

FY 2020

CONGRESSIONAL BUDGET JUSTIFICATION

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

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EMPLOYEE BENEFITS SECURITY ADMINISTRATION

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APPROPRIATION LANGUAGE

For necessary expenses for the Employee Benefits Security Administration [\$181,000,000] \$193,500,000 of which up to \$3,000,000 shall be made available through September 30, [2020] 2021, for the procurement of expert witnesses for enforcement litigation.

(Department of Labor Appropriations Act, 2019.)

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AMOUNTS AVAILABLE FOR OBLIGATION						
(Dollars in Thousands)						
	FY 2018 Enacted		FY 2019 Enacted		FY 2020 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
A. Appropriation	860	\$181,000	840	\$181,000	885	\$193,500
<i>Subtotal Appropriation</i>	<i>860</i>	<i>\$181,000</i>	<i>840</i>	<i>\$181,000</i>	<i>885</i>	<i>\$193,500</i>
Offsetting Collections From:						
Reimbursements	0	\$5,965	0	\$8,000	0	\$8,000
<i>Subtotal</i>	<i>860</i>	<i>\$186,965</i>	<i>840</i>	<i>\$189,000</i>	<i>885</i>	<i>\$201,500</i>
B. Gross Budget Authority	860	\$186,965	840	\$189,000	885	\$201,500
Offsetting Collections To:						
Reimbursements	0	-\$5,965	0	-\$8,000	0	-\$8,000
<i>Subtotal</i>	<i>860</i>	<i>\$181,000</i>	<i>840</i>	<i>\$181,000</i>	<i>885</i>	<i>\$193,500</i>
C. Budget Authority Before the Committee	860	\$181,000	840	\$181,000	885	\$193,500
Offsetting Collections From:						
Reimbursements	0	\$5,965	0	\$8,000	0	\$8,000
Unobligated Balances From:						
Brought Forward, October 1 (Expert Witness)	0	\$0	0	\$2,358	0	\$0
<i>Subtotal</i>	<i>860</i>	<i>\$186,965</i>	<i>840</i>	<i>\$191,358</i>	<i>885</i>	<i>\$201,500</i>
D. Total Budgetary Resources	860	\$186,965	840	\$191,358	885	\$201,500
FTE Lapse and Unobligated Balance Expiring	-23	\$0	0	\$0	0	\$0
FTE Lapse and Unobligated Balance Carryover (Expert Witness)	0	-\$2,358	0	\$0	0	\$0
E. Total, Estimated Obligations	837	\$184,607	840	\$191,358	885	\$201,500

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SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2019 Enacted	FY 2020 Request	Net Change
Budget Authority			
General Funds	\$181,000	\$193,500	+\$12,500
Total	\$181,000	\$193,500	+\$12,500
Full Time Equivalents			
General Funds	840	885	45
Total	840	885	45

Explanation of Change	FY 2019 Base		FY 2020 Change					
	FTE	Amount	Trust Funds FTE	Amount	General Funds FTE	Amount	Total FTE	Amount
Increases:								
A. Built-Ins:								
To Provide For:								
Costs of pay adjustments	840	\$90,515	0	\$0	0	\$0	0	\$0
Personnel benefits	0	\$29,566	0	\$0	0	\$43	0	\$43
One day more of pay	0	\$0	0	\$0	0	\$459	0	\$459
Federal Employees' Compensation Act (FECA)	0	\$0	0	\$0	0	\$0	0	\$0
Benefits for former personnel	0	\$30	0	\$0	0	\$0	0	\$0
Travel and transportation of persons	0	\$1,050	0	\$0	0	\$0	0	\$0
Transportation of things	0	\$22	0	\$0	0	\$0	0	\$0
Rental payments to GSA	0	\$10,769	0	\$0	0	\$0	0	\$0
Rental payments to others	0	\$31	0	\$0	0	\$0	0	\$0
Communications, utilities, and miscellaneous charges	0	\$395	0	\$0	0	\$0	0	\$0
Printing and reproduction	0	\$550	0	\$0	0	\$0	0	\$0
Advisory and assistance services	0	\$1,050	0	\$0	0	\$0	0	\$0
Other services from non-Federal sources	0	\$0	0	\$0	0	\$0	0	\$0
Working Capital Fund	0	\$25,904	0	\$0	0	\$0	0	\$0
Other Federal sources (DHS Charges)	0	\$670	0	\$0	0	\$0	0	\$0
Other goods and services from Federal sources	0	\$720	0	\$0	0	\$0	0	\$0
Research & Development Contracts	0	\$1,100	0	\$0	0	\$0	0	\$0
Operation and maintenance of facilities	0	\$0	0	\$0	0	\$0	0	\$0
Operation and maintenance of equipment	0	\$10,464	0	\$0	0	\$0	0	\$0
Supplies and materials	0	\$1,045	0	\$0	0	\$0	0	\$0
Equipment	0	\$510	0	\$0	0	\$0	0	\$0
Insurance claims and indemnities	0	\$0	0	\$0	0	\$0	0	\$0

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Explanation of Change	FY 2020 Change							
	FY 2019 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Built-Ins Subtotal	840	+\$174,391	0	\$0	0	+\$502	0	+\$502
B. Programs:								
AHP Enforcement and Administration	815	\$174,301	0	\$0	45	\$10,000	45	\$10,000
WCF IT Modernization Efforts	0	\$0	0	\$0	0	\$2,500	0	\$2,500
Programs Subtotal			0	\$0	45	+\$12,500	45	+\$12,500
Total Increase	840	+\$174,391	0	\$0	45	+\$13,002	45	+\$13,002
Decreases:								
A. Built-Ins:								
To Provide For:								
Federal Employees' Compensation Act (FECA)	0	\$199	0	\$0	0	-\$43	0	-\$43
Other services from non-Federal sources	0	\$6,410	0	\$0	0	-\$459	0	-\$459
Built-Ins Subtotal	0	+\$6,609	0	\$0	0	-\$502	0	-\$502
B. Programs:								
Total Decrease	0	+\$6,609	0	\$0	0	-\$502	0	-\$502
Total Change	840	+\$181,000	0	\$0	45	+\$12,500	45	+\$12,500

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SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY								
(Dollars in Thousands)								
	FY 2018 Enacted		FY 2019 Enacted		FY 2020 Request		Diff. FY20 Request / FY19 Enacted	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Enforcement and Participant Assistance	750	147,400	744	147,400	781	157,696	37	10,296
General Funds	750	147,400	744	147,400	781	157,696	37	10,296
Policy and Compliance Assistance	63	26,901	71	26,901	79	29,105	8	2,204
General Funds	63	26,901	71	26,901	79	29,105	8	2,204
Executive Leadership, Program Oversight and Administration	24	6,699	25	6,699	25	6,699	0	0
General Funds	24	6,699	25	6,699	25	6,699	0	0
Total	837	181,000	840	181,000	885	193,500	45	12,500
General Funds	837	181,000	840	181,000	885	193,500	45	12,500

NOTE: 2018 reflects actual FTE.

