

FY 2010

CONGRESSIONAL BUDGET JUSTIFICATION

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

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EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Appropriation Language

For necessary expenses for the Employee Benefits Security Administration [*\$143,419,000*]

\$156,060,000 (Department of Labor Appropriations Act)

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

AMOUNTS AVAILABLE FOR OBLIGATION								
(Dollars in Thousands)								
	FY 2008 Enacted		FY 2009 Enacted		Recovery Act		FY 2010 Request	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
A. Appropriation	855	141,790	835	143,419	0	0	910	156,060
Carry-over apportionment for EFAST2 pursuant to:	0	0	0	0	0	0	0	0
(P.L. 110-28) in FY 2007	0	14,000	0	0	0	0	0	0
Enacted rescissions pursuant to:	0	0	0	0	0	0	0	0
(P.L. 110-161) in FY 2008	0	-2,477	0	0	0	0	0	0
Appropriation, Revised	855	153,313	835	143,419	0	0	910	156,060
Subtotal Appropriation	0	0	0	0	0	0	0	0
(adjusted)	855	153,313	835	143,419	0	0	910	156,060
Offsetting Collections From:	0	0	0	0	0	0	0	0
Reimbursements	0	12,130	0	13,000	0	0	0	13,000
Non-Expenditure Transfers from DM	0	0	0	0	30	9,705	0	0
Subtotal	855	165,443	835	156,419	30	9,705	910	169,060
B. Gross Budget Authority	855	165,443	835	156,419	0	0	910	169,060
Offsetting Collections	0	0	0	0	0	0	0	0
Deduction:	0	0	0	0	0	0	0	0
Reimbursements	0	-12,130	0	-13,000	0	0	0	-13,000
Non-Expenditure Transfers from DM	0	0	0	0	30	-9,705	0	0
Subtotal	0	-12,130	0	-13,000	30	-9,705	0	-13,000
C. Budget Authority Before	855	153,313	835	143,419	0	0	910	156,060
Committee...	0	0	0	0	0	0	0	0
Offsetting Collections From:	0	0	0	0	0	0	0	0
Reimbursements	0	12,130	0	13,000	0	0	0	13,000
IT Crosscut	0	0	0	0	0	0	0	0
Non-Expenditure Transfers from DM	0	0	0	0	30	9,705	0	0
Subtotal	0	12,130	0	13,000	30	9,705	0	13,000
D. Total Budgetary Resources	855	165,443	835	156,419	30	9,705	910	169,060
Other Unobligated Balances	0	0	0	0	0	0	0	0
Unobligated Balance Expiring	-18	-6	0	0	0	0	0	0
E. Total, Estimated Obligations	837	165,437	835	156,419	30	9,705	910	169,060

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2009 Enacted	FY 2010 Request	Net Change
Budget Authority			
General Funds	143,419	156,060	+12,641
Total	143,419	156,060	+12,641
Full Time Equivalents			
General Funds	835	910	+75
Total	835	910	+75

Explanation of Change	FY 2009 Base		Trust Funds		FY 2010 Change General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Increases:								
A. Built-Ins:								
To Provide For:								
Costs of pay adjustments	835	76,642	0	0	0	1,678	0	1,678
Personnel benefits	0	19,454	0	0	0	431	0	431
Federal Employees Compensation Act (FECA)	0	184	0	0	0	229	0	229
Travel	0	2,826	0	0	0	0	0	0
Transportation of things	0	84	0	0	0	0	0	0
GSA Space Rental	0	7,999	0	0	0	0	0	0
Communications, utilities & miscellaneous charges	0	695	0	0	0	0	0	0
Printing and reproduction	0	455	0	0	0	0	0	0
Other services	0	3,538	0	0	0	0	0	0
Working Capital Fund	0	14,235	0	0	0	303	0	303
Other government accounts (DHS Charges)	0	529	0	0	0	0	0	0
Research & Development Contracts	0	1,100	0	0	0	0	0	0
Operation and maintenance of equipment	0	14,148	0	0	0	0	0	0
Supplies and materials	0	604	0	0	0	0	0	0
Equipment	0	926	0	0	0	0	0	0
Built-Ins Subtotal	835	143,419	0	0	0	2,641	0	2,641
B. Program:								
Enhanced Employee Benefits Protection	835	146,060	0	0	75	10,000	75	10,000
Programs Subtotal			0	0	+75	+10,000	+75	+10,000
C. Financing:								
Total Increase	+835	+143,419	0	0	+75	+12,641	+75	+12,641

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Explanation of Change	FY 2009 Base	Trust Funds		FY 2010 Change General Funds		Total	
Decreases:							
A. Built-Ins:							
To Provide For:							
B. Program:							
C. Financing:							
Total Change	+835 +143,419	0	0	+75	+12,641	+75	+12,641

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SUMMARY BUDGET AUTHORITY AND FTE BY ACTIVITY								
(Dollars in Thousands)								
	FY 2008 Enacted		FY 2009 Enacted		Recovery Act		FY 2010 Request	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Enforcement and Participant Assistance	737	130,590	723	119,691	30	9,705	796	130,398
General Funds	737	130,590	723	119,691	30	9,705	796	130,398
Policy and Compliance Assistance	75	17,545	88	18,198	0	0	88	18,994
General Funds	75	17,545	88	18,198	0	0	88	18,994
Executive Leadership, Program Oversight and Administration	25	5,178	24	5,530	0	0	26	6,668
General Funds	25	5,178	24	5,530	0	0	26	6,668
Total	837	153,313	835	143,419	30	9,705	910	156,060
General Funds	837	153,313	835	143,419	30	9,705	910	156,060

NOTE: FY 2008 reflects actual FTE.

FY 2008 includes a real transfer of \$7 million from PBGC pursuant to P.L. 110-28

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

BUDGET AUTHORITY BY OBJECT CLASS						
(Dollars in Thousands)						
		FY 2008 Enacted	FY 2009 Enacted	Recovery Act	FY 2010 Request	Change FY 10 Req. / FY 09 Enacted
	Full-Time Equivalent					
	Full-time Permanent	833	831		906	75
	Other	4	4	30	4	0
	Total	837	835	30	910	75
	Total Number of Full-Time Permanent Positions	837	835		910	75
	Average ES Salary	165,614	169,754		173,998	4244
	Average GM/GS Grade	11.6	12		12.6	0.6
	Average GM/GS Salary	81,281	85,670		89,525	3855
11.1	Full-time permanent	70,890	73,972	0	80,036	6064
11.3	Other than full-time permanent	262	170	2,250	176	6
11.5	Other personnel compensation	2,210	2,500	0	2,559	59
11.9	Total personnel compensation	73,362	76,642	2,250	82,771	6129
12.1	Civilian personnel benefits	18,876	19,638	629	21,656	2018
21.0	Travel and transportation of persons	2,918	2,826	103	3,226	400
22.0	Transportation of things	82	84	0	121	37
23.1	Rental payments to GSA	8,921	7,999	0	8,374	375
23.3	Communications, utilities, and miscellaneous charges	682	695	100	733	38
24.0	Printing and reproduction	565	455	250	705	250
25.2	Other services	4,316	3,538	6,069	4,013	475
25.3	Other purchases of goods and services from Government accounts 1/	12,767	14,764	0	15,667	903
25.5	Research and development contracts	1,100	1,100	0	1,100	0
25.7	Operation and maintenance of equipment	27,802	14,148	160	15,864	1716
26.0	Supplies and materials	622	604	44	679	75
31.0	Equipment	1,300	926	100	1,151	225
	Total	153,313	143,419	9,705	156,060	12,641
	1/Other Purchases of Goods and Services From Government Accounts					
	Working Capital Fund	12,346	14,235	0	15,124	889
	DHS Services	421	529	0	543	14

NOTE: FY 2008 reflects actual FTE.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

BUDGET AUTHORITY BY STRATEGIC GOAL

(Dollars in Thousands)

	Strategic Goal 1: A Prepared Workforce	DOL Strategic Goal 2: A Competitive Workforce	DOL Strategic Goal 3: Safe and Secure Workplaces	DOL Strategic Goal 4: Strengthened Economic Protections	SGTotal
Performance Goal 1:					
Policy and Compliance Assistance	0	464	0	0	464
Performance Goal 2:					
Enforcement and Participant Assistance	0	0	0	135,932	135,932
Policy and Compliance Assistance	0	0	0	19,664	19,664
Agency Total	0	464	0	155,596	156,060

