

FY 2011

CONGRESSIONAL BUDGET JUSTIFICATION

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

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EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Appropriation Language

For necessary expenses for the Employee Benefits Security Administration [*\$154,861,000*]

\$161,995,000 (Department of Labor Appropriations Act)

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AMOUNTS AVAILABLE FOR OBLIGATION								
(Dollars in Thousands)								
	FY 2009 Enacted		Recovery Act		FY 2010 Enacted		FY 2011 Request	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
A. Appropriation	835	143,419	0	0	910	154,861	941	161,995
<i>Subtotal Appropriation</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>
(adjusted)	835	143,419	0	0	910	154,861	941	161,995
Comparative Transfer To:	0	0	0	0	0	0	0	0
Comparative Transfer From:	0	0	0	0	0	0	0	0
Offsetting Collections From:	0	0	0	0	0	0	0	0
Reimbursements	0	13,000	0	0	0	7,900	0	7,900
Non-Expenditure Transfers from DM	0	0	50	8,105	0	0	0	0
<i>Subtotal</i>	<i>835</i>	<i>156,419</i>	<i>50</i>	<i>8,105</i>	<i>910</i>	<i>162,761</i>	<i>941</i>	<i>169,895</i>
B. Gross Budget Authority	835	156,419	0	0	910	162,761	941	169,895
Offsetting Collections	0	0	0	0	0	0	0	0
Deduction:	0	0	0	0	0	0	0	0
Reimbursements	0	-13,000	0	0	0	-7,900	0	-7,900
Non-Expenditure Transfers from DM	0	0	50	-8,105	0	0	0	0
<i>Subtotal</i>	<i>0</i>	<i>-13,000</i>	<i>50</i>	<i>-8,105</i>	<i>0</i>	<i>-7,900</i>	<i>0</i>	<i>-7,900</i>
C. Budget Authority Before	835	143,419	0	0	910	154,861	941	161,995
Committee...	0	0	0	0	0	0	0	0
Offsetting Collections From:	0	0	0	0	0	0	0	0
Reimbursements	0	13,000	0	0	0	7,900	0	7,900
IT Crosscut	0	0	0	0	0	0	0	0
Non-Expenditure Transfers from DM	0	0	50	8,105	0	0	0	0
<i>Subtotal</i>	<i>0</i>	<i>13,000</i>	<i>50</i>	<i>8,105</i>	<i>0</i>	<i>7,900</i>	<i>0</i>	<i>7,900</i>
D. Total Budgetary Resources	835	156,419	50	8,105	910	162,761	941	161,995
Other Unobligated Balances	0	0	0	0	0	0	0	0
Unobligated Balance Expiring	-1	0	0	0	0	0	0	0
E. Total, Estimated Obligations	834	156,419	50	8,105	910	162,761	941	161,995

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SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2010 Enacted	FY 2011 Request	Net Change
Budget Authority			
General Funds	154,861	161,995	+7,134
Trust Funds	0	0	0
Total	154,861	161,995	+7,134
Full Time Equivalents			
General Funds	910	941	+31
Trust Funds	0	0	0
Total	910	941	+31

Explanation of Change	FY 2010 Base		Trust Funds		FY 2011 Change General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Increases:								
A. Built-Ins:								
To Provide For:								
Costs of pay adjustments	910	82,771	0	0	0	1,159	0	1,159
Personnel benefits	0	21,243	0	0	0	304	0	304
Travel and transportation of persons	0	3,026	0	0	0	0	0	0
Transportation of things	0	121	0	0	0	0	0	0
Rental payments to GSA	0	8,374	0	0	0	475	0	475
Communications, utilities, and miscellaneous charges	0	733	0	0	0	0	0	0
Printing and reproduction	0	600	0	0	0	0	0	0
Other services	0	3,773	0	0	0	0	0	0
Working Capital Fund	0	15,124	0	0	0	0	0	0
Other government accounts (DHS Charges)	0	543	0	0	0	0	0	0
Research & Development Contracts	0	1,100	0	0	0	0	0	0
Operation and maintenance of equipment	0	15,210	0	0	0	0	0	0
Supplies and materials	0	679	0	0	0	0	0	0
Equipment	0	1,151	0	0	0	0	0	0
Built-Ins Subtotal	910	154,448	0	0	0	1,938	0	1,938
B. Program:								
Participant Assistance, Outreach and Education								
	796	129,518	0	0	18	3,723	18	3,723
Regulatory Activity and Economic Research								
	88	19,225	0	0	13	3,007	13	3,007
Programs Subtotal			0	0	+31	+6,730	+31	+6,730
C. Financing:								
Total Increase	+910	+154,448	0	0	+31	+8,668	+31	+8,668

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Explanation of Change	FY 2010 Base		FY 2011 Change				Total	
			Trust Funds		General Funds			
Decreases:								
A. Built-Ins:								
To Provide For:								
Federal Employees Compensation Act (FECA)	0	413	0	0	0	-234	0	-234
Built-Ins Subtotal	0	413	0	0	0	-234	0	-234
B. Program:								
EFAST Decommissioning Savings	796	134,585	0	0	0	-1,300	0	-1,300
Programs Subtotal			0	0	0	-1,300	0	-1,300
C. Financing:								
Total Decrease	0	+413	0	0	0	-1,534	0	-1,534
Total Change	+910	+154,861	0	0	+31	+7,134	+31	+7,134

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SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY								
(Dollars in Thousands)								
	FY 2009 Enacted		Recovery Act		FY 2010 Enacted		FY 2011 Request	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Enforcement and Participant Assistance	735	119,691	50	8,105	796	129,199	814	133,241
General Funds	735	119,691	50	8,105	796	129,199	814	133,241
Policy and Compliance Assistance	74	18,198	0	0	88	18,994	101	22,232
General Funds	74	18,198	0	0	88	18,994	101	22,232
Executive Leadership, Program Oversight and Administration	25	5,530	0	0	26	6,668	26	6,522
General Funds	25	5,530	0	0	26	6,668	26	6,522
Total	834	143,419	50	8,105	910	154,861	941	161,995
General Funds	834	143,419	50	8,105	910	154,861	941	161,995

NOTE: FY 2009 reflects actual FTE.

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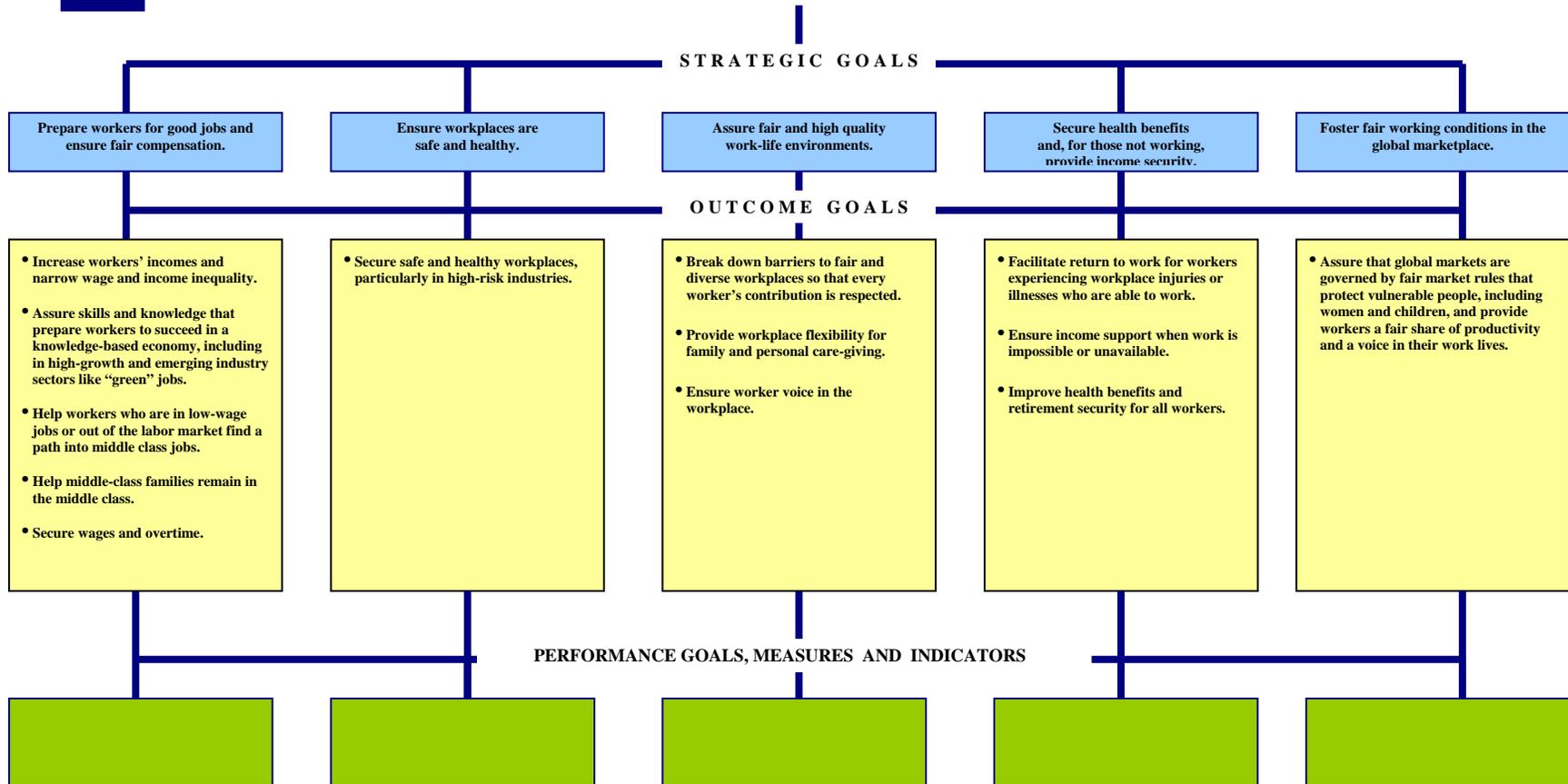
BUDGET AUTHORITY BY OBJECT CLASS						
(Dollars in Thousands)						
		FY 2009 Enacted	Recovery Act	FY 2010 Enacted	FY 2011 Request	Change FY 11 Req. / FY 10 Enacted
	Full-Time Equivalent					
	Full-time Permanent	830	0	906	937	31
	Other	4	50	4	4	0
	Total	834	50	910	941	31
	Total Number of Full-time Permanent Positions	834	0	910	941	31
	Average ES Salary	169,754	0	173,998	177,476	3478
	Average GM/GS Grade	12	7.4	12.6	12.6	0
	Average GM/GS Salary	85,670	43,518	89,525	91,316	1791
11.1	Full-time permanent	73,972	2,425	80,036	83,786	3750
11.3	Other than full-time permanent	170	3,724	176	179	3
11.5	Other personnel compensation	2,500	0	2,559	2,594	35
11.9	Total personnel compensation	76,642	6,149	82,771	86,559	3788
12.1	Civilian personnel benefits	19,638	817	21,656	22,454	798
21.0	Travel and transportation of persons	2,826	8	3,026	3,493	467
22.0	Transportation of things	84	0	121	136	15
23.1	Rental payments to GSA	7,999	0	8,374	9,170	796
23.3	Communications, utilities, and miscellaneous charges	695	0	733	749	16
24.0	Printing and reproduction	455	72	600	600	0
25.2	Other services	3,538	960	3,773	3,900	127
25.3	Other purchases of goods and services from Government accounts 1/	14,764	0	15,667	16,160	493
25.5	Research and development contracts	1,100	0	1,100	1,750	650
25.7	Operation and maintenance of equipment	14,148	0	15,210	14,719	-491
26.0	Supplies and materials	604	13	679	710	31
31.0	Equipment	926	86	1,151	1,595	444
	Total	143,419	8,105	154,861	161,995	7,134
	1/Other Purchases of Goods and Services From Government Accounts					
	Working Capital Fund	14,235	0	15,124	15,617	480
	DHS Services	529	0	543	543	13

NOTE: FY 2009 reflects actual FTE.