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BUDGET AUTHORITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2018 Enacted	FY 2019 Enacted	FY 2020 Request	Diff. FY20 Request / FY19 Enacted
	Full-Time Equivalent				
	Full-time Permanent	856	836	881	45
	Other	4	4	4	0
	Total	860	840	885	45
	Average ES Salary	\$186,520	\$186,520	\$187,388	\$868
	Average GM/GS Grade	12/8	12/8	12/9	0
	Average GM/GS Salary	\$100,576	\$100,576	\$103,294	\$2,718
11.1	Full-time permanent	89,503	87,833	92,438	4,605
11.3	Other than full-time permanent	1,049	1,049	1,049	0
11.5	Other personnel compensation	1,633	1,633	1,633	0
11.8	Special personal services payments	0	0	0	0
11.9	Total personnel compensation	92,185	90,515	95,120	4,605
12.1	Civilian personnel benefits	30,203	29,765	31,834	2,069
13.0	Benefits for former personnel	30	30	30	0
21.0	Travel and transportation of persons	1,092	1,050	1,365	315
22.0	Transportation of things	22	22	67	45
23.1	Rental payments to GSA	10,769	10,769	11,264	495
23.2	Rental payments to others	31	31	31	0
23.3	Communications, utilities, and miscellaneous charges	421	395	440	45
24.0	Printing and reproduction	600	550	550	0
25.1	Advisory and assistance services	350	1,050	3,550	2,500
25.2	Other services from non-Federal sources	6,779	6,410	7,162	752
25.3	Other goods and services from Federal sources 1/	25,183	27,294	27,523	229
25.4	Operation and maintenance of facilities	0	0	0	0
25.5	Research and development contracts	1,127	1,100	1,600	500
25.7	Operation and maintenance of equipment	10,625	10,464	11,139	675
26.0	Supplies and materials	1,071	1,045	1,090	45
31.0	Equipment	512	510	735	225
38.0	Depreciation Expense - Unfunded	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	Total	181,000	181,000	193,500	12,500
	1/Other goods and services from Federal sources				
	Working Capital Fund	23,793	25,904	26,133	229
	DHS Services	670	670	670	0
	HHS Services	720	720	720	0

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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
2010					
Base Appropriation...1/	\$156,060	\$154,060	\$155,662	\$154,861	910
2011					
Base Appropriation...2/	\$161,995		\$161,995	\$154,551	910
2012					
Base Appropriation...3/	\$197,528	\$159,363	\$195,528	\$183,153	1,003
2013					
Base Appropriation...4/	\$183,153			\$173,573	993
2014					
Base Appropriation...5/	\$179,104			\$178,500	985
2015					
Base Appropriation...6/	\$188,447			\$181,000	963
2016					
Base Appropriation...7/	\$207,455	\$180,699	\$168,930	\$181,000	949
2017					
Base Appropriation...8/	\$205,761			\$181,000	925
2018					
Base Appropriation...9/	\$183,926	\$175,600		\$181,000	860
2019					
Base Appropriation...10/	\$189,500			\$181,000	840
2020					
Base Appropriation	\$193,500				885

¹ Excludes \$4,434 for emergency transfer pursuant to P.L. 111-17.

² Excludes a non-expenditure transfer of \$4,502 from the Departmental Management (DM) account pursuant to P.L. 112-10.

³ Reflects a reduction of \$347 pursuant to the enacted rescission in P.L. 112-74 and does not reflect re-programming levels.

⁴ Reflects a reduction of \$366 pursuant to the enacted rescission in P.L. 113-6 and a reduction of \$9,214 pursuant to Section 251A of the Balanced Budget and Emergency Deficit Control Act, as Amended, issued by the President on March 1, 2013.

⁵ Reflects the full appropriation pursuant to P.L. 113-76 without enacted rescissions.

⁶ Reflects the full appropriation pursuant to P.L. 113-235 without enacted rescissions.

⁷ Reflects the full appropriation pursuant to P.L. 114-113 without enacted rescissions.

⁸ Reflects the full appropriation pursuant to P.L. 115-31 without enacted rescissions.

⁹ Reflects the full appropriation pursuant to P.L. 115-141 without enacted rescissions.

¹⁰ Reflects the full appropriation pursuant to P.L. 115-245 without enacted rescissions.

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OVERVIEW

Introduction

EBSA's mission is to assure the security of the retirement, health and other workplace related benefits of America's workers and their families. Although EBSA is a small agency, currently employing less than 850 people, it is responsible for protecting more than 149 million workers, retirees and their families who are covered by 703,000 private retirement plans, 2.3 million health plans, and similar numbers of other welfare benefit plans. Together, these plans hold estimated assets of \$10.0 trillion. In addition, the Agency has important interpretive and regulatory responsibilities with respect to IRAs, which hold about \$8.6 trillion in assets, and audit responsibilities with respect to the federal Thrift Savings Plan (TSP), which is the world's largest employee contributory plan with more than 5.4 million participants and more than \$560 billion in assets.

Employer-sponsored benefit plans are vital to the financial security and physical wellbeing of millions of workers, retirees, and their families. EBSA's mission is to protect the public interest in retirement, health, and other benefits, and increase confidence that promised benefits will be available when needed. EBSA's mission is carried out in a complex and evolving economic and regulatory environment. In order to enhance benefit security and maintain public confidence in our private benefits system, EBSA administers an integrated program of regulation, compliance assistance and education, civil and criminal enforcement, research and analysis.

Employee Benefits Security Programs (EBSA)

EBSA manages an active outreach, education, and participant assistance program to inform the public of their rights and benefits as well as to educate the regulated community regarding their responsibilities and obligations under the law. The Agency's enforcement program utilizes a variety of approaches such as the establishment of national and regional priorities, voluntary compliance programs, civil and criminal litigation, and research-based analysis to accomplish its mission. The economic research program focuses on economic issues regarding employee benefits in order to provide statistics and information for regulatory and legislative policy initiatives. The employee benefits security program consists of budget activities for enforcement and participant assistance, policy and compliance assistance, and executive leadership, program oversight and administration. Consistent with the comprehensive plan for reforming the Federal Government, EBSA's integrated approach to promoting benefits security is developed and implemented in response to public concerns, the Agency's experience with civil and criminal investigations, participant inquiries, research, and trends and vulnerabilities identified in the private sector.

Association Health Plans (AHPs)

The President signed Executive Order 13813, "Promoting Healthcare Choice and Competition across the United States," on October 12, 2017 to facilitate the purchase of insurance across State lines and the development and operation of a healthcare system that provides high-quality care at affordable prices for the American people. In response to the Executive Order, EBSA published

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a final rule under Section 3(5) of the Employee Retirement Income Security Act (ERISA) to expand access to health coverage by allowing more employers and self-employed workers to form associations and participate in Association Health Plans (AHPs). The Rule evens the playing field by allowing small businesses and working owners to obtain health benefits on substantially the same terms as large employers in the large group market. EBSA expects the new Rule to increase health insurance options for many Americans, including hourly wage earners, farmers, entrepreneurs, and the employees of small businesses.

In FY 2020, EBSA plans to focus much of its investigative work primarily on self-insured Multiple Employer Welfare Arrangements (MEWAs) and AHPs, particularly those that the agency has identified as showing warning signs of possible misconduct, mismanagement, or underfunding. To the extent of available resources, EBSA will give the greatest attention to these self-insured MEWAs because they pose the greatest risk to plan participants of unpaid claims and catastrophic losses. The agency will attempt to reduce these risks by improving MEWAs' reporting structure, working collaboratively with the States on investigation and enforcement, and using the full range of available enforcement tools, civil and criminal, when violations are detected.

Strengthening Retirement Security

The President signed an Executive Order 13847 on August 31, 2018 to “Strengthen Retirement Security in America” by expanding access to workplace retirement plans for American workers and their families. Enhancing workplace retirement plan coverage is critical to ensuring that American workers will be financially prepared to retire. To address impediments for employers to establish retirement plans, EBSA will evaluate the possible revision or elimination of rules and regulations that impose unnecessary costs and burdens on businesses, especially small businesses that hinder formation of workplace retirement plans. Similarly, reducing the number and complexity of employee benefit plan notices and disclosures currently required would ease regulatory burdens. The costs and potential liabilities for employers and plan fiduciaries of complying with existing disclosure requirements may potentially discourage plan formation or maintenance. Improving the effectiveness of required notices and disclosures and reducing their cost to employers promotes retirement security by expanding access to workplace retirement plans.