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

TOTAL BUDGETARY RESOURCES													
FY 2008 - 2010													
(Dollars in Thousands)													
	FY 2008 Enacted				FY 2009 Enacted				Recovery Act	FY 2010 Request			
	Activity Approp.	Other Approp. ^{1/}	Other Resrcs. ^{2/}	Total	Activity Approp.	Other Approp. ^{1/}	Other Resrcs. ^{2/}	Total		Activity Approp.	Other Approp. ^{1/}	Other Resrcs. ^{2/}	Total
Employee Benefits Security Administration	153,313	0	12,130	165,443	143,419	0	13,000	156,419	9,705	156,060	0	13,000	169,060
Enforcement and Participant Assistance	130,590	4,298	12,130	147,018	119,691	4,590	13,000	137,281	9,705	130,398	5,534	13,000	148,932
Policy and Compliance Assistance	17,545	880	0	18,425	18,198	940	0	19,138	0	18,994	1,134	0	20,128
Sub Total	148,135	5,178	12,130	165,443	137,889	5,530	13,000	156,419	9,705	149,392	6,668	13,000	169,060
Executive Leadership, Program Oversight and Administration	5,178	-5,178	0	0	5,530	-5,530	0	0	0	6,668	-6,668	0	0
Total	153,313	0	12,130	165,443	143,419	0	13,000	156,419	9,705	156,060	0	13,000	169,060

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

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

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SUMMARY OF PERFORMANCE										
Employee Benefits Security Administration										
Goal: Enhance Pension and Health Benefits Protection										
Performance Indicators	FY 2005		FY 2006		FY 2007		FY 2008		FY 2009	FY 2010
	Goal Achieved		Goal Achieved		Goal Achieved		Goal Achieved			
	Target	Result	Target	Result	Target	Result	Target	Result	Target	Target
Additional applications to voluntary compliance programs.....	8,340	14,082	13,500	17,214	13,838	20,124	21,000	28,261	21,500	22,000
Ratio of criminal cases accepted for prosecution to cases referred (see note #1)....	-----	-----	-----	-----	48%	67%	50%	74%	52%	54%
Ratio of closed civil cases with corrected fiduciary violations to civil cases closed (see note #2).....	-----	-----	-----	-----	61%	69%	64%	70%	67%	70%
Other Program Mandates	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----

Note #1: Beginning in FY 2007, EBSA refined the criminal case performance target to report cases accepted for prosecution rather than the less ambitious cases referred for litigation.

Note #2: In FY 2007, EBSA began reporting the ratio of closed civil cases with corrected fiduciary violations to closed civil cases, a more challenging measure. Prior to FY 2007, our civil case ratio included lower priority non-fiduciary cases.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SIGNIFICANT ITEMS IN APPROPRIATION COMMITTEES' REPORTS

[Employee Benefits Security Administration]

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

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
2000....1/	101,831	90,000	99,831	98,934	823
2001....2/	107,832	98,934	103,342	107,633	850
2002....3/	111,214	109,866	112,418	110,752	850
2003....4/	117,044	117,044	114,000	111,303	861
2004....5/	128,605	128,605	121,300	124,040	930
2005....6/	132,345	132,345	132,345	131,213	887
2006....7/	137,000	137,000	134,900	133,551	875
2007....8/	143,573	141,573	141,573	148,573	855
2008....9/	147,425	142,925	143,262	139,313	855
2009....10/11/	147,871	0	139,313	143,419	835
2010	156,060	0	0	0	910

¹ Reflects a reduction of \$66 pursuant to P.L. 106-113

² Reflects a reduction of \$199 pursuant to P.L. 106-554

³ Reflects a reduction of \$252 pursuant to P.L. 107-116; a reduction of \$462 pursuant to P.L. 107-206; and includes a \$1,600 terrorist response supplement pursuant to P.L. 107-117.

⁴ Reflects a reduction of \$761 pursuant to P.L. 108-7

⁵ Reflects a reduction of \$922 pursuant to the enacted rescissions in P.L. 108-199

⁶ Reflects a reduction of \$1,132 pursuant to the enacted rescissions in P.L. 108-447

⁷ Reflects a reduction of \$1,349 pursuant to the enacted rescission in P.L. 109-148

⁸ Reflects amounts provided under FY 2007 full year continuing resolution pursuant to P.L. 110-5 and FY 2007 supplemental P.L. 110-28

⁹ Reflects a reduction of \$2,477 pursuant to the enacted rescissions in P.L. 110-161, the FY 2008 estimate to Congress included \$5,500 for EFAST2 later removed based on funding provided in FY 2007 appropriation.

¹⁰ \$9,705 for the American Recovery and Reinvestment Act (ARRA) pursuant to P.L. 111-5

¹¹ This bill was only reported out of Subcommittee and was not passed by the Full House.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

OVERVIEW

Introduction

EBSA is responsible for the administration and enforcement of Title I of the Employee Retirement Income Security Act of 1974 (ERISA), in both civil and criminal areas. EBSA enforcement authority extends to more than 3.2 million retirement, health and other employee benefit plans that contain more than \$4.7 trillion in assets¹ (as of December 31, 2008) and provides critical benefits to the majority of Americans and their families. EBSA enforcement activities protect workers in employee benefit plans against fraud, abuse, and mismanagement. In FY 2008, EBSA closed over 3,500 civil cases and obtained monetary results exceeding \$1.2 billion. Monetary results are a product of investigative, compliance and participant assistance activities. Additionally, EBSA closed 212 criminal cases that resulted in 101 individuals being indicted and 78 cases closed with guilty pleas and/or convictions. As reported via the Performance Accountability Report (PAR), 70 percent of civil cases were closed with corrected fiduciary violations of ERISA and over 74 percent of criminal cases submitted by EBSA have been accepted for prosecution.

EBSA is committed to educating and assisting the 150 million Americans covered by retirement, health and other employee benefit plans as well as plan sponsors and members of the employee benefits community. EBSA promotes voluntary compliance and facilitates self-regulation, working diligently to provide quality assistance to plan participants and beneficiaries. It is the policy of EBSA to provide the highest quality of service to stakeholders and the regulated community. EBSA carries out its mission by: (1) deterring and correcting violations of ERISA; (2) helping plan officials understand and comply with the legal requirements of ERISA; (3) educating workers on their benefit rights; and (4) developing policies that encourage the growth of employment-based benefits.

For FY 2010, EBSA requests a total of \$156,060,000 and 910 FTE. The budget proposal will go a long way toward rebuilding the foundation of a credible ERISA enforcement program and to begin reversing the staffing and funding reductions the agency has absorbed over the past several years. From FY 2004 through FY 2009, EBSA's authorized FTE levels have been reduced over 8 percent, from 930 to 835, which has resulted in a 12 percent decrease in the number of civil cases closed with results (3,056 in FY 2004 to 2,096 in FY 2008), and a reduction in total monetary results (\$1.7 billion in FY 2005 to \$1.2 billion in FY 2008). In addition to the number of investigations the agency undertakes, this enhancement is essential if EBSA is to effectively deal with increasingly more complex and resource demanding investigations, particularly in areas involving abuse of employee benefit plans in the financial services industry, fraudulent Multiple Employer Welfare Arrangements and Employee Stock Ownership plans.

¹ EBSA projects benefit plan assets using the Form 5500 and the Flow of Funds Accounts of the United States.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

The President's commitment to ensuring the economic security of American workers and their families is demonstrated by an overall budget increase of nearly 9 percent and includes a built-in increase of \$2,641,000 and a program increase of \$10,000,000 and 75 FTE to strengthen ERISA enforcement. The program increase will strengthen DOL enforcement of the laws that protect Americans' pension and health care benefits at a time when workers are increasingly relying on EBSA to protect their employment benefits. The performance impact of additional resources include conducting 593 additional civil and criminal investigations, increasing total enforcement results by \$123,000,000 and increasing indictments by nearly 6 percent. This program increase will ensure EBSA is positioned to better protect pension and health benefits security for America's workers, retirees and their families.

