged by significant increases for health insurance and have fallen victim to the proliferation of fraudulent Multiple Employer Welfare Arrangements (MEWAs). Because health insurance scams can operate in a variety of ways, EBSA will continue to focus on approaches to put a stop to these abusive schemes. The Administration strongly supports Association Health Plan (AHP) legislation as part of the solution to the challenge of health scams because AHPs will give millions more working Americans access to secure quality health benefits through their employers while reducing the costs of purchasing and providing these benefits.

Performance Measures and Outcomes

The EBSA mission supports the DOL strategic outcome goals of strengthening economic protections and maximizing regulatory flexibility and benefits. DOL will enhance employee pension and health benefits security by achieving the following performance targets in FY 2008: (a) 64 percent ratio of closed civil cases with corrected fiduciary violations to civil cases closed; (b) 50 percent ratio of criminal cases accepted for prosecution to criminal cases referred; (c) improve upon our baseline of customer satisfaction for compliance assistance programs and plan officials who have contacted EBSA for assistance; and (d) 14,183 applications to the EBSA Voluntary Compliance programs.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

GENERAL STATEMENT

The use of these measures, coupled with additional statistical and underlying management information (as delineated in our workload tables), demonstrates the effectiveness of our program to protect employee pension and health benefits. Additionally, an efficiency measure has been established for EBSA that relates inputs (dollars) to outputs (cases with results). The efficiency measure is calculated by dividing enforcement resources by total number of cases closed with results.

Program Strategies

The following program strategies and objectives ensure the protection of employee pension and health benefits:

- **Deter and correct violations of the relevant statutes.** EBSA deters and corrects violations of ERISA and related statutes by identifying civil violations and achieving appropriate correction in the most appropriate, cost-effective manner (i.e., voluntary settlements, administrative proceedings or federal court action); detecting, investigating and referring criminal violations to prosecutorial authorities; ensuring that annual reports are filed on time and accurately; and determining that audits of employee benefit plans comply with professional standards.
- **Facilitate compliance by plan sponsors, plan officials, providers of services to benefit plans, and other members of the regulated community.** EBSA facilitates compliance through the issuance of advisory opinions, exemptions, regulations, compliance guides and other technical guidance. These releases are designed to assist the benefits community in: (a) protecting the rights and benefits of participants and beneficiaries; and (b) understanding their responsibilities in complying with the Federal law, while removing unnecessary impediments. EBSA compliance assistance programs include, the HIPAA Compliance Assistance Program (H-CAP), the Voluntary Fiduciary Correction Program (VFCP), the Delinquent Filer Voluntary Compliance Program (DFVCP), and the Fiduciary Education program. EBSA outreach and education programs in this area are targeted to plan officials and the business community and are designed to expand an understanding of ERISA's compliance requirements.
- **Assist workers in understanding their rights and responsibilities and protecting their benefits.** EBSA ensures workers understand their rights and responsibilities for protecting their benefits by: (a) conducting an aggressive, grassroots outreach and education program to better protect employee benefits; (b) conducting pension and health benefits education campaigns; (c) obtaining and disclosing plan documents; (d) developing publications, news releases, and other educational materials designed to inform participants of their rights and responsibilities under Federal law; and (e) conducting a Fiduciary Education program to help plan sponsors and service providers understand their responsibilities and obligations under ERISA.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

GENERAL STATEMENT

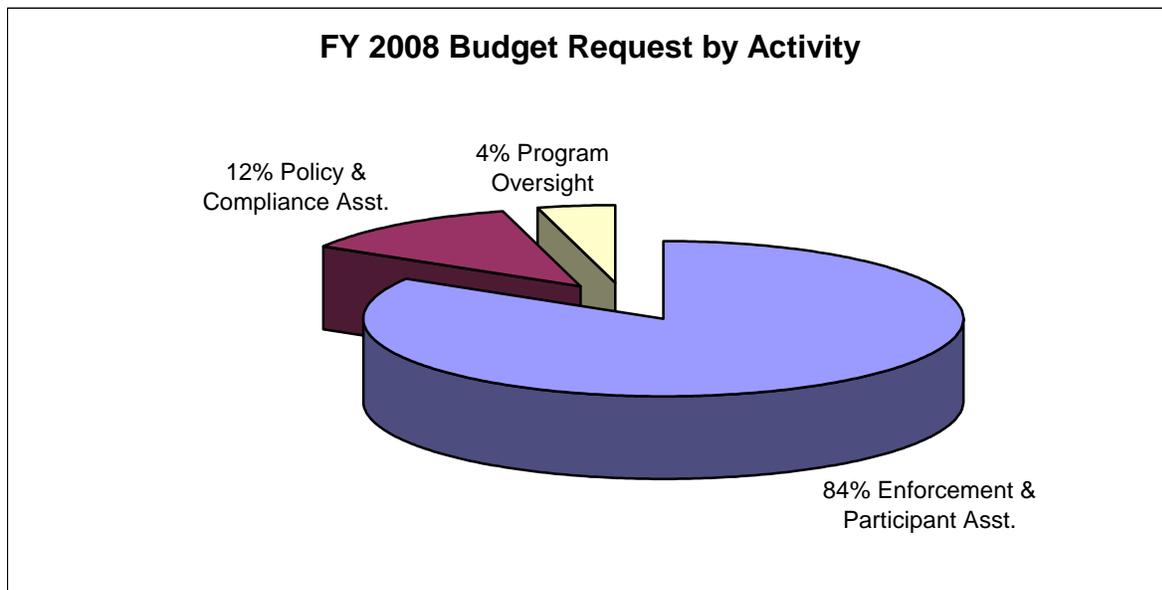
- **Develop retirement, health, and employee benefits policies.** EBSA discharges its responsibilities in this area in a variety of forms including the maintenance of an active research program and assisting the Administration, other Federal agencies and the Congress in the development and review of legislative initiatives affecting employee benefits.

Cost Model

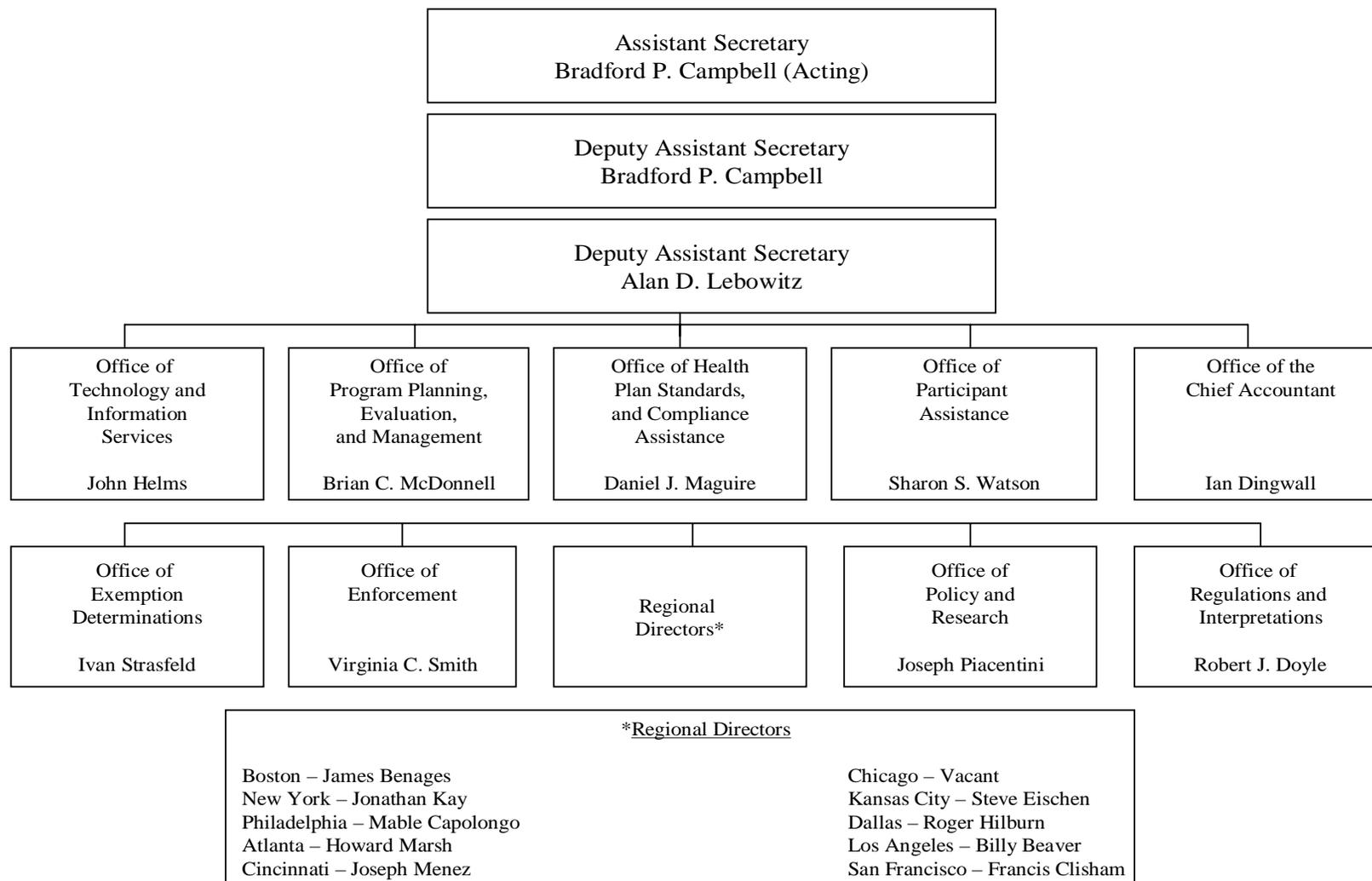
EBSA requests a total of \$147,425,000 and 855 FTE. Included in this request are built-in increases totaling \$5,834,000; a program increase of \$2,540,000 to restore funds for inflationary costs and reductions that were not provided under a full year C.R., and a program increase of \$5,500,000 for the development costs of EFAST2, a universal electronic replacement for the current EFAST system that will be used to more efficiently process the Form 5500. Three budget activities will encompass the EBSA FY 2008 budget submission and include:

- Enforcement and Participant Assistance budget activity with requested resources of \$123,163,000 and 738 FTE at the FY 2008 request level.
- Policy and Compliance Assistance budget activity with requested resources of \$18,315,000 and 92 FTE at the FY 2008 request level.
- Executive Leadership, Program Oversight and Administration with requested resources of \$5,947,000 and 25 FTE at the FY 2008 request level.

The percentage of resources allocated to each performance budget activity at the FY 2008 request level is depicted in the following chart:



Employee Benefits Security Administration



EMPLOYEE BENEFITS SECURITY ADMINISTRATION

APPROPRIATION LANGUAGE

For necessary expenses for the Employee Benefits Security Administration \$147,425,000

(Department of Labor Appropriations Act)²

² A regular 2007 appropriation for this account had not been enacted at the time the budget was prepared; therefore, this account is operating under a continuing resolution (P.L. 109-289, as amended). The amounts included for 2007 in this budget reflect the levels provided by the continuing resolution.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

AMOUNTS AVAILABLE for OBLIGATION (Dollars in Thousands)						
	FY 2006 Enacted		FY 2007 C.R.³		FY 2008 Agency Request	
	FTE	Amount	FTE	Amount	FTE	Amount
A. Appropriation.....	875	\$134,900	855	\$133,551	855	\$147,425
Reductions pursuant to:						
(P.L. 109-148 in FY 2006)	----	-1,349	----	-----	----	----
Appropriation, Revised.....	875	133,551	855	133,551	855	147,425
A.1) Subtotal, Appropriation (Adjusted).....	875	133,551	855	133,551	855	147,425
Offsetting collections from:						
Reimbursements.....	----	+ 11,282	----	+ 17,000	----	+ 21,000
A.2) Subtotal.....	875	144,833	855	150,551	855	168,425
B. Gross Budget Authority.....	875	144,833	855	150,551	855	168,425
Offsetting collections						
Deduction:						
Reimbursements.....	----	- 11,282	----	- 17,000	----	- 21,000
B.1) Subtotal.....	----	- 11,282	----	- 17,000	----	- 21,000
C. Budget Authority Before Committee.....	875	133,551	855	133,551	855	147,425
Offsetting Collections From:						
Reimbursements.....	----	+ 11,282	----	+ 17,000	----	+ 21,000
IT Crosscut.....	----	0	----	0	----	0
C.1) Subtotal.....	----	+ 11,282	----	+ 17,000	----	+ 21,000
D. Total Budgetary Resources.....	875	144,833	855	150,551	855	168,425
Other Un-obligated Balances.....	----		----	0	----	0
Un-obligated balance expiring.....	-35	-3	----	0	----	0
E. Total Estimated Obligations.....	840	144,830	855	150,551	855	168,425

