

FY 2021

CONGRESSIONAL BUDGET JUSTIFICATION

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

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EMPLOYEE BENEFITS SECURITY ADMINISTRATION

TABLE OF CONTENTS

Appropriation Language	1
Amounts Available for Obligation	2
Summary of Changes.....	3
Summary Budget Authority and FTE by Activity.....	5
Budget Authority by Object Class.....	6
Authorizing Statutes	7
Appropriation History.....	8
Overview.....	9
Organization Chart.....	15
Budget Activities	17
Enforcement and Participant Assistance	17
Policy and Compliance Assistance.....	29
Executive Leadership, Program Oversight and Administration.....	37

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EMPLOYEE BENEFITS SECURITY ADMINISTRATION

APPROPRIATION LANGUAGE

For necessary expenses for the Employee Benefits Security Administration [\$181,000,000]
\$192,738,000 of which up to \$3,000,000 shall be made available through September 30, [2021],
2023, for the procurement of expert witnesses for enforcement litigation.

(Department of Labor Appropriations Act, 2020.)

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

AMOUNTS AVAILABLE FOR OBLIGATION						
(Dollars in Thousands)						
	FY 2019 Enacted		FY 2020 Enacted		FY 2021 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
A. Appropriation	840	\$181,000	840	\$181,000	875	\$192,738
<i>Subtotal Appropriation</i>	<i>840</i>	<i>\$181,000</i>	<i>840</i>	<i>\$181,000</i>	<i>875</i>	<i>\$192,738</i>
Offsetting Collections From:						
Reimbursements	0	\$7,366	0	\$8,000	0	\$8,000
<i>Subtotal</i>	<i>840</i>	<i>\$188,366</i>	<i>840</i>	<i>\$189,000</i>	<i>875</i>	<i>\$200,738</i>
B. Gross Budget Authority	840	\$188,366	840	\$189,000	875	\$200,738
Offsetting Collections To:						
Reimbursements	0	-\$7,366	0	-\$8,000	0	-\$8,000
Shared Services Realignment	-14	\$0	-14	\$0	0	\$0
<i>Subtotal</i>	<i>826</i>	<i>\$181,000</i>	<i>826</i>	<i>\$181,000</i>	<i>875</i>	<i>\$192,738</i>
C. Budget Authority Before the Committee	826	\$181,000	826	\$181,000	875	\$192,738
Offsetting Collections From:						
Reimbursements	0	\$7,366	0	\$8,000	0	\$8,000
Unobligated Balances From:	0	\$0	0	\$0	0	\$0
Brought Forward, October 1 (Expert Witness)	0	\$2,358	0	\$0	0	\$0
<i>Subtotal</i>	<i>826</i>	<i>\$190,724</i>	<i>826</i>	<i>\$189,000</i>	<i>875</i>	<i>\$200,738</i>
D. Total Budgetary Resources	826	\$190,724	826	\$189,000	875	\$200,738
FTE Lapse and Unobligated Balance Expiring	-38	-\$23	0	\$0	0	\$0
FTE Lapse and Unobligated Balance Carryover (Expert Witness)	0	-\$387	0	\$0	0	\$0
Shared Services Realignment	14	\$0	0	\$0	0	\$0
E. Total, Estimated Obligations	802	\$190,314	826	\$189,000	875	\$200,738

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2020 Enacted	FY 2021 Request	Net Change
Budget Authority			
General Funds	\$181,000	\$192,738	+\$11,738
Total	\$181,000	\$192,738	+\$11,738
 Full Time Equivalents			
General Funds	826	875	49
Total	826	875	49

Explanation of Change	FY 2021 Change							
	FY 2020 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Increases:								
A. Built-Ins:								
To Provide For:								
Costs of pay adjustments	826	\$89,310	0	\$0	0	\$1,199	0	\$1,199
Personnel benefits	0	\$29,304	0	\$0	0	\$539	0	\$539
One day less of Pay	0	\$0	0	\$0	0	\$0	0	\$0
Federal Employees' Compensation Act (FECA)	0	\$156	0	\$0	0	\$202	0	\$202
Benefits for former personnel	0	\$30	0	\$0	0	\$0	0	\$0
Travel and transportation of persons	0	\$1,087	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	\$99	0	\$99
Rental payments to others	0	\$31	0	\$0	0	\$0	0	\$0
Communications, utilities, and miscellaneous charges	0	\$416	0	\$0	0	\$0	0	\$0
Printing and reproduction	0	\$600	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	\$6,416	0	\$0	0	\$0	0	\$0
Working Capital Fund	0	\$27,245	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	\$1,127	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	\$1,071	0	\$0	0	\$0	0	\$0
Equipment	0	\$512	0	\$0	0	\$0	0	\$0
Insurance claims and indemnities	0	\$0	0	\$0	0	\$0	0	\$0

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Explanation of Change	FY 2021 Change							
	FY 2020 Base		Trust Funds		General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Built-Ins Subtotal	826	+\$181,000	0	\$0	0	+\$2,039	0	+\$2,039
B. Programs:								
MEWA Enforcement and Administration	840	\$181,000	0	\$0	49	\$8,165	49	\$8,165
TSP Audit Investment	744	\$147,400	0	\$0	0	\$2,000	0	\$2,000
Programs Subtotal			0	\$0	49	+\$10,165	49	+\$10,165
Total Increase	826	+\$181,000	0	\$0	49	+\$12,204	49	+\$12,204
Decreases:								
A. Built-Ins:								
To Provide For:								
One day less of Pay	0	\$0	0	\$0	0	-\$466	0	-\$466
Built-Ins Subtotal	0	\$0	0	\$0	0	-\$466	0	-\$466
B. Programs:								
Total Decrease	0	\$0	0	\$0	0	-\$466	0	-\$466
Total Change	826	+\$181,000	0	\$0	49	+\$11,738	49	+\$11,738