In addition to the increased performance describe above, EBSA will continue: (a) an aggressive overall enforcement effort by targeting situations that present the greatest potential for harm; (b) current participant assistance activities, including our outreach, education and assistance programs; (c) pension and health education campaigns; (d) our compliance assistance program including an effort to improve the frequency and timeliness of interpretive guidance, including advisory opinions, information letters, interpretive bulletins, and field assistance bulletins; and (e) continuing the fiduciary education program to improve plan sponsors' and service providers' understanding of the complex provisions of ERISA governing their conduct.

The American Recovery and Reinvestment Act of 2009 (ARRA), signed into law by the President on February 17, 2009, had an almost immediate impact on EBSA's operations during FY 2009 as call volume for assistance almost doubled as a result of ARRA inquiries. This impact will likely continue well into FY 2010. ARRA assigns significant new responsibilities to the Secretary of Labor in the benefit security arena. As specified in the legislation, the Secretary must conduct extensive outreach, education, participant and compliance assistance programs as well as promulgate, under very tight time frames, model notices covering changes in COBRA (the Consolidated Omnibus Budget Reconciliation Act of 1985) eligibility and ARRA's new premium assistance provisions. DOL must also develop and implement a program that provides for the expedited review (within 15 business days) and determination regarding an individual's appeal of the denial of his or her request to be treated as an "assistance eligible individual" and thus entitled to a subsidy of the cost of the individual's COBRA continuation health coverage for up to nine months.

COBRA allows certain people to extend employer-provided group health coverage, if they would otherwise lose the coverage due to certain events such as divorce or loss of a job. The ARRA provides a 65 percent tax subsidy for the cost of health benefits, making them more affordable for the unemployed and their families. Individuals who are eligible for COBRA coverage because of their own or a family member's involuntary termination from employment that occurred from September 1, 2008, through December 31, 2009, and who elect COBRA, may be eligible to pay a reduced premium. Eligible individuals pay only 35 percent of the full COBRA premiums under their plans for up to 9 months. If the plan determines that applicants are not eligible for the premium reduction, they may request an expedited review of the denial by the Secretary. To carry out its new ARRA responsibilities, EBSA will be allocated up to \$9.7 million from a non-expenditure transfer from the Departmental Management (DM) account pursuant to P.L. 111-5.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Performance and DOL Program Assessments

Enforcement

EBSA performance indices measure the success of its enforcement program by focusing on the percent of civil cases closed with corrected fiduciary violations and the number of criminal cases that have been accepted for prosecution. In FY 2008, EBSA closed 70 percent of civil cases with corrected fiduciary violations of ERISA and 74 percent of criminal cases submitted by EBSA have been accepted for prosecution. We have exceeded both primary enforcement performance indices that demonstrate effectiveness in protecting the pension and health benefits of American workers. Additionally, EBSA accepted and processed 28,261 applications to its two major voluntary compliance programs. Voluntary compliance programs include the Voluntary Fiduciary Correction Program (VFCP) and the Delinquent Filer Voluntary Compliance Program (DFVCP).

<u>YEAR</u>	<u>PROGRAM PERFORMANCE MEASURES</u>	<u>TARGET</u>	<u>ACTUAL</u>
2007	Ratio of closed civil cases with corrected fiduciary violations to civil cases closed	61%	69%
	Ratio of criminal cases accepted for prosecution to total criminal cases	48%	67%
	Number of applications to voluntary compliance programs	13,838	20,123
2008	Ratio of closed civil cases with corrected fiduciary violations to civil cases closed	64%	70%
	Ratio of criminal cases accepted for prosecution to total criminal cases	50%	74%
	Number of applications to voluntary compliance programs	21,000	28,261
2009	Ratio of closed civil cases with corrected fiduciary violations to civil cases closed	67%	-----
	Ratio of criminal cases accepted for prosecution to total criminal cases	52%	-----
	Number of applications to voluntary compliance programs	21,500	-----
2010	Ratio of closed civil cases with corrected fiduciary violations to civil cases closed	70%	-----
	Ratio of criminal cases accepted for prosecution to total criminal cases	54%	-----
	Number of applications to voluntary compliance programs	22,000	-----

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Participant Assistance and Regulatory Guidance

In 2008, the General Services Administration recognized the EBSA Participant Assistance program with its first-annual Citizen Service Award for excellence in customer service. To continue customer service improvement, EBSA completed work with Gallup to evaluate a Regional office experiencing challenges with customer satisfaction. Through this evaluation, EBSA identified several barriers to customer service success as well as actionable recommendations that would mitigate or eliminate the barriers. Regional staff received customized training incorporating this barrier analysis. Also in 2008, EBSA continued to dedicate significant resources to implementing the Pension Protection Act (PPA) of 2006. EBSA had the primary responsibility for developing more than two dozen regulations to implement the PPA

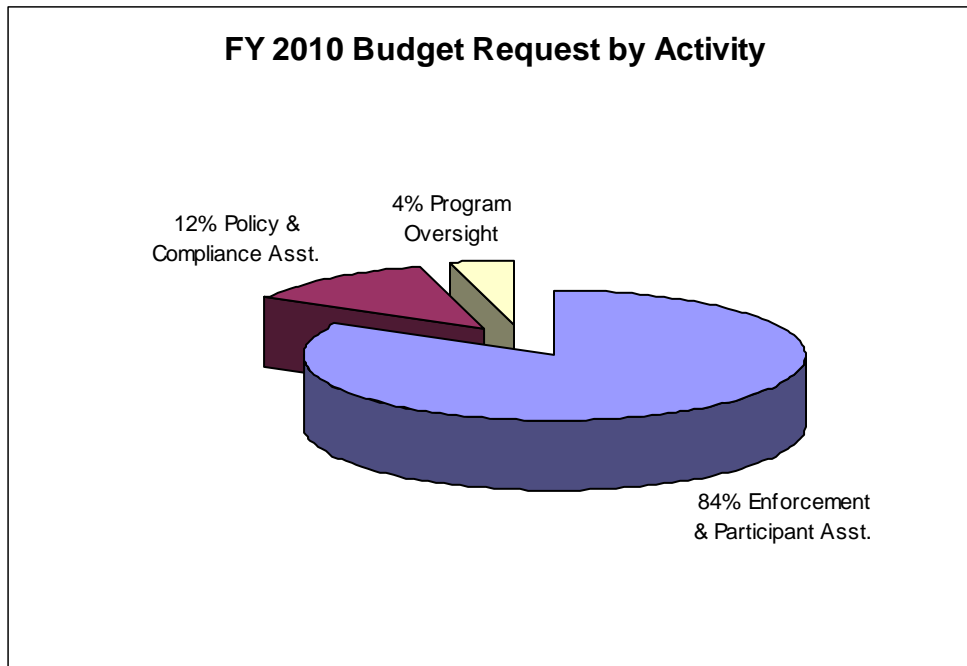
Cost Model

Three program activities encompass the EBSA budget and include:

- Enforcement and Participant Assistance budget activity with FY 2010 requested resources of \$130,398,000 and 796 FTE.
- Policy and Compliance Assistance budget activity with FY 2010 requested resources of \$18,994,000 and 88 FTE.
- Executive Leadership, Program Oversight and Administration with FY 2010 requested resources of \$6,668,000 and 26 FTE.

Virtually all EBSA resources are devoted to accomplishing DOL Strategic Goal 4: Strengthened Economic Protections. The percentage of resources allocated to each performance budget activity at the FY 2010 request level is depicted in the following chart:

