

DEPARTMENT OF LABOR

Statement by

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on

Fiscal Year 2005 Request for the
Employment Standards Administration

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you today to discuss the Employment Standards Administration's (ESA) Fiscal Year (FY) 2005 budget request. ESA, the largest agency in the Department of Labor with over 4,000 employees and over 500 contract staff located throughout the country, administers and enforces a variety of workplace laws and an Executive Order that protects wages and working conditions; ensures Federal contract workers are hired, promoted, and compensated in a nondiscriminatory manner; provides benefits to covered workers who suffer a work related injury, disease, or death; and promotes democracy, transparency and financial integrity within labor unions.

ESA is composed of four major program activities: The Wage and Hour Division (WHD); the Office of Federal Contract Compliance Programs (OFCCP); the Office of Labor-Management Standards (OLMS) and the Office of Workers' Compensation Programs (OWCP). OWCP is further subdivided into four distinct workers' compensation programs: The Division of Federal Employees' Compensation; the Division of Longshore and Harbor Workers' Compensation; the Division of Coal Mine Workers' Compensation; and the Division of Energy Employees Occupational Illness Compensation.

ESA's budget request for FY 2005 is nearly \$5.0 billion and 4,306 full-time equivalents (FTE). This amount includes \$527.6 million for administration costs and \$4.4 billion for workers' compensation benefit costs. Total funding for FY 2005 will

increase by \$205 million – or about 4.3 percent compared with FY 2004. This increase includes \$6.5 million in new funding to finance initiatives improving enforcement and compliance assistance, ESA-wide data systems support, and enhancing enforcement and outreach assistance under the Labor-Management Reporting and Disclosure Act (LMRDA). The Black Lung Part B account will decline by about \$33 million, reflecting the decline in beneficiaries.

Wage and Hour Division

The Wage and Hour Division is responsible for the administration and enforcement of a wide range of laws that collectively cover virtually all private, state, and local government employment. WHD's overall budget request increases by \$5.8 million or 3.6 percent compared with FY 2004 – from \$160.1 million to \$165.9 million. Funding for low-wage industry enforcement increases by \$1.1 million and 12 FTE in order to expand the enforcement success we have had in targeting low-wage industries with chronically low compliance rates, such as garment manufacturing, health, and agriculture, to other low-wage industries. This expanded approach will increase workplace protections for the most vulnerable workers. ESA also proposes increases of \$0.3 million and 2 FTE for compliance assistance to small employers and underserved communities, particularly those where English is the second-language, to encourage voluntary compliance; and \$0.4 million and 2 FTE to enable WHD to update its rules in order to better protect workers and ensure that its regulations remain relevant and useful for tomorrow's workplaces.

The budget submission also includes a proposal to increase WHD's civil monetary penalties for child labor violations that cause the death or serious injury of a young worker. The proposal would increase the maximum penalty from \$11,000 to \$50,000, for any type of child labor violation that leads to death or serious injury, and raise the maximum penalty for willful or repeat violations to \$100,000. ESA plans to submit a legislative proposal to Congress to authorize these new penalties.

Office of Federal Contract Compliance Programs

The Office of Federal Contract Compliance Programs is responsible for ensuring equal employment opportunity and non-discrimination in employment based on race, sex, religion, color, national origin, disability or veteran status for businesses contracting with the Federal government. ESA requests an increase of \$2.6 million or 3.3 percent for OFCCP activities – from \$79.4 million in FY 2004 to \$82.1 million and 749 FTE. The budget request includes \$0.4 million to develop technology to enable OFCCP to better track its program’s effectiveness and aid its ongoing efforts to build upon the program’s strong enforcement record. Significantly, this increase will also assist in meeting the program’s performance goal of reducing the incidence of discrimination among Federal contractors.

OFCCP will continue to balance a traditional approach that focuses on employment practices at a single facility with a newer but equally practical “functional” approach that enables the program at the employer’s option, to review personnel activities across an entire business unit. OFCCP will also continue to promote industry best practices and equal employment opportunity programs through the Secretary’s Opportunity Award program, as well as its partnerships with nationwide Industry Liaison Groups.