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY								
(Dollars in Thousands)								
	FY 2019 Enacted		FY 2020 Enacted		FY 2021 Request		Diff. FY21 Request / FY20 Enacted	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Enforcement and Participant Assistance	717	147,400	730	147,400	767	156,756	37	9,356
General Funds	717	147,400	730	147,400	767	156,756	37	9,356
Policy and Compliance Assistance	63	26,901	71	26,901	79	28,811	8	1,910
General Funds	63	26,901	71	26,901	79	28,811	8	1,910
Executive Leadership, Program Oversight and Administration	22	6,699	25	6,699	29	7,171	4	472
General Funds	22	6,699	25	6,699	29	7,171	4	472
Total	802	181,000	826	181,000	875	192,738	49	11,738
General Funds	802	181,000	826	181,000	875	192,738	49	11,738

NOTES: 2019 reflects actual FTE. FTE for all years reflect the Shared Services Realignment.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

BUDGET AUTHORITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2019 Enacted	FY 2020 Enacted	FY 2021 Request	Diff. FY21 Request / FY20 Enacted
	Full-Time Equivalent				
	Full-time Permanent	822	822	871	49
	Other	4	4	4	0
	Total	826	826	875	49
	Average ES Salary	\$186,520	\$187,388	\$189,262	\$1,874
	Average GM/GS Grade	12/8	12/9	12/9	0
	Average GM/GS Salary	\$103,294	\$104,237	\$107,582	\$3,345
11.1	Full-time permanent	85,847	86,628	91,735	5,107
11.3	Other than full-time permanent	1,049	1,049	1,059	10
11.5	Other personnel compensation	1,633	1,633	2,337	704
11.8	Special personal services payments	0	0	0	0
11.9	Total personnel compensation	88,529	89,310	95,131	5,821
12.1	Civilian personnel benefits	29,110	29,460	31,468	2,008
13.0	Benefits for former personnel	30	30	30	0
21.0	Travel and transportation of persons	1,050	1,087	1,337	250
22.0	Transportation of things	22	22	58	36
23.1	Rental payments to GSA	10,769	10,769	11,188	419
23.2	Rental payments to others	31	31	31	0
23.3	Communications, utilities, and miscellaneous charges	395	416	454	38
24.0	Printing and reproduction	550	600	600	0
25.1	Advisory and assistance services	1,050	1,050	1,050	0
25.2	Other services from non-Federal sources	6,410	6,416	8,546	2,130
25.3	Other goods and services from Federal sources 1/	29,935	28,635	28,635	0
25.4	Operation and maintenance of facilities	0	0	0	0
25.5	Research and development contracts	1,100	1,127	1,477	350
25.7	Operation and maintenance of equipment	10,464	10,464	10,964	500
26.0	Supplies and materials	1,045	1,071	1,107	36
31.0	Equipment	510	512	662	150
38.0	Depreciation Expense - Unfunded	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	Total	181,000	181,000	192,738	11,738
	1/Other goods and services from Federal sources				
	Working Capital Fund	28,545	27,245	27,245	0
	DHS Services	670	670	670	0
	HHS Services	720	720	720	0

NOTE: FTE for all years reflect the Shared Services Realignment.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

AUTHORIZING STATUTES

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

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

APPROPRIATION HISTORY					
(Dollars in Thousands)					
	Budget Estimates to Congress	House Allowance	Senate Allowance	Appropriations	FTE
2011					
Base Appropriation...1/	\$161,995		\$161,995	\$154,551	910
2012					
Base Appropriation...2/	\$197,528	\$159,363	\$195,528	\$183,153	1,003
2013					
Base Appropriation...3/	\$183,153			\$173,573	993
2014					
Base Appropriation...4/	\$179,104			\$178,500	985
2015					
Base Appropriation...5/	\$188,447			\$181,000	963
2016					
Base Appropriation...6/	\$207,455	\$180,699	\$168,930	\$181,000	949
2017					
Base Appropriation...7/	\$205,761			\$181,000	925
2018					
Base Appropriation...8/	\$183,926	\$175,600		\$181,000	860
2019					
Base Appropriation...9/	\$189,500			\$181,000	840
2020					
Base Appropriation...10/	\$193,500	\$183,155		\$181,000	826
2021					
Base Appropriation...11/	\$192,738				875

¹ Excludes a non-expenditure transfer of \$4,502 from the Departmental Management (DM) account pursuant to P.L. 112-10.

² Reflects a reduction of \$347 pursuant to the enacted rescission in P.L. 112-74 and does not reflect re-programming levels.

³ 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.

⁴ Reflects the full appropriation pursuant to P.L. 113-76 without enacted rescissions.

⁵ Reflects the full appropriation pursuant to P.L. 113-235 without enacted rescissions.

⁶ Reflects the full appropriation pursuant to P.L. 114-113 without enacted rescissions.

⁷ Reflects the full appropriation pursuant to P.L. 115-31 without enacted rescissions.

⁸ Reflects the full appropriation pursuant to P.L. 115-141 without enacted rescissions.

⁹ Reflects the full appropriation pursuant to P.L. 115-245 without enacted rescissions.

¹⁰ Reflects the full appropriation pursuant to P.L. 116-93 without enacted rescissions and the FTE level for Shared Services Realignment.

¹¹ Reflects the FTE level for Shared Services Realignment.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

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 154 million workers, retirees and their families who are covered by 710,000 private retirement plans, 2.4 million health plans, and similar numbers of other welfare benefit plans. Together, these plans hold estimated assets of \$10.7 trillion. In addition, the Agency has important interpretive and regulatory responsibilities with respect to IRAs, which hold about \$8.8 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 5.8 million participants and more than \$621 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.