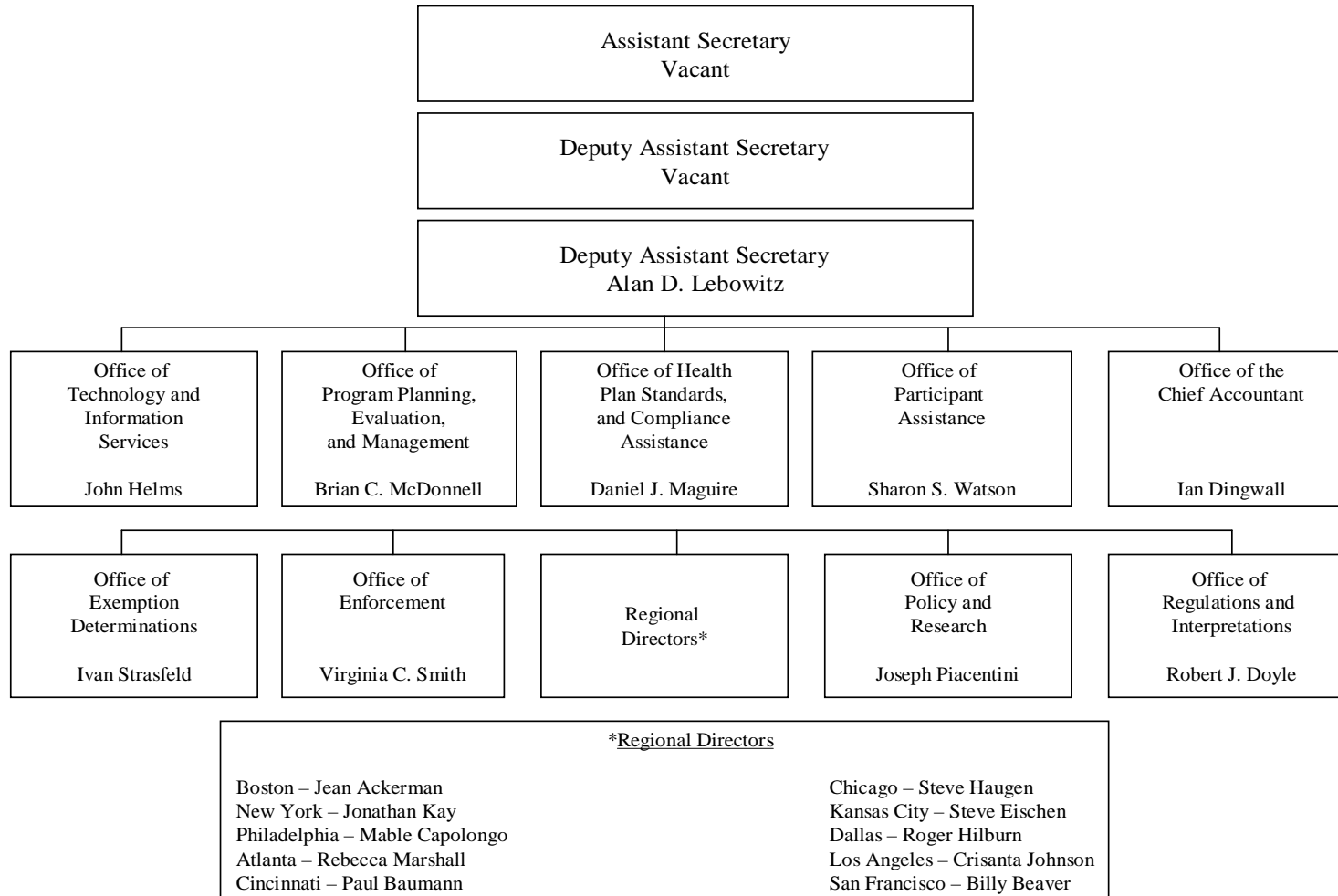
EMPLOYEE BENEFITS SECURITY ADMINISTRATION



Since FY 2002, EBSA has undergone two program assessments. The first program assessment was conducted in FY 2002 and again in FY 2004. EBSA was found to annually exceed its performance targets and to be well-managed.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Employee Benefits Security Administration



ENFORCEMENT AND PARTICIPANT ASSISTANCE

BUDGET AUTHORITY BEFORE THE COMMITTEE						
(Dollars in Thousands)						
	FY 2008 Enacted	FY 2009 Enacted	Diff. FY08 Enacted / FY09 Enacted	Recovery Act	FY 2010 Request	Diff. FY09 Enacted / FY10 Req
Activity Appropriation	130,590	119,691	-10,899	9,705	130,398	10,707
FTE	737	723	-15	30	796	73

NOTE: FY 2008 reflects actual FTE. Authorized FTE for FY 2008 was 738.

Introduction

This activity includes EBSA's enforcement, participant and compliance assistance programs. EBSA utilizes an integrated approach to protecting over 670,000 private pension plans, including 387,000 participant-directed individual account plans such as 401(k) plans, and millions of private health and welfare plans that are subject to ERISA. The Office of Enforcement, through its civil and criminal investigative program, utilizes a direct enforcement approach as well as a voluntary, self correction program that together, has annually returned or protected in excess of \$1.2 billion to plans and participants. Complementing the enforcement program, the Office of Participant Assistance (OPA) utilizes outreach, education, and technical assistance programs to educate plan participants and officials regarding their rights and responsibilities under ERISA as well as operates a toll-free hotline that responds to approximately 170,000 telephone inquiries per year. Since the passage of American Recovery and Reinvestment Act (ARRA), however, the inquiry workload has increased dramatically, with current projections at well over 300,000 inquiries in FY 2009. This trend is expected to continue throughout FY 2010. Through the hotline OPA facilitates informal, voluntary resolution of benefit disputes between employers, plan officials and participants. This has resulted in the return or payment of hundreds of millions of dollars to plans and plan participants. EBSA's education and outreach programs help to create informed consumers who understand their rights and responsibilities and who may police their own benefits as well as a regulated community that understands their obligations. Both of these approaches facilitate greater compliance.

The enforcement program detects and investigates civil and criminal violations of ERISA and related criminal laws by referring them for civil litigation or to prosecutorial authorities where necessary; ensures that annual reports are filed on time and accurately; and determines that audits of employee benefit plans comply with professional standards. To help plan sponsors and fiduciaries comply with ERISA's complex provisions, this activity administers the Fiduciary Education program that informs plan sponsors and their service providers about their basic fiduciary responsibility under the law.

EBSA has developed two highly successful self-correction programs designed to encourage voluntary compliance. 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 violations of the law. The Delinquent Filer Voluntary Compliance Program (DFVCP) encourages voluntary compliance with the annual reporting requirements under ERISA. These two voluntary programs provide an efficient mechanism for self-identifying and correcting violations.

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Because ERISA plan assets are such a large part of the nation's financial markets, EBSA maintains close working relationships with other government financial regulatory agencies, e.g., SEC, IRS, OCC, and the Federal Reserve. In the enforcement context, we work with the FBI, IRS, Postal Service, DOJ and a number of state and local law enforcement organizations.

With respect to participant and compliance assistance, EBSA also provides assistance to plan practitioners and participants regarding their respective responsibilities and rights under the law as well as informally resolving disputes between plans and participants. In addition to traditional enforcement and compliance functions, EBSA conducts a coordinated Outreach, Education and Assistance (OEA) program that include fiduciary education through the presentation of seminars, and other public appearances. The OEA program includes three education campaigns: (1) the Retirement Savings Education Campaign (RSEC), (2) the Health Benefits Education Campaign (HBEC) and (3) the Fiduciary Education Campaign. These programs work together to reach plan sponsors and professionals as well as plan participants to inform them of their respective rights and responsibilities under ERISA. In this area, EBSA has worked cooperatively with private and public sector organizations such as the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, the Financial Planners Board and state Commissioners of Insurance.

As the foundation of our enforcement and participant/compliance assistance activities, EBSA developed and operates the ERISA Information System (EIS) and the ERISA Filing Acceptance System (EFAST). EIS is the primary DOL resource that provides plan data and EFAST is the system that receives and processes the 1.2 million annual plan filings (Form 5500) that populates the EIS system. These systems support enforcement-related targeting, provide essential databases for the agency's research and regulatory activities, and are the primary sources of employee benefit plan information to Congress and interested stakeholders, including plan participants and beneficiaries. The EFAST system receives and process Form 5500s and is the primary source for the delivery of employee benefit plan data to the Department, the IRS, the Pension Benefit Guaranty Corporation (PBGC), GAO and others. The benefit plan data provided by EFAST aids in the IRS' oversight of private sector retirement and health plans and directly impacts the PBGC's ability to manage its risk from under-funded defined benefit plans. EBSA is developing a wholly electronic-filing system to replace EFAST. The new, electronic EFASTII system is designed to modernize the reporting process, publicly disclose the reported information through the Internet, and provide web-based forms that plan administrators can use to meet the new requirement to file electronically, at no additional cost to them. The EFASTII project is currently on schedule for completion by December 31, 2009, and will begin accepting plan filings January 1, 2010. EBSA has made available the Capital Asset Plan and Business Case Summaries (Exhibit 300) for EFAST through the following DOL website hypertext links:

- [Exhibit 300 BY10 - EBSA - EFAST2](#)
- [Exhibit 300 BY10 - EBSA - EFAST](#)

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Reimbursable Account

Program Description: A reimbursable account is established in EBSA to receive funds from other Federal agencies to support EFAST, EFASTII (replaces EFAST January 1, 2010) and other work involving pension or health care issues performed on their behalf.