President’s Management Agenda (PMA)

EBSA is determined to deliver mission outcomes, provide excellent service, and effectively steward taxpayer dollars by: improving compliance with ERISA; recovering losses to individuals and employee benefit plans and unjust profits resulting from misconduct by plan fiduciaries and service providers; and increasing the deterrent impact of enforcement efforts on employee benefit plans, participants and beneficiaries. An effective employee benefits security program has overlapping and related attributes that include: prompt detection and pursuit of violations; the successful pursuit of monetary recoveries; non-monetary results that promote compliance with ERISA; and the aggressive and timely pursuit of participant tips and complaints. In FY 2020, EBSA will continue to prioritize the pursuit of more complex cases (including cases

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involving Multiple Employer Welfare Arrangements (MEWAs) and Association Health Plans (AHPs).

In previous years, the Agency had given undue weight to cases that yielded quick and easy results, such as cases involving technical violations, bonding, small delays in payment, or technical reporting and disclosure violations. To better deliver mission outcomes, EBSA has implemented a more refined approach to performance measurement that avoids reliance on the number of cases processed as an important component of its metrics for the enforcement program. EBSA's metrics promote the shift in efforts from lower value investigations to higher value investigations and also provide incentives to support the Agency's strategic objectives and outcomes, including efficiency measures:

- 1) Major case monetary recoveries per major case staff day;
- 2) Monetary recoveries on major cases closed per staff day;
- 3) Timeliness of civil non-major cases closed or referred for litigation; and
- 4) Timeliness of criminal cases closed or referred for prosecution.

The performance measures for higher value investigations include: Major Case monetary recoveries per major case staff day; and monetary recoveries on Major Cases closed per staff day. Both metrics measure efficiency by linking outputs (investigative time) to outcomes (monetary recoveries). The measures also reflect better resource management that will lead to the identification of bad actors and the recovery of benefits to participants and more efficient use of investigative time that decreases the time charged.

EBSA will continue to focus on helping workers transform retirement savings into secure lifetime income. The agency will continue to protect participants in pension plans, health plan, and other welfare plans through an integrated approach. As a general matter, this integrated strategy is reflected in the following employee benefits security programs:

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

EBSA is also making greater use of cross-regional and cross-office initiatives, as well as teams of employees who have developed specialized expertise in particular enforcement or regulatory areas. We promote efficiency by drawing on resources and expertise throughout the agency, rather than narrowly staffing cases based on rigid geographic and bureaucratic boundaries. We have also rerouted incoming inquiries to our Benefits Advisor (BA) Program from one region to another, as necessary, to manage resource constraints.

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FY 2020 Request

Consistent with the comprehensive plan for reforming the Federal Government to ensure greater efficiency, EBSA seeks \$193,500,000 and 885 FTE. This resource request includes a program increase of \$10,000,000 and 45 FTE for the enforcement and administration of Association Health Plans (AHPs) and an increase of \$2,500,000 to fund worker protection IT modernization efforts. The resource request encompasses programmatic efforts as follows:

- **\$10,000,000 and 45 FTE for AHP Enforcement and Administration.** EBSA seeks an increase of \$10,000,000 to investigate self-insured AHPs or MEWAs that the agency has identified as showing warning signs of possible underfunding, mismanagement, or misconduct. These self-insured MEWAs pose the greatest risk to plan participants of unpaid claims and catastrophic losses. Historical experience demonstrates that small employers are more likely to be subject to fraudulent or overpromising promoters that promise generous benefits at below-market prices. In addition, self-insured MEWAs have struggled with financial mismanagement, which can leave participants and providers with unpaid benefits and large bills. In the past, the Department's enforcement efforts have often come far too late to prevent large losses or to recover assets. In response to the 2018 final rule, the number of AHPs, including self-insured, is expected to increase. This increase, along with historic knowledge of the market, justifies an increased need for oversight and enforcement activities.
- **\$2,500,000 for WCF – Worker Protection IT Modernization Efforts.** EBSA seeks a Departmental transfer of \$2,500,000 that will provide an increase to modernize agency systems. These resources will provide support for ongoing modernization efforts that ensure seamless and uninterrupted services. The modernization plan focuses on the ongoing migration of existing agency systems in accordance with established guidelines and will upgrade systems or components as necessary to comply with the established DOL IT platform. The replacement of selected components will meet or exceed existing requirements to minimize operational risks and will comply with necessary Federal and Agency mandates.

EBSA will give the greatest attention to self-insured MEWAs because they pose the greatest risk to plan participants of unpaid claims and catastrophic losses. Specific programmatic areas addressed with the AHP program increase include: (a) health enforcement that focuses on detecting issues of fraud, solvency and mismanagement before these entities collapse; (b) compliance assistance and participant outreach to respond to increased call volume from small employers, plan officials, service providers, participants and beneficiaries concerning a myriad of AHP issues; (c) reporting and compliance activities to ensure maximum compliance with M-1 reporting rules that will enable EBSA to perform effective AHP fiduciary enforcement tracking as well as prepare accurate data analyses; and (d) research and regulatory efforts to directly respond to significantly higher numbers of new health providers and to ensure participants receive promised benefits.

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Worker protection modernization efforts will ensure ongoing operations and modernization remain consistent and compatible with the Department IT Modernization Strategy. The modernization plan will ensure replacement of any system components that fall within the agencies' life cycle replacement strategy and will enhance system interfaces, functions, capabilities, products, and ensure standards will remain consistent with those that currently exist. These investments in technology and capacity-building will sustain the Agency's strong performance results and is expected to have an outsized impact on long-term organizational effectiveness and efficiency that include, but is not limited to: (a) improving quality of data collected and processed in accordance with currently established Government requirements and standards; and (b) ensuring that responses to stakeholder inquiries are provided in accordance with currently established Government requirements and standards.

FY 2020 Activities, Strategies, and Program Workload

During FY 2020, EBSA will continue to focus its employee benefits security program on major cases. The Major Case Initiative will concentrate resources on areas that have the greatest impact on the protection of plan assets and participants' benefits (e.g., cases involving professional fiduciaries and service providers with responsibility for large amounts of plan assets and benefits). EBSA will continue to implement compliance-related programs to aid in the Agency's oversight and audit initiatives involving Multiple Employer Welfare Arrangements (MEWA) enforcement to combat health care fraud. EBSA will also continue to develop materials and conduct compliance workshops across the country to educate industry professionals about MEWA provisions and will enhance the MEWA Registration Form to help identify entities for investigation that may not have sufficient reserves to pay legitimate health care claims.

In FY 2020, EBSA anticipates focusing on major case monetary recoveries per major case staff day and monetary recoveries on major cases closed per staff day. EBSA anticipates closing or referring for litigation 86 percent of its non-Major cases within 30 months of case opening, closing or referring for litigation 70 percent of its other non-Major cases (includes delinquent employee contribution, abandoned plan, bonding, health part 7 and non-fiduciary breach cases) within 18 months of case opening, and closing or referring 87 percent of criminal cases for prosecution within 18 months of case opening. In addition, benefits security program workload and demand measures continuing into FY 2020 include, but are not limited to: responding to an estimated 200,000 participant inquiries; obtaining 100 indictments through the criminal investigation program; completing 3,300 reporting compliance reviews; conducting 600 rapid response sessions for individuals facing job loss; conducting 250 Congressional office briefings; and completing 10 webcasts and 12 compliance seminars for plan sponsors and participants.