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Secretary's Vision: "Good Jobs for Everyone"



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TOTAL BUDGETARY RESOURCES													
FY 2009 - 2011													
(Dollars in Thousands)													
	FY 2009 Enacted				Recovery Act	FY 2010 Enacted				FY 2011 Request			
	Activity Approp.	Other Approp. ^{1/}	Other Resrcs. ^{2/}	Total		Activity Approp.	Other Approp. ^{1/}	Other Resrcs. ^{2/}	Total	Activity Approp.	Other Approp. ^{1/}	Other Resrcs. ^{2/}	Total
Employee Benefits Security Administration	143,419	0	13,000	156,419	8,105	154,861	0	7,900	162,761	161,995	0	7,900	169,895
Enforcement and Participant Assistance	119,691	4,590	13,000	137,281	8,105	129,199	5,534	7,900	142,633	133,241	5,413	7,900	146,554
Policy and Compliance Assistance	18,198	940	0	19,138	0	18,994	1,134	0	20,128	22,232	1,109	0	23,341
Sub Total	137,889	5,530	13,000	156,419	8,105	148,193	6,668	7,900	162,761	155,473	6,522	7,900	169,895
Executive Leadership, Program Oversight and Administration	5,530	-5,530	0	0	0	6,668	-6,668	0	0	6,522	-6,522	0	0
Total	143,419	0	13,000	156,419	8,105	154,861	0	7,900	162,761	161,995	0	7,900	169,895

^{1/} "Other Appropriation" is comprised of resources appropriated elsewhere, but for which the benefits accrue toward the operation of the budget activities. (Executive Direction and IT Crosscut)

^{2/} "Other Resources" include funds that are available for a budget activity, but not appropriated, such as reimbursements and fees.

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SUMMARY OF PERFORMANCE			
Each of EBSA's Budget Activities contribute to the following Outcome Goal in support of the Department's Strategic Vision of <i>Good Jobs for Everyone</i> :			
<ul style="list-style-type: none"> • Improving Health Benefits and Retirement Security for All Workers 			
	FY 2009	FY 2010	FY 2011
	Target	Target	Target
Percentage of corrected fiduciary violation in civil cases investigated.	-----	67%	67%
Percentage of referrals for criminal prosecution accepted by federal, state, or local prosecutors.	-----	67%	67%
ESOP and civil MEWA/health fraud compliance reviews (Compliance rate)	-----	Baseline	-----
Conduct Employee Contribution Project (ECP) look back reviews and establish an ECP recidivism rate	-----	Baseline	-----
Participant assistance program customer satisfaction index	-----	-----	Baseline
Note: FY 2010 performance measures reflect an interim step for longer-term strategic planning with respect to FY 2011-2015. EBSA is considering various performance measures that may better serve its program during development of the DOL FY 2011-2015 Strategic Plan. For example, EBSA is exploring, amongst other possible performance indicators, whether a relationship exists between reporting compliance (Form 5500) and plan management that may lead to establishing long-term performance indicators.			

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SIGNIFICANT ITEMS IN APPROPRIATION COMMITTEES' REPORTS

[Employee Benefits Security Administration]

EBSA did not have Significant Items in Appropriation Committees' Reports.

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AUTHORIZING STATUTES

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

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APPROPRIATION HISTORY (Dollars in Thousands)					
	Budget Estimates to Congress	House Allowance	Senate Allowance	Appropriations	FTE
2001....1/	107,832	98,934	103,342	107,633	850
2002....2/	111,214	109,866	112,418	110,752	850
2003....3/	117,044	117,044	114,000	111,303	861
2004....4/	128,605	128,605	121,300	124,040	930
2005....5/	132,345	132,345	132,345	131,213	887
2006....6/	137,000	137,000	134,900	133,551	875
2007....7/	143,573	141,573	141,573	148,573	855
2008....8/	147,425	142,925	143,262	139,313	855
2009....9/10/	147,871	0	139,313	143,419	835
2010	156,060	154,060	155,662	154,861	910
2011	161,995	0	0	0	941

¹ Reflects a reduction of \$199 pursuant to P.L. 106-554

² 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.

³ Reflects a reduction of \$761 pursuant to P.L. 108-7

⁴ Reflects a reduction of \$922 pursuant to the enacted rescissions in P.L. 108-199

⁵ Reflects a reduction of \$1,132 pursuant to the enacted rescissions in P.L. 108-447

⁶ Reflects a reduction of \$1,349 pursuant to the enacted rescission in P.L. 109-148

⁷ Reflects amounts provided under FY 2007 full year continuing resolution pursuant to P.L. 110-5 and FY 2007 supplemental P.L. 110-28

⁸ Reflects a reduction of \$2,477 pursuant to the enacted rescissions in P.L. 110-161, the FY 2008 estimate to Congress included \$5,500 for EFAST2 later removed based on funding provided in FY 2007 appropriation.

⁹ Excludes \$8,105 for the Recovery Act through a non-expenditure transfer from the Departmental Management (DM) account pursuant to P.L. 111-5

¹⁰ This bill was only reported out of Subcommittee and was not passed by the Full House.

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OVERVIEW

Introduction

EBSA requests a total of \$161,995,000 and 941 FTE for FY 2011. This budget will enable EBSA to work more aggressively in support of the Secretary's goal of "*Good Jobs for Everyone.*" To translate that support into action, EBSA has committed to the Secretary's outcome goal - Improving Health Benefits and Retirement Security for American Workers. We will do this through effective administration and improved enforcement of the Employee Retirement Income Security Act of 1974 (ERISA) and related civil and criminal statutes. EBSA is charged with protecting more than 150 million Americans covered by an estimated 708,000 private retirement plans, 2.5 million health plans, and similar numbers of other welfare benefit plans which together hold more than \$5 trillion in assets.

Building on the FY 2010 appropriation, the FY 2011 budget request will enable EBSA to pursue the outcome goal within the three-part strategic framework of evaluation, innovation, and improved implementation as outlined by the Secretary. To do so, EBSA will implement an aggressive regulatory agenda and proactive enforcement, outreach and education programs that are designed to protect the most vulnerable populations while ensuring broad compliance with ERISA and related laws.

The Secretary's vision of ensuring good jobs where workers and families are assured retirement and health benefits security is supported by this requested budget that includes a:

- Built-in increase of \$1,938,000 for inflation,
- Program increase of \$6,730,000 and 31 FTE, and
- Proposed program decrease of \$1,300,000 derived from estimated savings with implementation of EFAST2 (a wholly electronic Form 5500 filing system) that replaces the paper-based legacy EFAST system.

Collectively, these additional resources are needed to address a greater demand for regulatory guidance, research, outreach, education and assistance that stems from recently passed employee benefit legislation [e.g., the Genetic Information Nondiscrimination Act (GINA), the Mental Health Parity and Addiction Equity Act (MHPAEA), the COBRA premium assistance provisions of the Recovery Act, Michelle's Law, and the Children's Health Insurance Program Reauthorization Act (CHIPRA)]. This budget request anticipates significantly more regulatory and research activity related to health benefit plans, stronger regulations relating to the management of retirement plan assets, demand for technical assistance on health reform and pension legislation, compliance assistance, interpretive guidance, and expansion of the agency's dispute resolution programs.

This program increase will ensure measurable and substantial progress toward improving health benefit and retirement security for workers in every type of job and at every income level. The performance impact of additional resources for participant assistance, outreach, education and technical assistance is significant. EBSA estimates that recoveries obtained through informal,

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voluntary resolution of benefit disputes between employers, plan officials and participants will increase by almost 24 percent, from \$100,000,000 to \$124,000,000. With the resources requested in FY 2011, EBSA will be positioned to meet an anticipated 13 percent increase of overall regulatory projects, interpretations and other technical assistance. This program increase will ensure EBSA is positioned to better ensure America's workers, retirees and their families have access to a secure retirement and affordable health insurance supporting the Secretary's strategic vision of "good jobs for everyone."

Evaluation, Innovation, and Improved Implementation

The Department has established a three-part strategic framework of Evaluation/Data Driven Strategies, Innovation, and Improved Implementation and five strategic principles for reforming regulatory and enforcement programs. For FY 2011, EBSA has developed an agenda according to these principles and will fully incorporate them into EBSA's enforcement and regulatory work. Following below is a specific discussion of those activities.

Aggressive Regulatory Agenda

The recent financial crisis and continuing concern about the cost of health coverage has put increased emphasis on enhancing the availability and security of employer-provided retirement and health benefits. Our new regulatory agenda seeks to address these issues aggressively and directly supports the Secretary's outcome goal of improving the health benefits and retirement security for American workers. Specifically, EBSA is pursuing:

- (1) *A broader definition of "fiduciary" under ERISA* – The current regulatory standards applicable to defining when a person is considered a fiduciary as a result of providing investment advice to an employee benefit plan was developed over 30 years ago. Because the current regulation does not take into account the significant changes that have taken place in the financial industry and the delivery of investment advice services, the current regulation limits ERISA's ability to protect employee benefit plans from financial advisers and asset appraisers that act imprudently, or that subordinate their clients' interest to the interests of others. By amending the current rule to subject a broader category of financial advisers and appraisers to ERISA's strict fiduciary standards, the Department will help protect the interests of plans and participants by fostering the provision of quality, impartial advice and recommendations. Separately, the Department is pursuing other regulations that will enhance the disclosure of fee and conflict-of-interest information by plan service providers to plan officials.
- (2) *Greater access to and use of lifetime income options in defined contribution plans* – EBSA, in coordination with the Department of the Treasury and the Internal Revenue Service, is beginning a review of action that can be taken by regulation or otherwise to encourage the offering and selection of annuities and similar lifetime benefits distribution options in defined contribution plans. This project supports the Secretary's goal of assuring retirement security by encouraging retirement savings and savings preservation for the millions of Americans covered by these plans. This new effort also supports the

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strategic principle of Innovation by fostering a culture that emphasizes continuous improvement in our regulatory and enforcement program.