³ The FY 2007 level is the assumed current rate under the terms of P.L. 109-289, as amended.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SUMMARY OF CHANGES

(Dollars in thousands)

	FY 2007 C.R.	FY 2008 Agency Request	Net Change
Budget Authority			
General Funds	\$133,551	\$147,425	+/- \$13,874
Trust Funds	0	0	+/- 0
Total	<u>133,551</u>	<u>147,425</u>	<u>+/- 13,874</u>
Full Time Equivalent			
General Funds	855	855	+/- 0
Trust Funds	0	0	+/- 0
Total	<u>855</u>	<u>855</u>	<u>+/- 0</u>

Explanation of Change	FY 2007 Base		Trust Funds		FY 2008 Change		Total		
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	
Increases:									
A. Built-Ins:									
To provide for:									
Costs of pay adjustments		\$69,755				\$1,954		\$1,954	
Personnel benefits		17,197				485		485	
Employee health benefits		0				0		0	
Two More Days of Pay		0				671		671	
Federal Employees Compensation Act (FECA)		153				458		458	
Travel		2,766				106		106	
Transportation of Things		80				2		2	
GSA Space Rental		8,864				290		290	
Communications, utilities & miscellaneous charges		658				24		24	
Printing and reproduction		426				27		27	
Advisory and assistance services		0				0		0	
Other services		3,528				(161)		(161)	
Working Capital Fund		11,377				969		969	
Purchase of goods and services from other Government accounts (DHS Charge)		405				16		16	
Research & Development Contracts		1,571				(785)		(785)	
Operation and maintenance of equipment		14,839				1,945		1,945	
Supplies and materials		612				25		25	
Equipment		1,320				(192)		(192)	
Subtotal	<u>0</u>	<u>133,551</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5,834</u>	<u>+</u>	<u>0</u>	<u>5,834</u>
B. Programs:									
Increase for EFAST2 Development	0	0				5,500	+		5,500
Restoration of funds for inflationary costs and reductions not provided under full year C.R.	0	0				2,540	+		2,540
Programs Subtotal	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>8,040</u>	<u>+</u>	<u>0</u>	<u>8,040</u>
C. Financing:									
No Financing Entries									
Financing Subtotal	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>+</u>	<u>0</u>	<u>0</u>
Total Increase	<u>0</u>	<u>133,551</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>13,874</u>	<u>+</u>	<u>0</u>	<u>13,874</u>
Decreases:									
A. Built-Ins:									
No built-in Decreases									
Built Ins Subtotal	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>-</u>	<u>0</u>	<u>0</u>
B. Programs:									
No Program Decreases									
Programs Subtotal	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>-</u>	<u>0</u>	<u>0</u>
C. Financing:									
No Financing Entries									
Financing Subtotal	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>-</u>	<u>0</u>	<u>0</u>
Total Decrease	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>-</u>	<u>0</u>	<u>0</u>
Total Change	<u>0</u>	<u>133,551</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>13,874</u>	<u>+/-</u>	<u>0</u>	<u>13,874</u>

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SUMMARY BUDGET AUTHORITY and FTE by ACTIVITY (Dollars in Thousands)

	FY 2006 Enacted/ ⁴		FY 2007 C.R. ⁵		FY 2008 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
Enforcement and Participant Assistance						
General Funds	753	111,239	738	111,139	738	123,163
Policy and Compliance Assistance						
General Funds	96	17,283	92	17,283	92	18,315
Executive Leadership, Program Oversight & Admin						
General Funds	26	5,029	25	5,129	25	5,947
Total:	875	133,551	855	133,551	855	147,425
General Funds						

⁴ FY 2006 reflects enacted, not actual levels.

⁵ The FY 2007 level is the assumed current rate under the terms of P.L. 109-289, as amended.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

BUDGET AUTHORITY by OBJECT CLASS

(Dollars in Thousands)

		FY 2006	FY 2007	FY 2008	FY08 Request/ FY07 NTE
		Enacted	C.R.	Request	Curr Rate
Total Number of Full Time Permanent Positions					
Full-Time Equivalent					
Full-Time Permanent		871	851	851	0
Other		4	4	4	0
Reimbursable					0
Total		875	855	855	0
Average ES Salary		\$153	\$160	\$165	\$5
Average GM/GS Grade		12.10	12.10	12.40	0.30
Average GM/GS Salary		\$76	\$80	\$84	\$4
Average Salary of Ungraded Positions					0
11.1	Full-Time Permanent	\$67,543	\$67,685	\$70,158	\$2,473
11.3	Pos. other than Full-Time Perm.	256	262	262	0
11.5	Other Personnel Compensation	1,765	1,808	1,808	0
11.8	Special Personnel Services	0	0	0	0
11.9	Total Personnel Compensation	69,564	69,755	72,228	2,473
12.1	Civilian Personnel Benefits	17,389	17,350	18,445	1,095
13.0	Benefits for Former Personnel	0	0	0	0
21.0	Travel and Trans. Of Persons	2,954	2,766	3,032	266
22.0	Transportation of Things	78	80	82	2
23.1	Rental Payments to GSA	8,709	8,864	9,154	290
23.2	Rental Payments to Others	0	0	0	0
23.3	Comm., Utilities & Misc.	644	658	682	24
24.0	Printing and Reproduction	800	426	824	398
25.1	Advisory and Assistance Services	0	0	0	0
25.2	Other Services	4,328	3,528	4,107	579
25.3	Purchases of Goods and Services From Other Government Accounts 1/	10,448	11,782	12,767	985
25.5	Research & Development Contracts	1,586	1,571	911	(660)
25.7	Oper. And Maint. Of Equip.	14,730	14,839	23,284	8,445
26.0	Supplies and Materials	648	612	637	25
31.0	Equipment	1,673	1,320	1,272	(48)
41.0	Grants, subsidies and contributions	0	0	0	0
42.0	Insurance Claims & Indemnities	0	0	0	0
	Total	133,551	133,551	147,425	13,874
	1/ Other Purchases of Goods and Services From Government Accounts				
	Working Captial Fund	10,058	11,377	12,346	969
	Census	0	0	0	0
	DHS Charge	390	405	421	16

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

APPROPRIATION HISTORY (Dollars in Thousands)					
	Budget Estimates to Congress	House Allowance	Senate Allowance	Appropriation	Direct FTE
1998..... ⁶	84,307	82,000	82,000	82,000	709
1999..... ⁷	90,974	86,159	88,076	90,393	764
2000..... ⁸	101,831	90,000	99,831	98,934	823
2001..... ⁹	107,832	98,934	103,342	107,633	850
2002..... ¹⁰	111,214	109,866	112,418	110,752	850
2003..... ¹¹	117,044	117,044	114,000	116,283	878
2004..... ¹²	128,605	128,605	121,300	124,040	864
2005..... ¹³	132,345	132,345	132,345	131,213	887
2006..... ¹⁴	137,000	137,000	134,900	133,551	875
2007..... ¹⁵	143,573				
2008	147,425				

⁶ Reflects a reduction of \$559 and 13 FTE pursuant to P.L. 103-226 and a reduction of \$88 pursuant to Executive Order 12837.

⁷ Includes an appropriation of \$645 from the Y2K Emergency Fund and a reduction of \$252 pursuant to P.L. 106-51

⁸ Reflects a reduction of \$66 pursuant to P.L. 106-113.

⁹ Reflects a reduction of \$199 pursuant to P.L. 106-554.

¹⁰ Reflects a reduction of \$252 pursuant to P.L. 107-116; a reduction of \$462 pursuant to P.L. 107-206; and includes a \$1,600 terrorist response supplement pursuant to P.L. 107-117.

¹¹ Reflects a reduction of \$761 pursuant to P.L. 108-7.

¹² Reflects a reduction of \$922 pursuant to the enacted rescissions in P.L. 108-199.

¹³ Reflects a reduction of \$1,132 pursuant to the enacted rescissions in P.L. 108-447.

¹⁴ Reflects a reduction of \$1,349 pursuant to the enacted rescission in P.L. 109-148.

¹⁵ The 2007 level is the assumed current rate under the terms of P.L. 109-289, as amended.

Enforcement and Participant Assistance

Enforcement and Participant Assistance (Dollars in Thousands)						
	FY 2006 Enacted	FY 2007 C.R.	FY 2007 Estimate	Difference FY06 Enact/ FY07 C.R.	FY 2008 Request	Difference FY07 C.R./ FY08 Request
Activity Appropriation	\$111,239	\$111,139	\$111,139	-\$100	\$123,163	+\$12,024
FTE	753	738	738	-15	738	0

Introduction

Through this activity, EBSA detects and investigates civil and criminal violations of ERISA and related criminal laws by referring them for litigation or to prosecutorial authorities where necessary; ensures that annual reports are filed on time and accurately; and determines that audits of employee benefit plans comply with professional standards. To help plan sponsors and fiduciaries comply with ERISA's complex provisions, this activity administers Fiduciary Education and voluntary compliance programs to increase the knowledge of plan sponsors and their service providers about their basic fiduciary responsibility. Voluntary compliance programs promote compliance with ERISA and include the Voluntary Fiduciary Correction Program (VFCP) that encourages plan officials to voluntarily comply with ERISA by self-correcting certain violations of the law, and the Delinquent Filer Voluntary Compliance Program (DFVCP) that encourages voluntary compliance with the annual reporting requirements under ERISA. These two voluntary programs provide an efficient mechanism for self-identifying and correcting violations.

EBSA also provides assistance to plan practitioners and participants regarding their respective responsibilities and rights under the law as well as informally resolving disputes between plans and participants. In addition to traditional enforcement and compliance functions, EBSA conducts a coordinated Outreach, Education and Assistance (OEA) program that includes fiduciary education through presentation of public seminars, and other public appearances. The OEA program also 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 work together to reach plan sponsors and professionals as well as plan participants to inform them of their respective rights and responsibilities under ERISA. For the past four years, we have contracted with the Gallup Organization to undertake comprehensive program evaluations of our participant assistance program. These program evaluations have provided EBSA with invaluable, front-line performance information that significantly contributed to the improvement of our customer satisfaction score. Following the success of this program evaluation, EBSA will begin an evaluation of customer satisfaction for compliance assistance programs modeled after the participant assistance evaluation. These evaluative initiatives are a direct result of PART recommendations. EBSA also conducts liaison activities with the Financial Accounting Standards Board and the American Institute of Certified Public Accountants, including referrals of deficient accountants' work.

Enforcement and Participant Assistance

EBSA operates and maintains the ERISA Information System (EIS) and the ERISA Filing Acceptance System (EFAST). EFAST is the primary source for the delivery of employee benefit plan data to the Department, the IRS, the Pension Benefit Guaranty Corporation (PBGC), GAO and others. The benefit plan data provided by EFAST aids in the IRS' oversight of private sector retirement and health plans and directly impacts the PBGC's ability to manage its risk from under-funded defined benefit plans. The EIS is the primary DOL resource that provides plan data and EFAST is the system that receives and processes the 1.2 million annual plan filings that populates the EIS system. These systems support enforcement-related targeting, provide 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.

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u>	<u>FTE</u>
2003	\$91,526,000	696
2004	\$102,730,000	800
2005	\$109,374,000	764
2006	\$111,239,000	753
2007	\$111,139,000	738

Reimbursable Account

Program Description: A reimbursable account is established in EBSA to receive funds from other Federal agencies to support work involving pension or health care issues performed on their behalf. In addition, as part of its overall responsibilities under Title I of the Employee Retirement Income Security Act (ERISA), EBSA carries out a program involving the assessment of civil penalties under Sections 502 (c) (2), 502 (i) and 502 (l) of ERISA.

FY 2008 Program: In terms of collections under the ERISA civil penalties program, the monies from assessed penalties are generally deposited into the Miscellaneous Receipts Account with Treasury. However, the Debt Collection Act authorizes agencies to recover the cost of contractor fees associated with collection of debts through credit to an expending appropriation. Obligations in this account will be limited to the total level of funds collected for the specific project or purpose involved.

FY 2008 Request Level: The FY 2008 Request Level of \$21,000,000 will allow EBSA to collect and obligate funds pursuant to this account for any authorized reimbursable work, for contractor fees associated with collection of debts (\$400,000) and to accommodate the projected amount of the FY 2008 EFAST reimbursable agreement with the IRS and other agencies (\$20,600,000).