Multiple Employer Welfare Arrangements (MEWAs)

In FY 2021, EBSA will continue to focus much of its investigative work on self-insured Multiple Employer Welfare Arrangements (MEWAs), particularly those that the agency has identified as showing warning signs of possible misconduct, mismanagement, or underfunding. To the extent resources are available, EBSA will give the greatest attention to these self-insured MEWAs

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

because they pose the greatest risk to plan participants of unpaid claims and catastrophic losses. The agency will attempt to reduce these risks, within the constraints of its resources, 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.

The problem of insolvent and fraudulent MEWAs has dramatically increased in recent years, and is expected to further intensify if health insurance markets become more unstable. When people are unable to find affordable and adequate health insurance, premiums increase and/or they have to go without health insurance coverage, the opportunities for fraud and abuse increase. When MEWAs close down due to insolvency or fraudulent activity, participants are often left with significant unpaid claims. In such cases, EBSA seeks to remove the fiduciaries responsible for wrongdoing, recover plan losses to the extent possible, and have a court appointed fiduciary wind down the plan. Typically, the independent fiduciary provides notices to participants, pays claims, and retains and hires necessary service providers. In some cases, there are no funds remaining for DOL to appoint an independent fiduciary to address unpaid claims that can easily exceed several million dollars.

EBSA has increasingly had to devote significant resources to fraudulent or mismanaged MEWAs, and expects the magnitude of the burden to continue to increase based on current trends. Problems of insolvent and fraudulent MEWAs might grow even worse if health insurance markets become more unstable.

The SECURE Act

The Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019, P.L.116-94, was signed into law by President Donald Trump on December 20, 2019 as part of the Further Consolidated Appropriations Act, 2020. The SECURE Act includes amendments of both ERISA and related Internal Revenue Code provisions, and has been described as the most significant retirement policy legislation since the Pension Protection Act in 2006.

Major elements of the SECURE Act with impacts on policy, regulatory, research, compliance and reporting, participant assistance, and enforcement functions, include: (a) establishing a new type of multiple employer retirement plan (pooled employer plan) that allows unrelated employers to join, and which is sponsored by a pooled plan provider that registers with the Department; (b) requiring EBSA to modify the Form 5500 Annual Return/Report of Employee Benefit Plans to allow groups of plans meeting certain similarity requirements to file a single Form 5500; (c) expanding portability of lifetime income options; (d) allowing long-term, part-time workers to participate in 401(k) plans; (e) providing a fiduciary safe harbor for selection of a lifetime income provider; (f) modifying the treatment of custodial accounts on termination of 403(b) plans; (g) extending the current required minimum distribution requirements to age 72; and (h) requiring 401(k)-type retirement plans to make disclosures that present account balances as lifetime income streams. The SECURE Act places a tremendous additional workload burden on EBSA because of its impact on a broad spectrum of the agency's central functions and activities.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Expert Witness Legislative Language Refinement

EBSA seeks a refinement of agency appropriations language to ensure the availability of resources for payment of the fees and expenses of expert witnesses who consult with and testify on behalf of the Federal Government when technical expertise is required in the prosecution of ERISA-related cases. The pursuit of complex ERISA-related litigation by the Department would not be possible without employing qualified experts.

Currently, DOL is authorized two-year availability of resources for the payment of fees and expenses of expert witnesses for ERISA-related cases. The specific appropriations language will refine the existing multi-year (2 year) availability to reflect three year (3 year) availability. The expanded multi-year approach will facilitate more effective management of expert witness contracts to meet litigation deadlines that often are not well-aligned with the budget process.

President's Management Agenda (PMA)

EBSA is determined to deliver positive mission outcomes, provide excellent service, and effectively steward taxpayer dollars by: improving compliance with ERISA; recovering losses for individuals and employee benefit plans and restoration of 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 2021, EBSA will continue to prioritize the pursuit of more complex cases (including cases involving Multiple Employer Welfare Arrangements (MEWAs)).

In recent years, the Agency has moved away from enforcement metrics that gave undue weight to cases that yielded quick and easy results, such as cases involving technical violations, bonding, small delays in payment, or technical reporting and disclosure violations. To 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

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

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 plans, 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) Consumer Outreach and Education; and,
- 6) Participant Assistance and Customer Service.

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

The Department is committed to implementing the President's Management Agenda (PMA) and an Enterprise Shared Services delivery model for administrative functions. The purpose of the Enterprise Shared Services initiative is to create an administrative services delivery model that is streamlined, consistent, and efficient. Instead of directly funding information technology, procurement, personnel security, and human resources functions, the Department's current plan is that EBSA will use a shared services provider through the Working Capital Fund (WCF) and the proposed IT Working Capital Fund (IT WCF). Under this plan, 14 FTEs will be realigned from EBSA to the WCF and IT WCF as part of the implementation of this model. The FY 2021 President's Budget reflects this FTE realignment and the corresponding realignment of personnel compensation and benefits. The Budget does not include any related changes to non-personnel funding.

FY 2021 Request

Consistent with the comprehensive plan for reforming the Federal Government to ensure greater efficiency, EBSA seeks \$192,738,000 and 875 FTE. This resource request includes: a program increase of \$8,165,000 and 49 FTEs to respond to the increased need for enforcement, compliance assistance, and oversight of participant rights and obligations with respect to Multiple Employer Welfare Arrangements (MEWAs); a program increase of \$2,000,000 for investment in enhanced TSP audit and oversight; built-in increases of \$1,738,000 for an enacted pay adjustment, \$202,000 for FECA and \$99,000 for rent; a built-in decrease of \$466,000 for one day less pay and a realignment of \$2,615,000 and 14 FTEs from EBSA to the WCF for shared services in support of the PMA. The resource request encompasses programmatic efforts as follows:

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

- **\$8,165,000 and 49 FTEs for MEWA Enforcement and Administration.** EBSA seeks an increase of \$8,165,000 to investigate self-insured MEWAs that the agency has identified as showing warning signs of possible underfunding, mismanagement, or misconduct. Self-insured MEWAs pose the greatest risk to plan participants of unpaid claims and catastrophic losses. Historical experience demonstrates that small employers are often tempting targets for fraudulent or imprudent promoters that promise generous benefits at below-market prices. Many of these self-insured MEWAs have suffered from financial mismanagement or abuse, leaving 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 wasted assets. Mismanaged or abusive arrangements typically do not advertise their risks and shortcomings to the public or EBSA, and losses have commonly outstripped the amounts actually recovered for participants who thought they had legitimate health insurance, but were instead victimized by a health scam. The resulting harm can be catastrophic. Self-insured MEWAs pose the greatest risk to plan participants of unpaid claims and catastrophic losses.
- **\$2,000,000 for enhanced TSP Audits and Oversight.** EBSA seeks an increase of \$2,000,000 to enhance oversight and administration of the TSP by conducting specialized fiduciary audits to achieve the following objectives: (1) establish/maintain a strategic audit plan; (2) review whether the TSP fiduciaries act in the sole interest of the participants and beneficiaries; (3) review whether all plan fiduciaries comply with the fiduciary rules and prohibited transactions requirements of FERSA; (4) review the Plan's security over personal and financial data (cybersecurity); (5) review benefit records, customer service recordkeeping systems, and administrative policies and procedures; and (6) review investment management organization and operation. Given the enormous growth of the TSP in transaction volumes, as well as the growth in participants and investments, we believe that these resources are critical for EBSA to improve focus and oversight in areas where weaknesses have been identified but not adequately mitigated.

FY 2021 Activities, Strategies, and Program Workload

During FY 2021, 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 2021, 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

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

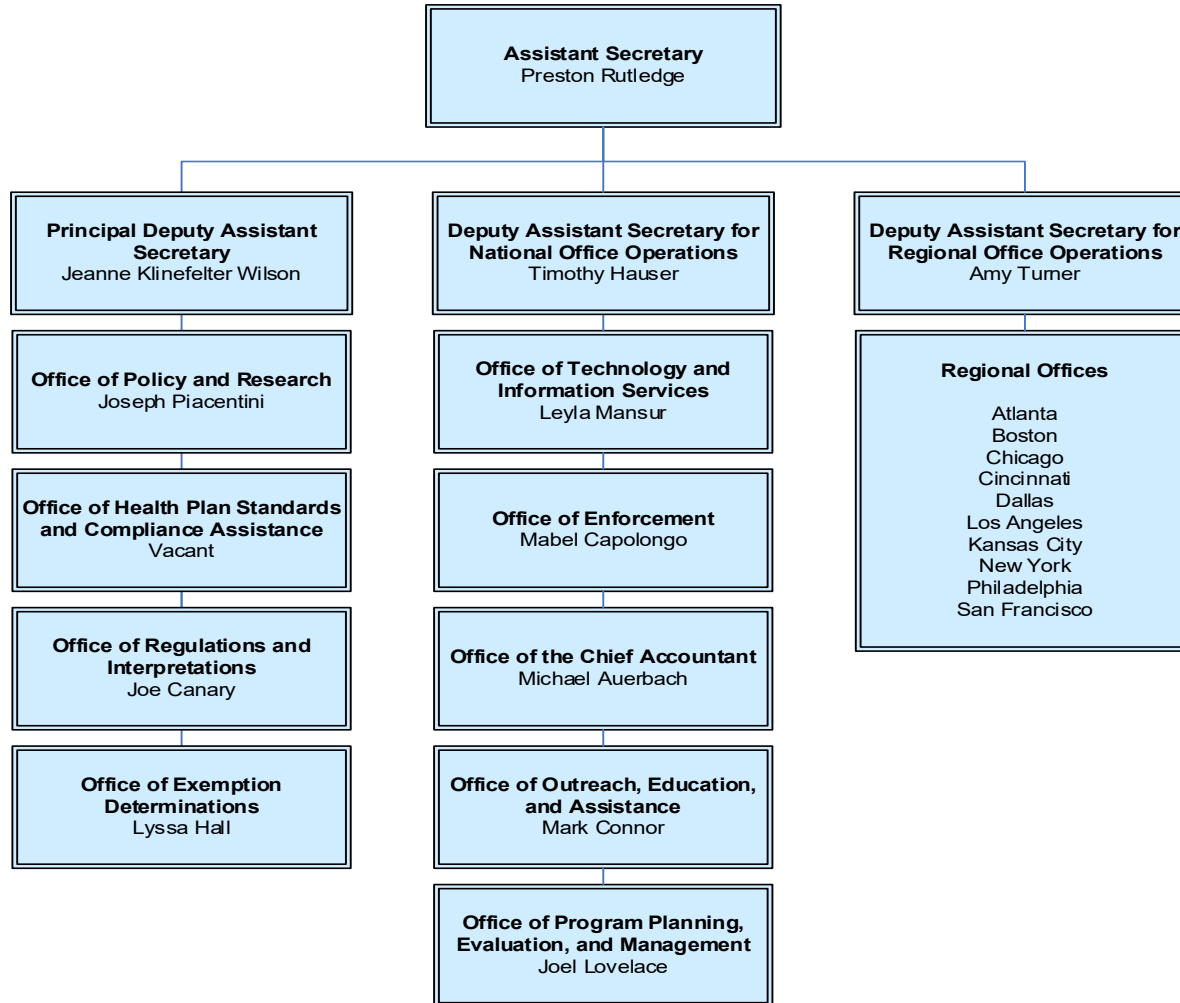
referring for litigation 86 percent of its non-Major cases within 30 months of case opening, closing or referring for litigation 76 percent of its other non-Major cases (includes delinquent employee contribution, abandoned plan, bonding, health part 7 and non-fiduciary breach cases) within 18 months 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 2021 include, but are not limited to: responding to an estimated 175,000 participant inquiries; obtaining 102 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 2021, EBSA will continue to carry out the agency's interpretive activities concerning the provisions of ERISA and related statutes through the timely issuance of advisory opinions and field assistance bulletins addressing relevant interpretive issues raised by the regulated community or considered significant by the Department. EBSA will complete an estimated 3,401 interpretive and other associated technical assistance projects/plan inquiries and targeted technical assistance. EBSA will also pursue a proactive regulatory agenda that includes completing 315 regulatory projects to better protect health care and retirement benefits. These projects include providing guidance, developing regulatory standards, conducting statistical research, policy, regulatory analysis, and issuing ERISA exemptions. EBSA will also address the required rulemaking and regulatory efforts under the SECURE Act, as well as to enforce and administer new provisions.