- (3) *Clearer standards for determining when state health care reform efforts do not implicate ERISA* – While state and local governments explore ways to improve health care access and coverage for their citizens there is considerable uncertainty on the part of both governments and private-sector employers concerning the extent to which employers can participate in state-administered health care arrangements without being treated as establishing or maintaining an ERISA-covered group health plan. EBSA's regulation will establish clear standards to assist both states and private sector employers in making such determinations. This initiative directly supports the Secretary's goal of improving the health benefits and retirement security for American workers.

Collectively, these initiatives will be developed and implemented by following several of the strategic principles by: (a) implementing collaborative enforcement strategies with other DOL, federal, state and local agencies; (b) maintaining an effective partnership between EBSA and the Solicitor's Office; and (c) providing meaningful compliance assistance and engaging the regulated community in designing and implementing this assistance. Through the ongoing review and refinement of our regulatory program, we will strengthen ERISA's protections by addressing deficiencies that have put workers' benefits at risk.

Multi-faceted Enforcement Program

In the area of enforcement, our program has been designed to achieve the Secretary's outcome goal by following the strategic principles of: (1) targeting the most egregious and persistent violators; (2) protecting the most vulnerable populations while assuring broad-based compliance; and (3) establishing regular processes for evaluating the success of enforcement activities. In FY 2009, EBSA:

- Closed 3,669 civil cases, 72% of which were closed with positive results;
- Increased total cases closed with positive results (correction of fiduciary and non-fiduciary violations of ERISA) by over 6 percent from the previous fiscal year; and
- Obtained monetary results in excess of \$1.3 billion.

Monetary results are achieved through an aggressive enforcement program integrated with an effective participant assistance program. Through the participant assistance program, the agency receives complaints of potentially unlawful activities, and facilitates informal, voluntary resolution of benefit disputes between employers and employees. The participant assistance program augments our enforcement program and better leverages our limited resources by obtaining informal resolution to complaints prior to the need for more resource-intensive enforcement. It is also a very reliable source of investigative leads, resulting in 970 investigations being opened.

In the criminal enforcement program, EBSA's primary approach is to establish collaborative enforcement relationships with other DOL, federal, state and local agencies to leverage our limited resources. This resulted in EBSA closing 287 criminal cases in FY 2009, an increase of 35 percent from the previous fiscal year, 115 individuals being indicted, and 121 cases being

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closed with guilty pleas and/or convictions. Indictments have increased over 13 percent and closed cases with guilty pleas and/or convictions have risen 55 percent when compared to FY 2008, clearly demonstrating that EBSA's strategy of and partnering with other Federal and state law enforcement organizations have paid dividends. A primary performance indicator for our criminal program is the percentage of cases accepted for prosecution. EBSA has achieved a 79 percent ratio in FY 2009, exceeding our target of 52 percent.

Another key component of our enforcement activities, our voluntary compliance programs, directly follows the Secretary's strategic principle of providing meaningful compliance assistance and reaching out to the regulated community to promote these programs. EBSA has two highly successful self-correction programs designed to encourage voluntary compliance. The Voluntary Fiduciary Correction Program (VFCP) and the Delinquent Filer Voluntary Compliance Program (DFVCP) encourage plan officials to identify and remedy certain violations and reporting requirements under ERISA. In FY 2009, EBSA verified \$73.6 million in restored assets by closing 1,744 applications under the VFCP; in addition, 26,490 delinquent filers have come into compliance with ERISA under the DFVCP.

Outreach and Education

EBSA's outreach and education program directly supports the Secretary's outcome goal of improving health benefits and retirement security for American workers by helping workers make informed health and pension benefit decisions. These programs are developed with the intent to meet the Secretary's strategic principle of protecting the most vulnerable populations, such as dislocated workers, by educating them about options to protect their retirement and health benefits when facing job loss. The FY 2011 budget request will ensure an active education program in support of the Administration's priority to reform the health care system. Even in the absence of this reform, recently enacted laws such as the Genetic Information Nondiscrimination Act (GINA), the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), Michelle's Law, the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), and the COBRA premium assistance provisions of the American Recovery and Reinvestment Act of 2009 (Recovery Act) have resulted in an increased demand for educational materials and a dramatically increased call volume from the public.

For the past five years, the EBSA call volume averaged 165,000 annually. In FY 2008, the volume increased 9% over the previous year to 175,000, most likely a result of the financial crisis and increased job loss. Call volume increases in FY 2009, however, have been unprecedented. In FY 2009, inquiry volume reached 365,457 and is projected to exceed 300,000 inquiries this year. Over 167,000 of these are Recovery Act-related inquiries received since enactment of the law in February 2009.

With respect to protecting plan benefits, a primary performance indicator for EBSA is the return of lost assets or the protection of assets to plans or participants. In FY 2009, benefit recoveries directly to participants exceeded \$124,500,000 and the number of participants assisted reached over 179,000 (including Recovery Act-related assistance), significantly increasing from 36,364 participants assisted in the previous year. This is an example of our commitment to the strategic

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principle of establishing a regular process for evaluating the success of these activities in pursuit of the Secretary's outcome goal.

As a consequence of the recent financial crisis and enactment of the Recovery Act, Congressional and the public's interest in EBSA program activity has grown substantially. Since February 2009, EBSA has conducted:

- 103 Congressional briefings;
- An additional 1,073 outreach activities;
- 535 Rapid Response sessions for dislocated workers; and
- 259 compliance assistance outreach events.

Due to this increased interest, EBSA is projecting that we will receive over 275,000 non-Recovery Act participant inquiries in FY 2011. However, since the authorization and funding for the Recovery Act's COBRA premium assistance program is available only through FY 2010, Recovery Act inquiries are not included in the FY 2011 projections. On December 19, 2009, Congress passed provisions to extend the Recovery Act's COBRA subsidy through February 2010 (two months beyond the original expiration date of December 31, 2009). Also, the anticipated enactment of health reform legislation could significantly add to this volume of inquiries, further increasing the difficulty of responding to plan participants. If approved, the FY 2011 request will permit EBSA to increase our Benefits Advisor staff to respond to extraordinary increases in participant inquiries, thus enabling us to better meet the Secretary's outcome goals and strategic principles.

Finally, we believe that the Secretary's strategic principle of partnering with worker and community-based organizations to identify violations and to educate workers, small businesses and others about the requirements of ERISA is an effective way to create broad-based compliance. EBSA thus leverages its resources by partnering with numerous organizations such as the Social Security Administration (SSA), the American Association for Retired Persons (AARP), the Financial Literacy Education Commission (FLEC), the Women's Institute for a Secure Retirement (WISER), labor unions, insurance commissioners, the Internal Revenue Service (IRS), the Department of Health and Human Services (HHS), the Society for Human Resource Management (SHRM), the American Institute of Certified Public Accountants (AICPA), the Society of Actuaries, and others to reach our targeted audiences. EBSA also maintains a website and utilizes webcasts as an important means of informing our stakeholders about our programs, services, and initiatives and to assist the regulated community with compliance. EBSA conducts numerous webcasts attended by thousands of participants each year. These are also archived on our website for future review of other interested parties. Taken together, these integrated and innovative strategies and partnerships allow EBSA to establish a foundation for pursuit of the Secretaries vision of "Good Jobs for Everyone" where workers and families are assured retirement and health benefits security while employed and into retirement.

Well-integrated Research Program

The cornerstone of a strong regulatory program is a robust economic analysis and research capability. The research program should diligently seek to inform and educate these regulatory initiatives. As such, our research program has been crafted around the central thesis of shaping

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

regulations that eliminate or reduce the hazards with the broadest and most serious consequences based on sound science, a key element of the Secretary's strategic principles. Additional resources in this area will position EBSA to provide timely statistical and economic research to support the regulations necessary to implement health and pension reform initiatives. EBSA will also be able to keep up with increasing demand for analysis of major benefits policy developments and legislative proposals. This will enable EBSA to better support the agency's regulatory initiatives thus enabling EBSA to meet the strategic principle of regulating to eliminate or reduce the hazards or vulnerabilities in the employee benefits system. It will also help us to foster a culture that emphasizes continuous improvement in our regulatory and enforcement programs, another key strategic initiative of the Secretary's.

There are many other research activities vital to the Secretary's vision to better ensure workers, retirees and their families have access to a secure retirement and affordable health insurance, such as: producing the DOL annual national *pension and health benefit statistics*; making pension and health data more transparent and available to the public; producing forecasts of pension statistics for the current year and the future; utilizing more effective communication strategies in rolling out the pension and health statistics each year; updating and maintaining the DOL *pension simulation model* to provide current forecasts of baby boomers' retirement prospects; funding new research into pension and health insurance (e.g. cost containment of health expenditures paid by participants and employers, and options for securing retirement assets during retirement); and assisting other EBSA program offices with analytical tools to evaluate and improve their enforcement, targeting, compliance and participant assistance tasks.

Innovation, Evaluation, and Improved Implementation - Human Capital

EBSA's goal is to recruit, develop and retain a highly qualified, diverse workforce. Having a highly qualified workforce directly supports the Secretary's strategic principle of fostering a culture that emphasizes continuous improvement in our regulatory and enforcement programs. This effort will be supported by implementing collaborative strategies with other DOL agencies including the Office of Disability Employment Policy and the Office of Civil Rights, as well as public and private organizations and educational institutions that serve populations of qualified, diverse candidates for employment. With an eye toward improving diversity within the agency, EBSA will continuously monitor, assess and refine the strategies to achieve our Recovery Act and FY 2010 hiring goals and diversity improvement objectives. In this regard, the agency has created a Diversity Committee whose purpose is to make recommendations for the agency to more effectively build a diverse workforce for the future. This committee is composed of senior executives and managers from headquarters and field office components.

In the employee development area the agency has a highly regarded and comprehensive training and employee development program that: (a) educates EBSA employees regarding the practices in the employee benefits industry, (b) develops investigator expertise in ERISA and related Federal criminal statutes, and (c) provides specialized training in investigative techniques enforcement, participant assistance and other responsibilities of the agency. Further, to ensure effective leadership in the future, employees will be provided developmental opportunities that will prepare them to perform their current duties and assume higher level responsibilities throughout the organization.

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American Recovery and Reinvestment Act of 2009 (Recovery Act)

Signed into law by the President on February 17, 2009, the Recovery Act assigned significant new responsibilities to the Secretary of Labor in the benefit security arena. The legislation requires extensive outreach, education, participant and compliance assistance programs as well as promulgation, under very tight time frames, model notices covering changes in COBRA (the Consolidated Omnibus Budget Reconciliation Act of 1985) eligibility and the Recovery Act's new premium assistance provisions. It has had a significant impact on EBSA operations. Participant requests for assistance have increased exponentially as a result of the Recovery Act and the economy. EBSA anticipates that an increased demand for assistance will likely continue well into FY 2010 and beyond.

