

FY 2009

CONGRESSIONAL BUDGET JUSTIFICATION

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

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Appropriation Language

For necessary expenses for the Employee Benefits Security Administration

[\$141,790,000] \$147,871,000. (*Department of Labor Appropriations Act, 2008.*)

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AMOUNTS AVAILABLE for OBLIGATION						
(Dollars in Thousands)						
FY 2007						
	Comparable		FY 2008 Estimate		FY 2009 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
A. Appropriation...	855	141,573	855	141,790	867	147,871
Real Transfer of PBGC Funds pursuant to:	0	0	0	0	0	0
(P.L. 110-28) in FY 2007	0	7,000	0	0	0	0
Enacted rescissions pursuant to:	0	0	0	0	0	0
(P.L. 110-161) in FY 2008	0	0	0	-2,477	0	0
Appropriation, Revised...	855	148,573	855	139,313	867	147,871
Comparative Transfer To:	0	0	0	0	0	0
Working Capital Fund for Consolidation						
of IT resources (25.3)	0	453	0	453	0	0
Comparative Transfer From:	0	0	0	0	0	0
Contract resources for Consolidation of						
IT resources (25.7)	0	-453	0	-453	0	0
A.1) Subtotal Appropriation	0	0	0	0	0	0
(adj.)	855	148,573	855	139,313	867	147,871
Offsetting Collections From:	0	0	0	0	0	0
Reimbursements	0	10,996	0	17,000	0	17,000
A.2) Subtotal	855	159,569	855	156,313	867	164,871
B. Gross Budget Authority...	855	159,569	855	156,313	867	164,871
Offsetting Collections	0	0	0	0	0	0
Deduction:	0	0	0	0	0	0
Reimbursements	0	-10,996	0	-17,000	0	-17,000
B.1) Subtotal	0	-10,996	0	-17,000	0	-17,000
C. Budget Authority Before	855	148,573	855	139,313	867	147,871
Committee...	0	0	0	0	0	0
Offsetting Collections From:	0	0	0	0	0	0
Reimbursements	0	10,996	0	17,000	0	17,000
IT Crosscut	0	0	0	0	0	0
C.1) Subtotal	0	10,996	0	17,000	0	17,000
D. Total Budgetary Resources	855	159,569	855	156,313	867	164,871
Other Unobligated Balances	0	-14,000	0	14,000	0	0
Unobligated Balance Expiring	-26	-63	0	0	0	0
E. Total, Estimated Obligations	829	145,506	855	170,313	867	164,871

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SUMMARY OF CHANGES

(Dollars in Thousands)

	FY 2008 Estimate	FY 2009 Request	Net Change
Budget Authority			
General Funds	139,313	147,871	+8,558
Trust Funds	0	0	0
Total	139,313	147,871	+8,558
Full Time Equivalents			
General Funds	855	867	+12
Trust Funds	0	0	0
Total	855	867	+12

Explanation of Change	FY 2008 Base		Trust Funds		FY 2009 Change General Funds		Total	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Increases:								
A. Built-Ins:								
To Provide For:								
Costs of pay adjustments	0	73,362	0	0	0	3,055	0	3,055
Personnel benefits	0	18,876	0	0	0	653	0	653
Travel	0	2,918	0	0	0	0	0	0
Transportation of things	0	82	0	0	0	0	0	0
GSA Space Rental	0	8,921	0	0	0	183	0	183
Communications, utilities & miscellaneous charges	0	682	0	0	0	0	0	0
Printing and reproduction	0	565	0	0	0	0	0	0
Other services	0	4,316	0	0	0	0	0	0
Working Capital Fund	0	12,346	0	0	0	1,681	0	1,681
Other government accounts (DHS Charges)	0	421	0	0	0	15	0	15
Research & Development Contracts	0	1,100	0	0	0	0	0	0
Operation and maintenance of equipment	0	13,802	0	0	0	0	0	0
Supplies and materials	0	622	0	0	0	0	0	0
Equipment	0	1,300	0	0	0	0	0	0
Built Ins Subtotal	855	139,313	0	0	0	4,732	0	4,732
B. Programs:								
Enhanced Employee Pension and Health Benefits Protection	0	0	0	0	12	1,980	12	1,980
Restoration of funds for inflationary costs and reductions not provided under P.L. 110-161	0	0	0	0	0	8,112	0	8,112
Programs Subtotal	0	0	0	0	+12	+10,092	+12	+10,092
C. Financing:								
Total Increase	+855	+139,313	0	0	+12	+14,824	+12	+14,824

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Explanation of Change	FY 2008 Base		Trust Funds		FY 2009 Change General Funds		Total	
Decreases:								
A. Built-Ins:								
To Provide For:								
One day less of Pay	0	0	0	0	0	-339	0	-339
Federal Employees Compensation Act (FECA)	0	0	0	0	0	-427	0	-427
Built Ins Subtotal	0	0	0	0	0	-766	0	-766
B. Programs:								
EFAST2 Development	0	0	0	0	0	-5,500	0	-5,500
Programs Subtotal			0	0	0	-5,500	0	-5,500
C. Financing:								
Total Decrease	0	0	0	0	0	-6,266	0	-6,266
Total Change	+855	+139,313	0	0	+12	+8,558	+12	+8,558

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SUMMARY BUDGET AUTHORITY and FTE by ACTIVITY

(Dollars in Thousands)

	FY 2007 Comparable		FY 2008 Estimate		FY 2009 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
Enforcement and Participant Assistance	732	126,418	738	116,590	750	122,792
General Funds	732	126,418	738	116,590	750	122,792
Policy and Compliance Assistance	73	16,885	92	17,545	92	18,851
General Funds	73	16,885	92	17,545	92	18,851
Executive Leadership, Program Oversight and Administration	24	5,270	25	5,178	25	6,228
General Funds	24	5,270	25	5,178	25	6,228
Total	829	148,573	855	139,313	867	147,871
General Funds	829	148,573	855	139,313	867	147,871

NOTE: FY 2007 reflects actual FTE.