FY 2010 Request: The FY 2010 request level of \$13,000,000 will allow EBSA to collect and obligate funds for any authorized reimbursable work associated with the EFAST (Form 5500 filing system), the new EFASTII (Form 5500 electronic filing system) and other reimbursable agreements with the IRS and other agencies.

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2005	109,374	764
2006	111,239	753
2007	126,418	738
2008	116,590	738
2009	119,691	723

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

FY 2010

The FY 2010 request level for the Enforcement and Participant Assistance budget activity provides for \$130,398,000 and 796 FTE. The budget request includes a built-in increase of \$1,857,000 and EBSA is proposing a program increase of \$8,850,000 and 73 FTE to rebuild the foundation of a credible ERISA enforcement program. This enhancement is essential if EBSA is to effectively deal with increasingly more complex and resource demanding investigations, particularly in areas involving abuse of employee benefit plans in the financial services industry, fraudulent Multiple Employer Welfare Arrangements and Employee Stock Ownership plans. The program increase will strengthen DOL enforcement of the laws that protect Americans' pension and health care benefits at a time when workers are increasingly relying on EBSA to protect their employment benefits. The performance impact of additional resources include conducting 593 additional civil and criminal investigations, increasing total enforcement results by \$123,000,000 and increasing indictments by nearly 6 percent. This program increase will ensure EBSA is positioned to better protect pension and health benefits security for America's workers, retirees and their families.

In FY 2010, EBSA will provide direct assistance to plan practitioners and participants regarding their respective responsibilities and rights under the law as well as informally resolving disputes between plans and participants. EBSA responds to approximately 170,000 such inquiries annually. Since the passage of ARRA, however, the inquiry workload has increased dramatically, with current projections for well over 300,000 inquiries in FY 2009. This trend is expected to continue throughout FY 2010 and temporary staff (brought on board in FY 2009 with ARRA funding) will continue to be employed to handle the surge. In addition, EBSA plans

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to continue conducting its three education campaigns: (1) the Retirement Savings Education Campaign (RSEC), (2) the Health Benefits Education Campaign (HBEC) and (3) the Fiduciary Education Campaign. EBSA will update, print and distribute its publications to include new information on ARRA as well as any other changes in employee benefits laws and conduct local seminars and national webcasts for its compliance assistance constituencies. EBSA will continue to participate in Rapid Response sessions to reach Dislocated Workers as well as continue to update and distribute educational materials on managing benefits through job loss. Also, EBSA will continue outreach efforts with state CPA societies, in an effort to improve audit quality by increasing the amount of training available to plan auditors and will conduct comprehensive reviews at CPA firms.

FY 2009

In FY 2009, EBSA will continue to focus enforcement resources on areas that have the greatest impact on the protection of plan assets and participants' benefits. National enforcement projects will be identified in which field offices are to place particular investigative emphasis and will respond to emerging issues through established enforcement priorities. EBSA estimates that approximately 3,900 civil and criminal cases will be conducted resulting in over \$952,000,000 in enforcement results and approximately 118 criminal indictments.

EBSA will continue the development and subsequent implementation of the universal electronic Form 5500 filing system (EFASTII) and anticipate the phase-up into full operations by the end of calendar year 2009. We will continue receiving hard copy Form 5500 Series filings and all remaining work-in-progress into FY 2011. FY 2010 is projected to be the final year of concurrent operation of the legacy EFAST system and the EFASTII system. EFASTII will reduce the burden on citizens and businesses, as well as significantly improve government response time to citizens by providing no cost electronic filing on the Internet. Access to no cost electronic filing will reduce the burden on filers, especially small employers, who cannot afford the services of professionals to prepare the Form 5500 filings for them.

EBSA will continue examining audit quality issues in the work of CPA firms that perform a large number of plan audits. We will also continue to develop, update, produce and distribute educational publications to the public and make them available through the DOL website. Publications range from specific technical guidance for plan professionals and employers to consumer oriented brochures and booklets that explain health benefits, pension benefits and retirement savings concepts. EBSA will continue to ensure participants receive promised benefits through an informal dispute resolution process in which we educate individual participants on their rights and responsibilities with respect to filing claims and receiving benefits as well as educate plan administrators on their responsibilities in a particular circumstance. This program is very successful in bringing plans into settlement without the expense of conducting an investigation or litigation. The informal resolution process will continue to be a cost effective method of resolving such disputes for both the Department and the benefit plans involved.

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Recovery Act

The COBRA (the Consolidated Omnibus Budget Reconciliation Act of 1985) premium assistance provisions of the American Recovery and Reinvestment Act (ARRA) have placed significant new responsibilities under the jurisdiction of DOL. The statute requires the Secretary of Labor to: (a) issue model notices of the COBRA premium assistance for use by plans/employers; (b) conduct extensive outreach and education activities about the COBRA premium assistance available to dislocated workers; and (c) establish a process for the Department to review plan participants' requests for an expedited review of denials of the assistance by their employers. The administration and management of these new provisions have been delegated to EBSA. To carry out new ARRA responsibilities, EBSA will be allocated up to \$9.7 million from a non-expenditure transfer from the Departmental Management (DM) account pursuant to P.L. 111-5.

COBRA allows certain people to extend employer-provided group health coverage, if they would otherwise lose the coverage due to certain events such as divorce or loss of a job. The ARRA provides a 65 percent tax subsidy for the cost of health benefits, making them more affordable for the unemployed and their families. Individuals who are eligible for COBRA coverage because of their own or a family member's involuntary termination from employment that occurred from September 1, 2008, through December 31, 2009, and who elect COBRA, may be eligible to pay a reduced premium. Eligible individuals pay only 35 percent of the full COBRA premiums under their plans for up to 9 months. If the plan determines that applicants are not eligible for the premium reduction, they can request an expedited review of the denial by the Secretary (DOL must make the eligibility determination within 15 business days).

On March 19, 2009, EBSA issued model notices to be used by plan administrators to inform terminated employees about their potential rights regarding COBRA premium assistance. In addition, EBSA has developed and is printing and distributing fact sheets, flyers and posters explaining the provisions to employees and employers, has established a COBRA website with publications, questions and answers and other pertinent information and will conduct (at a minimum) 3 webcasts for the regulated community. EBSA, as required, has developed an application and established an adjudication process to provide for an expedited review of employer denials of the COBRA subsidy. Applications for this review may be submitted in hard copy via mail or facsimile or may be submitted via efile technology on EBSA's website. The statute requires that these reviews be adjudicated within 15 business days of receipt and EBSA has developed a tightly controlled process to ensure that this statutory deadline is met.

EBSA has developed a system to process, on average 5,000 denials (scalable upward to 10,000 denials) per month, if necessary. In the event actual denials are below 5,000 per month, system operation can be scaled back as appropriate. EBSA will also modify the Technical Assistance and Inquiries System (TAIS) by adding necessary functionality to accommodate the new COBRA appeals process. In addition, EBSA Benefits Advisors will continue to field inquiries from the public and work to informally resolve participants' issues with their employers on these provisions.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

FY 2008

EBSA had total monetary results in excess of \$1.2 billion. Improved enforcement targeting techniques and processes enabled EBSA to close over 70 percent of its civil investigations with corrected violations and to protect the retirement, health and other benefits for American workers and their families. In cases where voluntary compliance efforts have failed, or which involve issues for which voluntary compliance is not appropriate, EBSA forwards a recommendation to the Solicitor of Labor that litigation be initiated. With respect to the criminal program, approximately 74 percent of criminal investigations referred for prosecution were accepted by the Department of Justice or state/local prosecutors. EBSA closed 212 criminal investigations in FY 2008 that led to the indictment of 101 individuals – including plan officials, corporate officers, and service providers for offenses related to employee benefit plans. With respect to plan participants, EBSA Investigators and Benefits Advisors collectively recovered in excess of \$162 million (included in the \$1.2 billion above) on their behalf in FY 2008, the vast majority of which was through informal resolution of individual complaints received by Benefit Advisors. Benefit recoveries are achieved through an informal dispute resolution process that focuses primarily on educating individual participants on their rights and responsibilities with respect to filing claims and receiving benefits as well as educating plan administrators on their responsibilities in a particular circumstance. This program is very successful at informally resolving participant concerns without the expense of a formal investigation or litigation. The participant assistance program includes a toll-free telephone number system that automatically routes calls to the proper location and available staff, improved technologies such as the educational information contained on the Agency web site, interactive web pages to help participants better understand the law and the electronic contact portal which may be used to submit questions to the Benefits Advisor staff. EBSA is very proud that in 2008, this program received the first prize award from the Office of Citizen Services, General Services Administration for excellence in customer service.