Enforcement and Participant Assistance

FY 2008

The FY 2008 request level for the Enforcement and Participant Assistance budget activity provides \$123,163,000¹⁶ and 738 FTE and enables EBSA to achieve established workload estimates. EBSA will continue to focus enforcement resources on areas that have the greatest impact on the protection of plan assets and participants' benefits. National enforcement projects will be identified in which field offices are to place particular investigative emphasis and will respond to emerging issues through established enforcement priorities. For example, through the Consultant/Advisor Project (CAP), EBSA will focus on service providers that provide bundled and alliance services such as investment management, valuation, participant education, administration, consulting, and broker-dealer arrangements. We anticipate CAP cases to be complex, time-consuming investigations and could involve issues such as biased fiduciary advice, client inducements, kickbacks, undisclosed compensation, and other civil and criminal violations. It is also expected that investigations of specific plans may be necessary to address plan-level procedural imprudence such as failure to adhere to investment guidelines and improper selection or monitoring of the service provider.

In FY 2008, EBSA will begin the development and subsequent implementation of a universal electronic Form 5500 filing system (EFAST2). The EFAST2 initiative will reduce the burden on citizens and businesses, as well as significantly improve government response time to citizens by providing no cost electronic filing on the Internet. Access to no cost electronic filing reduces the burden on filers, especially small employers, who cannot afford the services of professionals to prepare the Form 5500 filings for them. Other benefits to a wholly electronic system for the receipt and processing of Form 5500 data include: (a) reducing processing time for Form 5500 filings from 45 days to 1 day; (b) improving filings data quality from an 82 percent accuracy rate to a 99.9 percent accuracy rate; (c) reducing public disclosure response and fulfillment time from 20 days to 1 day; and (d) producing an annual savings of \$7,800,000 for EBSA with improved processing system efficiencies. The EFAST2 system will also be used to meet and fulfill information collection and disclosure requirements of the Pension Protection Act of 2006.

EBSA will continue examining audit quality issues in the work of CPA firms that perform a large number of plan audits. We will also continue to develop, update, produce and distribute educational publications to the public and make them available through the DOL website. Publications range from specific technical guidance for plan professionals and employers to consumer oriented brochures and booklets that explain health benefits, pension benefits and retirement savings concepts. EBSA has also made available the Capital Asset Plan and Business Case Summaries (Exhibit 300) for EFAST through the following DOL website hypertext links:

- [EBSA - BY2008 EFAST2](#)
- [EBSA - BY2008 EFAST](#)

¹⁶ EBSA's request of \$5,500,000 for EFAST2 is based on the assumption that the project will receive no funding in 2007. If funding is secured during the FY 2007 appropriations process, this request will be reduced commensurately.

Enforcement and Participant Assistance

FY 2007

The funding level for this budget activity in FY 2007 provides \$111,139,000 and 738 FTE which assumes a full year continuing resolution (C.R.). Because this level does not provide resources for mandatory compensation and benefits increases or inflation protection, agency resource levels must be reduced to stay within budget limitations. While operating at the not-to-exceed (NTE) FY 2006 level, this activity is able to finance 738 FTE and must therefore reduce a total of 15 FTE across all program offices (both field and national office). EBSA would also have to significantly reduce resources for information technology, education campaigns, participant assistance, research, enforcement, travel and would be required to significantly curtail compliance outreach and education programs.

The reduction of resources and FTE will result in: (a) elimination of field investigator positions resulting in an estimated 138 fewer civil and criminal cases being conducted; (b) three percent fewer indictments; (c) an estimated \$22,256,000 reduction in total EBSA enforcement monetary results that includes an estimated \$3,000,000 reduction in benefit recoveries for participants, an estimated \$19,000,000 reduction in assets restored, prohibited transactions corrected, and plan assets protected and an estimated \$256,000 reduction in recoveries for the Voluntary Fiduciary Correction Program (VFCP); and (d) significant reductions of compliance and participant outreach and education programs.

To the extent provided by resources of the full year CR, EBSA will continue to focus enforcement resources on areas that have the greatest impact on the protection of plan assets and participants' benefits. National enforcement projects will be identified in which field offices are to place particular investigative emphasis and will respond to emerging issues through established enforcement priorities. EBSA will conduct investigations to discover violations involving fiduciary provisions of ERISA and then seek corrective action, and if necessary, pursue litigation to compel corrections or remedies. This process has proven effective and will continue. EBSA will also continue its inspection examining audit quality issues in the work of CPA firms performing a large number of plan audits. We will more effectively ensure the integrity of employee benefits and retirement plans for the American worker with emphasis on prevention through compliance assistance, voluntary compliance and a balanced, consistent enforcement program.

EBSA will also continue to develop, update, produce and distribute educational publications to the public and make them available through the DOL website. Publications range from specific technical guidance for plan professionals and employers to consumer oriented brochures and booklets that explain health benefits, pension benefits and retirement savings concepts.

Enforcement and Participant Assistance

FY 2006

In FY 2006, EBSA closed over 74 percent of civil cases with corrected violations to total civil cases closed; referred approximately 53 percent of criminal cases for prosecution to total criminal cases closed; and achieved a customer satisfaction score of 69 based on an evaluation of agency participant assistance programs by the Gallup Organization, an internationally renowned survey research firm.

In addition to achieving performance indices and strategic goals, EBSA closed 2,534 civil investigations that directly contributed to Agency enforcement results that protected over \$1,422,725,000 in retirement, health and other benefits for American workers and their families. EBSA also closed 221 criminal investigations that led to the indictment of 106 individuals. Additionally, EBSA received and processed 17,256 applications through voluntary compliance programs. Voluntary compliance applications have increased over 22 percent from FY 2005 and this significant jump reflects the success of improvements made to our voluntary compliance programs and aggressive outreach to encourage participation in the program. EBSA has achieved these impressive enforcement results by focusing on leveraging resources to target those situations that present the greatest potential for harm to workers and their families. EBSA Investigators and Benefits Advisors collectively recovered \$130,795,000 on behalf of plan participants in FY 2006.

Through our efforts to ensure participants receive promised benefits, EBSA Benefits Advisors recovered \$87,137,000 (a subset of the \$130,795,000 collectively recovered by Investigators and Benefits Advisors) on behalf of plan participants in FY 2006. Benefit recoveries are achieved through an informal dispute resolution process that focuses primarily on educating individual participants on their rights and responsibilities with respect to filing claims and receiving benefits as well as educating plan administrators on their responsibilities in a particular circumstance. This program is very successful in bringing plans into settlement without the expense of conducting an investigation or for litigation. The informal resolution process is a cost effective method of resolving such disputes for both the Department and the plan. In FY 2006, Benefits Advisors responded to a total 164,863 inquiries, 99 percent of which were resolved within prescribed customer performance standards. The public is realizing the benefits of the availability and expertise of the Benefits Advisor staff; the toll-free telephone number system that increases accessibility to this staff; and the efficiencies of improved technologies such as the educational information contained on the Agency web site, interactive web pages to help participants better understand the law and the electronic contact portal which may be used to submit questions to the Benefits Advisor staff.

Enforcement and Participant Assistance

Workload Summary			
Workload/Output Measures	FY 2006 Actual	FY 2007 Target	FY 2008 Target
Voluntary Fiduciary Correction Program Applications Processed	1,510	1,538	1,576
Delinquent Filer Voluntary Compliance Program Applications Processed	15,746	12,300	12,607
Investigations Processed:	3,632	3,964	3,964
Civil	3,411	3,768	3,768
Criminal	221	196	196
Indictments	106	112	112
Reporting Compliance Reviews	3,782	4,000	4,000
CPA Firm Inspections	4	4	4
Inquiries Answered (Participants)	164,863	171,000	171,000
National Office	14,764	18,000	18,000
Field Offices	150,099	153,000	153,000
EFAST Help Desk Inquiries	49,644	50,000	50,000

Enforcement and Participant Assistance

Changes in FY 2008
(Dollars in Thousands)

Activity Changes:

Built-ins:

To provide for:

Costs of Pay Adjustments.....	\$1,636
Personnel Benefits.....	403
Two More Days of Pay.....	551
Federal Employees Compensation Act (FECA).....	0
Travel and Transportation of Persons.....	99
Transportation of Things.....	2
Rental Payments to GSA.....	240
Communications, Utilities & Miscellaneous Charges.....	20
Printing and Reproduction.....	10
Other Services.....	-208
Purchase of Goods and Services from Government Accounts (WCF).....	814
DHS Charge (Object Class 25.3).....	13
Research and Development Contracts.....	0
Operation and Maintenance of Equipment.....	1,056
Supplies.....	18
Equipment.....	-200

Total Built-in..... + \$4,454

Net Program..... + \$7,570

Direct FTE..... 0

	Estimate	FTE
Base:	\$115,593,000	738
Program Increase:	\$7,570,000	0

Policy and Compliance Assistance

Policy and Compliance Assistance (Dollars in Thousands)						
	FY 2006 Enacted	FY 2007 C.R.	FY 2007 Estimate	Difference FY06 Enact/ FY07 C.R.	FY 2008 Request	Difference FY07 C.R./ FY08 Request
Activity Appropriation	\$17,283	\$17,283	\$17,283	0	\$18,315	+ \$1,032
FTE	96	92	92	-4	92	

Introduction

The Policy and Compliance Assistance activity directly supports the Secretary's 2nd Strategic Goal – A Competitive Workforce and 4th Strategic Goal – Strengthened Economic Protections. This activity undertakes the promulgation of regulations, interpretations and other guidance under Title I of ERISA; the issuance of individual and class exemptions from the ERISA and FERSA prohibited transaction provisions; the provision of direct 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; and the conduct of policy, research and legislative analyses on pension, health, and other employee benefit issues. Within this activity, EBSA also provides assistance in response to requests from members of Congress (including constituent requests), as well as technical assistance to legislative committees with jurisdiction affecting ERISA and FERSA.

In recent years, there have been a number of significant changes in the law, the regulations, reporting forms, and other requirements affecting employee benefit plans. These changes highlight the importance of plan sponsors, plan fiduciaries, and the providers of services to employee benefit plans staying abreast of the law. Of particular note are the changes enacted under the Pension Protection Act of 2006 (PPA), signed into law by the President on August 17, 2006. In recognition of the importance of clear and timely guidance for the employee benefits community, EBSA is committing significant resources to development of regulations, interpretive guidance and other compliance assistance materials that will serve to both encourage and facilitate compliance with the new law.

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u>	<u>FTE</u>
2003	\$20,441,000	143
2004	\$16,907,000	108
2005	\$17,357,000	101
2006	\$17,283,000	96
2007	\$17,283,000	92

Policy and Compliance Assistance

FY 2008

The FY 2008 request level for the Policy and Compliance Assistance budget activity provides \$18,315,000 and 92 FTE and enables EBSA to achieve established workload estimates. Fiduciary education, regulations, exemptions, compliance assistance, policy and research, and interpretive guidance have substantially contributed, and will continue to substantially contribute, to the enhancement of employee pension and health benefits security, a primary goal of the Administration. The EBSA primary performance indicators reflect, and are supported by, these critical activities. In addition to our primary performance indicators, our program specific workload measures also currently assess effectiveness of program operations in this activity, such as tracking the number of projects, exemptions, interpretations and regulations completed and/or issued by the EBSA Office of Regulations and Interpretations (ORI), Office of Exemption Determinations (OED), Office of Policy and Research (OPR) and Office of Health Plan Standards and Compliance Assistance (OHPSCA).

For FY 2008, EBSA will continue to focus resources on the development of interpretive, regulatory and other guidance necessary to the efficient and effective implementation of the provisions of the Pension Protection Act of 2006. Implementation of this complex legislation began in FY 2006 and involves a long term/multi-year undertaking, requiring the reallocation of resources for regulatory analysis and related work. Our current assessment is that: (a) the PPA will require the development of an estimated 25 regulatory initiatives, in addition to interpretive and other guidance by EBSA; (b) EBSA will be required to conduct a comprehensive review of existing regulations, class exemptions and other guidance to determine what, if any, implications PPA provisions, have on such issuances; (c) EBSA and the Department of the Treasury, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation will have to closely coordinate regulatory and interpretive activities in order to ensure consistency of policy; and (d) EBSA will be required to dedicate resources to evaluate whether, and to what extent, the Pension Protection Act affects current enforcement activities, including investigations and litigation.