FY 2007 includes a one-time real transfer of \$7 million from PBGC pursuant to P.L. 110-28

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BUDGET AUTHORITY by OBJECT CLASS				
(Dollars in Thousands)				
	FY 2007 Comparable	FY 2008 Estimate	FY 2009 Request	FY 09 Request/FY 08 Estimate
Total Number of Full-Time Permanent Positions	855	855	867	12
Full-Time Equivalent				
Full-time Permanent	851	851	863	12
Other	4	4	4	0
Total	855	855	867	12
Average ES Salary	160,625	166,247	174,060	7813
Average GM/GS Grade	11.6	12	12.6	0.6
Average GM/GS Salary	78,427	81,172	84,987	3815
11.1 Full-time permanent	68,417	70,890	73,892	3002
11.3 Other than full-time permanent	262	262	270	8
11.5 Other personnel compensation	2,210	2,210	2,273	63
11.9 Total personnel compensation	70,889	73,362	76,435	3073
12.1 Civilian personnel benefits	18,435	18,876	20,005	1129
21.0 Travel and transportation of persons	2,766	2,918	2,950	32
22.0 Transportation of things	80	82	88	6
23.1 Rental payments to GSA	8,864	8,921	9,402	481
23.3 Communications, utilities, and miscellaneous charges	658	682	688	6
24.0 Printing and reproduction	726	565	757	192
25.1 Advisory and assistance services	363	0	0	0
25.2 Other services	3,528	4,316	4,091	-225
25.3 Other purchases of goods and services from Government accounts 1/	11,872	13,220	14,625	1405
25.5 Research and development contracts	871	1,100	1,636	536
25.7 Operation and maintenance of equipment	27,236	13,349	14,510	1161
26.0 Supplies and materials	612	622	649	27
31.0 Equipment	1,673	1,300	2,035	735
Total	148,573	139,313	147,871	8,558
1/Other Purchases of Goods and Services From Government Accounts				
Working Capital Fund	11,467	12,799	14,189	1390
DHS Services	405	421	436	15

Note: FY 2007 includes a one-time real transfer of \$7 million from PBGC pursuant to P.L. 110-28

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BUDGET AUTHORITY by STRATEGIC GOAL					
(Dollars in Thousands)					
Performance Goal	DOL Strategic Goal 1: A Prepared Workforce	DOL Strategic Goal 2: A Competitive Workforce	DOL Strategic Goal 3: Safe and Secure Workplaces	DOL Strategic Goal 4: Strengthened Economic Protections	Total Budget Authority
Performance Goal 1:					
Policy and Compliance Assistance	0	440	0	0	440
Performance Goal 2:					
Enforcement and Participant Assistance	0	0	0	127,961	127,961
Policy and Compliance Assistance	0	0	0	19,470	19,470
Agency Total	0	440	0	147,431	147,871

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TOTAL BUDGETARY RESOURCES (\$ in thousands)

	FY 2007 Comparable				FY 2008 Estimate				FY 2009 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	148,573	0	10,996	159,569	139,313	0	17,000	156,313	147,871	0	17,000	164,871
Enforcement and Participant Assistance	126,418	4,374	10,996	141,788	116,590	4,298	17,000	137,888	122,792	5,169	17,000	144,961
Policy and Compliance Assistance	16,885	896	0	17,781	17,545	880	0	18,425	18,851	1,059	0	19,910
Sub Total	143,303	5,270	10,996	159,569	134,135	5,178	17,000	156,313	141,643	6,228	17,000	164,871
Executive Leadership, Program Oversight and Administration	5,270	-5,270	0	0	5,178	-5,178	0	0	6,228	-6,228	0	0
Total	148,573	0	10,996	159,569	139,313	0	17,000	156,313	147,871	0	17,000	164,871

^{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. The FY 2007 Comparable includes a one-time real transfer of \$7 million from PBGC pursuant to P.L. 110-28.

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SUMMARY OF PERFORMANCE										
Goal: Enhance Pension and Health Benefits Protection										
Performance Indicators	FY 2004		FY 2005		FY 2006		FY 2007		FY 2008	FY 2009
	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	17,256	13,838	20,124	21,000	21,500
Customer satisfaction index for compliance assistance programs.....	-----	-----	-----	-----	-----	-----	-----	81.5	N/A	N/A
Ratio of criminal cases accepted for prosecution to cases referred.....	-----	-----	-----	-----	-----	-----	48%	67%	50%	52%
Ratio of closed civil cases with corrected fiduciary violations to civil cases closed.....	-----	-----	-----	-----	-----	-----	61%	69%	64%	67%
Other Program Mandates	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----

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SIGNIFICANT ITEMS IN APPROPRIATION COMMITTEES' REPORTS

[Employee Benefits Security Administration]

Senate Report 110-107: The Committee requests a briefing on EBSA's plans for the EFAST2 system prior to the announcement of the availability of funds for its development.

Response: The meeting scheduled with House and Senate Appropriation Subcommittee staff was conducted on January 28, 2008.

[Employee Benefits Security Administration]

House Report 110-231: The Department is directed to provide a schedule for completion of the EFAST2 system within 30 days of enactment and to report monthly on progress relative to that schedule to the House and Senate Committees on Appropriations.

Response: The meeting scheduled with House and Senate Appropriation Subcommittee staff was conducted on January 28, 2008. EBSA will submit reports as appropriate.

