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# Trump Proposes a \$2.5 Billion Cut to the Dept. of Labor's Budget and to Eliminate Funding for Labor Initiatives and the Chemical Safety Board

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The [Trump Administration submitted a blueprint budget for 2018](#) to Congress proposing \$2.5 Billion in cuts to the U.S. Department of Labor's ("DOL") operating budget. The President's proposed budget expressly calls for reduced funding for grant programs, job training programs for seniors and disadvantaged youth, and support for international labor efforts. It also proposes to entirely defund and eliminate the U.S. Chemical Safety and Hazard Investigation Board ("CSB") – an independent, federal, non-enforcement agency that investigates chemical accidents at fixed facilities. The budget plan also purports to shift more funding responsibility to the states with labor related programs. Finally, although less explicit, the budget blueprint appears to deliver on promises from Trump's campaign trail that rulemaking and regulatory enforcement efforts under the myriad laws and regulations enforced by the sub-agencies, such as the Wage and Hour Division and OSHA would be slashed. 

These proposed budget cuts at DOL and other agencies are all part of a plan to offset the White House's intent to increase defense and security spending by \$54 billion. Overall, Trump requested \$1.065 Trillion in total discretionary spending, with \$603 billion going to Defense.

The proposal would shrink DOL's budget to \$9.6 Billion – down 21% from the \$12.2 Billion budget for 2017. Trump's planned reductions announced on March 16, 2017 – while not really surprising in the context of his view toward federal spending on non-defense agencies – would have a seismic impact on DOL's ability to carry out both policy initiatives under former President Obama as well as many of the Department's longstanding programs.

The business community welcomes Trump's effort to rein in what has been viewed as an intrusive, enforcement-heavy Labor Department, but we caution not to count chickens yet. These proposed cuts will undergo heavy scrutiny by Congress before any budget is finalized. The President's spending plan is only the first step in months of negotiations between the White House and both houses (and parties) in Congress. Pres. Trump will put forward a more detailed spending proposal in May, and various legislative committees will scrutinize his requests, calling on Cabinet Secretaries, Agency Heads, and others in the Administration to testify about or otherwise explain their spending needs and requests.

## ***Key Takeaways from Trump's Budget Blueprint***

While the administration provided estimates for some of the proposed cuts, it did not specify where the majority of the budget cuts would come from. What we do know is that the proposed budget would eliminate or significantly decrease funding for several DOL programs historically intended to help workers. This is somewhat surprising given Trump's populist campaign message. Below is a condensed analysis of the proposed budget cuts that will impact DOL's employment and workplace safety missions.

### **1. *Proposed Labor and Employment Budget Cuts***

The 21 percent proposed budget cut at DOL would reduce funding for job training programs that benefit seniors and disadvantaged youth, and it would also shift funding responsibility to states for certain job placement programs. Specifically, the proposed budget will reduce funding for ineffective, duplicative and peripheral job training grants, including the elimination of the [Senior Community Service Employment Program](#) ("SCSEP"), , eliminate grant funding programs, and place more responsibility on States to prepare workers for jobs.

The proposal would also refocus the [Bureau of International Labor Affairs](#), the department entrusted with helping ensure workers around the world are treated fairly, by eliminating its "largely noncompetitive and unproven grant funding." The administration's justification in cutting the non-competitive grant funding program, amounting to a net savings of \$60 million, is being done to help further the administration's goal of ensuring that U.S. trade agreements are fair for American workers.

The proposal's decrease in funding and the elimination of certain federal programs appears to shift the burden to the States but there is no indication that the States will receive any type of federal funding to shoulder this responsibility. Specifically, the proposal simply states that there will be decreased federal support for job training and employment grants, and that it will be "shifting more responsibility for funding these services to States, localities, and employers." The proposal also states that DOL will refocus the [Office of Disability Employment Policy](#) ("ODEP") by eliminating less critical technical assistance grants, which are designed to help employers retain and hire workers with disabilities, and launching an early intervention demonstration project to allow States to test and evaluate methods that help individuals with disabilities remain attached to or reconnect to the labor market.