EBSA also will continue its program for periodic review of existing regulations which supports the Secretary's 2nd Strategic Goal of reducing regulatory burden and was a major PART recommendation. A robust and proactive regulatory review program will enable EBSA to assess the ongoing benefit and consistency of its regulatory program as a whole in a changing employee benefits environment; to make recommendations for improving the efficacy of its regulatory programs in a systematic and considered manner; and provide an avenue for seeking public input on issues arising out of the regulatory program. In addition, EBSA intends to maintain an active exemption program that will, among other things, include the publication of a final class exemption for cross trades of securities by in-house asset managers, an amendment to a class exemption relating to the management of plans by in-house managers, and a proposed amendment to an existing class exemption that will permit plan fiduciaries (or their affiliates) to execute securities transactions as agents for plans, in order to clarify the types of transactions that are covered under the exemption.

EBSA will continue to administer a program of economic research and data development directed toward advancing the understanding of employee benefits issues. This research program supports departmental leadership and other Federal officials in developing sound policy

Policy and Compliance Assistance

approaches and advancing them in legislative and regulatory forums. It also delivers the analytic resources and products necessary to satisfy all applicable economic analysis requirements in connection with all EBSA regulatory actions. EBSA provides objective analysis and estimates of alternative policies' potential impacts to guide policymakers' decisions. EBSA will continue to conduct extensive extramural research on priority employee benefits policy topics and produce detailed annual pension and health benefits statistics. EBSA also will track, analyze and develop legislative initiatives in support of its mission and the President's health and retirement benefit policy priorities.

EBSA will continue to improve our ability to provide timely interpretive guidance through a variety of pronouncements, including advisory opinions, information letters, interpretive bulletins, and field advice memoranda and exemptions issued by DOL. EBSA will continue to conduct research involving new initiatives focused on the sustainability of private employee benefits as a second tier to public insurance programs (i.e., Medicare and Social Security) in the context of global competitiveness for American firms and will continue responding to Administration and Congressional requests for statistics, current data, and targeted analysis relating to the employee benefit plan universe.

EBSA compliance assistance programs will continue to improve our stakeholders' understanding of the complex provisions of ERISA and provide targeted assistance to plan officials on the aspects of law where high levels of noncompliance exists; and an ongoing program for the regular, systematic review of existing regulations and exemptions will evaluate the potential costs and benefits of alternative approaches in support of the Secretary's 2nd strategic goal. EBSA will dedicate resources to completing a 2nd Health Disclosure and Claims Issues Project II (HDCI II). The HDCI II project involves approximately 1,700 health plan audits, the results of which will be analyzed to determine what additional compliance assistance materials are needed by the regulated community and to make more informed decisions regarding the most efficient allocation of resources to areas of the law where compliance assistance is needed most.

FY 2007

The FY 2007 funding level provides \$17,283,000 and 92 FTE which assumes a full year C.R. Because this funding level does not provide inflationary increases for compensation and benefits, 4 FTE must be reduced in the national office. EBSA will continue to employ an integrated strategy of compliance assistance, fiduciary education, focused research, and legislative and regulatory analysis. As appropriate, EBSA will continue to coordinate its regulatory and interpretive activities with other Federal agencies, such as the Department of Health and Human Services, the Centers for Medicare and Medicaid Services, the Department of Treasury, the Internal Revenue Service, the Pension Benefit Guaranty Corporation, and the Securities and Exchange Commission.

During FY 2007, EBSA expects to adopt new streamlined annual reporting forms (the Form 5500 series) to complement the implementation of an electronic filing system; guidance on default investments for participant-directed individual account plans; guidance under section 408(b)(2) of ERISA improving the disclosure of fee and related information to plan fiduciaries; guidance on the new statutory exemption relating to cross-trading; and guidance on the

Policy and Compliance Assistance

furnishing of periodic individual benefit statements. EBSA will also undertake a substantial evaluation program in FY 2007. We have contracted with the Gallup organization to follow up with plan sponsors, fiduciaries, and service providers who contact us seeking assistance. To track program performance, we have modified one of our performance targets under the DOL Performance and Accountability Report (PAR) to measure customer satisfaction for compliance assistance.

In FY 2007, EBSA will propose a class exemption for the cross-trading of securities by in-house managers of pension plans and an amendment to the settlement class exemption. In addition, we will finalize a class exemption that will permit a Qualified Professional Asset Manager (QPAM) to act as the investment manager for its own plan and an amendment to a class exemption for the provision of services in connection with the termination of individual account plans to reflect changes to ERISA resulting from the Pension Protection Act of 2006.

Also in FY 2007, EBSA will issue a Request-for-Proposal (RFP) and competitively award contracts for economic research services because existing contracts are expiring. Implementation of the PPA will require dedicated resources to satisfy the economic analysis requirements applicable to regulatory actions. We will devote the resources necessary to successfully award new contracts and accomplish work necessary to satisfy such requirements. EBSA will continue to contribute significantly to the development, analysis and implementation of pension, health, and other benefits policies through research, data analysis and by providing technical assistance and support to DOL leadership, external groups and stakeholders. EBSA will complete economic analyses of all promulgated regulations, class exemptions and expiring information collections in our inventory of more than fifty (50).

In FY 2007, EBSA intends to conduct additional seminars, in more geographical areas, to reach out to other segments of the plan sponsor and service provider universe. EBSA anticipates that this fiduciary education campaign, which provides directly targeted assistance to plan officials, will improve our stakeholders' understanding of the basic provisions of ERISA and will result in a greater rate of compliance, thereby ensuring greater security for plan benefits. We will also continue our program of providing compliance assistance in response to natural disasters by extending reporting and other deadlines and issuing additional guidance as necessary. EBSA also continues to provide expert speakers to other appropriate venues, providing education on a diverse array of employee benefit topics relevant to employee benefit security.

FY 2006

In FY 2006, EBSA conducted a compliance assistance campaign "Getting It Right – Know Your Fiduciary Responsibilities," and has held several successful seminars around the country. These public outreach educational seminars were conducted to increase the awareness and understanding of plan sponsors and their service providers about their basic fiduciary responsibilities when operating an employee benefit plan. The basic fiduciary topics that were covered during the seminars include, but are not limited to: (a) selecting and monitoring a service provider; (b) handling employee contributions; (c) fees; (d) prohibited transactions; (e) reporting and disclosure; and (f) voluntary correction programs. Additionally, EBSA conducted extensive extramural economic research on topics including employer health benefits quality and value

Policy and Compliance Assistance

management and baby boomers' retirement needs and prospects, carried out and subjected to formal peer review a simulation of pension outcomes under EBSA proposed default regulation, and produced detailed annual pension and health statistics. EBSA also contributed significantly to the development and enactment of the PPA.

Consistent with the Administrations management agenda to make the government more citizen-centered and closer to the customers we serve, EBSA enhanced its website to bring guidance, disclosure of information and technical assistance closer to the public. Specifically, exemptions are now added to the EBSA website as they are granted or authorized, we have linked the class exemption index on the web to the Federal Register, and established a new comprehensive compliance assistance publication as well as a Health elaws interactive web compliance assistance tool for employers. These improvements have greatly enhanced public access to health care, regulatory and exemption related information.

EBSA has continued to improve its ability to provide timely and helpful regulatory and interpretive guidance by focusing resources on improving its active program of issuance of advisory opinions and field assistance bulletins addressing relevant interpretive issues raised by the regulated community or considered significant by the Department for improving the efficiency of business and better protecting employee pension and health benefits. In FY 2006, EBSA published a proposed rule making it easier for fiduciaries of 401(k) plans and other participant-directed defined-contribution plans to adopt automatic enrollment design features. The proposed rule is the first major regulation resulting from the PPA signed into law by the President on August 17, 2006. This regulation is designed to boost retirement savings by establishing default investments for workers that are appropriate for long-term savings. Upon adoption, the rule will remove a major impediment to automatic enrollment programs created by employers.

Workload Summary			
Workload/Output Measures	FY 2006 Actual	FY 2007 Target	FY 2008 Target
Interpretations & Other Technical Assist:	1,828	2,200	2,225
Health Plan Standards	686	500	525
Regulations & Interpretations	1,142	1,700	1,700
Regulations/Projects:	141	149	154
Individual Exemptions & Expro (Proposed & Granted)	206	258	258
Section 502(l) Waivers	10	4	6
Exemption Processing Time (avg #days)	174	182	165

Policy and Compliance Assistance

**Changes in FY 2008
(Dollars in Thousands)**

Activity Changes:

Built-ins:

To provide for:

Costs of Pay Adjustments.....	\$234
Personnel Benefits.....	60
Two More Days of Pay.....	78
Federal Employees Compensation Act (FECA).....	0
Travel and Transportation of Persons.....	4
Transportation of Things.....	0
Rental Payments to GSA.....	34
Communications, Utilities & Miscellaneous Charges.....	0
Printing and Reproduction.....	12
Other Services.....	40
Purchase of Goods and Services from Government Accounts (WCF).....	116
DHS Charge (Object Class 25.3).....	2
Research and Development Contracts.....	- 785
Operation and Maintenance of Equipment.....	888
Supplies.....	3
Equipment.....	5
 Total Built-in.....	 +\$691
 Net Program.....	 +\$341
Direct FTE.....	0

	Estimate	FTE
Base:	\$17,974,000	92
Program Increase/Decrease:	\$341,000	0

Executive Leadership, Program Oversight and Administration

Executive Leadership, Program Oversight and Administration (Dollars in Thousands)						
	FY 2006 Enacted	FY 2007 C.R.	FY 2007 Estimate	Difference FY06 Enact/ FY07 C.R.	FY 2008 Request	Difference FY07 C.R./ FY08 Request
Activity Appropriation	\$5,029	\$5,129	\$5,129	\$100	\$5,947	\$818
FTE	26	25	25	-1	25	0

Introduction

The EBSA Executive Leadership, Program Oversight and Administration budget activity provides oversight and operational guidance in the areas of financial management, strategic planning, budget formulation and execution, debt management, strategic management of human capital, labor and employee relations, equal employment opportunity, and other administrative functions. This activity also oversees agency implementation of Government-wide management initiatives, manages the EBSA technical program training, and ensures employee development for agency enforcement, policy, legislative and regulatory functions.

In addition to providing direct administrative support to our programmatic offices, this activity manages implementation of the President’s Management Agenda (PMA) and administers the Program Assessment Rating Tool (PART) for the Agency. This activity uses the DOL Cost Analysis Manager System (CAM) to assign costs for selected activities and outputs in an effort to achieve strategic and performance goals through the deployment of resources in an efficient and cost effective manner. EBSA has been proactive with implementation of the Administration’s management priorities and has contributed significantly to the Department maintaining “green” scores in all primary areas of emphasis for the PMA.

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u>	<u>FTE</u>
2003	\$4,316,000	22
2004	\$4,403,000	22
2005	\$4,482,000	22
2006	\$5,029,000	26
2007	\$5,129,000	25

Executive Leadership, Program Oversight and Administration

FY 2008

The FY 2008 request level for the Executive Leadership, Program Oversight and Administration budget activity provides \$5,947,000 and 25 FTE and enables EBSA to provide the leadership and necessary services to support the agency's integrated programs of enforcement, compliance assistance, fiduciary education, improved E-Government, and participant education to ensure protection of the pension and health benefits for our nation's workers, retirees and their families as well as achieve the President's Management Agenda. EBSA will utilize human capital, financial and other information systems to provide decision-makers with timely analysis as well as to monitor and update strategic plans and to develop metrics to measure results of management initiatives. We will continue to use the Cost Analysis Manager (CAM) system to: (a) facilitate the evaluation of operating efficiency and business process engineering; (b) promote budget and performance integration through the linkage of costs with program performance metrics; and (c) allow for trend analysis in support of the EBSA budget justification and resource allocation requirements.

The administration of responsibilities under the Debt Collection and Debt Collection Improvement Acts will continue in FY 2008. The management of debts arising from sections 502(c), 502(i) and 502(l) of ERISA, will continue to be a significant function of the Executive Leadership, Program Oversight and Administration budget activity and debt collection activities relative to assessed civil penalties will continue to require dedicated resources.

EBSA will continue to execute a comprehensive recruitment and employee development strategy to ensure we have the right people in place to perform our mission of protecting the pension and health benefits security of American workers and their families. Our strategic objective will be to provide formal training and other developmental activities for employees to ensure a trained workforce and one that is prepared for the succession planning needs of the agency. In addition to our recruitment and training efforts in FY 2008, EBSA will continue to focus on workforce planning. With over 80% or more of our career senior leadership currently, or soon-to-be, eligible to retire during the next five (5) years, EBSA will continue to groom a cadre of journey-level employees and first-line supervisors to fill these critical positions. Finally, this activity will continue with efforts to analyze contracting vehicles to more fully use Performance Based Service Contracting (PBSC) in support of competitive sourcing efforts; and refine our agency specific Continuity of Operations Plans (COOP) in support of emergency preparedness.