House Report 110-231: The Committee recommends that EBSA devote resources to the issuance of regulations that provide understandable and uniform reporting of all fees charged to 401(k) plans and participants with all fees required to be broken down by identifiable and meaningful categories and by source of payment.

Response: The Department currently is pursuing three separate regulatory initiatives focused on improving the transparency of fee and expense information at both the plan fiduciary level and the participant level. These initiatives include: (a) a revision of the Schedule C of the Form 5500 Annual Report which clarifies the requirements for the reporting of direct and indirect compensation received by plan service providers (published in the Federal Register on November 16, 2007); (b) a proposed amendment to its regulation under section 408(b)(2) of ERISA to help ensure that at the time of selection or renewal of a service provider for a plan, plan fiduciaries have complete and understandable information concerning the compensation to be paid to the service provider and the revenue sharing arrangements of the service provider (published in the Federal Register on December 13, 2007); and (c) a proposed regulation designed to improve the disclosure of plan fee and expense information to plan participants and beneficiaries in the context of participant-directed individual account plans (anticipated to be published in the Federal Register as a proposal in early 2008). To lay the foundation for this project, the Department published a Request for Information (RFI) in the Federal Register on April 25, 2007, soliciting public comment on the extent rules should be adopted or modified to ensure that participants and beneficiaries have the information they need to make informed decisions.

House Report 110-231: EBSA should also create a national education program to educate pension plan administrators and participants of 401(k) investment options, fees charged, and prohibitions on conflicts of interest.

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SIGNIFICANT ITEMS IN APPROPRIATION COMMITTEES' REPORTS

Response: EBSA has an extensive program to educate plan administrators and participants regarding 401(k) investment options, fees charged, and prohibitions on conflicts of interest. EBSA's program – "Getting It Right-Know Your Fiduciary Responsibilities" includes nationwide seminars that educate plan sponsors and fiduciaries about their obligations under ERISA, especially related to the importance of selecting plan service providers and the role of fee and compensation considerations in that selection process. EBSA further assists plan fiduciaries and participants in understanding their obligations under ERISA, and the importance of understanding service provider fees and relationships, by providing interpretive guidance and making related educational materials and tools available on its Web site. Examples of publications geared towards plan administrators which are distributed and made available on our Web site include "Understanding Retirement Plan Fees and Expenses," "Selecting and Monitoring Pension Consultants – Tips for Plan Fiduciaries," and the "401(k) Plan Fee Disclosure Form." EBSA also educates plan participants about their rights and responsibilities under the law through the "Retirement Savings Education Campaign." Key publications include "A Look at 401(k) Plan Fees for Employees," "What You Should Know about Your Retirement Plan" and "Taking the Mystery out of Retirement Planning." Last year, EBSA distributed over 888,000 total publications. "What You Should Know about Your Retirement Plan" and "Taking the Mystery out of Retirement Planning" are two of the most popular, with 86,000 copies distributed and 102,000 visitors viewing these publications on EBSA's Web-site.

House Report 110-231: The Committee requests that DOL upgrade its data collection on participants in the COBRA program with specific emphasis on those who utilize COBRA benefits for the full extent of the authorized timeframe and subsequently lose health insurance coverage.

Response: EBSA discussed the scope and feasibility of this request during a meeting with House and Senate Appropriation Subcommittee staff on January 28, 2008.

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AUTHORIZING STATUTES

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

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APPROPRIATION HISTORY (Dollars in Thousands)

	Budget Estimates to Congress	House Allowance	Senate Allowance	Appropriations	FTE
1999....1/	90,974	86,159	88,076	90,392	764
2000....2/	101,831	90,000	99,831	98,934	823
2001....3/	107,832	98,934	103,342	107,633	850
2002....4/	111,214	109,866	112,418	110,752	850
2003....5/	117,044	117,044	114,000	111,303	861
2004....6/	128,605	128,605	121,300	124,040	930
2005....7/	132,345	132,345	132,345	131,213	887
2006....8/	137,000	137,000	134,900	133,551	875
2007....9/	143,573	141,573	141,573	148,573	855
2008....10/	147,425	142,925	143,262	139,313	855
2009	147,481	0	0	147,871	867

¹ Includes an appropriation of \$645 from the Y2K Emergency Fund and a reduction of \$252 pursuant to P.L. 106-51

² Reflects a reduction of \$66 pursuant to P.L. 106-113

³ Reflects a reduction of \$199 pursuant to P.L. 106-554

⁴ 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.

⁵ Reflects a reduction of \$761 pursuant to P.L. 108-7

⁶ Reflects a reduction of \$922 pursuant to the enacted rescissions in P.L. 108-199

⁷ Reflects a reduction of \$1,132 pursuant to the enacted rescissions in P.L. 108-447

⁸ Reflects a reduction of \$1,349 pursuant to the enacted rescission in P.L. 109-148

⁹ Reflects amounts provided under FY 2007 full year continuing resolution pursuant to P.L. 110-5 and FY 2007 supplemental P.L. 110-28

¹⁰ 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.

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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 oversees approximately 3.2 million private sector pension and health plans, and similar numbers of other welfare benefit plans, such as those providing life or disability insurance. The employee benefit plans under our jurisdiction hold approximately \$5.6 trillion in assets and cover approximately 150 million Americans. During the first seven years of this Administration, EBSA has closed over 28,000 civil cases, recovered or protected nearly \$11 billion dollars for plans and participants via investigations, participant assistance, or voluntary compliance programs; closed about 1,200 criminal cases; indicted over 800 individuals for crimes related to plans and participants; and received and answered over 1 million telephone inquiries and millions more via our website and publication hotline.