In FY 2020, 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 be positioned to meet anticipated workload estimates for interpretative and other technical assistance projects. EBSA will complete an estimated 3,081 interpretive and other associated technical assistance projects/plan inquiries and targeted technical assistance. EBSA will also pursue a proactive regulatory agenda that includes completing 286 regulatory projects to better protect health care

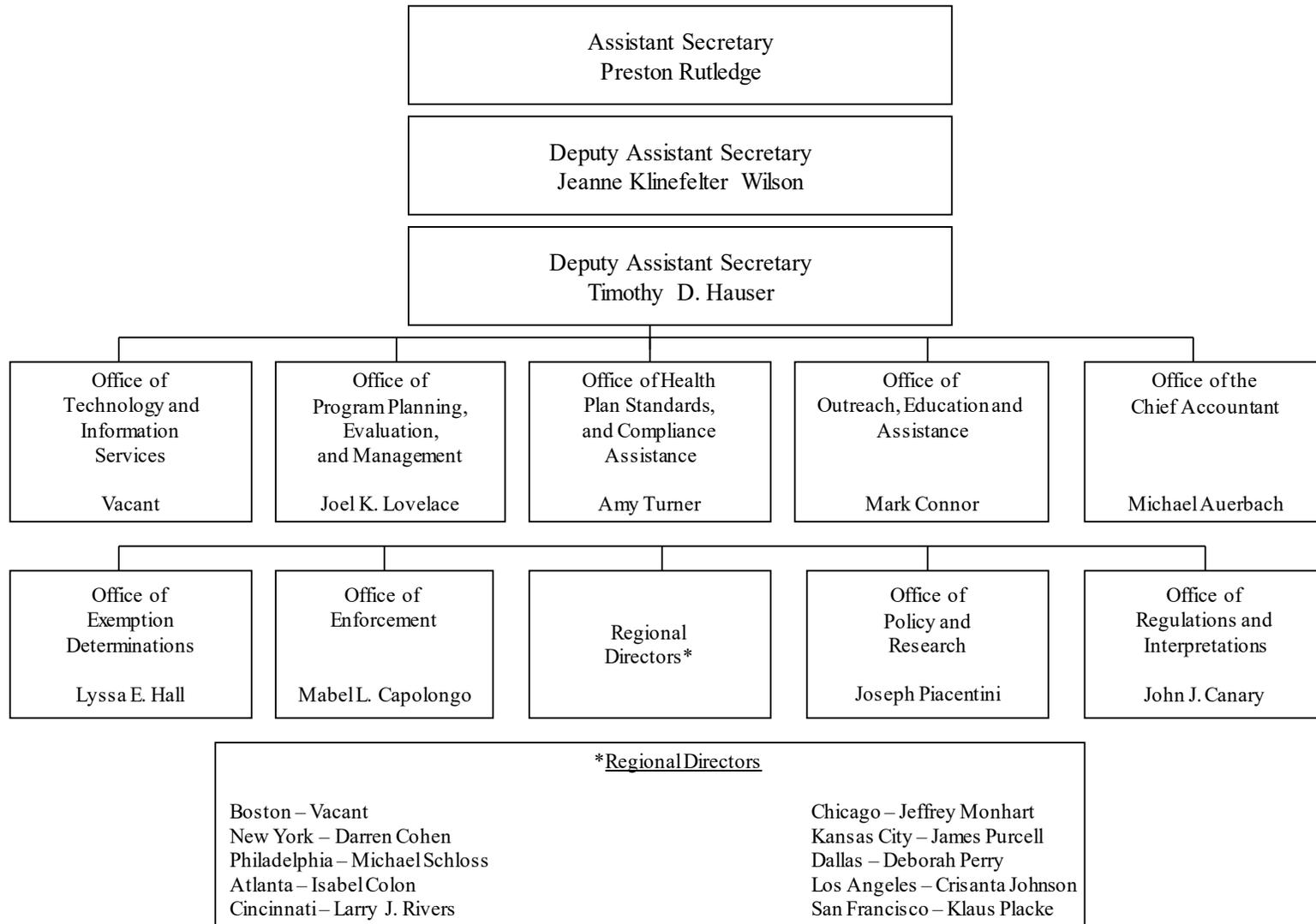
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and retirement benefits. These projects include providing guidance, developing regulatory standards, conducting statistical research, policy, regulatory analysis, and issuing ERISA exemptions.

Finally, EBSA will review and process class and individual exemption applications with the ultimate objective of protecting plans and their participants and beneficiaries while facilitating necessary business transactions. Specifically, EBSA has allocated sufficient resources to close, propose or grant an estimated 35 individual exemption actions (includes EXPRO), complete project work on three (3) class exemptions (includes closed, proposed, or granted) and attain an exemption processing time of less than 400 days.

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Employee Benefits Security Administration



ENFORCEMENT AND PARTICIPANT ASSISTANCE

BUDGET AUTHORITY BEFORE THE COMMITTEE				
(Dollars in Thousands)				
	FY 2018 Enacted	FY 2019 Enacted	FY 2020 Request	Diff. FY20 Request / FY19 Enacted
Activity Appropriation	147,400	147,400	157,696	10,296
FTE	750	744	781	37

NOTE: FY 2018 reflects actual FTE. Authorized FTE for FY 2018 was 762.

Introduction

Through this budget activity, EBSA develops and implements a comprehensive enforcement program using civil and criminal investigations that focus on the most egregious and persistent violators, while also implementing voluntary compliance programs. The enforcement program detects and investigates civil and criminal violations of ERISA and other related criminal laws and, as appropriate, refers them for civil litigation or to prosecutors for criminal prosecution; ensures that annual reports are filed timely and accurately; and determines that public accountant audits of employee benefit plans comply with professional standards. To help plan sponsors and fiduciaries comply with ERISA’s complex provisions, EBSA administers the Fiduciary Education program that informs plan sponsors and their service providers about their basic fiduciary responsibility under the law.

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

Complementing the Agency’s investigative work, EBSA’s participant assistance staff responds to inquiries from members of the public who are seeking information or have complaints about their benefits. The agency’s benefits advisors 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 workers and their families. This informal dispute resolution process enables EBSA to effectively respond to participant complaints without utilizing the more resource intensive investigative process, and promotes EBSA’s ability to direct its investigative resources to more egregious and widespread violations of ERISA. The participant assistance program is also the source of some of the Agency’s best investigative leads, producing several hundred cases per year—cases that, in the absence of this program, might not have been discovered.

EBSA educates plan participants and officials by conducting outreach and education programs regarding their rights and responsibilities under ERISA. Benefits are more secure when plan officials and plan participants know their rights and responsibilities. Better informed plan participants are better prepared to ensure they receive all the benefits to which they are entitled

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under their plan and to bring potential violations to the attention of EBSA. EBSA benefits security programs include three education campaigns: (1) the Retirement Savings Education Campaign (RSEC); (2) the Health Benefits Education Campaign (HBEC); and, (3) the Fiduciary Education Campaign. These campaigns target plan sponsors and officials, service providers, and plan participants to inform them of their rights and responsibilities under ERISA. As part of its outreach and education efforts, EBSA endeavors to work cooperatively with private and public sector organizations such as the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, the Certified Financial Planner Board and state commissioners of insurance. In addition to these three campaigns, EBSA also conducts outreach to dislocated workers through rapid response events delivered in conjunction with states and other DOL agencies. Outreach is also conducted via public awareness events such as Congressional office briefings, job fairs and other venues.

EBSA also has responsibility to ensure that the regulated community files its employee benefit plan annual reports (Form 5500) timely and accurately via an electronic filing system. First implemented in January 2010, the electronic filing system has created more transparency by providing for the public disclosure of plan information, and by providing a free web-based program that plan administrators can use to meet the electronic filing requirement at no additional cost to them. Annually, the electronic filing system receives and processes 1.2 million Forms 5500 that are filed with DOL, the IRS and the PBGC. EBSA also operates the ERISA Information System (EIS) that provides plan data for the Agency's enforcement, research, and policy development programs. Together these systems support enforcement-related activities, comprise essential databases for the agency's research and regulatory activities, and are the primary sources of employee benefit plan information to Congress and interested stakeholders, including plan participants and beneficiaries. The electronic filing system is also the primary source of employee benefit plan data for the IRS, the PBGC, the Government Accountability Office (GAO) and others. The benefit plan data provided by the electronic filing system support IRS oversight of private-sector retirement and health plans and directly impact the PBGC's ability to manage the risks associated with 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 electronic filing system and other work involving pension or health care issues performed on their behalf.