FY 2007

The funding level for this budget activity in FY 2007 provides \$5,129,000 and 25 FTE that assumes a full year continuing resolution (C.R.). Because this level does not provide resources for mandatory compensation and benefits increases or inflation protection, agency resource levels must be reduced to stay within budget limitations. While operating at the not-to-exceed (NTE) FY 2006 level, this activity must reduce one FTE. The EBSA Program Oversight budget activity has remained essentially flat for several years and accordingly is significantly impacted by a full year continuing resolution. EBSA human capital management, professional development and succession planning efforts are significantly affected at this budget level.

Executive Leadership, Program Oversight and Administration

Specifically, the presentation of technical training curriculum that provides the foundation of statutory knowledge for EBSA employees to regulate the employee benefits industry would have to be postponed or scaled back during the year. 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. Funding for professional training courses and seminars for leadership development, technical proficiency and continuing education may also be significantly reduced during the year. Additionally, we may have to postpone or cancel employee participation in the Federal Law Enforcement Training Courses (FLETC) required by field investigators to enhance skills in areas unique to conducting criminal investigations.

EBSA will continue to provide the leadership and necessary services to support the agency's integrated programs of enforcement, compliance assistance, fiduciary education, improved E-Government, and participant education to ensure protection of the pension and health benefits for our nation's workers, retirees and their families as well as achieve the President's Management Agenda. Currently, only three percent of EBSA FTE is allocated to our program oversight function. Because additional program responsibilities in budget and performance integration, competitive sourcing and improved financial management through managerial cost accounting have significantly expanded oversight and coordination activities, the reduction of one FTE further challenges optimum performance in each of these areas.

The management of debts arising from sections 502(c), 502(i) and 502(l) of ERISA, will continue to be a significant function of the EBSA program oversight function and debt collection activities relative to assessed civil penalties will continue to require dedicated resources. Based on the volume of collections in FY 2006 (\$15,506,000), it is estimated that approximately \$15,000,000 will be collected in FY 2007. EBSA will also continue to use the DOL Cost Analysis Manager System (CAM) to assign costs for selected activities and outputs in an effort to achieve strategic and performance goals through the deployment of resources in an efficient and cost effective manner.

FY 2006

EBSA has been a significant contributor to DOL being the first Executive Department to be assessed at the highest standard in meeting Administration goals on all five government-wide initiatives – Strategic Management of Human Capital, Competitive Sourcing, Improved Financial Performance, Expanded Electronic Government, and Budget and Performance Integration. Additionally, EBSA has continued to use and refine the Cost Analysis Manager (CAM) system in support of the Departmental financial performance improvement plan and have effectively utilized this system to account for 100 percent of incurred costs for the agency's three major output categories involving investigations closed, participant inquiries answered, and reporting compliance reviews.

Effective human capital management, particularly succession planning, continued to play an important role in EBSA strategic planning activities. This was a major area of emphasis as more journey level, supervisory and managerial employees became eligible to retire. To address the challenges of succession planning, agency national and regional office recruitment teams have

Executive Leadership, Program Oversight and Administration

conducted on-campus recruiting at local colleges and universities throughout the country that has resulted in the hiring of 74 student interns in FY 2006.

EBSA has also used the Student Career Employment Program (SCEP), the Student Trainee Employment Program (STEP), the Workforce Recruitment Program, and the Federal Career Intern Program (FCIP) to meet critical manpower needs. Use of these recruitment programs has enabled EBSA to non-competitively appoint employees in mission-critical occupations once academic and other program requirements have been met. Other human capital flexibilities used for employee development and succession planning include intra-agency development assignments, the DOL Senior Executive Service (SES) Candidate development program, OPM sponsored management development training and USDA sponsored long term career development programs. EBSA has been at the forefront of providing leadership development training to employees.

In the development of employee technical competencies, EBSA has developed an extensive training curriculum to ensure that our employees have the technical knowledge needed to successfully meet strategic and performance objectives. 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 2006, approximately 200 EBSA employees have successfully completed these training courses. These courses are designed to provide the foundation of statutory knowledge and understanding of industry practices required to regulate the employee benefits industry and provide compliance assistance to stakeholders. Additionally, 64 employees completed Federal Law Enforcement Training Courses (FLETC) to enhance skills in areas unique to conducting criminal investigations. The conduct of criminal investigations represents a critical aspect of our enforcement program.

In FY 2006, EBSA completed a competency-based recruitment and employee assessment initiative and has implemented category rating for mission-critical occupations. EBSA has been at the forefront in using the category rating method in the employee assessment and referral process. EBSA also continues to use the DOL Online Opportunities Recruitment System (DOORS) that is designed to further streamline and expedite the recruitment and hiring process. We currently advertise all vacancies through the automated DOORS recruitment system and refinement of position descriptions for mission-critical occupations has continued throughout FY 2006. These revisions and refinements have incorporated the competency-based position description model.

Executive Leadership, Program Oversight and Administration

Changes in FY 2008 (Dollars in Thousands)

Activity Changes:

Built-ins:

To provide for:

Costs of Pay Adjustments.....	\$83
Personnel Benefits.....	22
Two More Days of Pay.....	43
Federal Employees Compensation Act (FECA).....	458
Travel and Transportation of Persons.....	3
Transportation of Things.....	0
Rental Payments to GSA.....	16
Communications, Utilities & Miscellaneous Charges.....	4
Printing and Reproduction.....	5
Other Services.....	7
Purchase of Goods and Services from Government Accounts (WCF).....	39
DHS Charge (Object Class 25.3).....	1
Research and Development Contracts.....	0
Operation and Maintenance of Equipment.....	1
Supplies.....	4
Equipment.....	3

Total Built-in..... + \$689

Net Program..... + \$129

Direct FTE..... 0

	Estimate	FTE
Base:	\$5,818,000	25
Program Increase/Decrease:	\$129,000	0

**U.S. Department of Labor
Employee Benefits Security Administration**

Performance Budget Issue Paper

Enhanced Technology – Form 5500 Electronic Receipt and Processing

Applicable Performance Goal: Enhance Employee Pension and Health Benefits Security

EBSA's resources are devoted to the accomplishment of the Secretary's fourth strategic goal of "Strengthen Economic Protections" and second strategic goal of "A Competitive Workforce". EBSA supports the outcome goals of *Enhancing Pension and Health Benefit Security* and *Maximizing Regulatory Flexibility and Benefits*.

Performance Indices

With respect to performance milestones for EFAST2, the following metrics for performance will serve as indices of success:

- Improve timeliness of Form 5500 data delivery to Federal and public stakeholders
- Increase the quality of Form 5500 delivered data
- Reduce Form 5500 public disclosure fulfillment time
- Establish web-based public disclosure of Form 5500 data
- Reduce ongoing operating costs by replacing EFAST legacy OCR scanning technology with a web-based receipt and processing system

The successful implementation of EFAST2 will be measured by achieving performance metrics and milestones that will reduce system performance gaps. The performance metrics and milestones include both system and agency-level outputs and are in direct alignment with the Federal Enterprise Architecture (FEA) Performance Reference Model (PRM). Development and subsequent implementation of the EFAST2 system will ensure the reduction and/or elimination of all system performance gaps that have been documented.

EFAST2 system operations, commencing in January 2010, will fulfill the information collection and disclosure requirements of the Pension Protection Act of 2006.

Requested Resources: DOL seeks total resources of \$15,000,000 for the development and subsequent implementation of EFAST2, a wholly electronic Form 5500 filing system. EBSA seeks a base-level program increase of \$5,500,000 for development costs of a universal electronic replacement for the current EFAST system. In FY 2008 only, EBSA will also reallocate \$2,500,000 from base funding for development costs of EFAST2 and DOL is proposing that \$7,000,000 be funded by the PBGC for this project. Full implementation of a universal electronic Form 5500 filing system is contingent upon availability of requested resources and our partner agencies providing additional resources through the reimbursable account or other appropriation.

**U.S. Department of Labor
Employee Benefits Security Administration**

Performance Budget Issue Paper

Enhanced Technology – Form 5500 Electronic Receipt and Processing

The GAO has issued a report to Congressional committees recommending that DOL require electronic filing of Form 5500 (See GAO-05-491). In the response to GAO, DOL agreed that elimination of paper filings in favor of universal electronic filing will result in significant operational improvements and long-term cost savings. Specifically, implementation of the EFAST2 system will improve timeliness of Form 5500 data delivery, increase the quality of Form 5500 delivered data, reduce Form 5500 public disclosure fulfillment time, and establish web-based public disclosure of Form 5500 data. Since the GAO report, DOL has issued a proposed regulation requiring electronic filing of Form 5500.

EFAST is the only source of comprehensive data relating to private employee benefit plans and the trillions of dollars they hold. The data is used by policymakers and decision makers in the executive and legislative branches of government and guides the regulatory and enforcement programs of EBSA, IRS and PBGC. In the absence of additional resources to develop a wholly electronic filing system for the receipt and processing of Form 5500 data, oversight and timely disclosure of plan information to our stakeholders and partners will be impeded, real-time status reporting and public disclosure access capability would be diminished, and targeting capability for ERISA enforcement efforts would be compromised.

The following table delineates EFAST2 system development and scale-up costs:

Project Description	FY 2008
EFAST2 System Development:	\$15,000,000
Prototype Development (9 months)	\$6,000,000
System Scale-up (12 months)	\$9,000,000

There are no financial system requirements. The percent of security requirements for the EFAST2 acquisition phase covering FY2008-FY2009 are:

Financial percentage: 0%	Security Percentage: 9.41% (\$1,411,000)
--------------------------	--

Rationale/Strategy and Performance Impact Related to Resource Increase: The current EFAST system receives and processes approximately 1.4 million filings annually. These filings translate into approximately 25 million paper pages. While we estimate that 87 percent of filers use some form of software to prepare their filings, only one percent actually submit their filing electronically. The rate of errors in non-electronically submitted filings is more than twice that in electronically filed documents.

**U.S. Department of Labor
Employee Benefits Security Administration**

Performance Budget Issue Paper

Enhanced Technology – Form 5500 Electronic Receipt and Processing

It is clear that there are inefficiencies inherent in the maintenance of any form of a paper filing system – a large number of filer errors, increased likelihood of correspondence and penalties, and delays in reviews of filings and release of data to the public. These inefficiencies not only result in increased costs to filers, the government and taxpayers generally, but also result in increased risks to the benefit security of participants and beneficiaries.

DOL believes that development and subsequent implementation of the EFAST2 system for electronic filing of Form 5500 will eliminate inefficiencies inherent with paper filings, significantly reduce operating costs, and enhance benefits security for participants and beneficiaries by ensuring availability of critical plan information to the public and policy makers for enforcement.

Development and subsequent implementation of EFAST2, a universal electronic Form 5500 filing system, will result in the following performance improvements:

<u>Performance Metrics</u>	<u>EFAST Baseline</u>	<u>EFAST2 Steady State (FY10)</u>
<u>System Outcomes:</u>		
Processing Time Form 5500 Filings.....	45 Days	1 Day
Filings Data Quality.....	82%	99.99%
Public Disclosure ‘Fulfillment’ Time.....	20 Days	1 Day
Electronic Public Disclosure of Form 5500 Data.....	0%	100%
Operational Improvements and Long Term Cost Savings.....	N/A	\$7.8M (annual)

EFAST2 will make better use of information technology investments to reduce the government’s burden on citizens and businesses, and improve government response time to citizens. EFAST2 will provide for no cost electronic filing on the Internet, which will further reduce the burden on filers, especially small employers, who cannot afford the services of professionals to prepare the Form 5500 filings for them. Additionally, when the EFAST2 system begins operations in January 2010, the system will be used to fulfill both the information collection and disclosure requirements of the Pension Protection Act of 2006.

Without a universal electronic filing system, DOL will be forced to accept significantly longer processing time for the delivery of the data to the Department, the IRS, the Pension Benefit Guaranty Corporation (PBGC), GAO and others, as well as reduced accuracy and reliability of the data captured from the forms. DOL would also be in a position of continuing program operations with the current legacy EFAST system that has degrading functionality and can only accommodate minimal electronic filing. Failure to fully fund the development and subsequent implementation of EFAST2 will adversely impact the Department’s and the IRS’ oversight of private sector retirement and health plans and will affect the PBGC’s ability to manage risk from under-funded defined benefit retirement plans.