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.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

EBSA Organization Chart



ENFORCEMENT AND PARTICIPANT ASSISTANCE

BUDGET AUTHORITY BEFORE THE COMMITTEE				
(Dollars in Thousands)				
	FY 2019 Enacted	FY 2020 Enacted	FY 2021 Request	Diff. FY21 Request / FY20 Enacted
Activity Appropriation	147,400	147,400	156,756	9,356
FTE	703	730	767	37

NOTE: FTE for all years reflect the Shared Services Realignment.

NOTE: FY 2019 reflects actual FTE. Authorized FTE for FY 2019 was 744.

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 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

ENFORCEMENT AND PARTICIPANT ASSISTANCE

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 promotes transparency by providing for the public disclosure of plan information, and by providing a free web-based program that plan administrators can use to meet the electronic filing requirement at no additional cost to them. Annually, the electronic filing system receives and processes 1.2 million Forms 5500 that are filed with DOL, 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 for Congress and interested stakeholders, including plan participants and beneficiaries. The electronic filing system is also the primary source of employee benefit plan data for the IRS, the PBGC, the Government Accountability Office (GAO) and others. The 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 2021 Request: The FY 2021 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.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2016	\$147,400	830
2017	\$147,400	821
2018	\$147,400	762
2019	\$147,400	744
2020	\$147,400	744

FY 2021

EBSA seeks \$156,756,000 and 767 FTEs for the enforcement and participant assistance budget activity. This resource request includes: a program increase of \$6,000,000 and 37 FTEs to respond to the increased need for enforcement, compliance assistance, and oversight of participant rights and obligations with respect to Multiple Employer Welfare Arrangements (MEWAs); a program increase of \$2,000,000 to improve oversight of the TSP; built-in increases of \$1,442,000 for an enacted pay adjustment, \$202,000 for FECA and \$99,000 for rent; a built-in decrease of \$387,000 for one day less pay and a realignment of (\$2,615,000) and (14) FTEs from EBSA to the WCF for shared services in support of the PMA.

EBSA plans to focus its investigative work with respect to MEWAs on self-funded 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 and subsequent market developments, overseeing these types of MEWAs may make up a greater share of the agency's enforcement work. Concurrently, the SECURE Act places a tremendous additional workload burden on the enforcement and participant assistance budget activity because of its impact on a broad spectrum of the agency's central functions and activities.

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 MEWAs. In FY 2021, 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 identify entities for investigation that may not have sufficient reserves to pay legitimate health care claims.

EBSA will enhance oversight and administration of the TSP by conducting specialized fiduciary audits to ensure: TSP fiduciaries act in the sole interest of the participants and beneficiaries; all plan fiduciaries comply with the fiduciary rules and prohibited transactions requirements of FERSA; the TSP maintains proper security over personal and financial data (cybersecurity); the

ENFORCEMENT AND PARTICIPANT ASSISTANCE

TSP properly maintains benefit records, customer service recordkeeping systems, and administrative policies and procedures; and the TSP prudently maintains its investment management organization and operations. Given the large growth of the TSP in transaction volumes, as well as in participants and investments, we believe that these measures are critical for EBSA to improve oversight in areas where weaknesses of TSP administration have been identified but not adequately mitigated.

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

EBSA will leverage its resources by partnering with numerous organizations such as the Social Security Administration (SSA), American Association For Retired Persons (AARP), Financial Literacy Education Commission (FLEC), Women's Institute for a Secure Retirement (WISER), labor unions, state insurance commissioners, IRS, Department of Health and Human Services (HHS), Society of Human Resource Management (SHRM), the American Institute of Certified Public Accountants (AICPA), the Society of Actuaries, and others to reach 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.

FY 2020

EBSA Major Case time performance metrics measure efficiency by linking outputs (investigative time) to outcomes (monetary recoveries). EBSA anticipates closing or referring for litigation 76 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 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.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

FY 2019

EBSA Restores Over \$2.5 Billion to Employee Benefit Plans, Participants and Beneficiaries

In FY 2019, EBSA closed 1,146 civil investigations with 770 of those cases (67 percent) resulting in monetary results for plans or other corrective action. 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 over \$2,500,000,000 in total monetary recoveries resulting from investigations that included \$33,285,000 to plan participants under the Abandoned Plan Program; and verified \$14,654,000 in restored assets under the Voluntary Fiduciary Correction Program (VFCP).

Recoveries on behalf of terminated vested participants played a large role in overall enforcement results in FY 2019. The enforcement program helped terminated vested participants in defined benefit plans collect benefits of nearly \$1,500,000,000 (included in overall results) owed to them. Terminated vested results represent a combination of the present values of lifetime annuity payments made to participants and beneficiaries, or cash-out lump sum payments, plus interest distributions paid as either retroactive lump sums or included in actuarial adjusted future annuity payments.