FY 2020 Request: The FY 2020 request level of \$8,000,000 for this purpose will allow EBSA to collect and obligate funds for any authorized reimbursable work associated with the electronic filing system and other reimbursable agreements with the IRS and PBGC.

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Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2015	\$147,400	844
2016	\$147,400	830
2017	\$147,400	821
2018	\$147,400	762
2019	\$147,400	744

FY 2020

EBSA seeks \$157,696,000 and 781 FTEs for the enforcement and participant assistance budget activity. The request level for this budget activity includes: a program increase of \$7,796,000 and 37 FTEs for AHP enforcement and administration, a top Administration priority; and a Departmental transfer providing an increase of \$2,500,000 to fund worker protection IT modernization efforts.

With AHP enforcement and administration through this budget activity, EBSA proposes to: (a) identify MEWAs for investigations that focus on detecting issues of fraud, solvency and mismanagement before these entities collapse; (b) expand compliance assistance and participant outreach to respond to increased call volume from small employers, plan officials, service providers, participants and beneficiaries concerning a myriad of AHP issues; and (c) establish specialized reporting and compliance activities to ensure maximum compliance with M-1 reporting rules that will enable EBSA to perform effective AHP fiduciary enforcement work as well as prepare accurate data analyses.

EBSA plans to focus its investigative work with respect to MEWAs on self-insured AHPs or MEWAs, particularly those that the agency has identified as showing warning signs of possible misconduct, mismanagement, or underfunding. EBSA will give the greatest attention to these self-insured MEWAs because they pose the greatest risk to plan participants of unpaid claims and catastrophic losses. Based on its experience with this new program and subsequent market developments, the Agency expects to seek additional funds in future years. Ultimately, it may prove necessary to seek the funding necessary to review all MEWAs (or at least all self-funded MEWAs) on a periodic basis, irrespective of whether they display visible warning signs.

EBSA will also continue to focus the resources available for its employee benefits security program on major cases that are likely to have the greatest impact on participants and plans. The Major Case Initiative will continue to concentrate resources on areas that have the greatest impact on the protection of plan assets and participants' benefits (e.g., cases involving professional fiduciaries and service providers with responsibility for large amounts of plan assets and benefits). EBSA will also continue to implement compliance related programs to aid in the Agency's oversight and audit initiatives involving Multiple Employer Welfare Arrangements (MEWA) enforcement to combat health care fraud. As resources permit, EBSA will continue to develop materials and conduct compliance workshops across the country to educate industry professionals about MEWA provisions and will enhance the MEWA Registration Form to help

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identify entities for investigation that may not have sufficient reserves to pay legitimate health care claims.

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

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

In FY 2020, EBSA is requesting \$2,500,000 to support the Department's Worker Protection Agencies' IT Modernization efforts. In total, the Department is requesting \$20,000,000 for this initiative with resources requested in the following appropriations: Employee Benefits Security Administration, Office of Workers' Compensation Programs, Office of Federal Contract Compliance Programs, Office of Labor-Management Standards, Wage and Hour Division, Occupational Safety and Health Administration, Mine Safety and Health Administration, and the Office of the Solicitor in the Departmental Management appropriation. These investments in technology and capacity-building will sustain the Agency's strong performance results and is expected to have an outsized impact on long-term organizational effectiveness and efficiency. These resources will be managed by OCIO on behalf of the worker protection agencies and OCIO will work in collaboration with the worker protection agencies to determine the specific funding requirements and where funding can best support the Department's IT modernization efforts.

With the resources provided by the program increase, EBSA will ensure modernization efforts remain consistent and compatible with the Departmental IT strategy. The modernization plan focuses on the ongoing migration of existing agency systems in accordance with established guidelines and will upgrade systems or components as necessary to comply with the established DOL IT platform. The replacement of selected components will meet or exceed existing

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requirements to minimize operational risks and will comply with necessary Federal and Agency mandates.

FY 2019

EBSA replaced its Major Case time indicator with two performance measures: Major Case monetary recoveries per major case staff day; and monetary recoveries on Major Cases closed per staff day. Both metrics measure efficiency by linking outputs (investigative time) to outcomes (monetary recoveries). The measures also reflect better resource management that will lead to the identification of bad actors and the recovery of benefits to participants, and more efficient use of investigative time that decreases the time charged.

EBSA anticipates closing or referring for litigation 70 percent of its non-major cases (includes delinquent employee contribution, abandoned plan, bonding, health part 7 and non-fiduciary breach cases) within 18 months of case opening. Legacy benefits security program workload and demand measures continuing into FY 2020 include, but are not limited to: responding to an estimated 250,000 participant inquiries; processing an estimated 21,700 applications through the Agency's voluntary compliance programs (Voluntary Fiduciary Correction Program and Delinquent Filer Voluntary Compliance Program); obtaining 95 indictments through the criminal investigation program; completing 3,200 reporting compliance reviews; responding to approximately 45,000 Electronic Filing Acceptance System help-desk inquiries; conducting 500 rapid response sessions for individuals facing job loss; conducting 250 Congressional office briefings; and completing 10 webcasts and 10 compliance seminars for plan sponsors and participants.

FY 2018

Enforcement

In FY 2018, EBSA processed 1,329 civil cases that included 1,114 cases closed with a result that benefited plan participants (including 907 cases closed with monetary results). EBSA has focused on monetary recoveries that are directly paid to plans, participants, and their beneficiaries, whether in the form of loss recoveries, disgorgement of unjust enrichment, or increased benefit payments. To that end, EBSA recovered \$904,200,000 in participant benefits from investigations; restored \$179,849,000 to benefit plans; recovered \$73,866,000 in monetary results under civil health enforcement; facilitated the distribution of 3,440 account balances totaling \$33,400,000 to plan participants under the Abandoned Plan Program; and verified \$10,800,000 in restored assets under the Voluntary Fiduciary Correction Program (VFCP). EBSA enforcement efforts resulted in \$1,202,115,000 of monetary recoveries directly paid to plans, participants and their beneficiaries. Additionally, EBSA enforcement efforts included documented "prohibited transactions corrected" of \$70,189,000 and the protection of plan assets involving \$338,081,000 bringing the total direct and indirect enforcement monetary results to \$1,610,385,000.

In partnership with other Departmental, federal, state, and local authorities, EBSA also closed 268 criminal cases that resulted in 142 indictments and 71 cases closed with guilty pleas and/or

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convictions. This demonstrates that EBSA's strategies for finding the most egregious and persistent violators are effective. EBSA also actively involved the regulated community in efforts to identify and remedy violations through two highly successful self-correction programs designed to encourage voluntary compliance. The Voluntary Fiduciary Correction Program (VFCP) and the Delinquent Filer Voluntary Compliance Program (DFVCP) encourage plan officials to identify and remedy certain ERISA violations. During FY 2018, EBSA closed 1,372 applications under the VFCP. 19,937 delinquent filers have come into compliance with ERISA under the DFVCP.

Participant Assistance, Outreach and Education

The EBSA Participant Assistance Program assists workers in obtaining promised benefits that have been inappropriately denied and helps workers understand their benefits rights so they can make informed decisions about their health and retirement benefits. During FY 2018, EBSA's Benefits Advisors' responded to 172,124 inquiries and recovered \$443,208,000 for participants through informal dispute resolution.

EBSA conducts education and outreach events for workers, employers, plan officials, service providers and members of Congress and their staffs. During FY 2018, EBSA conducted a total of 1,829 outreach activities reaching 53,232 individuals nationwide. These nationwide activities included compliance assistance, participant assistance and public awareness activities. In the compliance assistance program, EBSA conducted 330 activities that included presentations, workshops, national compliance and consumer webcasts, and compliance assistance seminars. Taken together, compliance assistance activities reached 14,118 participants and stakeholders. EBSA undertook 1,121 nationwide participant assistance activities that reached 30,015 participants and stakeholders in FY 2018. Nationwide participant assistance activities also included active participation in 826 rapid response sessions reaching 21,584 individuals, thereby assisting dislocated workers who were facing job loss. Public awareness activities in FY 2018 also included using a train-the-trainer format to inform Congressional staff in 245 district offices of EBSA programs for their use in constituent services; providing employees with information concerning their rights under the law and educating employers and their service providers of their obligations under ERISA. Public awareness activities also included 99 briefings, 57 exhibits, and 52 presentations that reached 8,310 participants or stakeholders of the regulated community.