COBRA allows certain people to extend employer-provided group health coverage, if they would otherwise lose the coverage due to certain events such as involuntary termination. The Recovery Act provides a 65 percent subsidy for the cost of continuing health benefits, making them more affordable for the unemployed and their families. Under the Recovery Act, individuals are eligible for COBRA premium assistance because of their own or a family member's loss of benefits due to involuntary termination from employment that occurred from September 1, 2008, through February 28, 2010 (extended from December 31, 2009). Eligible individuals pay only 35 percent of the full COBRA premiums under their plan for up to 9 months. If the plan determines that they are not eligible for the premium reduction, applicants may request an expedited review of the denial by the Secretary. DOL must make the eligibility determination within 15 business days. To carry out its new Recovery Act responsibilities, EBSA has been allocated up to \$8,105,000 through a non-expenditure transfer from funds appropriated to the Departmental Management (DM) account pursuant to P.L. 111-5.

Within 30 days of passage of the Act, EBSA issued model notices, forms, and disclosure notices and began an aggressive outreach and education program. EBSA targeted its programs toward unemployed workers and others facing job loss, employers, group health plan administrators, public assistance programs, states, insurers, and other entities. These programs have focused on COBRA premium assistance rights and responsibilities. EBSA is responding to hundreds of COBRA inquiries on a daily basis and has responded to approximately 168,000 since enactment of the Recovery Act. EBSA also created a dedicated website – www.dol.gov/COBRA - that includes educational materials, frequently asked questions (FAQ), and other resources. More than 51,000 subscribers have signed up to the dedicated website to receive automatic notices of new or updated announcements and there have been over 2.1 million visitors to the site with over 97,000 visitors to the application for expedited review of COBRA premium subsidy denials. EBSA conducted two compliance webcasts where several thousand individuals participated. EBSA also placed the archived video on its dedicated website where many more have reviewed the video.

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On May 21, 2009, DOL implemented the program that provides for the expedited review (within 15 business days) and determination regarding an individual's appeal of the denial of his or her COBRA premium assistance. Through December 31, 2009, EBSA has received over 13,000 appeals, of which over 99 percent have been reviewed within 15 days or less as prescribed by the Recovery Act. EBSA also provides for applications in both English and Spanish and translation services through its call center for many more languages.

Congress has recently enacted provisions to extend the Recovery Act's COBRA subsidy through February 2010, and may consider additional extensions that could affect FY 2011 program activity. Also, IRA legislation, an Administration priority, may have significant resource implications for DOL. EBSA will continue to analyze Automatic IRA proposals/legislation to better determine new responsibilities for the Secretary and program resource implications.

Outcome Measures and Program Performance

In support of the Secretary's vision of good jobs for everyone and to improve the health benefit and retirement security for all workers, in FY 2010 EBSA will conduct:

- An ESOP and civil MEWA/health fraud compliance review;
- A "look back" review of its Employee Contribution Project (ECP) civil investigations and develop a recidivism baseline with respect to its ECP civil investigations; and
- A customer satisfaction survey and subsequently develop a baseline in FY 2011.

Also in FY 2010, EBSA will explore, for strategic planning purposes, whether a relationship exists between reporting compliance and other benefit plan management indices that may be used to develop long-term performance measures.

In addition to the results described above, in FY 2009, EBSA closed 72 percent of civil cases with corrected fiduciary violations of ERISA and 79 percent of criminal cases submitted by EBSA have been accepted for prosecution. EBSA has exceeded established performance targets for civil and criminal cases, and fosters the Secretary's vision of access to a secure retirement and affordable health care for America's workers and their families. Finally, EBSA accepted and processed 28,182 applications to its two major voluntary compliance programs in FY 2009 and exceeded the performance target of 22,500 additional applications. Voluntary compliance programs include the Voluntary Fiduciary Correction Program (VFCP) and the Delinquent Filer Voluntary Compliance Program (DFVCP).

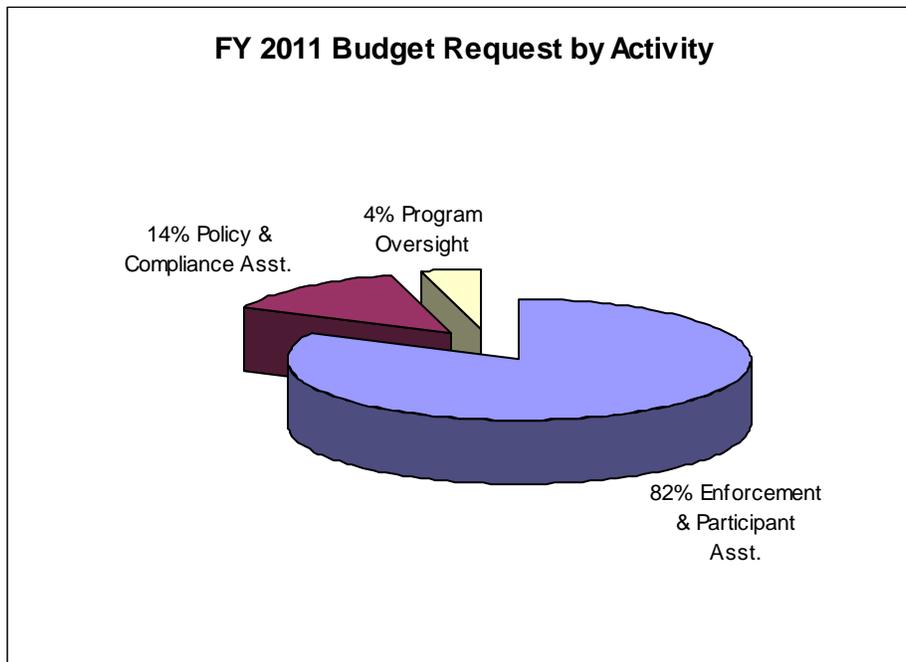
EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Cost Model

Three program activities encompass the EBSA budget and include the:

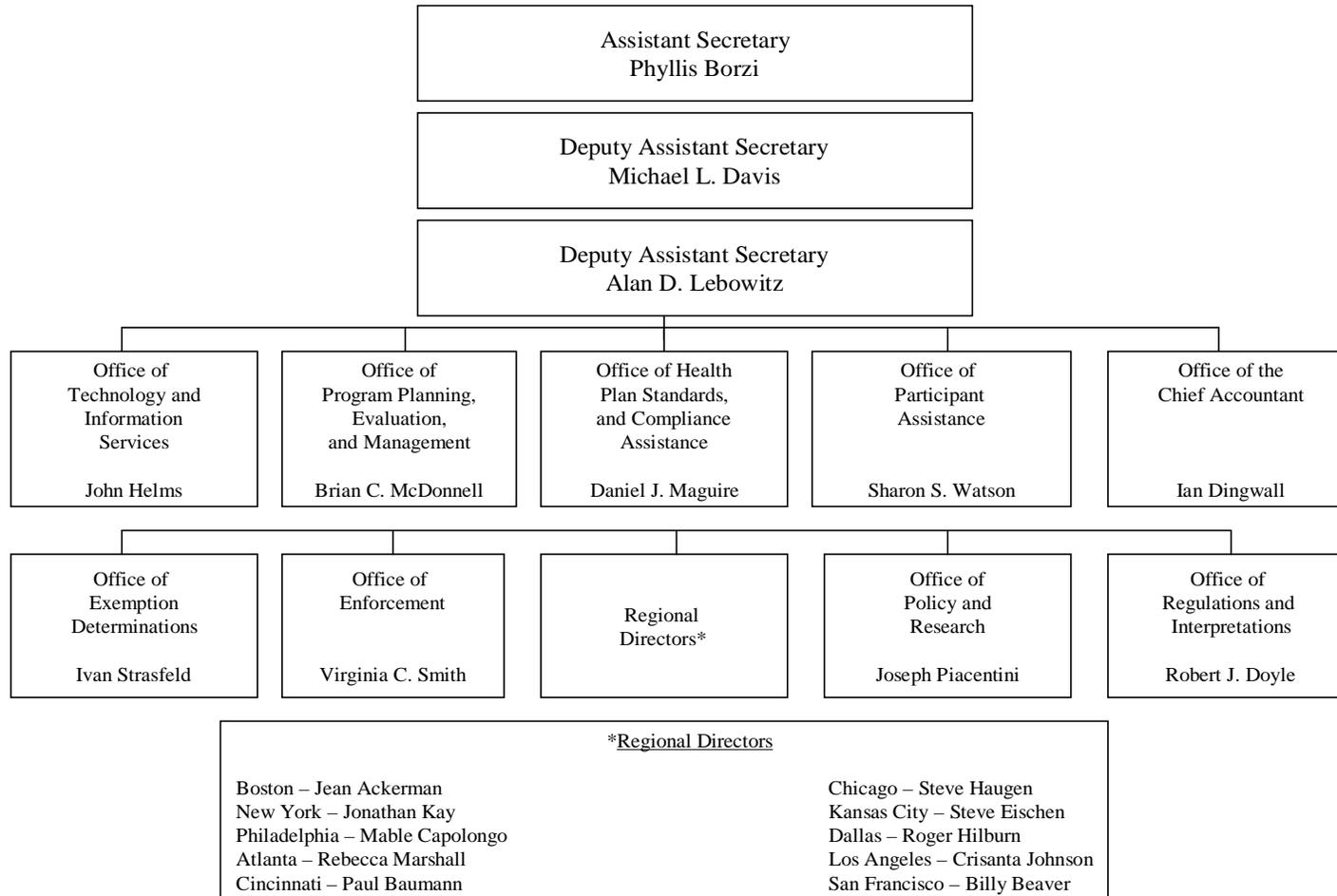
- **Enforcement and Participant Assistance** budget activity with FY 2011 requested resources of \$133,241,000 and 814 FTE.
- **Policy and Compliance Assistance** budget activity with FY 2011 requested resources of \$22,232,000 and 101 FTE.
- **Executive Leadership, Program Oversight and Administration** budget activity with FY 2011 requested resources of \$6,522,000 and 26 FTE.

All EBSA resources are devoted to achieving the Secretary’s vision of “Good Jobs for Everyone” thereby improving health benefits and retirement security for American workers. The percentage of resources allocated to each performance budget activity at the FY 2011 request level is depicted in the following chart:



EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Employee Benefits Security Administration



ENFORCEMENT AND PARTICIPANT ASSISTANCE

BUDGET AUTHORITY BEFORE THE COMMITTEE					
(Dollars in Thousands)					
	FY 2009 Enacted	Recovery Act	FY 2010 Enacted	FY 2011 Request	Diff. FY 11 Req. / FY 10 Enacted
Activity Appropriation	119,691	8,105	129,199	133,241	4,042
FTE	735	50	796	814	18

NOTE: FY 2009 reflects actual FTE. Authorized FTE for FY 2009 was 723.