**U.S. Department of Labor
Employee Benefits Security Administration**

Performance Budget Issue Paper

Enhanced Technology – Form 5500 Electronic Receipt and Processing

Base Level Funding:

At base level funding, EBSA will continue using the current legacy EFAST system that has degrading functionality that can only accommodate minimal electronic filing to support disclosure of plan information to our stakeholders.

Enforcement and Participant Assistance

Base:
Estimate: \$115,593,000 FTE: 738

Policy and Compliance Assistance

Base:
Estimate: \$17,974,000 FTE: 92

Program Performance at Request Level:

Full implementation of a universal electronic Form 5500 filing system is contingent upon availability of requested program increases and our partner agencies providing additional resources through the reimbursable account or other appropriation. The development and subsequent implementation of EFAST2 will: (a) reduce processing time for Form 5500 filings from 45 days to 1 day; (b) improve the quality of filings data from 82 percent accuracy rate to a 99.9 percent accuracy rate; (c) reduce public disclosure response and fulfillment time from 20 days to 1 day; (d) initiate a web-based public disclosure of Form 5500; and (e) produce an annual savings of \$7,800,000 for EBSA with improved processing system efficiencies.

Program Increase:

Estimate: +\$5,500,000 FTE: 0

**U.S. Department of Labor
Employee Benefits Security Administration**

Performance Budget Issue Paper

Enhanced Technology – Form 5500 Electronic Receipt and Processing

Object Class (\$ in thousands):

Object Class		FY 2008 Request
11.1	Full-Time Permanent	\$0
11.3	Other than Full-Time Permanent	0
11.5	Other Personnel Compensation	0
11.9	Total Personnel Compensation	0
12.1	Civilian Personnel Benefits	0
13.0	Benefits for Former Personnel	0
21.0	Travel & Trans. of Persons	0
22.0	Transportation of Things	0
23.1	Rental Payments to GSA	0
23.3	Comm., Utilities & Misc.	0
24.0	Printing and Reproduction	0
25.2	Other Services	0
25.3	Purchases from Gov't Accounts	0
25.5	Research and Development	0
25.7	Operation/Maint. of Equipment	\$5,500
26.0	Supplies	0
31.0	Equipment	0
	TOTAL	\$5,500

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

**CONGRESSIONAL BUDGET JUSTIFICATION
PERFORMANCE CHAPTER**

	Page No.
Performance Summary.....	38
Budget Authority by Strategic Goal.....	48
Total Budgetary Resources by Activity.....	49
Distribution of Other Appropriated Resources.....	50
Summary of Performance and Resource Levels.....	51
PART Recommendations and Status.....	53
Efficiency Measures.....	54

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

PERFORMANCE SUMMARY

Introduction

Since the inception of GPRA, the PMA, and PART reviews, EBSA has focused on management by results rather than outputs. In FY 2003, EBSA settled on performance indicators that capture indices of success and thus help to direct our program accomplishments. In each successive year, EBSA has either met or exceeded ambitious performance targets. During FY 2006, the Department again revised its 5-year Strategic Plan. EBSA took this opportunity to refine its performance indicators to ensure that the program is focusing on the most important priorities and program accomplishments. During this same time period, EBSA programs have undergone a series of program and/or management reviews via the Government Accountability Office (GAO), Inspector General (IG), PART, and the Gallup Organization. With few exceptions, EBSA was recognized as a well-managed organization. We are proud of our accomplishments and believe that results-based management has facilitated the organization's transformation and resulted in EBSA being good stewards of the public's trust and resources.

Under the DOL Strategic Plan, EBSA supports the Secretary's 2nd Strategic Goal – A Competitive Workforce and the 4th Strategic Goal – Strengthened Economic Protections. Consistent with the DOL FY 2006 – FY 2011 Strategic Plan, DOL refined performance indicators for the customer satisfaction, civil case ratio and criminal case ratio. After four successful years of evaluating the customer satisfaction level for participant assistance programs, EBSA has begun evaluating customer satisfaction for our compliance assistance programs. We will again utilize the services of the Gallup Organization to ensure the highest quality of evaluation. As in the previous evaluative efforts, EBSA will establish a baseline of performance in FY 2007, develop strategies to improve upon it in successive years and will report on its success in the DOL Performance and Accountability Report (APAR).

Also in FY 2007, EBSA will modify its enforcement performance indicators and will report the ratio of closed civil cases with corrected fiduciary violations to closed civil cases, a more challenging measure than our previous one. Prior to FY 2007, our measure included lower priority non-fiduciary cases. In addition, we will now report on five national civil enforcement priorities whose ratios, when viewed with additional management information, will enable EBSA to evaluate its success. The current civil case national priorities are as follows: (a) Employee Contribution Project; (b) Employee Stock-Ownership Plans; (c) Multiple Employer Welfare Arrangements; (d) Rapid ERISA action team (REACT) cases; and (e) Consultant/Advisor Project (CAP). With respect to criminal case work, we have modified the performance target to report cases accepted for prosecution rather than the less ambitious cases referred for litigation. The modified civil and criminal case ratios are more challenging to achieve and reflect an emphasis on compliance assistance and outreach to employers, plan sponsors, and other plan professionals. Finally, EBSA will continue to report additional applications for our voluntary compliance programs. The voluntary compliance application measure was a new measure in FY 2005 and has served EBSA well.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

PERFORMANCE SUMMARY

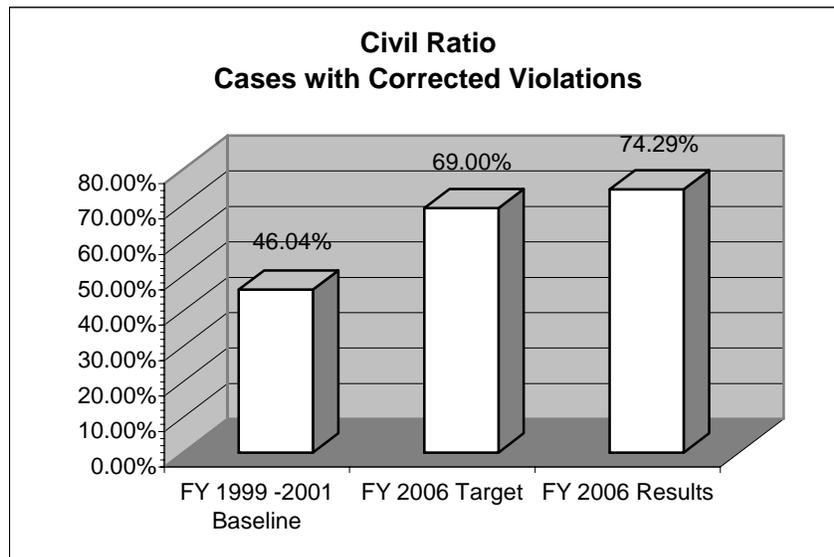
As a result of the PART reviews and most recent revision of the DOL Strategic Plan, EBSA has committed to the following performance targets for FY 2008:

- 64% ratio of closed civil cases with corrected fiduciary violations to civil closed cases
- 50% ratio of criminal cases accepted for prosecution to cases referred
- Improving upon the baseline for the customer satisfaction index of employers, plan sponsors, employee representatives, trustees of multiemployer plans, and other plan professionals who have contacted EBSA for assistance (Baseline will be established in FY 2007 and Gallup will recommend increments of improvement that can be expected annually)
- 14,183 additional applications to the voluntary compliance programs

By measuring these indices along with other underlying management information, selected statistics and workload/output measures, EBSA demonstrates effectiveness in protecting pension and health benefits of American workers, a primary Administration policy.

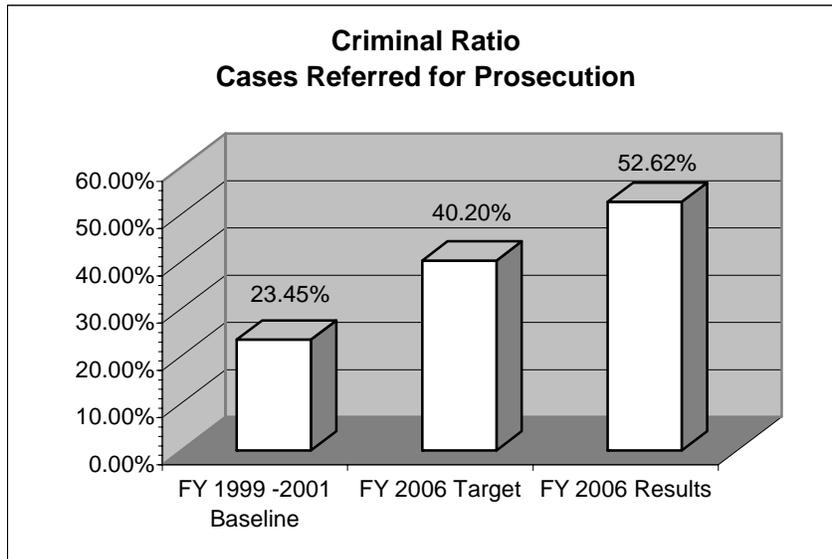
Performance Results

In FY 2006, EBSA exceeded the performance target by closing over 74 percent of civil cases with corrected violations of ERISA.

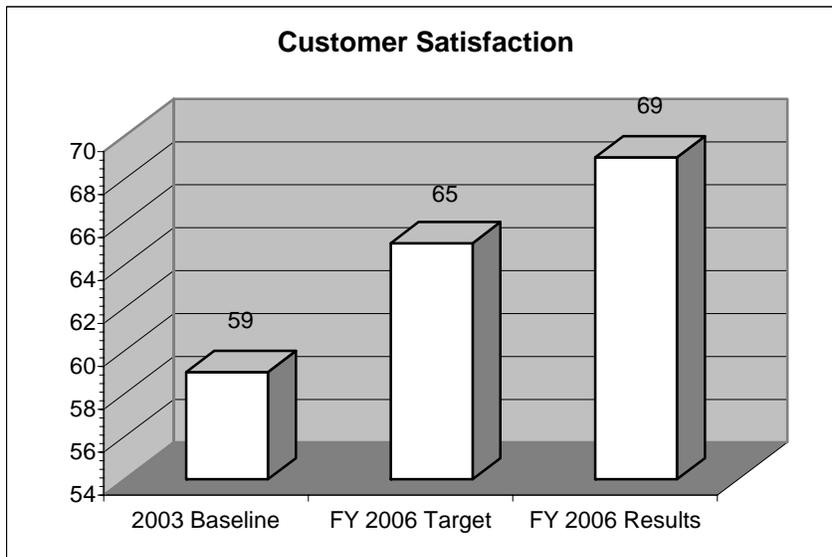


EMPLOYEE BENEFITS SECURITY ADMINISTRATION

PERFORMANCE SUMMARY



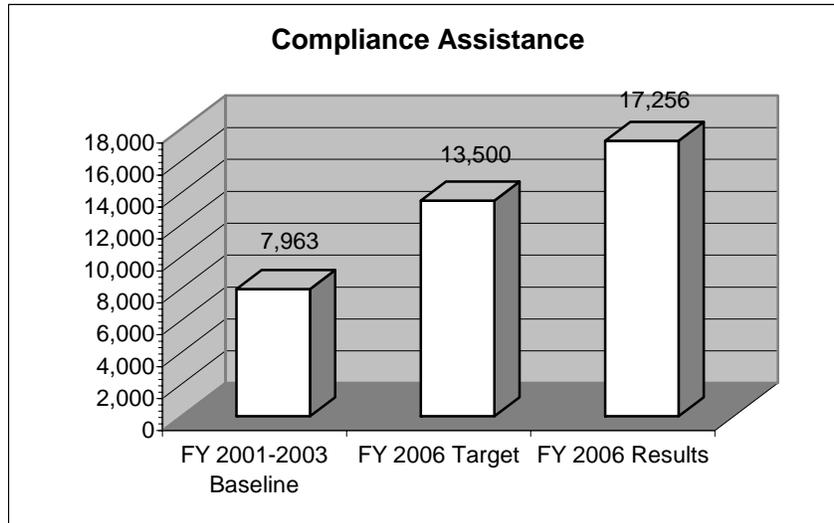
EBSA exceeded the performance target by referring approximately 53 percent of criminal cases for prosecution in FY 2006.