As described above, EBSA also encourages the correction of violations of ERISA by providing significant incentives for fiduciaries to self-correct via our self correction programs. In FY 2008, EBSA received and processed in excess of 28,000 applications through voluntary compliance programs. Voluntary compliance applications have increased exponentially (since inception of the program) and this significant jump reflects the success of improvements made to our voluntary compliance programs and aggressive outreach to encourage participation in the program. EBSA has achieved impressive enforcement results by focusing on leveraging resources to target those situations that present the greatest potential for harm to workers and their families. Finally, EBSA conducts education and outreach events for workers, employers, plan officials and members of Congress. These nationwide activities include assisting dislocated workers who are facing job loss, educating employers of their obligations under ERISA, using a train-the-trainer format to inform Congressional staff of EBSA programs for their use in constituent services, and providing employees with information concerning their rights under the law. In FY 2008, EBSA conducted almost 2,100 outreach activities reaching over 318,000 stakeholders. EBSA also produced and distributed 895,000 publications (includes the highly successful publication “Taking the Mystery Out of Retirement Planning”) via our toll free publication hotline, our WEB site and at outreach events.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

WORKLOAD SUMMARY			
Workload/Output Measures	FY 2008 Actual	FY 2009 Target	FY 2010 Target
Voluntary Fiduciary Correction Program Applications Processed	1,658	1,500	1,800
Delinquent Filer Voluntary Compliance Program Applications Processed	26,603	20,000	20,200
Investigations Processed:	3,782	3,931	4,524
Civil	3,570	3,719	4,280
Criminal	212	212	244
Indictments	101	118	125
Reporting Compliance Reviews	3,861	4,000	4,000
CPA Firm Inspections	5	4	4
Inquiries Answered (Participants)	174,978	171,000	171,000
National Office	14,413	18,000	18,000
Field Offices	160,565	153,000	153,000
EFAST Help Desk Inquiries	68,483	63,000	85,000

ENFORCEMENT AND PARTICIPANT ASSISTANCE

BUDGET ACTIVITY by OBJECT CLASS						
(Dollars in Thousands)						
		FY 2008 Enacted	FY 2009 Enacted	Recovery Act	FY 2010 Request	Change FY 10 Req / FY 09 Enacted
11.1	Full-time permanent	59,280	61,626	0	67,137	5,511
11.3	Other than full-time permanent	55	56	2,250	57	1
11.5	Other personnel compensation	2,063	2,340	0	2,395	55
11.9	Total personnel compensation	61,398	64,022	2,250	69,589	5,567
12.1	Civilian personnel benefits	15,826	16,310	629	17,920	1,610
21.0	Travel and transportation of persons	2,784	2,662	103	3,054	392
22.0	Transportation of things	58	60	0	96	36
23.1	Rental payments to GSA	7,476	6,571	0	6,936	365
23.3	Communications, utilities, and miscellaneous charges	557	563	100	600	37
24.0	Printing and reproduction	314	248	250	448	200
25.2	Other services	3,276	2,519	6,069	2,888	369
25.3	Other purchases of goods and services from Government accounts 1/	10,528	12,271	0	13,110	839
25.7	Operation and maintenance of equipment	26,762	13,244	160	14,244	1,000
26.0	Supplies and materials	471	475	44	548	73
31.0	Equipment	1,140	746	100	965	219
Total		130,590	119,691	9,705	130,398	10,707
	1/Other Purchases of Goods and Services From Government Accounts					
	Working Capital Fund	10,175	11,811	0	12,638	827
	DHS Services	353	460	0	472	12

ENFORCEMENT AND PARTICIPANT ASSISTANCE

CHANGES IN FY 2010

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments 1,291

Personnel benefits 311

Working Capital Fund 255

Built-Ins Subtotal 1,857

Net Program 8,850

Direct FTE 73

	Estimate	FTE
Base	121,548	723
Program Increase	8,850	73

POLICY AND COMPLIANCE ASSISTANCE

BUDGET AUTHORITY BEFORE THE COMMITTEE						
(Dollars in Thousands)						
	FY 2008 Enacted	FY 2009 Enacted	Diff. FY08 Enacted / FY09 Enacted	Recovery Act	FY 2010 Request	Diff. FY09 Enacted / FY10 Req
Activity Appropriation	17,545	18,198	653	0	18,994	796
FTE	75	88	-4	0	88	0

NOTE: FY 2008 reflects actual FTE. Authorized FTE for FY 2008 was 92.

Introduction

This activity is responsible for formulating policy, promulgating regulations and offering interpretations and other guidance to the regulated community under Title I of ERISA. Specifically, this activity issues individual and class exemptions from the ERISA and Federal Employees' Retirement System Act of 1986 (FERSA) prohibited transaction provisions. These exemptions are necessary to facilitate the financial restructuring and consolidation occurring throughout the industry resulting from long term market forces as well as the recent turmoil in the financial markets. This activity also provides ongoing compliance and technical assistance to small businesses, plan officials, and the general public to improve their understanding of the complex provisions of ERISA and their compliance with statutory requirements as well as conducts policy, research and legislative analyses on pension, health, and other employee benefit issues. EBSA also provides assistance in response to requests from members of Congress (including constituent requests), as well as technical assistance to legislative committees with jurisdiction affecting ERISA and FERSA.

In recent years, there have been a number of significant changes in the law, the regulations, reporting forms, and other requirements affecting employee benefit plans. These changes highlight the importance of plan sponsors, plan fiduciaries, and the providers of services to employee benefit plans staying abreast of the law. In recognition of the importance of clear and timely guidance for the employee benefits community, EBSA has committed significant resources to development of regulations, interpretive guidance and other compliance assistance materials that will serve to both encourage and facilitate compliance with new laws.

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2005	17,357	101
2006	17,283	96
2007	16,885	92
2008	17,545	92
2009	18,198	88

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

POLICY AND COMPLIANCE ASSISTANCE

FY 2010

The FY 2010 request level for the Policy and Compliance Assistance budget activity provides \$18,994,000 and 88 FTE. The budget request includes a built-in increase of \$296,000 and EBSA is proposing a program increase of \$500,000 to provide regulatory support and interpretive guidance associated with the increasingly more complex and resource demanding investigations, particularly in areas involving abuse of employee benefit plans in the financial services industry, fraudulent Multiple Employer Welfare Arrangements and Employee Stock Ownership plans. Fiduciary education, regulations, exemptions, compliance assistance, policy and research, and interpretive guidance have substantially contributed, and will continue to substantially contribute, to the protection of employee pension and health benefits. The EBSA primary performance indicators reflect, and are supported by, these critical activities. In addition to our primary performance indicators, our program specific workload measures also currently assess effectiveness of program operations in this activity, such as tracking the number of projects, exemptions, interpretations and regulations completed and/or issued by the EBSA Office of Regulations and Interpretations (ORI), Office of Exemption Determinations (OED), Office of Policy and Research (OPR) and Office of Health Plan Standards and Compliance Assistance (OHPSCA).

EBSA will continue to carry out the agency's interpretive activities concerning the provisions of ERISA and related regulations 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 for better protecting employee pension and health benefits. EBSA will also continue to review and process class and individual exemption applications as well as requests for authorizations under the expedited procedure, with the ultimate objective of protecting plans and their participants and beneficiaries while facilitating necessary business transactions. The increased consolidation and modernization of the financial services industry will result in requests for new class exemptions and/or amendments to existing class exemptions. EBSA will continue development of a new class exemption that will provide conditional relief for securities transactions executed through electronic trading systems as well as a new class exemption involving stable value funds serviced by affiliated entities. We anticipate undertaking a review of several longstanding class exemptions to ensure that the safeguards they contain are adequate in light of recent and projected changes within the financial services industry.