Introduction

Within this activity, EBSA through its civil and criminal investigative programs, utilize a comprehensive enforcement approach that includes targeting the most egregious and persistent violators, and offering voluntary programs for plan officials to self-correct certain violations of the law. In this regard EBSA has implemented two highly successful self-correction programs designed to encourage voluntary compliance. Our Voluntary Fiduciary Correction program (VFPC) encourages plan officials to voluntarily comply with ERISA’s fiduciary and prohibited transactions provisions by self-correcting certain specific violations of the law. The Delinquent Filer Voluntary Compliance Program (DFVCP) encourages voluntary compliance with the annual reporting requirements under ERISA. Together, these two programs provide an efficient mechanism for self-identifying and correcting violations. In FY 2009 there were 1,692 VFC and 26,490 DFVCP submissions.

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

EBSA is also responsible for conducting outreach, education, and assistance (OEA) programs to educate plan participants and officials regarding their rights and responsibilities under ERISA. EBSA also helps to inform the public who can then police their own benefits and hopefully obtain correction before serious, financial damage is done. The OEA program includes three education campaigns: (1) the Retirement Savings Education Campaign (RSEC); (2) the Health Benefits Education Campaign (HBEC); and (3) the Fiduciary Education Campaign. These programs target plan sponsors and officials, service providers, and plan participants to inform them of their respective responsibilities and rights under ERISA. In the outreach and education area, EBSA has worked cooperatively with private and public sector organizations such as the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, the Financial Planners Board and state Commissioners of Insurance.

Also included in this budgetary activity is EBSA’s program to ensure that the regulated community files its employee benefit plan annual reports on time and accurately via a modernized wholly-electronic ERISA Filing Acceptance System (EFAST2). Implemented in

ENFORCEMENT AND PARTICIPANT ASSISTANCE

January 2010, EFAST2 will create more transparency by publicly disclosing plan information through the Internet, and by providing a free web-based program that plan administrators can use to meet the new electronic filing requirement at no additional cost to them. EFAST2 will electronically receive and process the 1.2 million Form 5500 annual benefit plan filings that are filed with DOL, IRS and the PBGC. EBSA also operates the ERISA Information System (EIS) that provides plan data for our enforcement, research, and policy development programs. Together these systems support enforcement-related targeting, 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. The EFAST2 system will also be the primary source of employee benefit plan data for the IRS, the Pension Benefit Guaranty Corporation (PBGC), the Government Accountability Office (GAO) and others. The benefit plan data provided by EFAST2 will support IRS oversight of private-sector retirement and health plans and will directly impact the PBGC's ability to manage its risk from underfunded defined benefit plans.

Reimbursable Account

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

FY 2011 Request: The FY 2011 request level of \$7,900,000 for this purpose will allow EBSA to collect and obligate funds for any authorized reimbursable work associated with the EFAST2 and other reimbursable agreements with the IRS and other agencies.

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2006	111,239	753
2007	126,418	738
2008	116,590	738
2009	119,691	723
2010	129,199	796

NOTE: Excludes Recovery Act Funding. See budget activity head table.

FY 2011

EBSA requests \$133,241,000 and 814 FTE for the enforcement and participant assistance budget activity. This budget will enable EBSA to work more aggressively in support of the Secretary's outcome goal of improving health benefits and retirement security for American workers, retirees and their families. The budget request for this activity includes a built-in increase of \$1,619,000 and a program increase of \$3,723,000 and 18 FTE. Further, EBSA is proposing a program decrease of \$1,300,000 derived from the savings estimated to be achieved with the implementation of EFAST2.

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In FY 2011, EBSA will continue to focus enforcement resources towards creating a more evaluative, innovative, and constantly improving program that effectively targets the most egregious and persistent violators. Field offices will be required to place particular investigative emphasis on national enforcement projects and will respond to emerging issues by pursuing established enforcement priorities. EBSA estimates that approximately 4,356 civil and criminal cases will be conducted resulting in over \$1 billion in enforcement results and approximately 125 criminal indictments.

The additional resources are necessary to hire additional Benefits Advisors to address the growing number of calls from the public and a significantly greater demand for outreach, education and assistance. EBSA call volume has grown considerably, from an average of 165,000 since FY 2008, to 365,457 in FY 2009 and is projected to exceed 300,000 inquiries this year. (Over 167,000 of these are Recovery Act-related inquiries received since passage of the law in February 2009.) In FY 2011, EBSA projects receiving over 275,000 participant inquiries, a 60 percent increase from our annual average of 165,000. Because the Recovery Act's COBRA premium assistance program, and the funding for it, is only available through FY 2010, ARRA inquiries are not included in FY 2011 projections. In the event of further COBRA premium assistance program extensions (or expansion) into FY 2011, EBSA will seek additional resources or continued availability of funding provided through the Departmental Management (DM) account pursuant to P.L. 111-5. With these resources, EBSA will be able to better assist dislocated workers and others by educating them about options to protect their retirement and health benefits when facing job loss.

The performance impact of additional resources for participant assistance, outreach, education and technical assistance is significant. EBSA estimates that recoveries obtained through informal, voluntary resolution of benefit disputes between employers, plan officials and participants will increase by 24 percent, from an estimated \$100,000,000 to \$124,000,000. The additional resources will better position EBSA to help ensure that America's workers, retirees and their families have access to a secure retirement and affordable health insurance, supporting the Secretary's strategic vision of "good jobs for everyone."

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

ENFORCEMENT AND PARTICIPANT ASSISTANCE

FY 2010

Enforcement

In FY 2010, EBSA will target the most egregious and persistent violators, protect vulnerable populations, and impose penalties and other remedies that are consistent with the seriousness of the violation, including identifying and aggressively pursuing appropriate cases for criminal prosecution. In FY 2010, EBSA will undertake 425 additional civil and criminal investigations, increase total enforcement results by \$123,000,000 and increase indictments by nearly 6 percent above FY 2009 levels. In support of the Secretary's vision of good jobs for everyone and to improve the health benefit and retirement security for all workers, EBSA will:

- Conduct an ESOP and civil MEWA/health fraud compliance review. The investigations closed as part of the FY 2010 projects will serve as baselines to be revisited in FY 2012.
- Conduct a look back review of its Employee Contribution Project civil investigations and develop a recidivism baseline with respect to its ECP civil investigations.
- Explore, for strategic planning purposes, whether a relationship exists between reporting compliance (Form 5500) and plan management that may lead to long-term performance indicators that can be measured through FY 2015.

EBSA will also use key performance indicators that will guide the effective and efficient use of enforcement resources focusing on producing cases with results. In FY 2010, EBSA will:

- Achieve corrected fiduciary violation in at least 67% of the civil cases it investigates. Fiduciary violations include the correction of prohibited transactions or the restoration or protection of plan assets.
- Achieve no less than 67% of its referrals for criminal prosecution being accepted by federal, state, or local prosecutors.

EBSA is initiating a new national criminal enforcement project, the Contributory Plans Criminal Project (CPCP). Millions of American workers share in the costs of employee benefits by contributing to employer sponsored retirement and health benefit plans. The investigation of civil violations involving the untimely remittances of employee contributions has been a national enforcement priority for years and has resulted in some of the most positive results for the Agency. However, our focus has, to date, been largely on civil recoveries in this area. Based on an analysis of the civil program, EBSA will expand our focus to criminal enforcement. EBSA will aggressively pursue the most egregious cases for possible criminal prosecution in order to serve as a more significant deterrent against such conduct. The participants in these contributory plans are vulnerable to other types of criminal abuse as well, and the CPCP is designed to address the full panoply of these criminal violations. EBSA will measure the performance of this new project by measuring the ratio of CPCP cases accepted for prosecution by federal, state, or local prosecutors against cases referred.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

Participant Assistance

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

EBSA estimates responding to over 300,000 participant inquiries in FY 2010 (includes ARRA related inquiries). Benefits Advisors will also participate in Rapid Response sessions to provide benefits information to individuals facing job loss, will brief congressional office staff and other participant advocates, and conduct webcasts and compliance seminars to inform participants and plan sponsors about their rights and responsibilities.

Stakeholder Involvement

ERISA plan assets comprise a significant portion of the nation's financial markets. Accordingly, EBSA maintains close working relationships with other government financial regulatory agencies, including the Securities and Exchange Commission (SEC), the Internal Revenue Service (IRS), the Office of the Comptroller of the Currency (OCC), and the Federal Reserve. We also work with the Federal Bureau of Investigation (FBI), the U.S. Postal Service (USPS), the Department of Justice (DOJ), and a number of state and local law enforcement organizations. EBSA will continue to collaborate with these enforcement agencies to effectively leverage resources and ensure compliance within the regulated community.

EBSA works with employee and community-based organizations to educate workers, small businesses, and others about the laws' requirements. We have found this to be an effective way to foster broad-based compliance. EBSA also leverages its resources by partnering with numerous organizations such as SSA, AARP, Financial Literacy Education Campaign, Women's Institute for a Secure Retirement, Unions, Insurance Commissioners, IRS, HHS, Society of Human Resource Managers, the AICPA, the Society of Actuaries, and others to reach our targeted audiences. EBSA maintains a Website and utilizes webcasts to inform our stakeholders, or to seek input, about our programs, services and initiatives and to assist the regulated community with compliance. EBSA plans to conduct 10 web casts attended by thousands of participants in FY 2010. They will be archived on our website for future review of other interested parties.

Finally and as described in detail above, EBSA will continue to ensure participants receive promised benefits through an informal dispute resolution process in which we educate individual participants on their rights and responsibilities with respect to filing claims and receiving benefits as well as educate plan administrators on their responsibilities.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

Taken together, these integrated and innovative strategies and partnerships allow EBSA to establish a foundation for *good jobs for everyone* where workers and families are assured retirement and health benefits security while employed and into retirement.

FY 2009

In FY 2009, EBSA had total monetary results in excess of \$1.3 billion. Improved enforcement targeting techniques and processes enabled EBSA to close 72 percent of its civil investigations with corrected violations and to protect the retirement, health and other benefits for American workers and their families. In cases where voluntary compliance efforts have failed, or which involve issues for which voluntary compliance is not appropriate, EBSA forwards a recommendation to the Solicitor of Labor that litigation be initiated. With respect to the criminal program, approximately 79 percent of criminal investigations referred for prosecution were accepted by the Department of Justice or state/local prosecutors. EBSA closed 287 criminal investigations in FY 2009 that led to the indictment of 115 individuals – including plan officials, corporate officers, and service providers for offenses related to employee benefit plans. With respect to plan participants, EBSA Investigators and Benefits Advisors collectively recovered almost \$138 million (included in the \$1.3 billion above) on their behalf in FY 2009. EBSA also determines whether the audits of employee benefit plans comply with professional standards and assists plan sponsors and fiduciaries in complying with ERISA's complex provisions. To this end, the EBSA reporting compliance program focuses on enforcement cases that involve deficient filers, late filers and non-filers. In FY 2009, EBSA completed over 3,495 reporting compliance reviews and individually targeted audit engagements.