In partnership with other Departmental, federal, state, and local authorities, EBSA also closed 275 criminal cases that resulted in 76 indictments and 72 cases closed with guilty pleas and/or convictions. This demonstrates that EBSA's strategies for enforcement targeting and partnering with other law enforcement organizations are effective in finding the most egregious and persistent violators. EBSA also actively involved the regulated community in efforts to identify and remedy violations through two highly successful self-correction programs designed to encourage voluntary compliance. The Voluntary Fiduciary Correction Program (VFCP) and the Delinquent Filer Voluntary Compliance Program (DFVCP) encourage plan officials to identify and remedy certain ERISA violations. During FY 2019, EBSA closed 1,585 applications under the VFCP and 20,088 delinquent filers have come into compliance with ERISA under the DFVCP.

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 2019, EBSA's Benefits Advisors' responded to 166,627 inquiries and recovered \$510,024,000 (included in overall results) for participants through informal dispute resolution.

EBSA's Web site has become one of its primary means of reaching the public and in FY 2019 the Web site hosted nearly 4 million visitors, viewing over 5 million pages. Additionally, nearly 377,000 publications were distributed via EBSA's toll-free publication hotline at outreach events. All the publications are available and accessible on line.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

EBSA also runs a nationwide program of education and outreach events for plan participants, plan officials and members of the public. During FY 2019, EBSA conducted 1,789 outreach activities for 51,518 individuals. In addition, EBSA conducted 208 health outreach activities in FY 2019, reaching 8,113 individuals.

EBSA's outreach efforts included compliance assistance, participant assistance and public awareness activities. EBSA's benefits advisors regularly present information to plan fiduciaries and service providers about their responsibilities under ERISA, provide assistance to people who recently experienced a job loss via the agency's Rapid Response outreach program, and speak to staff in Congressional offices about assistance the agency can provide to constituents with questions about their rights under ERISA.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

WORKLOAD AND PERFORMANCE SUMMARY					
		FY 2019 Enacted		FY 2020 Enacted	FY 2021 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	\$23,151	\$108,807	\$39,996	\$39,996
EBSA-OE-01a	Monetary Recoveries on Major Cases Closed per Staff Day	\$23,667	\$79,773	\$29,271	\$29,271
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%	89%	76%	76%

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

ENFORCEMENT AND PARTICIPANT ASSISTANCE

Workload and Performance Summary

FY 2021

The Major Case time indicator and performance measures reflect better targeting and 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. In late FY 2020, EBSA will develop FY 2021 estimates for 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 76 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. Other benefits security program workload and demand measures continuing into FY 2021 include, but are not limited to: responding to an estimated 175,000 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 102 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.

FY 2020

EBSA anticipates closing or referring for litigation 76 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. In FY 2020, EBSA estimates \$39,996 in Major Case monetary recoveries per Major Case staff day and \$29,271 in monetary recoveries on Major Cases Closed per staff day. Other 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; 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.

EBSA also anticipates the expansion of MEWAs to have a substantial impact on the enforcement workload without a corresponding increase in significant monetary recoveries. Concurrently, the SECURE Act places a tremendous additional workload burden on the enforcement and participant assistance budget activity because of its impact on a broad spectrum of the agency's central functions and activities.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

FY 2019

In FY 2019, EBSA continued to focus its enforcement resources on National Enforcement Projects and the Major Case Enforcement Priority. The Major Case Enforcement Priority concentrates a significant portion of the agency's enforcement resources on cases likely to have the greatest impact on the protection of plan assets and participants' benefits. FY 2019 results reflected the volatility of Major Case recoveries as the majority of recoveries came from a single initiative, the Terminated Vested Participant Project (TVPP). The TVPP cases have obtained unusually large recoveries for participants and beneficiaries while expending minimal investigative resources. Without the exceptional results of the TVPP initiative, FY 2019 results would have been in line with projected year-end targets rather than significantly exceeding them. EBSA anticipates that TVPP recoveries will begin to decline over the next two to three years, as plan fiduciaries and sponsors improve their recordkeeping and notification practices with respect to "missing" terminated vested participants.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

BUDGET ACTIVITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2019 Enacted	FY 2020 Enacted	FY 2021 Request	Diff. FY21 Request / FY20 Enacted
11.1	Full-time permanent	72,182	72,950	76,856	3,906
11.3	Other than full-time permanent	942	942	952	10
11.5	Other personnel compensation	1,293	1,293	1,897	604
11.8	Special personal services payments	0	0	0	0
11.9	Total personnel compensation	74,417	75,185	79,705	4,520
12.1	Civilian personnel benefits	23,549	23,893	25,455	1,562
13.0	Benefits for former personnel	30	30	30	0
21.0	Travel and transportation of persons	945	980	1,180	200
22.0	Transportation of things	22	22	52	30
23.1	Rental payments to GSA	8,916	8,916	9,290	374
23.2	Rental payments to others	31	31	31	0
23.3	Communications, utilities, and miscellaneous charges	275	291	321	30
24.0	Printing and reproduction	415	440	440	0
25.1	Advisory and assistance services	1,050	1,050	1,050	0
25.2	Other services from non-Federal sources	5,960	5,960	8,060	2,100
25.3	Other goods and services from Federal sources 1/	23,049	21,858	21,858	0
25.4	Operation and maintenance of facilities	0	0	0	0
25.7	Operation and maintenance of equipment	7,976	7,976	8,376	400
26.0	Supplies and materials	500	501	531	30
31.0	Equipment	265	267	377	110
38.0	Depreciation Expense - Unfunded	0	0	0	0
42.0	Insurance claims and indemnities	0	0	0	0
	Total	147,400	147,400	156,756	9,356
	1/Other goods and services from Federal sources				
	Working Capital Fund	21,905	20,714	20,714	0
	DHS Services	547	547	547	0
	HHS Services	597	597	597	0