The protection of workers' retirement security is a long-standing priority of this Administration. This has been accomplished utilizing a comprehensive approach that includes vigorous enforcement, compliance assistance and enhanced education and outreach to employees and employers as well as taking the lead in strengthening the law where necessary to assure the continued success of the nation's private employee benefits system. 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 responsibilities; and (4) developing policies that encourage the growth of employment-based benefits.

For FY 2009, EBSA requests a total of \$147,871,000 and 867 FTE. Included in this request is a program decrease of \$5,500,000 to reflect the elimination of an FY 2008 one-time enhancement for development of EFAST2; built-in increases of \$4,732,000 and a program increase of \$1,980,000 to fund an additional 12 FTE for ERISA enforcement. With additional resources for ERISA enforcement, EBSA will begin developing and implementing a program of regular periodic reviews of major financial services providers to pension plans as well as large union and non-union pension and health plans. The performance impact of additional resources include conducting 137 additional civil and criminal investigations, increasing total enforcement results by \$27,267,000 and increasing indictments and VFCP recoveries over 3 percent. This initiative 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, at the request level, 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) the pension and health plan 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

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sponsors' and service providers' understanding of the complex provisions of ERISA governing their conduct.

Actual Performance History

In FY 2007, EBSA refined the performance indices that measure the success of its enforcement program focusing on the percent of civil cases closed with corrected fiduciary violations. In the criminal enforcement area, EBSA monitors and reports those cases that have been accepted for prosecution, a more demanding measure than the previous indicator, under which EBSA measured cases referred for criminal litigation. Gallup has deemed certain aspects of the EBSA compliance assistance program as *World Class*, a designation reserved for the highest performing organizations. As reported by Gallup, it will be difficult for EBSA, a regulatory agency, to improve its overall score. Notwithstanding, EBSA is developing plans to improve program areas identified by Gallup. Gallup has made recommendations that EBSA will consider during FY 2008 to improve the customer satisfaction index for compliance assistance programs. Through these performance measures, DOL demonstrates its success in targeting and pursuing wrongdoers.

<u>YEAR</u>	<u>PROGRAM PERFORMANCE MEASURES</u>	<u>TARGET</u>	<u>ACTUAL</u>
2004	Ratio of closed civil cases with corrected violations to civil cases closed	63%	69%
	Ratio of criminal cases referred for prosecution to total criminal cases	35.2%	45.3%
	Number of applications to voluntary compliance programs	7,943	14,194
	Customer satisfaction index for participants and beneficiaries who have contacted EBSA for assistance	61	62
2005	Ratio of closed civil cases with corrected violations to civil cases closed	66%	76%
	Ratio of criminal cases referred for prosecution to total criminal cases	37.7%	45.4%
	Number of applications to voluntary compliance programs	8,340	14,082
	Customer satisfaction index for participants and beneficiaries who have contacted EBSA for assistance	63	67
2006	Ratio of closed civil cases with corrected violations to civil cases closed	69%	74%
	Ratio of criminal cases referred for prosecution to total criminal cases	40.2%	53%
	Number of applications to voluntary compliance programs	13,500	17,214
	Customer satisfaction index for participants and beneficiaries who have contacted EBSA for assistance	65	69

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<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
	Customer satisfaction index for employers, plan sponsors, employee representatives, trustees of multiemployer plans, and other plan professionals who have contacted EBSA for assistance	Baseline	81.5
2008	Ratio of closed civil cases with corrected fiduciary violations to civil cases closed	64%	-----
	Ratio of criminal cases accepted for prosecution to total criminal cases	50%	-----
	Number of applications to voluntary compliance programs	21,000	-----
	Customer satisfaction index for employers, plan sponsors, employee representatives, trustees of multiemployer plans, and other plan professionals who have contacted EBSA for assistance	N/A	-----
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	-----
	Customer satisfaction index for employers, plan sponsors, employee representatives, trustees of multiemployer plans, and other plan professionals who have contacted EBSA for assistance	N/A	-----

FY 2007 Performance Summary

During FY 2007, EBSA closed nearly 69 percent of civil cases with corrected fiduciary violations of ERISA and over 67 percent of criminal cases submitted by EBSA have been accepted for prosecution. We have exceeded our targets for both primary enforcement performance indices that measure our effectiveness in protecting the pension and health benefits of American workers. In FY 2007, EBSA closed 3,236 civil cases with total results of nearly \$1.5 billion. EBSA also closed 188 criminal cases that resulted in 115 individuals being indicted