As described above, EBSA also encourages the correction of violations of ERISA by providing significant incentives for fiduciaries to self-correct via our self correction programs. In FY 2009, EBSA received and processed in excess of 28,000 applications through voluntary compliance programs. Voluntary compliance applications have increased substantially (since inception of the program) 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 impressive enforcement results by focusing on leveraging resources to target those situations that present the greatest potential for harm to workers and their families.

Finally, EBSA conducts education and outreach events for workers, employers, plan officials and members of Congress. These nationwide activities include assisting dislocated workers who are facing job loss, educating employers of their obligations under ERISA, using a train-the-trainer format to inform Congressional staff of EBSA programs for their use in constituent services, and providing employees with information concerning their rights under the law. In FY 2009, EBSA conducted almost 1,600 outreach activities reaching over 171,000 stakeholders. EBSA also produced and distributed nearly 830,000 publications (includes the highly successful publication "Taking the Mystery Out of Retirement Planning") via our toll free publication hotline, our website and at outreach events.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

Recovery Act

The Recovery Act directed the Secretary of Labor to: (a) develop and issue model notices to be used by group health plans to notify terminating employees of their rights under COBRA and potential right to the premium assistance, (b) conduct an aggressive outreach and education effort to educate plan participants and plan administrators about these new provisions, and (c) to establish a process for the individuals who have been denied the COBRA Premium Assistance to seek the Secretary's expedited review.

As a result of the act and the economy, participant requests for assistance have increased significantly. EBSA anticipates that an increased demand for assistance will likely continue well into FY 2010 and beyond (if Congress extends the cobra subsidy program). EBSA is responding to hundreds of COBRA inquiries on a daily basis and has responded to over 170,000 inquiries since the enactment of the Recovery Act. More than 52,000 subscribers have signed up to the dedicated website – www.dol.gov/COBRA - to receive automatic notices of new or updated announcements and there have been more than 2.1 million visitors to the site. Since implementation of the program, over 97,000 participants have visited the on-line application for expedited review of denial for the COBRA premium assistance subsidy.

As required by the Recovery Act, DOL developed and implemented a program that provides for the expedited review and determination (within 15 business days) regarding an individual's appeal of his or her employer's denial of COBRA premium assistance. Through December 31, 2009, EBSA has received over 13,000 appeals, of which over 99 percent have been reviewed within 15 days or less as prescribed by the Recovery Act. EBSA also provides for applications in both English and Spanish and translation services through its call center for many more languages.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

WORKLOAD SUMMARY				
	FY 2009		FY 2010	FY 2011
	Target	Result	Target	Target
Enforcement and Participant Assistance				
Investigations Processed:				
Civil	3,719	3,669 (r)	4,112	4,112
Criminal	212	287 (r)	244	244
Total	3,931	3,956	4,356	4,356
Inquiries Answered (Participants)				
National Office	18,000	21,590 (r)	18,000	18,000
Field Offices	153,000	343,867 (r)	153,000	177,500
Total	171,000	365,457	171,000	195,500
Voluntary Fiduciary Correction Program Applications Processed	1,500	1,692 (r)	1,800	2,000
Delinquent Filer Voluntary Compliance Program Applications Processed	20,000	26,490 (r)	20,200	20,500
Indictments	118	115 (r)	125	125
Reporting Compliance Reviews	4,000	3,495 (r)	4,000	4,000
CPA Firm Inspections	4	7 (r)	4	4
EFAST Help Desk Inquiries	85,000	65,130 (r)	110,000	100,000

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

ENFORCEMENT AND PARTICIPANT ASSISTANCE

BUDGET ACTIVITY by OBJECT CLASS						
(Dollars in Thousands)						
		FY 2009 Enacted	Recovery Act	FY 2010 Enacted	FY 2011 Request	FY 11 Req. / FY 10 Enacted
11.1	Full-time permanent	61,626	2,425	67,137	69,451	2,314
11.3	Other than full-time permanent	56	3,724	57	58	1
11.5	Other personnel compensation	2,340	0	2,395	2,428	33
11.9	Total personnel compensation	64,022	6,149	69,589	71,937	2,348
12.1	Civilian personnel benefits	16,310	817	17,920	18,556	636
21.0	Travel and transportation of persons	2,662	8	2,854	3,230	376
22.0	Transportation of things	60	0	96	105	9
23.1	Rental payments to GSA	6,571	0	6,936	7,517	581
23.3	Communications, utilities, and miscellaneous charges	563	0	600	609	9
24.0	Printing and reproduction	248	72	343	343	0
25.2	Other services	2,519	960	2,648	2,720	72
25.3	Other purchases of goods and services from Government accounts 1/	12,271	0	13,110	13,398	288
25.7	Operation and maintenance of equipment	13,244	0	13,590	12,910	-680
26.0	Supplies and materials	475	13	548	566	18
31.0	Equipment	746	86	965	1,350	385
	Total	119,691	8,105	129,199	133,241	4,042
1/Other Purchases of Goods and Services From Government Accounts						
	Working Capital Fund	11,811	0	12,638	12,914	276
	DHS Services	460	0	472	484	12

ENFORCEMENT AND PARTICIPANT ASSISTANCE

CHANGES IN FY 2011

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	\$974
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Personnel benefits	251
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Rental payments to GSA	394
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Built-Ins Subtotal	1,619
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Net Program	2,423
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Direct FTE	18
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	Estimate	FTE
Base	130,818	796
Program Increase	3,723	18
Program Decrease	-1,300	0

POLICY AND COMPLIANCE ASSISTANCE

BUDGET AUTHORITY BEFORE THE COMMITTEE					
(Dollars in Thousands)					
	FY 2009 Enacted	Recovery Act	FY 2010 Enacted	FY 2011 Request	Diff. FY 11 Req. / FY 10 Enacted
Activity Appropriation	18,198	0	18,994	22,232	3,238
FTE	74	0	88	101	13

NOTE: FY 2009 reflects actual FTE. Authorized FTE for FY 2009 was 88.

Introduction

The Policy and Compliance Assistance activity seeks to achieve continuous improvement in our policy and regulatory programs. We continually evaluate and adjust our regulatory activities to achieve the Secretary’s priorities, including where appropriate shifting the burden of compliance to the employer or regulated entity. We are also committed to the Secretary’s key strategic principle of providing meaningful compliance assistance and engaging the regulated community in designing and implementing compliance assistance.

This activity formulates policy, promulgates regulations and provides interpretations and other guidance to the regulated community under Title I of ERISA. In FY 2011, EBSA will implement an aggressive regulatory agenda that includes, among other things: (1) the development and implementation of regulations that more broadly define when persons who render investment advice for a fee to employee benefit plans become fiduciaries; (2) outlines steps that can be taken by regulation and otherwise to encourage the offering of annuities or similar lifetime benefits distribution options in defined contribution plans; and (3) clarifying the circumstances under which health care arrangements established or maintained by state or local governments for the benefit of non-governmental employees do not constitute an employee welfare benefit plan for purposes of ERISA.

Further, as a result of recent health care reform there has been an increased demand for policy and regulatory guidance in the health plan area. In recent years, enactment of aforementioned new health care laws has significantly expanded compliance-related health care responsibilities for EBSA under ERISA. These new responsibilities have placed considerable strain on EBSA regulatory and research activities that directly support the Secretary’s goal of ensuring a secure retirement and affordable health insurance for all workers and their families. The Administration’s health care reform initiative is likely to increase this demand well into FY 2011 and beyond. These new responsibilities have placed considerable strain on EBSA regulatory and research activities that directly support the Secretary’s goal of ensuring a secure retirement and affordable health insurance for all workers and their families. The Administration’s health care reform initiative is likely to increase this demand well into FY 2011 and beyond.

In recognition of the importance of clear and timely guidance for the employee benefits community, EBSA will need to commit significant resources to development of regulations, interpretive guidance and other materials. These materials will both encourage and facilitate compliance with new laws while shifting the burden of compliance to the employer or other regulated entity rather than exclusively relying on enforcement intervention. For example, EBSA anticipates substantial follow-up work related to the Health Disclosure and Claims Initiative Project II (HDCI 2). This work will include development of new check sheets and other

POLICY AND COMPLIANCE ASSISTANCE

compliance related information for plan sponsors and employers to provide them with tools that will assist them to better comply with the law. The HDCI 2 project was undertaken to measure compliance by group health plans subject to Part 7 of ERISA. It enabled the Department to evaluate the impact of its compliance assistance programs and adjust our strategies based on a comparison of the current compliance rates to those obtained from the previous Health Disclosure and Claims Initiative in FY 2001. Together, these efforts provided critical compliance information for policy consideration based on evidence and comprehensive analysis. Going forward, this information will position EBSA to support the Secretary's goal of improving health benefits and retirement security for American workers, retirees and their families through evaluation, innovation, and improved implementation.

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

- *Economic research* – ERISA directs the Secretary of Labor to conduct research and produce statistics on employee benefit programs;
- *Regulatory impact analysis* – agencies must assess their regulations economic costs and benefits as required under Executive Order 12866, the Regulatory Flexibility Act and the Paperwork Reduction Act; and
- *Benefits policy development and analysis* – EBSA often serves as the lead agency for the Administration's benefits policy activities.

Through this activity, EBSA issues individual and class exemptions from the prohibited transaction provisions of ERISA and the Federal Employees' Retirement Income Security Act of 1986 (FERSA). These exemptions are necessary to facilitate the financial restructuring and consolidation occurring in the financial services industry resulting from long-term market forces as well as the recent turmoil in the financial markets. The financial crisis has created an unprecedented need for assistance and quick determinations to exemption requests to permit the regulated community to adapt quickly to changing environments. EBSA is playing a vital role in ensuring that requested exemptions to prohibited transactions are implemented in a way to maintain benefits security and to ensure that plan and participant assets are not put at risk.

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

POLICY AND COMPLIANCE ASSISTANCE

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2006	17,283	96
2007	16,885	92
2008	17,545	92
2009	18,198	88
2010	18,994	88

NOTE: Excludes Recovery Act Funding. See budget activity head table.

FY 2011

EBSA requests \$22,232,000 and 101 FTE for the policy and compliance assistance budget activity. EBSA will continue the transformation into a continually improving organization with an aggressive regulatory agenda supported by a robust research program based on evidence and comprehensive analysis. The budget request for this activity includes a built-in increase of \$231,000 and a program increase of \$3,007,000 and 13 FTE. The program increase includes \$2,172,000 and 12 FTE to undertake increased activity related to health care issues, including regulations, technical assistance, compliance assistance and interpretive guidance; as well as \$835,000 and 1 FTE to support timely statistical and economic research for increased activity in retirement and health care policy areas. The FY 2011 budget request does not contain a specific resource request at this time to implement the array of currently pending health care legislative initiatives and their subsequent impact on the EBSA core mission and functions.