EBSA anticipates devoting significant resources to legislative analysis relating to health reform and pension coverage initiatives in FY 2010. If health and pension reform legislation is enacted prior to FY 2010, EBSA will be faced with a wide range of issues related to the successful implementation of these initiatives, including regulations implementing provisions, and oversight responsibilities. It is also anticipated that major projects will be undertaken to include guidance to facilitate compliance with the requirement that employees be periodically furnished statements concerning their vested and accrued benefits under their pension plan and guidance on defined benefit plan compliance with notice and disclosure obligations under the Pension Protection Act (PPA).

POLICY AND COMPLIANCE ASSISTANCE

FY 2009

In FY 2009, EBSA will continue to focus policy and compliance assistance resources on areas that have the greatest impact on the protection of plan assets and participants' benefits. EBSA has reviewed an increasing number of individual exemption applications involving transactions that are arising out of the current economic crisis. These requests have been submitted by large financial institutions, which are fiduciaries to plans, in situations where (a) the plans have interests in investment pools that hold assets that are distressed or illiquid, (b) the financial institution has merged into another financial institution and certain pre-merger investment activities and/or contracts have become prohibited, and (c) federal programs and actions designed to revive the economy implicate the prohibited transaction provisions in ERISA. These cases involve complex transactions and raise a host of prohibited transaction issues as plan fiduciaries attempt to minimize plan losses due to distressed or illiquid plan holdings, or to address inherent conflicts of interest presented by the arrangements. EBSA continues to respond to these exemption requests by providing timely assistance to facilitate those transactions which are beneficial and protective of the plans' interests and which avoid further losses to the plan.

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

EBSA will be devoting time to health reform and will continue to administer a program of economic research and data development directed toward advancing the understanding of employee benefits issues. This research program supports departmental leadership and other Federal officials in developing sound policy approaches and advancing them in legislative and regulatory forums. It also delivers the analytic resources and products necessary to satisfy all applicable economic analysis requirements in connection with all EBSA regulatory actions.

The Pension Protection Act of 2006 requires the Department to continue to undertake regulatory initiatives to implement many provisions of the Act. (Potential legislation that may be enacted in this area could also affect the regulatory program.) It is anticipated that major projects will include guidance on the scope of the statutory exemption for providing investment advice to employees that participate in participant-directed individual account plans and guidance on disclosure of fee and expense information to pension plan fiduciaries and plan participants and beneficiaries. In addition, EBSA intends to maintain an active exemption program that will, among other things, include a final amendment to a longstanding class exemption involving Qualified Professional Asset Managers which would allow such managers to manage the assets of plans they sponsor. We will also be developing interim final regulations implementing the provisions of The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (MHPAEA) that was enacted in October 2008. Regulations implementing the provisions of the legislation are required by statute to be promulgated by October 3, 2009.

POLICY AND COMPLIANCE ASSISTANCE

EBSA compliance assistance programs will continue to improve our stakeholders' understanding of the complex provisions of ERISA and provide targeted assistance to plan officials on the aspects of law where high levels of noncompliance exist. EBSA will complete the investigative portion of the 2nd Health Disclosure and Claims Issues Project II (HDCI II) and anticipates completing the analysis and project report in FY 2010. This compliance baseline project is being conducted to enable the Department to evaluate the impact of its compliance assistance programs by comparing the current compliance rates to compliance rates obtained from the previous Health Disclosure and Claims Initiative FY 2001 Compliance project (HDCI 1).

Recovery Act

The EBSA Office of Health Plan Standards and Compliance Assistance (OHPSA) has been assigned significant responsibilities under the American Recovery and Reinvestment Act (ARRA). Subsequent to the enactment of ARRA, EBSA quickly developed and provided comprehensive outreach materials consisting of model notices, fact sheets, and frequently asked questions (FAQ's) for both employers and employees concerning the COBRA subsidy provisions. The model notices, issued on March 19, 2009, are for health plans to use in notifying their employees who were involuntarily terminated regarding their rights to COBRA premium assistance, as well as additional COBRA enrollment opportunities. EBSA will continue to provide direct support by participating in numerous outreach events to assist Assistance Eligible Individuals (AEIs), plans, and employers with understanding COBRA subsidy provisions under ARRA. As required by ARRA, we will also develop and implement a process for reviewing a health plan's denial of premium assistance. EBSA technical experts will actively participate in the various stages of the official review process and will prepare guidance materials for publication on the EBSA website.

FY 2008

Throughout FY 2008, there was a very significant regulatory effort in support of implementation of the Pension Protection Act of 2006. As the year progressed, EBSA also found itself increasingly involved in sorting out the impact of the financial and broader economic crises facing the nation. EBSA developed interpretive, regulatory and other guidance necessary for the efficient and effective implementation of the provisions of the Act. In FY 2008, EBSA published in excess of 25 rules which, among other things, implemented new statutory prohibited transaction exemptions, amended the guidance on the selection of annuity providers for sponsors of defined benefit plans and provided guidance to sponsors of defined contribution plans.

With respect to the economic crisis facing America, EBSA's exemption program was (and continues to be) extremely active in responding to the current financial crisis, including the consolidation of the financial services industry. The restructuring and consolidation of the financial industry to stave off further financial deterioration resulted in many individual and class exemption requests that, in the absence of such exemptions, would result in prohibited transactions under ERISA. For example, banks maintaining money market collective investment funds sought exemptive relief to purchase impaired assets in order to maintain the stated one dollar per share value. The illiquidity in the Auction Rate Securities (ARS) market resulted in

POLICY AND COMPLIANCE ASSISTANCE

more than a dozen applications seeking exemptive relief for sales of ARS by plans or loans to plans to provide temporary liquidity. Government structured acquisitions in the financial services industry resulted in the unavailability of a number of previously granted exemptions that needed to be amended

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

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

POLICY AND COMPLIANCE ASSISTANCE

WORKLOAD SUMMARY			
Workload/Output Measures	FY 2008 Actual	FY 2009 Target	FY 2010 Target
Interpretations & Other Technical Assist:	2,555	2,700	2,800
Health Plan Standards	851	1,000	1,100
Regulations & Interpretations	1,704	1,700	1,700
Regulations/Projects:	216	228	229
Individual Exemptions & Expro (Proposed & Granted)	105	150	150
Section 502(l) Waivers	15	20	20
Exemption Processing Time (avg #days)	291	220	220

POLICY AND COMPLIANCE ASSISTANCE

BUDGET ACTIVITY by OBJECT CLASS						
(Dollars in Thousands)						
		FY 2008 Enacted	FY 2009 Enacted	Recovery Act	FY 2010 Request	Change FY 10 Req / FY 09 Enacted
11.1	Full-time permanent	8,731	9,198	0	9,399	201
11.3	Other than full-time permanent	1	2	0	2	0
11.5	Other personnel compensation	56	63	0	65	2
11.9	Total personnel compensation	8,788	9,263	0	9,466	203
12.1	Civilian personnel benefits	2,350	2,477	0	2,531	54
21.0	Travel and transportation of persons	100	114	0	114	0
22.0	Transportation of things	22	22	0	22	0
23.1	Rental payments to GSA	1,136	1,059	0	1,059	0
23.3	Communications, utilities, and miscellaneous charges	16	16	0	16	0
24.0	Printing and reproduction	200	157	0	157	0
25.2	Other services	890	900	0	900	0
25.3	Other purchases of goods and services from Government accounts 1/	1,824	2,064	0	2,103	39
25.5	Research and development contracts	1,100	1,100	0	1,100	0
25.7	Operation and maintenance of equipment	950	830	0	1,330	500
26.0	Supplies and materials	69	69	0	69	0
31.0	Equipment	100	127	0	127	0
Total		17,545	18,198	0	18,994	796
	1/Other Purchases of Goods and Services From Government Accounts					
	Working Capital Fund	1,769	2,007	0	2,045	38
	DHS Services	55	57	0	58	1

POLICY AND COMPLIANCE ASSISTANCE

CHANGES IN FY 2010

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments 203

Personnel benefits 54

Working Capital Fund 39

Built-Ins Subtotal 296

Net Program 500

Direct FTE 0

	Estimate	FTE
Base	18,494	88
Program Increase	500	0

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

BUDGET AUTHORITY BEFORE THE COMMITTEE						
(Dollars in Thousands)						
	FY 2008 Enacted	FY 2009 Enacted	Diff. FY08 Enacted / FY09 Enacted	Recovery Act	FY 2010 Request	Diff. FY09 Enacted / FY10 Req
Activity Appropriation	5,178	5,530	352	0	6,668	1,138
FTE	25	24	-1	0	26	2

NOTE: FY 2008 reflects actual FTE. Authorized FTE for FY 2008 was 25.