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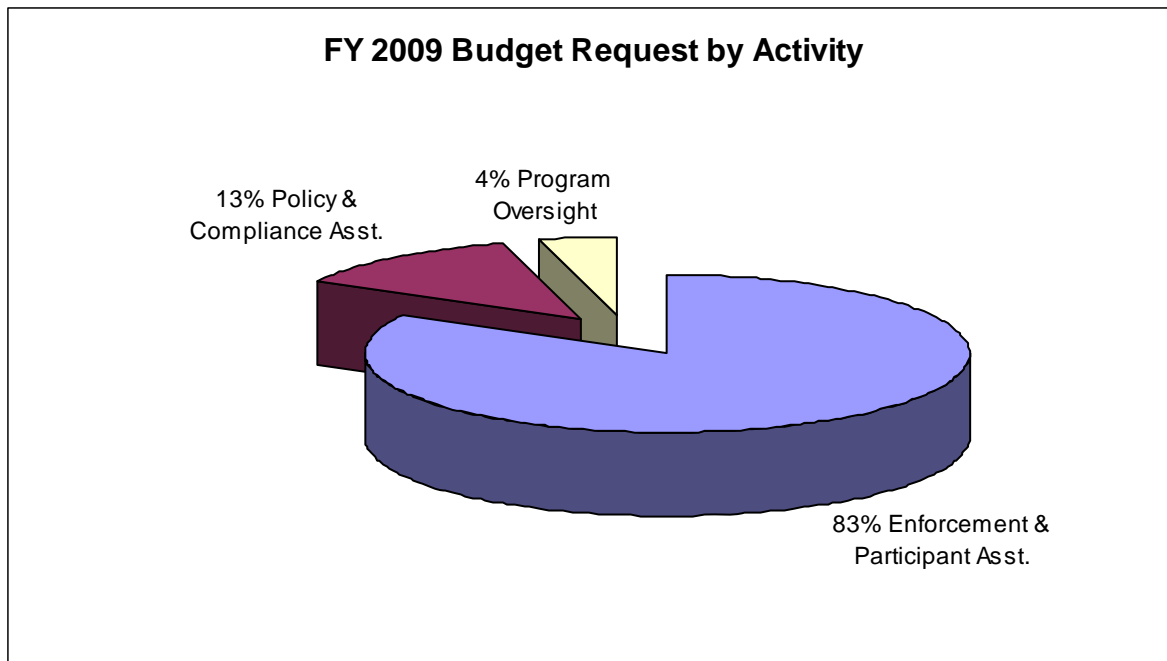
(an 8.5% increase from FY 2006) and 70 cases being closed with guilty pleas and/or convictions. EBSA processed over 20,000 applications for EBSA voluntary compliance programs.

Cost Model

Three program activities encompass the EBSA budget and include:

- Enforcement and Participant Assistance budget activity with FY 2009 requested resources of \$122,792,000 and 750 FTE.
- Policy and Compliance Assistance budget activity with FY 2009 requested resources of \$18,851,000 and 92 FTE.
- Executive Leadership, Program Oversight and Administration with FY 2009 requested resources of \$6,228,000 and 25 FTE.

The percentage of resources allocated to each performance budget activity at the FY 2009 request level is depicted in the following chart:



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Program Assessment Rating Tool (PART)

Since FY 2002, EBSA has undergone two program reviews utilizing the Program Assessment Rating Tool (PART). The first PART review was conducted in FY 2002 and, at the request of EBSA, again in FY 2004. EBSA is scheduled to be reviewed again in FY 2009. In the FY 2004 review, EBSA was rated Moderately Effective. A Moderately Effective PART rating indicates that EBSA has ambitious performance goals and is well-managed. EBSA will take the following actions to improve performance of the program: (a) develop ways to quantify and reduce the burden imposed by its regulations; (b) continue to implement the Pension Protection Act to ensure pension promises to employees are kept; and (c) align budget activities to improve budget and performance integration. More detailed information for the EBSA PART review can be seen at: <http://www.whitehouse.gov/omb/expectmore/summary/10000338.2004.html>