Health Care

The policy and compliance assistance resource request for FY 2011 will support the implementation of two major provisions of CHIPRA. The first requires development of state specific model notices for employers to send to their employees notifying them of the health benefits programs available for their state. The second model reporting form, developed in conjunction with HHS and a joint Departmental/Citizen Advisory Group, will be used by employment-based plans to notify state health officials regarding the benefits available in their private sector plans. In addition to CHIPRA and other health care-related projects, we intend to issue final regulations implementing the provisions of the Mental Health Parity and Addiction Equity Act, the Genetic Information and Nondiscrimination Act, the Women's Health and Cancer Rights Act as well as the regulatory penalty provisions under GINA. The requested resources will ensure the protection of health care benefits for American workers and their families while enabling EBSA to continue to effectively deal with a wide range of issues related to the successful implementation of these initiatives, including regulations implementing provisions and oversight responsibilities.

POLICY AND COMPLIANCE ASSISTANCE

Other planned health benefit-related projects include a careful review of our existing benefit claims procedure regulation, and additional implementing regulations under HIPPA relating to the prohibition on pre-existing condition exclusions and prohibited discrimination in health benefits and coverage.

Research

The cornerstone of a strong regulatory program is a robust economic analysis and research capability. The research program should be capable of informing policy officials, the congress and the public of the economic basis for our regulatory initiatives. Our research program has been crafted around the central thesis of shaping regulations that eliminate or reduce the hazards with the broadest and most serious consequences based on sound science, a key element of the Secretary's strategic principles. With the additional resources requested, EBSA will be able to provide timely statistical and economic research to support the Administration's innovative and aggressive policy and regulatory agenda concerning health care and pension reform.

There are many research activities vital to the Secretary's vision, such as: producing the DOL annual national pension and health benefit statistics; making pension and health data more transparent and available to the public; producing economic forecasts of pension and health benefit activity; utilizing more effective communication strategies in rolling out the pension and health statistics each year; updating and maintaining the DOL pension simulation model to provide current forecasts of baby boomers' retirement prospects; funding new research into pension and health insurance (e.g. cost containment of health expenditures paid by participants and employers, options for securing retirement assets during retirement); and assisting other EBSA program offices with analytical tools to evaluate and improve their enforcement, targeting, compliance and participant assistance tasks. The additional resources for the research program will ensure timely statistical and economic research support for an aggressive regulatory agenda and major health and pension reform initiatives that will better ensure workers, retirees and their families have access to a secure retirement and affordable health insurance.

Interpretive Guidance and Compliance Assistance

Fiduciary education, regulations, exemptions, compliance assistance, policy and research, and interpretive guidance have and will continue to substantially contribute to the protection of employee pension and health benefits. EBSA estimates an overall 13 percent increase in regulatory projects, interpretations, and other technical assistance in support of the Secretary's strategic vision of "good jobs for everyone" by ensuring America's workers, retirees and their families have access to a secure retirement and affordable health insurance.

EBSA will continue to carry out the agency's interpretive activities concerning the provisions of ERISA and related statutes through the timely issuance of advisory opinions and field assistance bulletins addressing relevant interpretive issues raised by the regulated community or considered significant by the Department. EBSA will also continue to review and process class and individual exemption applications with the ultimate objective of protecting plans and their participants and beneficiaries while facilitating necessary business transactions. The increased consolidation and modernization of the financial services industry has resulted in requests for

POLICY AND COMPLIANCE ASSISTANCE

new class exemptions and/or amendments to existing class exemptions. EBSA will continue to review and process class and individual exemption applications, as well as EXPRO submissions, with the ultimate objective of protecting plans and their participants and beneficiaries. EBSA also anticipates providing exemptive relief for a number of business transactions involving the financial services industry and employee benefit plans as the economic crisis improves. Moreover, we anticipate receiving exemption requests (both individual and class) involving new financial products or raising critical policy issues. Through these programs we provide guidance and engage the regulated community in achieving compliance while protecting the benefits of workers, retirees and their families.

FY 2010

EBSA is committed to being an innovative and continually improving agency that emphasizes a protective regulatory framework through an aggressive agenda that will include: (a) an amendment to the regulatory definition of the term “Fiduciary”; (b) fostering annuitization in defined contribution plans; and (c) rulemaking to implement the Genetic Information Nondiscrimination Act and the Mental Health Parity and Addiction Equity Act, all of which supports the Secretary’s outcome goal of Improving Health Benefits and Retirement Security for All Workers.

In FY 2010, EBSA anticipates significantly more regulatory and research activity related to increased health benefit plans, stronger regulations relating to the management of retirement plan assets, demand for technical assistance on health reform and pension legislation, compliance assistance, and interpretive guidance. Major projects will be undertaken to include guidance to facilitate compliance with the requirement that employees be periodically furnished statements concerning their vested and accrued benefits under their pension plan and guidance on defined benefit plan compliance with notice and disclosure obligations under the Pension Protection Act (PPA). Additionally, with the enactment of health reform legislation, EBSA will be responsible for a wide range of resource intensive, implementation activities, including significant new regulations and enforcement responsibilities.

EBSA will continue to focus policy and compliance assistance resources on areas that have the greatest impact on the protection of plan assets and participants’ benefits. EBSA has reviewed an increasing number of individual exemption applications involving transactions that are arising out of the current economic crisis. These requests have been submitted by large financial institutions, which are fiduciaries to plans, in situations where: (a) the plans have interests in investment pools that hold assets that are distressed or illiquid, (b) the financial institution has merged into another financial institution and certain pre-merger investment activities and/or contracts have become prohibited, and (c) federal programs and actions designed to revive the economy implicate the prohibited transaction provisions in ERISA. These cases involve complex transactions and raise a host of prohibited transaction issues as plan fiduciaries’ attempt to minimize plan losses due to distressed or illiquid plan holdings, or to address inherent conflicts of interest presented by the arrangements. EBSA also anticipates undertaking a review of several longstanding class exemptions to ensure that the safeguards they contain are adequate in light of recent and projected changes within the financial services industry. We will continue to respond to exemption requests by providing timely assistance to facilitate those transactions

POLICY AND COMPLIANCE ASSISTANCE

which are beneficial and protective of the plans' interests and which avoid further losses to the plan.

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. We 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 anticipates a major proposal to reform health care. Because more Americans—137 million – get health from a private-sector job regulated by ERISA than from any other resource, health reform legislation that is built on the employer based system will substantially impact the workload and resources of EBSA. Every aspect of ERISA, from reporting and disclosure, benefit claims, regulation of benefit rights, and minimum standards for pre-existing conditions and discrimination in benefits and coverage may be impacted by legislative reform.

We 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 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.

The Pension Protection Act of 2006 requires the Department to continue to undertake regulatory initiatives to implement many provisions of the Act. (Potential legislation that may be enacted in this area could also affect the regulatory program.) It is anticipated that major projects will include guidance on the scope of providing investment advice to employees that participate in participant-directed individual account plans and guidance on disclosure of fee and expense information to pension plan fiduciaries and plan participants and beneficiaries. We will also be developing interim final regulations implementing the provisions of The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (MHPAEA) that was enacted in October 2008.

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 exist. EBSA will complete the investigative portion of the 2nd Health Disclosure and Claims Issues Project II (HDCI II) and anticipate completing the analysis and project report in FY 2010. This compliance baseline project is being conducted to enable the Department to evaluate the impact of its compliance assistance programs by comparing the current compliance rates to compliance rates obtained from the previous Health Disclosure and Claims Initiative FY 2001 Compliance project (HDCI 1).

POLICY AND COMPLIANCE ASSISTANCE

FY 2009

EBSA continued to develop interpretive, regulatory and other guidance necessary for the protection of plan assets and participants' benefits. In FY 2009, EBSA completed and/or closed 2,846 projects and other technical assistance for health plan standards, regulatory issues and interpretations. EBSA also continued to develop interpretive, regulatory and other guidance for the efficient and effective of implementation of the provisions of the Pension Protection Act of 2006 (PPA). In FY 2009, EBSA published a rule to establish procedures relating to the assessment of civil penalties against plan sponsors of multiemployer defined benefit pension plans for certain violations of the funding rules for multiemployer plans in endangered or critical status, implementing a new civil penalty provision adopted as part of the PPA.

EBSA has reviewed and continued to process a number of individual exemption applications regarding transactions that have arisen out of the current economic crisis. Although these requests typically have been submitted by large financial institutions, which are plan fiduciaries, three requests have been filed by the automotive giants, GM and Chrysler, as part of their bankruptcy filing, and by Ford. In FY 2009, EBSA granted exemptive relief for extension of credit arrangements involving "mitigation" for health care funding through a "voluntary employees' beneficiary association" (VEBA) sponsored by GM and Ford for participants and retirees.

With respect to the financial institutions, EBSA has granted exemptive relief where plans have interests in investment pools that hold assets that have become distressed or illiquid. Since February 2009, EBSA has provided individual exemptions to several financial institutions seeking exemptive relief for sales of auction rate securities by plans or loans to plans to provide temporary liquidity. EBSA has also granted an amendment to the "underwriter exemptions" and has replaced an asset allocation advice exemption because of a material failure of a pre-existing exemption.

EBSA continued to dedicate significant resources in providing legislative analysis and technical assistance on several bills that were subsequently enacted in the health care arena. These bills include the Genetic Information Nondiscrimination Act (GINA), the Heroes Earning Assistance and Relief Act and Michelle's Law. Our efforts in providing technical guidance on various Mental Health Parity legislative proposals helped facilitate the enactment of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008. EBSA continues to work within the framework of the HIPAA working group structure (with representatives of the Treasury, the Internal Revenue Service, and Health and Human Services) to promulgate effective and timely regulatory and compliance assistance guidance.

Finally, EBSA continued improving upon the timely issuance of advisory opinions and field assistance bulletins addressing relevant interpretive issues addressed by the regulated community or considered significant by the Department for improving the efficiency of business and better protecting employee pension and health benefits.

POLICY AND COMPLIANCE ASSISTANCE

Recovery Act

The EBSA Office of Health Plan Standards and Compliance Assistance (OHPSA) contributed significantly to the development and subsequent implementation of an expedited review program for denials of requests for COBRA premium assistance. Upon enactment of the Recovery Act, EBSA quickly developed and provided comprehensive outreach materials consisting of model notices, fact sheets, and frequently asked questions (FAQs) for both employers and employees concerning the COBRA provisions. The model notices, issued on March 19, 2009, have been used by health plans in notifying their employees who were involuntarily terminated regarding their rights to COBRA premium assistance, as well as additional COBRA enrollment opportunities. EBSA will continue to provide direct support by participating in numerous outreach events to assist workers, plans, and employers in understanding the COBRA premium assistance provisions of the Recovery Act. As required by the Recovery Act, EBSA has developed and implemented a process for reviewing the employer's denial of premium assistance. EBSA technical experts have actively participated in various stages of the official review process and have prepared guidance materials for publication on the EBSA website.