EBSA conducted 256 health outreach activities in FY 2018 reaching 8,045 individuals. Additionally, over 385,000 publications were distributed via our toll-free publication hotline at outreach events. All the publications are available and accessible on line. EBSA's Web site has become the primary means of reaching the public and in FY 2018 the Web site hosted over 4.4 million visitors, viewing nearly 5.8 million pages.

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WORKLOAD AND PERFORMANCE SUMMARY					
		FY 2018 Enacted		FY 2019 Enacted	FY 2020 Request
		Target	Result	Target	Target
Enforcement and Participant Assistance					
Strategic Goal 2 - Promote Safe Jobs and Fair Workplaces for All Americans					
Strategic Objective EBSA 2.4 - Improve the security of retirement, health, and other workplace-related benefits for America's workers and their families.					
EBSA-OE-01	Major case monetary recoveries per major case staff day	\$16,936	\$62,956	\$23,151	\$24,309
EBSA-OE-01a	Monetary recoveries on major cases closed per staff day	\$30,737	\$22,131	\$23,667	\$24,850
EBSA-OE-02a	Percent of delinquent employee contribution, abandoned plan, bonding, health-Part 7 violation, and other reporting and disclosure non-fiduciary breach cases closed or referred for litigation in the fiscal year within 18 months of case opening	70%	84%	70%	70%

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

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Workload and Performance Summary

FY 2020

EBSA replaced its Major Case time indicator with two performance measures: Major Case monetary recoveries per major case staff day; and monetary recoveries on Major Cases closed per staff day. Both metrics measure efficiency by linking outputs (investigative time) to outcomes (monetary recoveries). The measures also reflect better resource management that will lead to the identification of bad actors and the recovery of benefits to participants, and more efficient use of investigative time that decreases the time charged. Because Major Case results can be highly volatile from year to year, EBSA bases its enforcement measures on careful consideration of all data available since inception of the Major Case initiative. In FY 2020, EBSA estimates \$24,309 in Major Case monetary recoveries per Major Case staff day and \$24,850 in monetary recoveries on Major Cases closed per staff day.

EBSA anticipates closing or referring for litigation 70 percent of its non-Major Cases (includes delinquent employee contribution, abandoned plan, bonding, health part 7 and non-fiduciary breach cases) within 18 months of case opening. This target reflects the challenges that EBSA faces in terms of resources and investigative priorities given the expected increase in health related investigations. In addition, workload and demand measures continuing into FY 2020 include, but are not limited to: responding to an estimated 200,000 participant inquiries; processing an estimated 21,700 applications through the Agency's voluntary compliance programs (Voluntary Fiduciary Correction Program and Delinquent Filer Voluntary Compliance Program); obtaining 100 indictments through the criminal investigation program; completing 3,300 reporting compliance reviews; responding to approximately 47,000 Electronic Filing Acceptance System help-desk inquiries; conducting 600 rapid response sessions for individuals facing job loss; conducting 250 Congressional office briefings; and completing 10 webcasts and 12 compliance seminars for plan sponsors and participants.

House Report 115-862

On page eleven (11) of House Report 115-862, the Committee directed EBSA to provide information in the fiscal year 2020 Congressional Justification on current efforts at the Federal Retirement Thrift Investment Board to increase the participation of women, and minority-owned asset management firms in the management of Thrift Savings Plan funds.

BlackRock, Inc. (an American global investment management corporation based in New York) is the current investment manager for the Thrift Savings Plan's (TSP) C, S, I and F investment funds. Each of the Funds re-competes its investment contract regularly through full and open competition. The contracts for each of the TSP funds are being re-competed this year through "Full and Open Competition" consistent with best practices and fiduciary guidelines. BlackRock Inc. uses women and minority owned brokerage firms in order to execute trades on behalf of its client base, including the TSP, where it believes it is in the client's best interest to do so.

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Given the monetary thresholds contained in the TSP investment manager Request for Proposal (RFP) for the TSP funds, it would be extremely challenging for a small women or minority owned business to qualify as a viable asset manager. However, DOL remains committed to ensuring inclusion of set-asides where applicable for qualified sub-contractors consistent with small business programs delineated in Part 19 of Federal Acquisition Regulations.

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BUDGET ACTIVITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2018 Enacted	FY 2019 Enacted	FY 2020 Request	Diff. FY20 Request / FY19 Enacted
11.1	Full-time permanent	75,890	74,168	77,949	3,781
11.3	Other than full-time permanent	942	942	942	0
11.5	Other personnel compensation	1,293	1,293	1,293	0
11.8	Special personal services payments	0	0	0	0
11.9	Total personnel compensation	78,125	76,403	80,184	3,781
12.1	Civilian personnel benefits	24,665	24,204	25,903	1,699
13.0	Benefits for former personnel	30	30	30	0
21.0	Travel and transportation of persons	980	945	1,204	259
22.0	Transportation of things	22	22	59	37
23.1	Rental payments to GSA	8,916	8,916	9,323	407
23.2	Rental payments to others	31	31	31	0
23.3	Communications, utilities, and miscellaneous charges	291	275	312	37
24.0	Printing and reproduction	440	415	415	0
25.1	Advisory and assistance services	350	1,050	3,550	2,500
25.2	Other services from non-Federal sources	6,201	5,960	6,604	644
25.3	Other goods and services from Federal sources 1/	18,444	20,408	20,563	155
25.4	Operation and maintenance of facilities	0	0	0	0
25.7	Operation and maintenance of equipment	8,137	7,976	8,531	555
26.0	Supplies and materials	501	500	537	37
31.0	Equipment	267	265	450	185
38.0	Depreciation Expense - Unfunded	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	Total	147,400	147,400	157,696	10,296
	1/Other goods and services from Federal sources				
	Working Capital Fund	17,300	19,264	19,419	155
	DHS Services	547	547	547	0
	HHS Services	597	597	597	0

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CHANGES IN FY 2020

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	\$0
Personnel benefits	43
One day more of pay	385
Federal Employees' Compensation Act (FECA)	-43
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	0
Rental payments to others	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services from non-Federal sources	-385
Working Capital Fund	0
Other Federal sources (DHS Charges)	0
Other goods and services from Federal sources	0
Operation and maintenance of facilities	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Insurance claims and indemnities	0

Built-Ins Subtotal **\$0**

Net Program **\$10,296**

Direct FTE **37**

	Estimate	FTE
Base	\$147,400	744
Program Increase	\$10,296	37
Program Decrease	\$0	0

POLICY AND COMPLIANCE ASSISTANCE

BUDGET AUTHORITY BEFORE THE COMMITTEE				
(Dollars in Thousands)				
	FY 2018 Enacted	FY 2019 Enacted	FY 2020 Request	Diff. FY20 Request / FY19 Enacted
Activity Appropriation	26,901	26,901	29,105	2,204
FTE	63	71	79	8

NOTE: FY 2018 reflects actual FTE. Authorized FTE for FY 2018 was 73.

Introduction

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

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

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

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

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Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2015	\$26,901	93
2016	\$26,901	93
2017	\$26,901	79
2018	\$26,901	73
2019	\$26,901	71

FY 2020

EBSA seeks \$29,105,000 and 79 FTEs for the policy and compliance assistance budget activity. The request level for this budget activity includes a program increase of \$2,204,000 and 8 FTEs to adequately fund research and regulatory program efforts that directly respond to significantly higher numbers of new health providers and ensure participants receive promised AHP benefits. This is a top Administration priority. EBSA plans to focus its compliance assistance and regulatory work with respect to MEWAs on self-insured AHPs or MEWAs, particularly those that the agency has identified as showing warning signs of possible misconduct, mismanagement, or underfunding.