Introduction

The EBSA Executive Leadership, Program Oversight and Administration budget activity provides leadership and direction to the policy, regulatory, enforcement and all other program operations as well as administrative activities such as financial management, strategic planning, budget formulation and execution, debt management, strategic management of human capital, labor and employee relations, equal employment opportunity, and other administrative functions. This activity also oversees agency implementation of management initiatives, manages the EBSA technical training program, and employee development activities for agency enforcement, policy, legislative and regulatory functions.

Five-Year Budget Activity History

<u>Fiscal Year</u>	<u>Funding</u> (Dollars in Thousands)	<u>FTE</u>
2005	4,482	22
2006	5,029	26
2007	5,270	25
2008	5,178	25
2009	5,530	24

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

FY 2010

The FY 2010 request level for the Executive Leadership, Program Oversight and Administration budget activity provides for \$6,668,000 and 26 FTE. The budget request includes a built-in increase of \$488,000. EBSA is also requesting a program increase of \$650,000 and 2 FTE for this budget activity. This enhancement is essential for this budget activity to provide the additional administrative support and program oversight required to strengthen our internal controls, performance and emergency management, recruitment, succession planning and employee development programs. This activity will provide the leadership and necessary services to support the agency's integrated programs of enforcement, compliance assistance, fiduciary education, IT enhancements, and participant education to ensure protection of the pension and health benefits for our nation's workers, retirees and their families. EBSA will utilize human capital, financial and other information systems to provide decision-makers with timely analysis as well as to monitor and update strategic plans and to develop metrics to

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measure results of management initiatives. Additionally, administrative and oversight functions will continue to be performed by this activity to ensure that EBSA properly executes its responsibilities under the American Recovery and Reinvestment Act (ARRA).

This activity carries out EBSA's responsibilities under the Debt Collection and Debt Collection Improvement Acts will continue in FY 2010. The management of debts arising from civil penalties assessed under sections 502(c), 502(i) and 502(l) of ERISA, will continue to be a significant function of the Executive Leadership, Program Oversight and Administration budget activity.

FY 2009

In FY 2009, EBSA will continue to provide the leadership and necessary services to support the agency's integrated programs of enforcement, compliance assistance, fiduciary education, IT enhancements, and participant education to ensure protection of the pension and health benefits for our nation's workers, retirees and their families. EBSA will continue to utilize human capital, financial and other information systems to provide decision-makers with timely analysis as well as to monitor and update strategic plans and to develop metrics to measure results of management initiatives.

This activity carries out EBSA's responsibilities under the Debt Collection and Debt Collection Improvement Acts will continue in FY 2009. The management of debts arising from civil penalties assessed under sections 502(c), 502(i) and 502(l) of ERISA, will continue to be a significant function of the Executive Leadership, Program Oversight and Administration budget activity. Based on the FY 2008 collections of about \$25,000,000, it is estimated that collections in FY 2009 will increase to a total of approximately \$27,000,000. EBSA will also continue to use various financial management and accounting systems to assign costs for selected activities and outputs in an effort to achieve strategic and performance goals through the deployment of resources in an efficient and cost effective manner.

EBSA will continue to execute a comprehensive recruitment and employee development strategy to ensure we have the right people in place to perform our mission of protecting the pension and health benefits security of American workers and their families. Our objective is to provide formal training and other developmental activities for employees to ensure a trained workforce and one that is prepared for the succession planning needs of the agency. EBSA will also develop and execute a hiring plan that will provide temporary resources to effectively conduct the expedited review of appeals for COBRA premium assistance under ARRA. Additionally, the hiring plan projects the number of permanent positions that must be filled in FY 2009. With over 80 percent or more of our career senior leadership currently, or soon-to-be, eligible to retire, EBSA will continue to prepare the next generation of managers to fill these critical positions. Finally, this activity will continue strategic planning efforts to align with the priorities of the Administration and Government-wide initiatives; and will continue to refine our agency specific Continuity of Operations Plans (COOP) in support of emergency preparedness.

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Recovery Act

The COBRA (the Consolidated Omnibus Budget Reconciliation Act of 1985) premium assistance provisions of the American Recovery and Reinvestment Act (ARRA) have assigned significant new responsibilities to EBSA. This budget activity will provide the overall leadership and guidance to effectively implement the COBRA Premium assistance provisions of ARRA and will also be responsible for administrative control and oversight of the financial resources provided to carry out EBSA's new ARRA activities. EBSA will be allocated up to \$9,700,000 from a non-expenditure transfer from the Departmental Management (DM) account and will be required to perform administrative functions that include, but are not limited to, coordination and completion of ARRA reports and processes, development of ARRA risk mitigation plans, and development of performance metrics and recovery plans to ensure statutory deadlines for the expedited review of appeals from COBRA denials are achieved.

FY 2008

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

EBSA effectively administered its responsibilities under the Debt Collection and Debt Collection Improvement Acts. The management of debts arising from the assessment of civil penalties under sections 502(c)(2), 502(i) and 502(l) of ERISA resulted in the collection of approximately \$25,000,000 during FY 2008.

Effective human capital management requires us to identify and recruit qualified candidates, train and develop them for current positions and prepare them for progressively more responsible positions with EBSA. To identify and recruit qualified entry level employees we have formed national and regional office recruitment teams that have conducted on-campus recruiting at local colleges and universities throughout the country. We have made extensive use of internship programs at undergraduate, graduate and professional institutions. In FY 2008, 128 employees were hired under these programs. Other human capital flexibilities used for employee development and succession planning include intra-agency development assignments, the DOL Senior Executive Service (SES) Candidate development program, OPM sponsored management development training and USDA sponsored long term career development programs. Fifty-four EBSA employees completed intra-agency development assignments, OPM sponsored management development training or USDA sponsored management development training.

We have also developed an extensive internal training curriculum to ensure that our employees have the technical knowledge needed to successfully meet our strategic and performance objectives. The training curriculum consists of a two-part Basic Training Course, Benefits Advisor Training Course, Criminal Enforcement Training Course, Benefit Plan Accounting Course, and an independent study course for the Introduction to Employee Benefits and Fiduciary Conduct. In FY 2008, approximately 200 EBSA employees successfully completed

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one or more of these training courses. These courses are designed to provide a foundation of legal knowledge and an understanding of industry practices required to effectively regulate the employee benefits industry and provide compliance assistance to stakeholders. Additionally, 49 employees completed Federal Law Enforcement Training Courses (FLETC) to enhance their skills in areas unique to conducting criminal investigations.

BUDGET ACTIVITY by OBJECT CLASS						
(Dollars in Thousands)						
		FY 2008 Enacted	FY 2009 Enacted	Recovery Act	FY 2010 Request	Change FY 10 Req / FY 09 Enacted
11.1	Full-time permanent	2,879	3,148	0	3,500	352
11.3	Other than full-time permanent	206	112	0	117	5
11.5	Other personnel compensation	91	97	0	99	2
11.9	Total personnel compensation	3,176	3,357	0	3,716	359
12.1	Civilian personnel benefits	700	851	0	1,205	354
21.0	Travel and transportation of persons	34	50	0	58	8
22.0	Transportation of things	2	2	0	3	1
23.1	Rental payments to GSA	309	369	0	379	10
23.3	Communications, utilities, and miscellaneous charges	109	116	0	117	1
24.0	Printing and reproduction	51	50	0	100	50
25.2	Other services	150	119	0	225	106
25.3	Other purchases of goods and services from Government accounts 1/	415	429	0	454	25
25.7	Operation and maintenance of equipment	90	74	0	290	216
26.0	Supplies and materials	82	60	0	62	2
31.0	Equipment	60	53	0	59	6
Total		5,178	5,530	0	6,668	1,138
1/Other Purchases of Goods and Services From Government Accounts						
	Working Capital Fund	402	417	0	441	24
	DHS Services	13	12	0	13	1

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CHANGES IN FY 2010

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments	184
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Personnel benefits	66
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Federal Employees Compensation Act (FECA)	229
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Working Capital Fund	9
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Built-Ins Subtotal	488
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Net Program	650
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Direct FTE	2
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	Estimate	FTE
Base	6,018	24
Program Increase	650	2