Office of Labor-Management Standards

The Office of Labor-Management Standards enforces provisions of Federal law that require reports from labor organizations and others; establishes certain standards for union democracy and financial integrity; and, through its Division of Statutory Programs, certifies protective arrangements for transit employees when Federal transit grant funds are used to acquire, improve, or operate a transit system. ESA is requesting an additional \$3.9 million and 35 FTE to advance statutorily-required union democracy, financial integrity, and transparency protections. The additional resources will restore the program’s ability to protect workers through audits; support the expansion of compliance

assistance activities; and help strengthen cooperative relationships with national and international union officials as well as local union officials. The additional FY 2005 resources will also enable OLMS to expand its ongoing electronic government initiatives and will reduce administrative burdens on unions and others filing reports with OLMS.

OLMS will continue efforts to strengthen union financial integrity and improve the information available to union members. Union member protection is also at the heart of the FY 2005 budget's proposal to authorize OLMS to assess civil monetary penalties against unions, union officers, employers, consultants, and bonding companies that fail to file their required financial reports on a timely basis. Enabling OLMS to issue civil monetary penalties will encourage the regulated community to comply with statutory filing deadlines. The intent is to improve compliance, not penalize inadvertent lapses in filing reports.

Office of Workers' Compensation Programs

The Office of Workers' Compensation Programs administers disability compensation programs, which mitigate hardship imposed by work-related injuries or disease, through the provision of wage replacement and cash benefits, medical treatment, vocational rehabilitation, and other benefits to certain workers (or their dependents or survivors). ESA requests \$133.8 million and 1,160 FTE to administer Federal Employees' Compensation Act (FECA) responsibilities, Longshore and Harbor Workers' Compensation, and the Black Lung Benefits Program. ESA also requests \$40.8 million and 300 FTE to administer the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

ESA's request includes a legislative proposal to reform the FECA program to improve program management and strengthen program integrity, make the Act more equitable and easier to administer, and strengthen incentives for injured employees to return to work as early as appropriate. The proposal will also conform FECA benefits for future retirement-age beneficiaries to a benefit level similar to what they would receive

under Federal retirement programs, adopt best state practices such as placing the waiting period for benefits at the point immediately after an injury, and make other benefit and administrative improvements. These proposals would result in ten-year Government-wide cost savings of \$573 million.

ESA also intends to submit for legislative action a proposal to restructure the mounting Black Lung Disability Trust Fund debt, which is estimated to exceed \$9 billion in FY 2005. The Administration's proposal would authorize a restructuring of the Trust Fund debt, extend current excise tax rates until the debt is retired, and provide a one-time appropriation to compensate Treasury's General Fund for foregone interest payments. Without this urgently needed legislation, the Trust Fund debt will continue to grow and jeopardize our ability to achieve our objectives.

Implementing the President's Management Agenda

Program Assessment Rating Tool

The Program Assessment Rating Tool (PART), a central part of the Budget and Performance Integration component of the President's Management Agenda, has rapidly become an important management tool for ESA that is used for program planning and internal evaluation purposes. A total of four ESA programs have been evaluated with the PART thus far, including 2003 PART evaluations conducted on the Black Lung Benefits Program and the Davis-Bacon Wage Determination System.

The Black Lung Benefits Program was rated as "Moderately Effective," and was cited for having a clear purpose, strong program management, and a low erroneous payment rate. However, the PART noted the growing Trust Fund debt, lack of cost-effectiveness goals, and need for an independent evaluation. ESA intends to address these issues by re-proposing legislation to restructure the Trust Fund debt, tracking and reporting on productivity, and conducting a program evaluation.

While the Davis-Bacon program was complimented for its strong management, it was cited for longstanding measurement and design problems. To address these issues, Wage and Hour has convened a work group to develop clear and ambitious performance targets, and will be working closely with stakeholders to identify and recommend appropriate improvements to the program.

ESA seeks to continuously improve overall program effectiveness and the efficient use of taxpayer dollars through the use of performance measurement tools such as the PART.

President's Management Agenda Scorecard

ESA continues to make solid progress in implementing the President's Management Agenda. As of year's end, the Department of Labor's internal management report card showed ESA with four Yellow status scores and four Green progress scores in four of the five Government-wide initiatives.

Conclusion

Mr. Chairman, this concludes my comments on ESA's FY 2005 proposals. I will be happy to answer any questions you or the Members of the Subcommittee may have.