This budget will enable EBSA to sustain and support priorities established in the unified regulatory agenda. Fiduciary education, regulations, exemptions, compliance assistance, and policy and research, and interpretive guidance have and will continue to substantially contribute to the protection of employee pension and health benefits. As resources permit, EBSA will develop more sophisticated analytical tools that will enhance data compilation, risk assessment and modeling to better identify enforcement opportunities and improve statistical and analytic support for cases in which large volumes of data must be examined for evidence of violations, such as cases involving the mass administration of claims arising under health and welfare plans.

In FY 2020, EBSA will continue to carry out interpretive activities concerning the provisions of ERISA and related statutes through the timely issuance of advisory opinions and field assistance bulletins addressing relevant interpretive issues raised by the regulated community or considered significant by the Department. EBSA will also pursue a regulatory agenda that includes completing regulatory projects for the advancement of health care and retirement security. These projects include providing guidance, developing regulatory standards, conducting statistical research, policy, regulatory analysis, and issuing ERISA exemptions as set forth in the Semi-Annual Regulatory Agenda. EBSA will also continue to advance compliance with the health care provisions in ERISA by publishing compliance assistance guidance, including guidance implementing the Mental Health Parity and Addiction Equity Act (MHPAEA).

Through these comprehensive regulatory programs, EBSA provides guidance and engages the regulated community in achieving compliance while protecting the benefits of workers, retirees and their families.

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FY 2019

In FY 2019, EBSA will continue to carry out interpretive activities concerning the provisions of ERISA and related statutes through the timely issuance of advisory opinions and field assistance bulletins addressing relevant interpretive issues raised by the regulated community or considered significant by the Department. EBSA will also pursue a regulatory agenda that includes completing regulatory projects for the advancement of health care and retirement security. EBSA will also continue to advance health care by publishing compliance assistance guidance regarding the health plan coverage provisions of ERISA, including the Genetic Information Nondiscrimination Act (GINA), and the Mental Health Parity and Addiction Equity Act (MHPAEA).

EBSA will provide guidance and engage the regulated community in achieving compliance while protecting the benefits of workers, retirees and their families. Additionally, Multiple Employer Welfare Arrangements (MEWA) registration and Mental Health Parity and Addiction Equity Act (MHPAEA) program activities will likely result in increased workload in FY 2019. EBSA estimates that it will respond to approximately 2,660 interpretive, targeted, and other associated technical assistance inquiries (including 150 for MEWA registration and 350 for MHPAEA implementation). EBSA also estimates completing 264 regulatory projects involving interpretive issues, health plan standards, research projects, and policy, legislative, and regulatory analysis projects, MHPAEA implementation and MEWA registration requirements, and issuing ERISA exemptions.

In FY 2019, EBSA will review and process class and individual exemption applications with the ultimate objective of protecting plans and their participants and beneficiaries while facilitating necessary business transactions. Specifically, EBSA has allocated sufficient resources to close, propose or grant an estimated 35 individual exemption actions (includes EXPRO), complete project work on three (3) class exemptions (includes closed, proposed, or granted) and attain an exemption processing time of less than 400 days.

FY 2018

In FY 2018, EBSA pursued a proactive regulatory agenda that included completing 304 regulatory projects to better protect employee health benefits and retirement security. Specifically, the projects encompassed interpretive guidance, health plan standards, MHPAEA implementation, MEWA registration, class exemptions (closed, proposed or granted), statistical research, policy and legislative analysis, and regulatory analysis. Additionally, EBSA addressed 3,178 technical and compliance assistance inquiries or projects involving Part 7 of ERISA by providing interpretive and other technical assistance to plan sponsors and employers for program areas encompassing: 1,812 technical and compliance assistance projects for health plan standards involving benefits security; 651 interpretive and technical assistance inquiries or projects; 397 inquiries or projects involving Mental Health Parity and Addiction Equality Act (MHPAEA) implementation; 306 projects involving MEWA registration; and 12 miscellaneous guidance and compliance assistance projects involving exemptions in FY 2018.

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On May 17, 2018, EBSA transmitted the 2018 annual Self-Insured Group Health Plan Report to Congress and EBSA will coordinate with HHS and Treasury regarding the transmission of the fifth Mental Health Parity and Addiction Equality Act (MHPAEA) Report to Congress. EBSA also processed 67 individual exemption actions (including EXPRO, and encompassing individual exemptions that have been closed, proposed or granted). It processed these exemptions within an average of 382 days.

Workload and Performance Summary

FY 2020

Through the Policy and Compliance budget activity, EBSA will provide guidance and engage the regulated community in achieving compliance while protecting the benefits of workers, retirees and their families. Additionally, Multiple Employer Welfare Arrangements (MEWA) registration and Mental Health Parity and Addiction Equity Act (MHPAEA) program activities will likely result in increased workload in FY 2020 and beyond. EBSA estimates that it will respond to approximately 3,081 interpretive and other associated technical assistance inquiries (including 173 for MEWA registration and 394 for MHPAEA implementation). EBSA also estimates completing 286 regulatory projects involving interpretive issues, health plan standards, research projects, and policy, legislative, and regulatory analysis projects, MHPAEA implementation and MEWA registration requirements, and ERISA exemptions.

In FY 2020, EBSA will review and process class and individual exemption applications with the ultimate objective of protecting plans and their participants and beneficiaries while facilitating necessary business transactions. Specifically, EBSA has allocated sufficient resources to close, propose or grant an estimated 35 individual exemption actions (includes EXPRO), complete project work on three (3) class exemptions (includes closed, proposed, or granted) and attain an exemption processing time of less than 400 days.

Because Major Case results can be highly volatile from year to year, EBSA bases its performance measures on careful consideration of all data available since inception of the Major Case initiative. The timeliness target reflects the challenges that EBSA faces in terms of resources and program priorities given the expected increase in health related investigations.

FY 2019

In FY 2019, EBSA estimates that it will respond to approximately 2,660 interpretive, targeted, and other associated technical assistance inquiries (including 150 for MEWA registration and 350 for MHPAEA implementation). EBSA also estimates completing 264 regulatory projects involving interpretive issues, health plan standards, research projects, and policy, legislative, and regulatory analysis projects, MHPAEA implementation and MEWA registration requirements, and ERISA exemptions.

In FY 2019, EBSA will review and process class and individual exemption applications with the ultimate objective of protecting plans and their participants and beneficiaries while facilitating necessary business transactions. Specifically, EBSA has allocated sufficient resources to close,

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propose or grant an estimated 35 individual exemption actions (includes EXPRO), complete project work on three (3) class exemptions (includes closed, proposed, or granted) and attain an exemption processing time of less than 400 days.