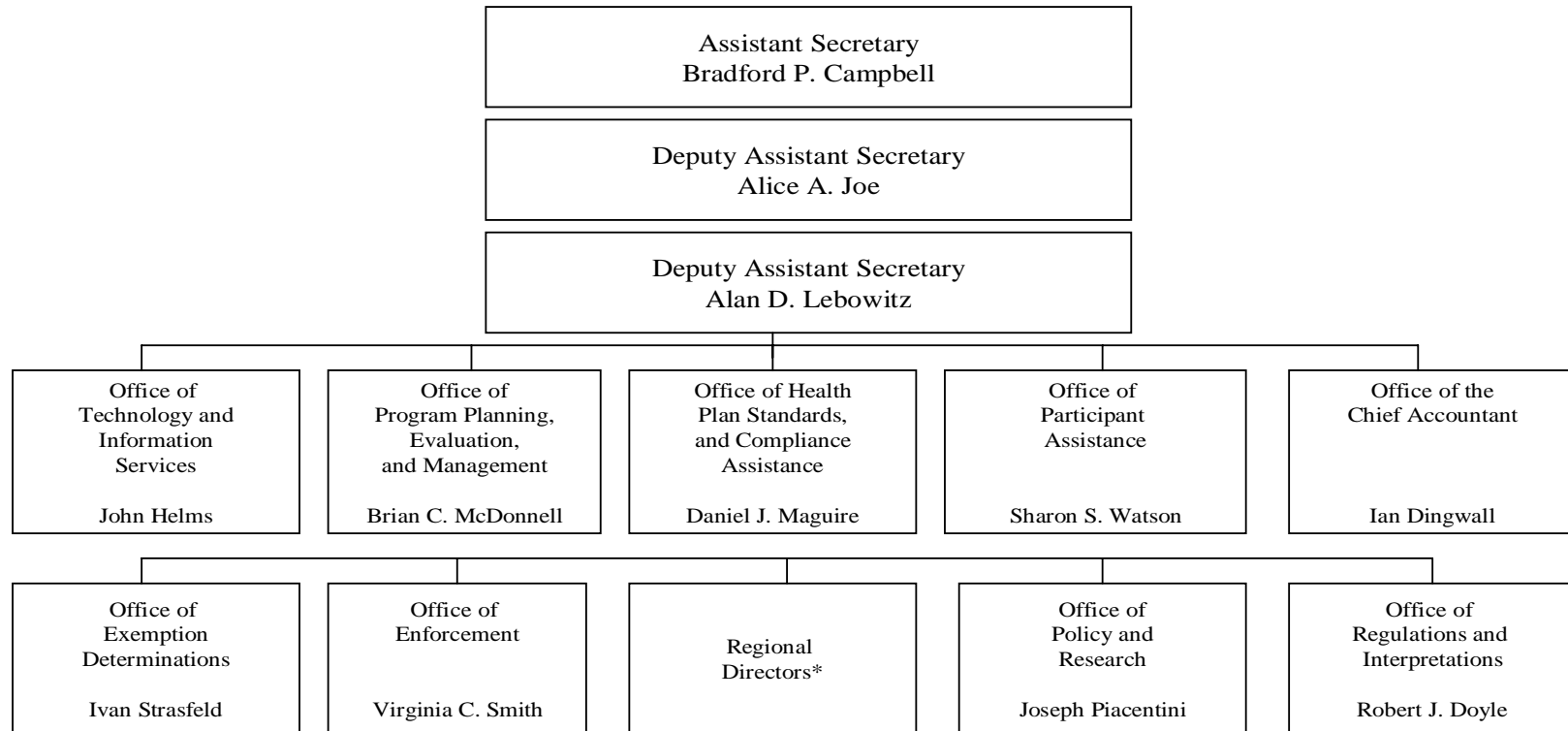
Efficiency Measures

EBSA has developed an efficiency measure with an approved logic model that can project certain discrete costs related to its performance goal. Additional information on efficiency measures may be found in the enforcement and participant assistance budget activity narrative.

<u>Program</u>	<u>Efficiency Measure</u>	<u>FY 2009 Target</u>
EBSA – Office of Enforcement (OE)	Average Cost (Per Case) to Produce Results	\$31,268.00

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Employee Benefits Security Administration



*Regional Directors

Boston – James Benages
New York – Jonathan Kay
Philadelphia – Mable Capolongo
Atlanta – Rebecca Marshall
Cincinnati – Joseph Menez

Chicago – Steve Haugen
Kansas City – Steve Eischen
Dallas – Roger Hilburn
Los Angeles – Billy Beaver
San Francisco – Vacant

ENFORCEMENT AND PARTICIPANT ASSISTANCE

Budget Authority Before the Committee						
(Dollars in Thousands)						
	FY 2007 Comparable	FY 2008 Enacted	FY 2008 Estimate	Diff. FY07 Comp/ FY 08 Est	FY 2009 Request	Diff. FY 08 Est/FY 09 Req
Activity Appropriation	126,418	116,590	116,590	-9,828	122,792	6,202
FTE	732	738	738	6	750	12

NOTE: FY 2007 reflects actual FTE. Authorized FTE for FY 2007 was 738.

FY 2007 includes a one-time real transfer of \$7 million from PBGC pursuant to P.L. 110-28

Introduction

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

EBSA also provides assistance to plan practitioners and participants regarding their respective responsibilities and rights under the law as well as informally resolving disputes between plans and participants. In addition to traditional enforcement and compliance functions, EBSA conducts a coordinated Outreach, Education and Assistance (OEA) program that includes fiduciary education through presentation of public seminars, and other public appearances. The OEA program also includes three education campaigns: (1) the Retirement Savings Education Campaign (RSEC), (2) the Health Benefits Education Campaign (HBEC) and (3) the Fiduciary Education Campaign. From FY 2003 through FY 2006, EBSA evaluated, with the assistance of The Gallup Organization, our participant assistance program. This program evaluation provided EBSA with invaluable, front-line performance information that significantly contributed to the improvement of our customer satisfaction score. The customer satisfaction score for our participant assistance program improved significantly from a baseline of 59 in FY 2003 to a final customer satisfaction score of 69 in FY 2006. Following the success of this program evaluation, EBSA conducted an evaluation of customer satisfaction for compliance assistance programs modeled after the participant assistance evaluation and received a score of 81.5 establishing EBSA as a provider of "World Class Service," a designation reserved for only the highest performing organizations.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

EBSA operates and maintains the ERISA Information System (EIS) and the ERISA Filing Acceptance System (EFAST). EFAST is the system that receives and processes the 1.2 million annual benefit plan filings (Form 5500) that populate the EIS system which provides information to the Department, the IRS, the Pension Benefit Guaranty Corporation (PBGC), GAO and others. The plan data provided by these systems aid in the IRS's 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. These systems support enforcement-related targeting, provide essential databases for the agency's research and regulatory activities, and are the primary sources of employee benefit plan information to Congress and interested stakeholders, including plan participants and beneficiaries.

Five-Year Budget Activity History

Fiscal Year	Funding (Dollars in Thousands)	FTE
2004	102,730	800
2005	109,374	764
2006	111,239	753
2007	126,418	738
2008	116,590	738

FY 2007 includes a one-time real transfer of \$7 million from PBGC pursuant to P.L. 110-28

FY 2009

The FY 2009 request level for the Enforcement and Participant Assistance budget activity provides \$122,792,000 and 750 FTE. EBSA is proposing a program increase of \$1,980,000 and 12 FTE to begin planning and implementing regular, periodic reviews of major service providers thereby better protecting plans and participants. Although these 12 FTE are the first step of a longer term initiative to increase EBSA's proactive enforcement capabilities, there will be an immediate performance impact that includes conducting an additional 137 civil and criminal investigations, increasing total enforcement results by \$27,267,000 and increasing indictments and VFCP recoveries over 3 percent. This initiative will ensure EBSA is positioned to better protect pension and health benefits security for America's workers, retirees and their families.