EBSA has steadily improved the customer satisfaction index since the initial survey conducted by the Gallup organization in FY 2003. In FY 2006, EBSA exceeded the performance target with a customer satisfaction score of 69.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

PERFORMANCE SUMMARY



EBSA has processed 17,256 applications through our voluntary compliance programs exceeding the performance target by 28 percent in FY 2006¹⁷

EBSA has integrated performance measures into the budget process in order to better integrate budget and program performance. EBSA can now associate policy decisions with output measures and can directly correlate program increases with program results involving: (a) benefit recoveries for participants; (b) assets restored, prohibited transactions corrected, and plan assets protected; (c) voluntary fiduciary correction program recoveries; (d) number of civil and criminal investigations conducted; and (e) number of participant inquires cleared and/or resolved. EBSA ensures our programs deliver results for workers thus protecting their pension and health benefits.

In FY 2006, EBSA was proactive in efforts to enhance pension and health benefit security. We closed a total of 2,534 cases with results that restored \$698,595,000 to plans; recovered \$130,795,000 for plan participants; protected assets valued at approximately \$67,915,000 for benefit plans; corrected prohibited transactions valued at \$501,175,000; and recovered \$24,245,000 through the Voluntary Fiduciary Correction Program (VFCP).

¹⁷ The significant increase in applications resulting from the FY 2002 Delinquent Filer Voluntary Correction Program (DFVCP) redesign continues. However, EBSA expects application volume will decrease over time as non-filers and deficient filers come into compliance. Nonetheless, EBSA will continue to seek to increase participation in both voluntary compliance programs and will improve or redesign the programs further as necessary.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

PERFORMANCE SUMMARY

Our compliance assistance and outreach programs facilitated the regulated community's increased use of EBSA voluntary compliance programs. Specifically, EBSA closed 1,510 VFPC applications submitted by plan sponsors increasing participation in the program over 98 percent from FY 2005. Also, EBSA received 15,746 applications for the Delinquent Filer Voluntary Compliance Program (DFVCP). We significantly exceeded performance targets for additional applications to our voluntary compliance programs that ensured plan officials voluntarily complied with ERISA by self-correcting certain violations of the law. The significant increase in applications resulting from the FY 2002 DFVCP redesign continues. However, EBSA expects application volume will decrease over time as non-filers and deficient filers come into compliance. Nonetheless, EBSA will continue to seek to increase participation in both voluntary compliance programs and will improve or redesign the programs further as necessary.

Effective enforcement targeting and analysis resulted in over 74 percent of civil cases (fiduciary and non-fiduciary) being closed with positive results. EBSA closed 221 criminal cases in FY 2006 (an increase of more than 12% from FY 2005) that resulted in 106 individuals being indicted and 75 cases being closed with guilty pleas and/or convictions.

Commencing in FY 2007, modified performance indicators will be used for the customer satisfaction, civil case ratio and criminal case ratio. After four successful years of evaluating the customer satisfaction level for participant assistance programs, EBSA began evaluating customer satisfaction for our compliance assistance programs. EBSA also modified its enforcement performance indicators and will report at the close of the year the ratio of closed civil cases with corrected fiduciary violations to closed civil cases, a more challenging measure than our previous one. The previous measure included lower priority non-fiduciary cases. With respect to criminal case work, EBSA modified its performance target to report cases accepted for prosecution rather than the less ambitious cases referred for litigation.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

PERFORMANCE SUMMARY

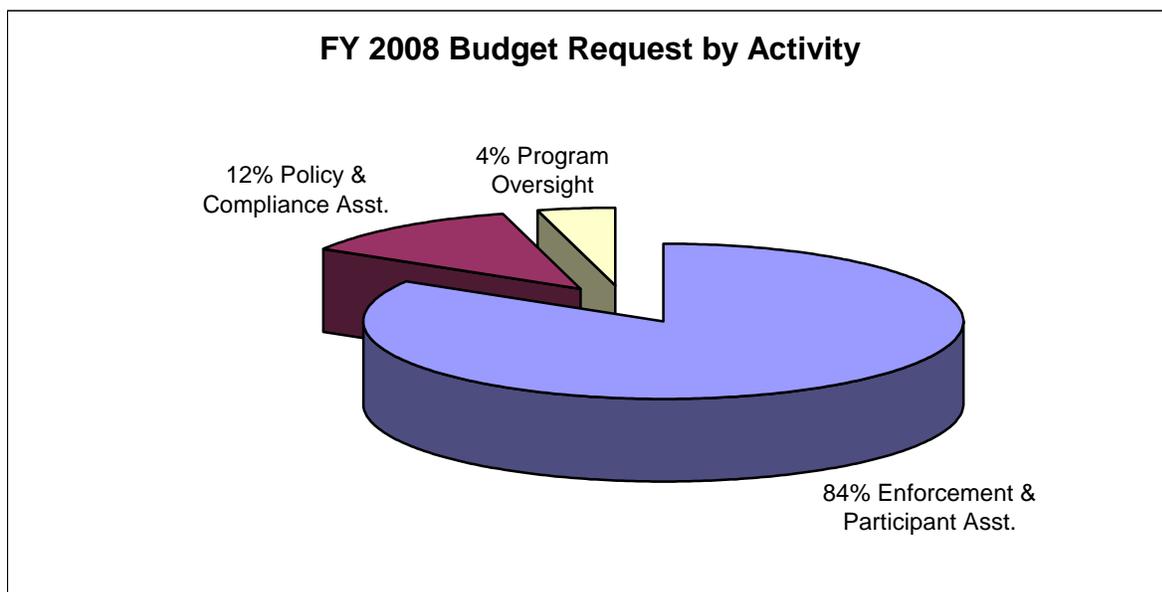
Cost Model

EBSA requests a total of \$147,425,000 and 855 FTE. Included in this request are built-in increases totaling \$5,834,000; a program increase of \$2,540,000 to restore funds for inflationary costs and reductions that were not provided under a full year C.R., and a program increase of \$5,500,000 for the development costs of EFAST2, a universal electronic replacement for the current EFAST system that will be used to more efficiently process the Form 5500, filed by 1.2 million pension, health, and other employee benefit plans. The requested resources will enable EBSA to enhance pension and health benefits security by successfully closing civil cases with corrected fiduciary violations and referring criminal cases that have been accepted for prosecution. EBSA will also continue to directly assist plan participants in understanding their rights and responsibilities and protecting their benefits.

Three budget activities will encompass the EBSA FY 2008 budget submission and will include:

- Enforcement and Participant Assistance with requested resources of \$123,163,000 and 738 FTE at the FY 2008 request level.
- Policy and Compliance Assistance with requested resources of \$18,315,000 and 92 FTE at the FY 2008 request level.
- Executive Leadership, Program Oversight and Administration with requested resources of \$5,947,000 and 25 FTE at the FY 2008 request level.

The following pie chart depicts a cost allocation resource distribution by the established budget activity structure.



EMPLOYEE BENEFITS SECURITY ADMINISTRATION

PERFORMANCE SUMMARY

In addition to specific monetary results, there are managerial program statistics and measures that are used by EBSA leaders to monitor enforcement program efforts. To establish performance expectations, estimates are prepared for program workload measures and statistics. Enacted appropriation and FTE levels directly affect program workload and statistical estimates. The following table compares workload and statistical estimates for FY 2007 and FY 2008:

Program Management Statistics and Workload Measures

Employee Benefits Security Administration Workload Table (\$ In 000s)			
Workload/Output Measures	FY 2007 NTE Current Rate	FY 2008 Request	Difference FY07/FY08
Participant Benefit Recoveries:	\$90,000	\$90,000	0
Benefit Advisors	68,000	68,000	0
Investigators	22,000	22,000	0
Assets Restored, Prohibited Transactions Corrected, & Plan Assets Protected	\$771,000	\$771,000	0
Voluntary Compliance Program Recoveries	\$7,700	\$7,700	0
Voluntary Fiduciary Correction Program Applications Processed	1,534	1,576	+ 42
Delinquent Filer Voluntary Compliance	12,300	12,607	+ 307
Investigations Processed:	3,964	3,964	0
Civil	3,768	3,768	0
Criminal	196	196	0
Indictments	112	112	0
Reporting Compliance Reviews	4,000	4,000	0
CPA Firm Inspections	4	4	0
Inquiries Answered (Participant Assist)	171,000	171,000	0
National Office	18,000	18,000	0
Field Offices	153,000	153,000	0
EFAST Help Desk Inquiries	50,000	50,000	0

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

PERFORMANCE SUMMARY

Performance Challenges

The overall state of the economy has a direct impact on the private sector employee benefits system. Retirement plans in particular are adversely affected when financial investments underperform. Low interest rates and poor performance in the equity markets negatively affect the funding levels of pension plans, increasing the risk of insolvency. Economic conditions affect employer decisions as to whether to offer retirement and/or health care benefits. The economy also impacts employee decisions as to whether and to what extent to participate in plans. Further, when companies experience financial difficulty they may fail to adhere to their responsibilities regarding employee benefit plans.

The private benefit system has undergone profound changes over the past twenty years. While pension coverage has remained roughly stable, there has been a significant shift from defined benefit to defined contribution plans. These types of arrangements place greater responsibility upon participants to plan for their retirement security. EBSA strives to ensure that participants, beneficiaries, employers, and benefits professionals are knowledgeable about their respective rights and responsibilities. The Administration has expanded the information available to workers and their families about their employee benefits. Examples include regulations requiring advance notice of blackout periods in pension plans and improved notices of COBRA rights in health plans.

Single-employer, private sector defined benefit pension plans cover 16 percent of the nation's private workforce, or about 34 million Americans. The consequences of not honoring pension commitments are unacceptable – the retirement security of millions of current and future retirees is put at risk. To strengthen the retirement system for America's workers, retirees and their families, the President signed into law HR 4, the Pension Protection Act of 2006 on August 17, 2006. This comprehensive revision of ERISA will provide the framework to address the financial health of the defined benefit plan system. The legislation contains provisions for tightening minimum standards and improving incentives for funding plans adequately; improving disclosure to workers, investors and regulators about pension plan funding status; and adjusting pension insurance premiums to better reflect each plan's risk and ensure the pension insurance system's financial solvency. The legislation also contains provisions to help American workers save for retirement through defined contribution plans. The legislation removes barriers that prevent companies from automatically enrolling their employees in defined contribution plans; ensures that workers have more information about the performance of their accounts; provides greater access to professional advice about investing for retirement; and makes permanent the higher contribution limits for IRAs and 401(k)s that were passed in 2001, enabling more workers to build larger retirement nest eggs.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

PERFORMANCE SUMMARY

EBSA will play a critical role in implementing the Pension Protection Act of 2006 because the legislation includes provisions that require DOL to develop and publish implementing regulations and other guidance, with several provisions carrying statutory deadlines. We must successfully reallocate resources as required to meet requirements delineated in the legislation. It will require EBSA to work diligently in the coming months to ensure resources are directed to accomplish: (1) new regulation projects; (2) a comprehensive review of existing regulations and guidance; (3) the coordination of pension reform regulations issued by Treasury and PBGC; and (4) a review of the impact of the new law on EBSA enforcement, outreach and education, and IT programs.

Health insurance scams threaten vulnerable small business employers and employees. Insurance failures hurt workers and their families who are seldom equipped to absorb large dollar losses. Small employers are particularly challenged by significant increases for health insurance and have fallen victim to the proliferation of fraudulent Multiple Employer Welfare Arrangements (MEWAs). Because health insurance scams can operate in a variety of ways, EBSA will continue to focus on approaches to put a stop to these abusive schemes. The Administration strongly supports Association Health Plan (AHP) legislation as part of the solution to the challenge of health scams because AHPs will give millions more working Americans access to secure quality health benefits through their employers while reducing the costs of purchasing and providing these benefits.

The employee benefits industry is constantly evolving. Further, pension funds are a major component of the capital markets. Within these markets, new investment products and services are continually being introduced. This creates a demand for regulations, exemptions, and other forms of guidance. A major challenge for EBSA is to recruit, train and retain a highly skilled workforce dedicated to protecting the pension and health benefits of Americans. EBSA accomplishes this by implementing a human capital plan, maintaining an active recruitment program and by constantly evaluating and modifying our technical training programs.

Several factors that challenge EBSA as it strives to ensure the retirement and health care benefit security of the public: changes in the economy, the demographics of the population, the evolution of retirement and health care arrangements and financial markets, rising health care costs, and the sheer magnitude of the plan universe. These will continue to be key issues during the planning horizon.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

PERFORMANCE SUMMARY

Program Assessment Rating Tool (PART)

Since FY 2002, EBSA has undergone two program reviews utilizing the PART. The first PART reviewed was conducted in FY 2002 and, at the request of EBSA, again in FY 2004. In the most recent review, EBSA was rated Moderately Effective. A Moderately Effective rating indicates that EBSA has ambitious performance goals and is well-managed but may need to address program design or management issues in order to achieve better results.