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BUDGET ACTIVITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2018 Enacted	FY 2019 Enacted	FY 2020 Request	Diff. FY20 Request / FY19 Enacted
11.1	Full-time permanent	10,347	10,387	11,198	811
11.3	Other than full-time permanent	90	90	90	0
11.5	Other personnel compensation	230	230	230	0
11.9	Total personnel compensation	10,667	10,707	11,518	811
12.1	Civilian personnel benefits	4,056	4,074	4,438	364
13.0	Benefits for former personnel	0	0	0	0
21.0	Travel and transportation of persons	52	50	106	56
22.0	Transportation of things	0	0	8	8
23.1	Rental payments to GSA	1,528	1,528	1,616	88
23.3	Communications, utilities, and miscellaneous charges	105	100	108	8
24.0	Printing and reproduction	150	125	125	0
25.1	Advisory and assistance services	0	0	0	0
25.2	Other services from non-Federal sources	383	300	427	127
25.3	Other goods and services from Federal sources 1/	5,695	5,804	5,878	74
25.5	Research and development contracts	1,127	1,100	1,600	500
25.7	Operation and maintenance of equipment	2,473	2,473	2,593	120
26.0	Supplies and materials	550	525	533	8
31.0	Equipment	115	115	155	40
	Total	26,901	26,901	29,105	2,204
	1/Other goods and services from Federal sources				
	Working Capital Fund	5,488	5,597	5,671	74
	DHS Services	90	90	90	0
	HHS Services	117	117	117	0

POLICY AND COMPLIANCE ASSISTANCE

CHANGES IN FY 2020

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	\$0
Personnel benefits	0
One day more of pay	55
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services from non-Federal sources	-55
Working Capital Fund	0
Other Federal sources (DHS Charges)	0
Other goods and services from Federal sources	0
Research & Development Contracts	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0
Built-Ins Subtotal	\$0

Net Program	\$2,204
Direct FTE	8

	Estimate	FTE
Base	\$26,901	71
Program Increase	\$2,204	8
Program Decrease	\$0	0

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

BUDGET AUTHORITY BEFORE THE COMMITTEE				
(Dollars in Thousands)				
	FY 2018 Enacted	FY 2019 Enacted	FY 2020 Request	Diff. FY20 Request / FY19 Enacted
Activity Appropriation	6,699	6,699	6,699	0
FTE	24	25	25	0

NOTE: FY 2018 reflects actual FTE. Authorized FTE for FY 2018 was 25.

Introduction

Through this budget activity, EBSA ensures overall leadership and direction for the policy, regulatory, enforcement and all other program and administrative activities. This program function supports EBSA’s component program offices of enforcement and regulatory programs that improve transparency through public disclosure and helpful participant assistance and outreach programs.

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

Through this function, EBSA carries out its responsibilities for the management of debts arising from the assessment of civil penalties under ERISA sections 502(c)(2), 502(i) and 502(l). This is accomplished in accordance with the requirements of the Debt Collection and Debt Collection Improvement Acts.

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2015	\$6,699	26
2016	\$6,699	26
2017	\$6,699	25
2018	\$6,699	25
2019	\$6,699	25

FY 2020

EBSA seeks \$6,699,000 and 25 FTE for the Executive Leadership, Program Oversight and Administration budget activity. There are no program increases or decreases for this budget activity. This budget enables EBSA to continue to provide the leadership and administrative support for all of the agency's programs including enforcement, participant assistance, policy, compliance assistance, and regulatory initiatives. EBSA will utilize human capital, financial and other information systems to provide decision-makers with the timely analysis required to monitor and update strategic plans and to measure the results of program and management initiatives. Additionally through this activity, EBSA will ensure the proper execution of responsibilities to sustain employee benefits security and health care.

In FY 2020, the Executive Leadership, Program Oversight and Administration budget activity will continue to ensure the execution of functions that include: (a) human capital management programs to build, sustain, and effectively deploy the skilled, knowledgeable, diverse, and high-performing workforce needed to meet current and emerging needs; (b) development of strategic training goals and delivery mechanisms that meet both programmatic and individual needs; (c) development of long term and annual performance plans and reports; (d) development and implementation of the agency Continuity of Operations Plan for continuation of critical agency operations in the event of a major disruption; (e) formulation, execution and evaluation of the agency budget; and (f) overall facilities management planning including space, telecommunications, mail, and printing management.

Lastly, during FY 2020, EBSA will continue to effectively administer its responsibilities for the management of debts arising from the assessment of civil penalties under ERISA sections 502(c)(2), 502(i) and 502(l). This will be accomplished in accordance with the requirements of the Debt Collection and Debt Collection Improvement Acts.

FY 2019

In FY 2019, the Executive Leadership, Program Oversight and Administration budget activity will continue to ensure the execution of functions that include: (a) human capital management programs to build, sustain, and effectively deploy the skilled, knowledgeable, diverse, and high-performing workforce needed to meet current and emerging needs; (b) development of strategic training goals and delivery mechanisms that meet both programmatic and individual needs; (c) development of long term and annual performance plans and reports; (d) development and

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

implementation of the agency Continuity of Operations Plan for continuation of critical agency operations in the event of a major disruption; (e) formulation, execution and evaluation of the agency budget; and (f) overall facilities management planning including space, telecommunications, mail, and printing management.

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

FY 2018

To enhance employee development and succession planning, EBSA utilized intra-agency development assignments, OPM-sponsored management development training, USDA Graduate School sponsored training, online “SkillSoft” courses, and other management development assignments (e.g., developmental details, EBSA management courses and seminars, annual employee needs assessments). Approximately 200 EBSA employees completed such developmental assignments and 135 supervisors, managers and management officials completed the DOL leadership development curriculum in FY 2018.

EBSA continued to develop an extensive internal training curriculum to ensure that its employees maintain the technical knowledge needed to successfully meet its strategic and performance goals. The training curriculum consists of a Basic Training Course, two Techniques Courses (one each for Investigators and Benefits Advisors), Criminal Enforcement Training Course, Benefit Plan Accounting and Finance Course, Advanced Issues Course, a newly introduced Health Plan Investigation Course and an independent study course for the Introduction to Employee Benefits and Fiduciary Conduct. In FY 2018, EBSA trained approximately 150 employees in technical and professional areas, resulting in over 8,000 hours of training. These courses are designed to provide a foundation of legal knowledge and an understanding of industry practices required to effectively regulate the employee benefits industry and provide compliance assistance.

Lastly, EBSA effectively administered its responsibilities under the Debt Collection and Debt Collection Improvement Acts resulting in net final assessments of approximately \$19,528,237 and net collections of approximately \$19,026,092 in FY 2018.

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

Workload and Performance Summary

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

**EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND
ADMINISTRATION**

BUDGET ACTIVITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2018 Enacted	FY 2019 Enacted	FY 2020 Request	Diff. FY20 Request / FY19 Enacted
11.1	Full-time permanent	3,266	3,278	3,291	13
11.3	Other than full-time permanent	17	17	17	0
11.5	Other personnel compensation	110	110	110	0
11.9	Total personnel compensation	3,393	3,405	3,418	13
12.1	Civilian personnel benefits	1,482	1,487	1,493	6
13.0	Benefits for former personnel	0	0	0	0
21.0	Travel and transportation of persons	60	55	55	0
22.0	Transportation of things	0	0	0	0
23.1	Rental payments to GSA	325	325	325	0
23.2	Rental payments to others	0	0	0	0
23.3	Communications, utilities, and miscellaneous charges	25	20	20	0
24.0	Printing and reproduction	10	10	10	0
25.1	Advisory and assistance services	0	0	0	0
25.2	Other services from non-Federal sources	195	150	131	-19
25.3	Other goods and services from Federal sources 1/	1,044	1,082	1,082	0
25.7	Operation and maintenance of equipment	15	15	15	0
26.0	Supplies and materials	20	20	20	0
31.0	Equipment	130	130	130	0
	Total	6,699	6,699	6,699	0
	1/Other goods and services from Federal sources				
	Working Capital Fund	1,005	1,043	1,043	0
	DHS Services	33	33	33	0
	HHS Services	6	6	6	0

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

CHANGES IN FY 2020

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	\$0
Personnel benefits	0
One day more of pay	19
Federal Employees' Compensation Act (FECA)	0
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	0
Rental payments to others	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services from non-Federal sources	-19
Working Capital Fund	0
Other Federal sources (DHS Charges)	0
Other goods and services from Federal sources	0
Operation and maintenance of equipment	0
Supplies and materials	0
Equipment	0

Built-Ins Subtotal **\$0**

Net Program **\$0**

Direct FTE **0**

	Estimate	FTE
Base	\$6,699	25
Program Increase	\$0	0
Program Decrease	\$0	0