EBSA will continue to focus enforcement resources on areas that have the greatest impact on the protection of plan assets and participants' benefits. National enforcement projects will be identified in which field offices are to place particular investigative emphasis and will respond to emerging issues through established enforcement priorities. For example, through the Consultant/Advisor Project (CAP), EBSA will focus on service providers that provide bundled and alliance services such as investment management, valuation, participant level investment advice and education, administration, consulting, and broker-dealer arrangements. CAP cases are complex, time-consuming investigations and will involve issues such as biased fiduciary advice, client inducements, kickbacks, undisclosed compensation, and other civil and criminal violations. Investigations of specific plans may also be necessary to address plan-level procedural imprudence such as failure to adhere to investment guidelines and improper selection or monitoring of the service provider.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

EBSA will continue the development and subsequent implementation of a universal electronic Form 5500 filing system (EFAST2) and anticipate the phase-up into full operations by the end of 2009. We will continue receiving hard copy Form 5500 Series filings and all remaining work-in-progress into 2010. FY 2009 is projected to be the final year of concurrent operation of the legacy EFAST system and the EFAST2 initiative. Access to no-cost electronic filing through the Internet will reduce the burden on filers, especially small employers, who cannot afford the services of professionals to prepare the Form 5500 filings for them. The EFAST2 system will also be used to meet and fulfill information collection and disclosure requirements of the Pension Protection Act of 2006.

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 BY09 - EBSA - EFAST2 \(Public FINAL1\)](#)
- [Exhibit 300 BY09 - EBSA - EFAST \(Public FINAL1\)](#)

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.

Efficiency Measure

EBSA has an approved logic model that can project certain discrete costs related to its performance goal. The EBSA program efficiency measure is the Average Cost (Per Case) to Produce Results (APC) and is calculated by dividing enforcement resources expended by the total number of cases closed with results. An analysis of the average cost with program results that have been achieved will provide opportunities to develop and implement strategies to improve program efficiency. The efficiency measure covers approximately 70 percent of budgeted resources for EBSA.

ENFORCEMENT AND PARTICIPANT ASSISTANCE

WORKLOAD SUMMARY			
Workload/Output Measures	FY 2007 Actuals	FY 2008 Target	FY 2009 Request
Voluntary Fiduciary Correction Program Applications Processed	1,451	1,400	1,500
Delinquent Filer Voluntary Compliance Program Applications Processed	18,673	19,600	20,000
Investigations Processed:	3,424	3,930	4,067
Civil	3,236	3,719	3,850
Criminal	188	211	217
Indictments	115	115	118
Reporting Compliance Reviews	3,752	4,000	4,000
CPA Firm Inspections	2	4	4
Inquiries Answered (Participants)	161,062	165,000	165,000
National Office	13,024	17,400	17,400
Field Offices	148,038	147,600	147,600
EFAST Help Desk Inquiries	54,876	50,000	50,000

ENFORCEMENT AND PARTICIPANT ASSISTANCE

CHANGES IN FY 2009

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments		1,840
Personnel benefits		464
One day less of Pay		-282
Federal Employees Compensation Act (FECA)		-427
Travel		0
Transportation of things		0
GSA Space Rental		150
Printing and reproduction		0
Advisory and assistance services		0
Other services		0
Working Capital Fund		1,396
Other government accounts (DHS Charges)		12
Operation and maintenance of equipment		0
Supplies and materials		0
Equipment		0
Built Ins Subtotal		3,153

Net Program		3,049
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Direct FTE		12
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	Estimate	FTE
Base	119,743	738
Program Increase	8,549	12
Program Decrease	-5,500	0

POLICY AND COMPLIANCE ASSISTANCE

Budget Authority Before the Committee						
(Dollars in Thousands)						
	FY 2007 Comparable	FY 2008 Enacted	FY 2008 Estimate	Diff. FY07 Comp/ FY 08 Est	FY 2009 Request	Diff. FY 08 Est/FY 09 Req
Activity Appropriation	16,885	17,545	17,545	660	18,851	1,306
FTE	73	92	92	19	92	0

NOTE: FY 2007 reflects actual FTE. Authorized FTE for FY 2007 was 92.

Introduction

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

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

Five-Year Budget Activity History

Fiscal Year	Funding (Dollars in Thousands)	FTE
2004	16,907	108
2005	17,357	101
2006	17,283	96
2007	16,885	92
2008	17,545	92

POLICY AND COMPLIANCE ASSISTANCE

FY 2009

The FY 2009 request level for the Policy and Compliance Assistance budget activity provides \$18,851,000 and 92 FTE. The request level enables EBSA to achieve established workload estimates and program objectives. Fiduciary education, regulations, exemptions, compliance assistance, policy and research, and interpretive guidance substantially contribute to the enhancement of employee pension and health benefits security, a primary goal of the Administration. The EBSA primary performance indicators reflect, and are supported by, these critical activities. In addition to our primary performance indicators, our program specific workload measures also currently assess effectiveness of program operations in this activity, such as tracking the number of projects, exemptions, interpretations and regulations completed and/or issued by the EBSA Office of Regulations and Interpretations (ORI), Office of Exemption Determinations (OED), Office of Policy and Research (OPR) and Office of Health Plan Standards and Compliance Assistance (OHPSCA).

We will continue to improve our ability to provide timely and helpful regulatory and interpretive guidance by focusing resources on improving the active program of issuance of advisory opinions and field assistance bulletins addressing relevant interpretive issues raised by the regulated community or considered significant by the Department for improving the efficiency of business and better protecting employee pension and health benefits. EBSA compliance assistance programs will continue to improve our stakeholders' understanding of their obligations under ERISA and provide targeted assistance to plan officials on the aspects of law where high levels of noncompliance exists; and an ongoing program for the regular, systematic review of existing regulations and exemptions will evaluate the potential costs and benefits of alternative approaches in support of the Secretary's 2nd strategic goal.

We will continue to focus resources on the development of interpretive, regulatory and other guidance necessary to the efficient and effective implementation of the provisions of the PPA. Implementation of this legislation began in FY 2006 and involves a long term/multi-year undertaking, requiring the reallocation of resources for regulatory analysis and related work.