POLICY AND COMPLIANCE ASSISTANCE

WORKLOAD SUMMARY				
	FY 2009		FY 2010	FY 2011
	Target	Result	Target	Target
Policy and Compliance Assistance				
Interpretations & Other Technical Assist				
Health Plan Standards	1,000	979 (r)	1,100	1,500
Regulations & Interpretations	1,700	1,652 (r)	1,700	1,700
Total	2,700	2,631	2,800	3,200
Regulations/Projects	228	215 (r)	229	242
Individual Exemptions & Expro (Proposed & Granted)	150	163 (r)	150	150
Section 502(l) Waivers	20	17 (r)	20	15
Exemption Processing Time (avg #days)	220	219 (r)	220	220

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

POLICY AND COMPLIANCE ASSISTANCE

BUDGET ACTIVITY by OBJECT CLASS						
(Dollars in Thousands)						
		FY 2009 Enacted	Recovery Act	FY 2010 Enacted	FY 2011 Request	FY 11 Req. / FY 10 Enacted
11.1	Full-time permanent	9,198	0	9,399	10,786	1,387
11.3	Other than full-time permanent	2	0	2	2	0
11.5	Other personnel compensation	63	0	65	66	1
11.9	Total personnel compensation	9,263	0	9,466	10,854	1,388
12.1	Civilian personnel benefits	2,477	0	2,531	2,910	379
21.0	Travel and transportation of persons	114	0	114	205	91
22.0	Transportation of things	22	0	22	28	6
23.1	Rental payments to GSA	1,059	0	1,059	1,255	196
23.3	Communications, utilities, and miscellaneous charges	16	0	16	23	7
24.0	Printing and reproduction	157	0	157	157	0
25.2	Other services	900	0	900	955	55
25.3	Other purchases of goods and services from Government accounts 1/	2,064	0	2,103	2,308	205
25.5	Research and development contracts	1,100	0	1,100	1,750	650
25.7	Operation and maintenance of equipment	830	0	1,330	1,519	189
26.0	Supplies and materials	69	0	69	82	13
31.0	Equipment	127	0	127	186	59
	Total	18,198	0	18,994	22,232	3,238
1/Other Purchases of Goods and Services From Government Accounts						
	Working Capital Fund	2,007	0	2,045	2,249	204
	DHS Services	57	0	58	59	1

POLICY AND COMPLIANCE ASSISTANCE

CHANGES IN FY 2011

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments \$133

Personnel benefits 36

Rental payments to GSA 62

Built-Ins Subtotal 231

Net Program 3,007

Direct FTE 13

	Estimate	FTE
Base	19,225	88
Program Increase	3,007	13

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

BUDGET AUTHORITY BEFORE THE COMMITTEE					
(Dollars in Thousands)					
	FY 2009 Enacted	Recovery Act	FY 2010 Enacted	FY 2011 Request	Diff. FY 11 Req. / FY 10 Enacted
Activity Appropriation	5,530	0	6,668	6,522	-146
FTE	25	0	26	26	0

NOTE: FY 2009 reflects actual FTE. Authorized FTE for FY 2009 was 24

Introduction

The EBSA Executive Leadership, Program Oversight and Administration budget activity provides the overall leadership and direction to the policy, regulatory, enforcement and all other program and administrative activities that support the Secretary’s strategic vision of “good jobs for everyone”. Through this budget activity, the executive leadership directs programs in areas such as 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.

In support of the Secretary’s vision of “good jobs for everyone” and her priority to improve health benefit and retirement security for American workers, agency leadership will strive for more aggressive enforcement and effective regulation of ERISA and related criminal Federal statutes, and will enhance the integrity of employment-based health and retirement benefits for workers in every type of job and at every income level.

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

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

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2006	5,029	26
2007	5,270	25
2008	5,178	25
2009	5,530	24
2010	6,668	26

NOTE: Excludes Recovery Act Funding. See budget activity head table.

FY 2011

The FY 2011 request for the Executive Leadership, Program Oversight and Administration budget activity provides for \$6,522,000 and 26 FTE. The budget request includes a built-in increase of \$88,000 and there are no program increases or decreases for this budget activity.

This activity will continue to provide the leadership and administrative support to the agency's enforcement, compliance assistance, fiduciary education, and participant education programs thereby helping to ensure a secure retirement and affordable health insurance for all workers, retirees and their families. EBSA will utilize human capital, financial and other information systems to provide decision-makers with the timely analysis required to monitor and update strategic plans and to measure the results of program and management initiatives. Additionally, administrative and oversight functions will continue to be performed by this activity to ensure that EBSA properly executes its responsibilities under the American Recovery and Reinvestment Act (ARRA).

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

Lastly, during FY 2011, EBSA will continue to effectively administer its responsibilities for the management of debts arising from the assessment of civil penalties under sections 502(c)(2), 502(i) and 502(l) of ESISA. This will be accomplished in accordance with the requirements of the Debt Collection and Debt Collection Improvement Acts.

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

FY 2010

In FY 2010, EBSA will continue to provide the leadership and administrative support to the agency's integrated programs of enforcement, compliance assistance, fiduciary education, and participant education. Through these programs EBSA works to ensure the protection of the pension and health benefits for our nation's workers, retirees and their families. Particular emphasis will be focused on the implementation of our aggressive regulatory agenda, enforcement priorities and compliance assistance activities.

EBSA will continue to utilize human capital, financial and other information systems to provide decision-makers with the timely analysis required to monitor and update strategic plans and to develop metrics to measure results of management initiatives.

The management of debts arising from civil penalties assessed under sections 502(c), 502(i) and 502(l) of ERISA, will continue to be a significant responsibility. Based on the FY 2009 collections of about \$25,300,000, it is estimated that collections in FY 2010 will hold steady at last year's level. EBSA will also continue to use various financial management and accounting systems 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.

In order to improve workforce diversity, EBSA will continually monitor and refine the strategies implemented to achieve Recovery Act and FY 2010 hiring goals and diversity improvement objectives. Recruitment teams have been established and will proactively establish ongoing relationships with minority serving organizations and educational institutions. Through these relationships we intend to enhance our pipeline of highly qualified employment candidates.

In order to maintain a highly skilled workforce capable of carrying out the Secretary's vision of good jobs for everyone, EBSA will execute a comprehensive technical training and employee development program that: (a) educates EBSA employees regarding the practices of the employee benefits industry, (b) provides employees with a proficiency regarding the provisions of ERISA and related Federal criminal statutes, and (c) provides employees with a knowledge of effective enforcement and participant assistance techniques.. Further, to develop effective EBSA leadership for the future, employees will be provided a variety of developmental opportunities that will enhance their ability to perform their current duties and prepare them to assume higher level responsibilities through out the organization. In FY 2010, EBSA anticipates training over 300 staff in technical, professional and leadership areas and has adopted specific training plans for new hires that will result in approximately 9,000 hours of training.

Finally, this activity will continue strategic planning efforts to align with the priorities of the Administration and Government-wide initiatives; and will continue to refine our agency specific Continuity of Operations Plans (COOP) in support of emergency preparedness.

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

FY 2009

Through this activity, EBSA provided the leadership and necessary services to support the agency's integrated programs of enforcement, regulation, compliance assistance, fiduciary education, and participant education to ensure protection of the pension, health and other employee benefits for our nation's workers, retirees and their families.

Extensive discussions of the agency achievements are found in the Overview and in the other budget activity sections. However, the following are a few of the significant accomplishments in the administrative areas. Effective human capital management requires us to identify and recruit qualified candidates, train and develop them for current positions and prepare them for progressively more responsible positions with EBSA. To identify and recruit qualified, diverse entry level employees we have formed national and regional office recruitment teams that have conducted on-campus recruiting at local colleges and universities throughout the country. We have made extensive use of internship programs at undergraduate, graduate and professional institutions. In FY 2009, 126 employees were hired under these programs. 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 and other management development assignments (e.g., developmental details, management courses and seminars). Fifty-two EBSA employees completed such developmental assignments during FY 2009.

We have also developed an extensive internal training curriculum to ensure that our employees have the technical knowledge needed to successfully meet our 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 2009, approximately 200 EBSA employees successfully completed one or more of these training courses. These courses are designed to provide a foundation of legal knowledge and an understanding of industry practices required to effectively regulate the employee benefits industry and provide compliance assistance to stakeholders. Additionally, 14 employees completed Federal Law Enforcement Training Courses (FLETC) to enhance their skills in areas unique to conducting criminal investigations.

Lastly, during FY 2009, EBSA effectively administered its responsibilities under the Debt Collection and Debt Collection Improvement Acts. The management of debts arising from the assessment of civil penalties under sections 502(c)(2), 502(i) and 502(l) of ERISA resulted in the collection of approximately \$25,300,000 during FY 2009.

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

Recovery Act

This budget activity has provided the overall leadership and guidance to effectively implement the COBRA premium assistance provisions of the Recovery Act and is responsible for administrative control and oversight of the financial resources provided to carry out EBSA's new Recovery Act activities. EBSA has been allocated up to \$8,105,000 through a non-expenditure transfer from funds appropriated to the Departmental Management (DM) account and has implemented crucial accountability objectives to ensure responsible use of these funds. Specifically, uses of funding and program operations have been reported and disclosed in accordance with the implementation of Recovery Act risk mitigation and recovery plans, submission of daily Recovery Act progress reports, completion of weekly Recovery Act financial and activity reports, and periodic National Environmental Policy Act (NEPA) reporting.

**EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND
ADMINISTRATION**

BUDGET ACTIVITY by OBJECT CLASS						
(Dollars in Thousands)						
		FY 2009 Enacted	Recovery Act	FY 2010 Enacted	FY 2011 Request	FY 11 Req. / FY 10 Enacted
11.1	Full-time permanent	3,148	0	3,500	3,549	49
11.3	Other than full-time permanent	112	0	117	119	2
11.5	Other personnel compensation	97	0	99	100	1
11.9	Total personnel compensation	3,357	0	3,716	3,768	52
12.1	Civilian personnel benefits	851	0	1,205	988	-217
21.0	Travel and transportation of persons	50	0	58	58	0
22.0	Transportation of things	2	0	3	3	0
23.1	Rental payments to GSA	369	0	379	398	19
23.3	Communications, utilities, and miscellaneous charges	116	0	117	117	0
24.0	Printing and reproduction	50	0	100	100	0
25.2	Other services	119	0	225	225	0
25.3	Other purchases of goods and services from Government accounts 1/	429	0	454	454	0
25.7	Operation and maintenance of equipment	74	0	290	290	0
26.0	Supplies and materials	60	0	62	62	0
31.0	Equipment	53	0	59	59	0
	Total	5,530	0	6,668	6,522	-146
	1/Other Purchases of Goods and Services From Government Accounts					
	Working Capital Fund	417	0	441	441	0
	DHS Services	12	0	13	13	0

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

CHANGES IN FY 2011 (Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	\$52
Personnel benefits	17
Federal Employees Compensation Act (FECA)	-234
Rental payments to GSA	19

Built-Ins Subtotal	-146
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	Estimate	FTE
Base	6,522	26