ENFORCEMENT AND PARTICIPANT ASSISTANCE

CHANGES IN FY 2021

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	\$995
Personnel benefits	447
One day less of Pay	-387
Federal Employees' Compensation Act (FECA)	202
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	99
Rental payments to others	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services from non-Federal sources	0
Working Capital Fund	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 **\$1,356**

Net Program **\$8,000**

Direct FTE **37**

	Estimate	FTE
Base	\$148,756	730
Program Increase	\$8,000	37
Program Decrease	\$0	0

POLICY AND COMPLIANCE ASSISTANCE

BUDGET AUTHORITY BEFORE THE COMMITTEE				
(Dollars in Thousands)				
	FY 2019 Enacted	FY 2020 Enacted	FY 2021 Request	Diff. FY21 Request / FY20 Enacted
Activity Appropriation	26,901	26,901	28,811	1,910
FTE	63	71	79	8

NOTE: FTE for all years reflect the Shared Services Realignment.

NOTE: FY 2019 reflects actual FTE. Authorized FTE for FY 2019 was 71.

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 pension plans (and authorizes him or her to do so with respect to health and other welfare benefit plans);
- *Self-insured health plans* – The Patient Protection and Affordable Care Act (P.L. 111-148) requires the Secretary of Labor to provide Congress with an annual report on self-insured employee health benefit plans; and
- *Regulatory impact analysis* – Agencies must assess their regulations’ economic costs and benefits as required under Executive Order 12866, the Regulatory Flexibility Act and the Paperwork Reduction Act.

Through this budget activity, EBSA pursues discretionary research on health and other benefits, and assists in the development of Administration legislative policy, in advancement of the President’s priorities. EBSA also issues administrative individual and class exemptions from the prohibited transaction provisions of ERISA. These exemptions are necessary to facilitate transactions between employee benefit plans and related parties, such as service providers, that would otherwise be prohibited but that are 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.

POLICY AND COMPLIANCE ASSISTANCE

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2016	\$26,901	93
2017	\$26,901	79
2018	\$26,901	73
2019	\$26,901	71
2020	\$26,901	71

FY 2021

EBSA seeks \$28,811,000 and 79 FTEs for the policy and compliance assistance budget activity. The request level for this budget activity includes a program increase of \$1,745,000 and 8 FTEs to support the Department's expanded work under the SECURE Act, as well as to fund research and regulatory program efforts to improve the Department's ability to detect insolvent or abusive Multiple Employer Welfare Arrangements (MEWAs); a built-in increase of \$226,000 for an enacted pay adjustment; and a built-in decrease of \$61,000 for one-day less pay. EBSA will continue to address the required rulemaking and regulatory efforts under the SECURE Act as well as to enforce and administer new provisions.

This budget will enable EBSA to sustain and fully support priorities established in the unified regulatory agenda. Fiduciary education, regulations, exemptions, compliance assistance, policy and research, and interpretive guidance have and will continue to substantially contribute to the protection of employee pension and health benefits. EBSA will develop more sophisticated analytical tools that will enhance data compilation, risk assessment and modeling to help better target enforcement efforts 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 2021, 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 reform and retirement security. These projects include providing guidance, developing regulatory standards, conducting statistical research, policy, regulatory analysis, and issuing ERISA exemptions.

EBSA will also continue to advance the goals of health care reform 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). Through these comprehensive compliance assistance and regulatory programs, EBSA provides guidance and engages the regulated community in achieving compliance while protecting the benefits of workers, retirees and their families.

POLICY AND COMPLIANCE ASSISTANCE

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.

FY 2020

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 reform and retirement security. EBSA will also continue to advance the goals of health care reform 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 also address the required rulemaking and regulatory efforts under the SECURE Act as well as to enforce and administer new provisions.

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. EBSA estimates that it will respond to approximately 3,081 interpretive, targeted, 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 issuing ERISA exemptions. The SECURE Act places a tremendous additional workload burden on the policy and compliance assistance budget activity because of its impact on a broad spectrum of the agency's central functions and activities.

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.

FY 2019

In FY 2019, EBSA pursued a proactive regulatory agenda that included completing 274 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. These overall efforts encompassed regulations involving: amendments to abandoned plan program; definition of an "Employer" under Section (3)(5) of ERISA – Association Retirement Plans and other Multiple

POLICY AND COMPLIANCE ASSISTANCE

Employer Plans; electronic filing of apprenticeship & training plan notices, and top hat plan statements; fiduciary relief for investments in qualified default investment alternatives; health reimbursement arrangements and other account-based group health plans; and revision of the Form 5500 Series and implementing related regulations under ERISA.

Additionally, EBSA addressed 3,389 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: 1,868 technical and compliance assistance projects for health plan standards involving benefits security; 583 interpretive and technical assistance inquiries or projects; 497 inquiries or projects involving the Mental Health Parity and Addiction Equality Act (MHPAEA) implementation; 430 projects involving MEWA administration and registration and 11 miscellaneous guidance and compliance assistance regulatory exemption projects in FY 2019.

On March 28, 2019, EBSA transmitted the 2019 annual Self-Insured Group Health Plan Report to Congress and coordinated with HHS and Treasury regarding the transmission of the fourth (FY 2018) Mental Health Parity and Addiction Equality Act (MHPAEA) Report to Congress. EBSA will also consider any supplements to prior MHPAEA compliance reports as more data becomes available. EBSA also processed 31 individual exemption actions (including EXPRO) and encompasses individual exemptions that have been closed, proposed or granted and processed these exemptions within an average of 309 days.

Workload and Performance Summary

FY 2021

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 2021 and beyond. EBSA estimates that it will respond to approximately 3,401 interpretive and other associated technical assistance inquiries (including 195 for MEWA registration and 445 for MHPAEA implementation). EBSA also estimates completing 315 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. EBSA will continue to address the required rulemaking and regulatory efforts under the SECURE Act as well as to enforce and administer new provisions.