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

POLICY AND COMPLIANCE ASSISTANCE

EBSA also will continue its program for periodic review of existing regulations which supports the Secretary's 2nd Strategic Goal of reducing regulatory burden and was a major PART recommendation. A robust and proactive regulatory review program will enable EBSA to assess the ongoing benefit and consistency of its regulatory program as a whole in a changing employee benefits environment; to make recommendations for improving the efficacy of its regulatory programs in a systematic and considered manner; and provide an avenue for seeking public input on issues arising out of the regulatory program.

EBSA will continue to administer a program of economic research and data development directed toward advancing the understanding of employee benefits issues. This research program supports departmental leadership and other Federal officials in developing sound policy approaches and advancing them in legislative and regulatory forums. It also delivers the analytic resources and products necessary to satisfy all applicable economic analysis requirements in connection with all EBSA regulatory actions. EBSA provides objective analysis and estimates of alternative policies' potential impacts to guide policymakers' decisions. EBSA will continue to conduct extensive extramural research on priority employee benefits policy topics and produce detailed annual pension and health benefits statistics. EBSA also will track, analyze and develop legislative initiatives in support of its mission and the President's health and retirement benefit policy priorities.

WORKLOAD SUMMARY			
Workload/Output Measures	FY 2007 Actuals	FY 2008 Target	FY 2009 Request
Interpretations & Other Technical Assist:	2,223	2,300	2,300
Health Plan Standards	686	600	600
Regulations & Interpretations	1,537	1,700	1,700
Regulations/Projects:	192	191	187
Individual Exemptions & Expro (Proposed & Granted)	108	100	150
Section 502(l) Waivers	10	10	4
Exemption Processing Time (avg #days)	224	220	220

POLICY AND COMPLIANCE ASSISTANCE

CHANGES IN FY 2009

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:		
Costs of pay adjustments		263
Personnel benefits		70
Employee health benefits		0
One day less of Pay		-41
Federal Employees Compensation Act (FECA)		0
Travel		0
Transportation of things		0
GSA Space Rental		23
Communications, utilities & miscellaneous charges		0
Printing and reproduction		0
Advisory and assistance services		0
Other services		0
Working Capital Fund		219
Other government accounts (DHS Charges)		2
Research & Development Contracts		0
Operation and maintenance of equipment		0
Supplies and materials		0
Equipment		0
Built Ins Subtotal		536

Net Program		770
Direct FTE		0
	Estimate	FTE
Base	18,081	92
Program Increase	770	0

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

Budget Authority Before the Committee (Dollars in Thousands)						
	FY 2007 Comparable	FY 2008 Enacted	FY 2008 Estimate	Diff. FY07 Comp/ FY 08 Est	FY 2009 Request	Diff. FY 08 Est/FY 09 Req
Activity Appropriation	5,270	5,178	5,178	-92	6,228	1,050
FTE	24	25	25	1	25	0

NOTE: FY 2007 reflects actual FTE. Authorized FTE for FY 2007 was 25.

Introduction

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

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

Five-Year Budget Activity History

Fiscal Year	Funding (Dollars in Thousands)	FTE
2004	4,403	22
2005	4,482	22
2006	5,029	26
2007	5,270	25
2008	5,178	25

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

FY 2009

The FY 2009 request level for the Executive Leadership, Program Oversight and Administration budget activity provides \$6,228,000 and 25 FTE. This funding level enables EBSA to provide the leadership and necessary services to support the agency's integrated programs of enforcement, compliance assistance, fiduciary education, improved E-Government, and participant assistance and education to ensure protection of the pension and health benefits for our nation's workers, retirees and their families as well as achieve the President's Management Agenda.

EBSA will utilize human capital, financial and other information systems to provide decision-makers with timely analysis as well as to monitor and update strategic plans and to develop metrics to measure results of management initiatives. We will continue to use this data to: (a) facilitate the evaluation of operating efficiency and business process engineering; (b) promote budget and performance integration through the linkage of costs with program performance metrics; (c) allow for trend analysis in support of the EBSA budget justification and resource allocation requirements; and (d) 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.

The administration of responsibilities under the Debt Collection and Debt Collection Improvement Acts will continue in FY 2009. The management of debts arising from sections 502(c), 502(i) and 502(l) of ERISA, will continue to be a significant function of the Executive Leadership, Program Oversight and Administration budget activity and debt collection activities relative to assessed civil penalties will continue to require dedicated resources.

EBSA will continue to execute a comprehensive recruitment and employee development strategy to ensure we have the right people in place to perform our mission of protecting the pension and health benefits security of American workers and their families. Our strategic objective will be to provide formal training and other developmental activities for employees to ensure a trained workforce and one that is prepared for the succession planning needs of the agency. In addition to our recruitment and training efforts in FY 2009, EBSA will continue to focus on workforce planning. With over 80% or more of our career senior leadership currently, or soon-to-be, eligible to retire during the next five (5) years, EBSA will continue to groom a cadre of journey-level employees and first-line supervisors to fill these critical positions. Finally, this activity will continue to refine our agency specific Continuity of Operations Plans (COOP) in support of emergency preparedness.

EXECUTIVE LEADERSHIP, PROGRAM OVERSIGHT AND ADMINISTRATION

CHANGES IN FY 2009 (Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Costs of pay adjustments		97
Personnel benefits		119
One day less of Pay		-16
Federal Employees Compensation Act (FECA)		0
Travel		0
Transportation of things		0
GSA Space Rental		10
Communications, utilities & miscellaneous charges		0
Printing and reproduction		0
Other services		0
Working Capital Fund		66
Other government accounts (DHS Charges)		1
Operation and maintenance of equipment		0
Supplies and materials		0
Equipment		0
Built Ins Subtotal		277

Net Program		773
Direct FTE		0
	Estimate	FTE
Base	5,455	25
Program Increase	773	0