Based on OMB PART recommendations prescribed for the FY 2008 budget cycle, EBSA will:

- Develop ways to quantify and reduce the burden imposed by its regulations
- Continue supporting pension reform to ensure pension promises to employees are kept
- Align budget activities to improve budget and performance integration.

EBSA has acquired resources to conduct the cost benefit analysis of regulations selected for review and has commenced the review with the assistance of ICF International in FY 2007. This is an ambitious undertaking that will provide EBSA with information on whether the costs and administrative burdens of existing regulations exceed their benefits. As such, regulations may be modified or eliminated as appropriate.

Program Efficiency Measures

EBSA is committed to protecting the pension, health and other employee benefits of America's workers and their families. One of the primary indices for the enhancement of employee pension and health benefits security is the enforcement case that has been closed with positive results. The efficiency measure "enforcement cost per case with results" approved and implemented during the FY 2006 budget cycle is calculated by dividing enforcement resources by the total number of cases closed with results. For FY 2006, the enforcement cost per case with results is \$31,518.00. The efficiency measure is above the end-of-year target of \$23,768.00, in part, because of significant numbers of complex cases that are still under investigation. As complex cases are closed, the cost per case result may improve. EBSA will continue to monitor.

Conclusion

Our aggressive enforcement program is complemented by a commitment to compliance assistance. An important part of our program is to provide compliance assistance to plan sponsors, plan administrators, plan trustees, and service providers to plans. When we are successful in increasing voluntary compliance, violations are avoided altogether or corrected with plan participants and beneficiaries being made whole.

Strong enforcement of ERISA, combined with a solid commitment to encourage and facilitate compliance with the law, will continue to be the hallmarks of our Agency. The result is better protection of health and retirement benefits for America's workers, retirees, and their families. EBSA will continue to be vigilant in protecting workers from abusive practices and will ensure plan sponsors, employers and unions, pay attention to their obligations under ERISA.

BUDGET AUTHORITY by STRATEGIC GOAL

(Dollars in Thousands)

Performance Goal	DOL Strategic Goal 1: A Prepared Workforce	DOL Strategic Goal 2: A Competitive Workforce	DOL Strategic Goal 3: Safe and Secure Workplaces	DOL Strategic Goal 4: Strengthened Economic Protections	Total Budget Authority
Maximize Regulatory Flexibility	\$0	\$432	\$0	\$0	\$432
Enforcement and Participant Assistance	0	0	0	0	0
Policy and Compliance Assistance	0	432	0	0	432
Executive Direction & Program Oversight	0	0	0	0	0
Enhance Benefit Security	\$0	\$0	\$0	\$146,993	\$146,993
Enforcement and Participant Assistance	0	0	0	128,040	128,040
Policy and Compliance Assistance	0	0	0	18,953	18,953
Executive Direction & Program Oversight 18/	0	0	0	0	0
Agency Total	0	\$432	0	\$146,993	\$147,425

18/ As an administrative activity, funding for these resources have been allocated to the agencies' performance goals within the agency program activities.

TOTAL BUDGETARY RESOURCES by ACTIVITY
FY 2006 - FY 2008
(Dollars in Thousands)

	FY 2006 Enacted				FY 2007 C.R.				FY 2008	
	Activity Approp.	Other Approp /1	Other Resrcs /2	Total	Activity Approp.	Other Approp /1	Other Resrcs /2	Total	Activity Approp.	Other Approp /1
Salaries and Expenses										
Enforcement and Participant Assistance	111,239	4,124	11,282	126,645	111,139	4,206	17,000	132,345	123,163	4,877
Policy and Compliance Assistance	17,283	905	0	18,188	17,283	923	0	18,206	18,315	1,070
Executive Leadership, Program Oversight & Admin.	0	0	0	0	0	0	0	0	0	0
Subtotal	128,522	5,029	11,282	144,833	128,422	5,129	17,000	150,551	141,478	5,947
Program Administration <u>3/</u>	5,029	(5,029)	0	0	5,129	(5,129)	0	0	5,947	(5,947)
Total:	133,551	0	11,282	144,833	133,551	0	17,000	150,551	147,425	0

1/ Reflects Departmental IT crosscut resources (if any) and resources for program administration.

2/ Reflects Agency reimbursable account associated with the collection of debts and reimbursable agreements with the IRS, PBGC and SSA for their costs associated with Form 5500 processing.

3/ The Executive Leadership, Program Oversight & Admin. activity resources have been allocated to the agency's goals within the agency's program activities.

DISTRIBUTION OF OTHER APPROPRIATED RESOURCES
(Dollars in thousands)

	FY 2006 <u>Enacted</u>	FY 2007 <u>C.R.</u>	FY 2008 <i>Request</i>
<u>Total Agency</u>	\$5,029	\$5,129	\$5,947
Program Administration.....	5,029	5,129	5,947
IT Crosscut.....	0	0	0
<u>Enforcement and Participant Assistance</u>	\$4,124	\$4,206	\$4,877
Program Administration.....	4,124	4,206	4,877
IT Crosscut.....	0	0	0
<u>Policy and Compliance Assistance</u>	\$905	\$923	\$1,070
Program Administration.....	905	923	1,070
IT Crosscut.....	0	0	0

SUMMARY OF PERFORMANCE AND RESOURCE LEVELS
EMPLOYEE BENEFITS SECURITY ADMINISTRATION
(Dollars in 000's)

Budget Activities, Performance Goals and Indicators	2003		2004		2005		2006		2007	FY 2008
	Target	Result	Target	Result	Target	Result	Target	Result	Target	Target
Budget Activities:										
Enforcement and Participant Assistance	\$96,506		\$102,730		\$109,374		\$111,239		\$111,139	\$123,163
Policy and Compliance Assistance	\$15,455		\$16,907		\$17,357		\$17,283		\$17,283	\$18,315
Executive Direction, Program Oversight and Administration	\$4,322		\$4,403		\$4,482		\$5,029		\$5,129	\$5,947
Performance Goal:										
Enhance Pension and Health Benefits Security ¹⁹	\$116,283		\$124,040		\$131,213		\$133,551		\$133,551	\$147,425
Performance Indicators:										
Additional applications to voluntary compliance programs.....	-----	-----	-----	-----	8,340	14,082	13,500	17,256	13,838	14,183
Customer satisfaction index for participant assistance programs.....	59	59	62	61	63	67	65	69	-----	-----
Customer satisfaction index for compliance assistance programs.....	-----	-----	-----	-----	-----	-----	-----	-----	+2% OB	+2% OB
Ratio of criminal cases referred for prosecution.....	> 25%	40%	> 25%	45%	37.7%	45.38%	40.2%	52.62%	-----	-----
Ratio of criminal cases accepted for prosecution to cases referred.....	-----	-----	-----	-----	-----	-----	-----	-----	48%	50%

¹⁹ All EBSA resources are devoted to enhance pension and health benefits security and are not attributed to specific performance indicators. Achieving the performance indicators reflect the effectiveness of our programs and the impact on enhancing employee pension and health benefits security.

SUMMARY OF PERFORMANCE AND RESOURCE LEVELS
EMPLOYEE BENEFITS SECURITY ADMINISTRATION
(Dollars in 000's)

Budget Activities, Performance Goals and Indicators	2003		2004		2005		2006		2007	FY 2008
	Target	Result	Target	Result	Target	Result	Target	Result	Target	Target
Ratio of closed civil cases with corrected violations.....	> 50%	69%	> 50%	69%	66%	76%	69%	74.29%	-----	-----
Ratio of closed civil cases with corrected fiduciary violations to civil cases closed.....	-----	-----	-----	-----	-----	-----	-----	-----	61%	64%
Other Program Mandates	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----
Agency Total:	\$116,283		\$124,040		\$131,213		\$133,551		\$133,551	\$147,425

Baseline(s): The baseline for voluntary compliance programs is 7,943 and was established with data from FY 2001 – FY 2003. In FY 2006, performance targets were increased to reflect actual experience subsequent to the redesign of EBSA programs. We have demonstrated steady improvement in the customer satisfaction index for participant assistance after a four-year initiative to evaluate the program. Starting in FY 2007, EBSA will begin a similar initiative by measuring customer satisfaction of our compliance assistance programs, and will report on its success in the DOL Performance and Accountability Report. EBSA has refined enforcement performance indicators and will report the ratio of closes civil cases with corrected fiduciary violations to closed civil cases, a more challenging measure than our previous one. Prior to FY 2007, our civil case ratio included lower priority non-fiduciary cases. With respect to criminal case work, we have modified the performance target to report cases accepted for prosecution rather than the less ambitious cases referred for litigation. The refined measures are more challenging and reflect an emphasis on compliance assistance and outreach to employers, plan sponsors, and other plan professionals and higher priority fiduciary cases.

Data Source(s): Enforcement Management System (EMS), Gallup, Delinquent Filer Voluntary Compliance Data Base, and Technical Assistance & Inquiry System

Comments: The indicators above reflect the effectiveness of our programs and the impact on enhancing employee pension and health benefits security. Program impact is further supported when the above indices are coupled with benchmarking performance against stated policy goals, and additional statistical and workload measures.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

PART RECOMMENDATIONS AND STATUS

Agency/Program: Employee Benefits Security Administration				
Part Recommendation	Milestone(s)	Target FY/Q	Completion FY/Q	Comments on Status; Reference/Documentation
Develop ways to quantify and reduce the burden imposed by EBSA regulations.	Conduct cost benefit analysis.	FY07/4 th quarter	FY07/4 th quarter	EBSA successfully acquired resources from the Department's management crosscut to conduct the cost benefit analysis portion of the regulatory review. We commenced a review of regulations in FY 2007.
Continue to support pension reform to ensure pension promises to employees are kept.	Implement the Pension Protection Act of 2006 (P.L. 109-280) through the development of regulations and other guidance that will serve to both encourage and facilitate compliance with the new law. Completion of (6) six PPA regulatory or other guidance initiatives.	FY07/4 th quarter	FY07/4 th quarter	EBSA has begun a multi-year work plan to implement the PPA, including the development of regulations relating to ERISA's reporting, disclosure, fiduciary, and civil penalty provisions. Statutory deadlines have been established for a number of regulatory and non-regulatory initiatives.
Align EBSA budget activities to improve budget and performance integration.	The EBSA FY 2008 performance budget submitted to Congress will encompass three budget activities.	FY07/ 2 nd quarter	FY08/1 st quarter	EBSA will continue to improve budget and performance integration with the FY 2009 budget submission.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

EFFICIENCY MEASURES

Program/Budget Activity:	Employee Benefits Security Administration/Enforcement and Participant Assistance budget activity.				
PART Year	First PART completed during FY 2004 budget formulation process. A second PART review was done as part of FY 2006 budget process.				
Status of Approval:	OMB Approved.				
Efficiency Measure:	Average Cost (Per Case) to Produce Results (APC)				
Numerator Description:	Enforcement Resources (ER) – Expressed as Dollars				
Denominator Description:	Cases Closed with Results (CPR) – Fiduciary and non-fiduciary cases that have been closed with results and referred criminal cases.				
Baseline Data:	FY 2005	Numerator: (ER) \$72,992,056 Denominator: (CPR) 3,039		Ratio: \$24,018 per case with results	
FY/PY	FY 2005	FY 2006 ²⁰	FY 2007	FY 2008	FY 2009
Target Ratios	\$24,018	\$23,768	\$23,518	\$23,268	\$23,018
Result Ratios	\$24,018	\$31,518			
Comment/Data Source	Cases that have been closed with results: Describes a program output that clearly indicates the extent to which EBSA has protected employee pension and health benefits. Enforcement resources will be funding (less indirect costs) ascribed to our field offices that conduct civil and criminal investigations to enforce ERISA. Data for determining the efficiency measure is obtained from the Enforcement Management System (EMS) and the Cost Analysis Manager (CAM) system.				
Strategy(s) to Achieve Efficiency	The chosen efficiency measure will provide EBSA stakeholders with an average cost per case to produce results. An analysis of the average cost with program results that have been achieved will provide opportunities to develop and implement strategies to improve performance efficiency.				

²⁰ The efficiency measure through FY 2006 is above the end-of-year target of \$23,768.00, in part, because of significant numbers of complex cases that are still under investigation. As complex cases are closed, the cost per case result may improve. EBSA will continue to monitor this efficiency measure.