In FY 2021, 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 four (4) class exemptions (includes closed, proposed, or granted) and attain an exemption processing time of less than 400 days.

POLICY AND COMPLIANCE ASSISTANCE

FY 2020

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. EBSA estimates that it will respond to approximately 3,081 interpretive, targeted, 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 issuing ERISA exemptions. EBSA will also address required rulemaking and regulatory efforts under the SECURE Act that places a tremendous additional workload burden on the policy and compliance assistance budget activity because of its large impact on the broad spectrum of agency policy initiatives, regulatory projects, and research activities.

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.

POLICY AND COMPLIANCE ASSISTANCE

BUDGET ACTIVITY BY OBJECT CLASS					
(Dollars in Thousands)					
		FY 2019 Enacted	FY 2020 Enacted	FY 2021 Request	Diff. FY21 Request / FY20 Enacted
11.1	Full-time permanent	10,387	10,387	11,252	865
11.3	Other than full-time permanent	90	90	90	0
11.5	Other personnel compensation	230	230	305	75
11.9	Total personnel compensation	10,707	10,707	11,647	940
12.1	Civilian personnel benefits	4,074	4,074	4,409	335
13.0	Benefits for former personnel	0	0	0	0
21.0	Travel and transportation of persons	50	52	102	50
22.0	Transportation of things	0	0	6	6
23.1	Rental payments to GSA	1,528	1,528	1,573	45
23.3	Communications, utilities, and miscellaneous charges	100	105	113	8
24.0	Printing and reproduction	125	150	150	0
25.1	Advisory and assistance services	0	0	0	0
25.2	Other services from non-Federal sources	300	325	355	30
25.3	Other goods and services from Federal sources 1/	5,804	5,695	5,695	0
25.5	Research and development contracts	1,100	1,127	1,477	350
25.7	Operation and maintenance of equipment	2,473	2,473	2,573	100
26.0	Supplies and materials	525	550	556	6
31.0	Equipment	115	115	155	40
	Total	26,901	26,901	28,811	1,910
	1/Other goods and services from Federal sources				
	Working Capital Fund	5,597	5,488	5,488	0
	DHS Services	90	90	90	0
	HHS Services	117	117	117	0

POLICY AND COMPLIANCE ASSISTANCE

CHANGES IN FY 2021

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	\$156
Personnel benefits	70
One day less of Pay	-61
Benefits for former personnel	0
Travel and transportation of persons	0
Transportation of things	0
Rental payments to GSA	0
Communications, utilities, and miscellaneous charges	0
Printing and reproduction	0
Advisory and assistance services	0
Other services from non-Federal sources	0
Working Capital Fund	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 **\$165**

Net Program **\$1,745**

Direct FTE **8**

	Estimate	FTE
Base	\$27,066	71
Program Increase	\$1,745	8
Program Decrease	\$0	0

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

BUDGET AUTHORITY BEFORE THE COMMITTEE				
(Dollars in Thousands)				
	FY 2019 Enacted	FY 2020 Enacted	FY 2021 Request	Diff. FY21 Request / FY20 Enacted
Activity Appropriation	6,699	6,699	7,171	472
FTE	22	25	29	4

NOTE: FTE for all years reflect the Shared Services Realignment.

NOTE: FY 2019 reflects actual FTE. Authorized FTE for FY 2019 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.

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2016	\$6,699	26
2017	\$6,699	25
2018	\$6,699	25
2019	\$6,699	25
2020	\$6,699	25

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

FY 2021

EBSA seeks \$7,171,000 and 29 FTEs for the Executive Leadership, Program Oversight and Administration budget activity. This resource request includes: a program increase of \$420,000 and a reprogramming of 4 FTEs to accommodate an organizational realignment for this budget activity; a built-in increase of \$70,000 for an enacted pay adjustment; and a built-in decrease of \$18,000 for one-day less pay. 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 2021, 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 2020

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.

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

To enhance employee development and succession planning, EBSA utilized intra-agency development assignments, OPM-sponsored management development training, FLETC (HHS) 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 and managers completed the DOL leadership development curriculum in FY

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

2019. In addition, approximately 70 first-line supervisors attended management training at the annual Agency managers' conference.

EBSA continued to develop an extensive internal training curriculum to ensure that our employees maintain the technical knowledge needed to successfully meet our strategic and performance goals. The training curriculum consists of a 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, Health Plan Investigation Course and an independent self-study course for the Introduction to Employee Benefits and Fiduciary Conduct. In FY 2019, EBSA trained approximately 150 employees in technical and professional areas, resulting in over 8,500 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 \$26,923,103 and net collections of approximately \$22,707,070 in FY 2019.

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 2019 Enacted	FY 2020 Enacted	FY 2021 Request	Diff. FY21 Request / FY20 Enacted
11.1	Full-time permanent	3,278	3,291	3,627	336
11.3	Other than full-time permanent	17	17	17	0
11.5	Other personnel compensation	110	110	135	25
11.9	Total personnel compensation	3,405	3,418	3,779	361
12.1	Civilian personnel benefits	1,487	1,493	1,604	111
13.0	Benefits for former personnel	0	0	0	0
21.0	Travel and transportation of persons	55	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	20	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	150	131	131	0
25.3	Other goods and services from Federal sources 1/	1,082	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	7,171	472
	1/Other goods and services from Federal sources				
	Working Capital Fund	1,043	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 2021

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	\$48
Personnel benefits	22
One day less of Pay	-18
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	0
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 **\$52**

Net Program **\$420**

Direct FTE **4**

	Estimate	FTE
Base	\$6,751	25
Program Increase	\$420	4
Program Decrease	\$0	0