While the majority of the proposal centered on budget cuts and eliminating DOL program, it did signal an increase in spending on Reemployment and Eligibility Assessments. The proposal would expand the program, which helps unemployed people find jobs more quickly and verifies their eligibility to receive unemployment benefits. The administration said the program would save an average of \$536 for every person receiving unemployment benefits.

While not directly mentioned in the budget proposal, any decrease in funding would necessarily lead to reduced staffing levels at the agency, as well as fewer resources to enforce the laws and regulations entrusted to the DOL's enforcement mechanisms. The skeleton outline of the proposed budget only specifically mentions cutting approximately \$500 million dollars from the DOL budget, and it is not clear where the other \$2 billion in cost savings will come from. However, given this large amount of funds being taken away, the remaining cuts will likely be distributed heavily through DOL's enforcement programs.

For example, OSHA and the EEOC's enforcement programs will almost certainly be affected by the budget cuts. Given the hiring freeze and proposed budget cut, it would not be surprising to see furloughs or layoffs throughout these agencies in the near future. As a result, we expect companies will see fewer DOL investigations at the federal level, whether as a wage and hour audit under the Fair Labor Standards Act or an on-site inspection by OSHA. The impact on enforcement levels in light of the budget proposal, however, is too early to tell.

## **2. Proposed Workplace Safety Budget Cuts**

OSHA received the same budget for 2017 that it did in 2016, which was \$552.7 Million. OSHA under the new Administration may receive a similar budget, but the funds will be allocated much differently than under the Obama Administration. The first impact of the President's proposed budget at OSHA would be the elimination of "unproven" training grants under OSHA's [Susan Harwood Training Grant program](#), which would yield an estimated \$11 Million in savings. Republicans in Congress and some business groups have historically opposed this training grant program, criticizing it as a federal funding conduit for union- and worker advocacy-based programs.

The new Administration will also likely reallocate spending based on different priorities. For instance, OSHA under Pres. Trump is very likely to take a more cooperative approach with the regulated community, highlighted by more compliance assistance and more investment in cooperative programs, like VPP. It is likely that resources recently directed towards enforcement programs under Obama's OSHA, will be redirected to compliance assistance and cooperative programs.

In addition to the decreased funding (or complete elimination) of several DOL employment programs, the President's proposed budget also outlined plans to eliminate workplace safety programs, including an entire independent federal agency – the Chemical Safety Board. This surprise came under the "Major Agency Budget Highlights" section of the proposed budget, stating, without explanation, that the proposed budget eliminated funding for several independent federal agencies, including the CSB. 

The CSB was formed to investigate chemical accidents at fixed chemical facilities, searching for their root causes, and making recommendations to employers, regulators and others that could prevent similar incidents in the future. It investigates all aspects of chemical accidents, including physical causes such as equipment failure, as well as inadequacies in regulations, industry standards, and safety management systems. Although the CSB is not an enforcement agency, it has been at odds with Industry because of perceived abuses of its investigatory authority and advancing agendas not supported by the facts of incidents it investigates, and has also been under siege by Congress over alleged mismanagement over the past few years. Many entities affected by the CSB's rulings and recommendations have also found it duplicative of other government regulators, and proposed the phase-out of this program, which only has a budget of \$11 Million. However, the complete elimination of the program with no mention of any plan to incorporate its responsibilities elsewhere was not something Industry (or the CSB) anticipated.

## **3. DOL Regulatory Budget Cuts**

While the proposed budget did not provide a line item for how funds were going to be used, the proposed 21%

budget cut will certainly affect rulemaking and regulatory initiatives. President Trump specifically highlighted his policy stance on government regulation within the proposed budget:

***“These burdens function much like taxes that unnecessarily inhibit growth and employment. Many regulations, though well intentioned, do not achieve their intended outcomes, are not structured in the most cost-effective manner, and often have adverse, unanticipated consequences.”***

OSHA, MSHA and other DOL agency rules certainly fall under this directive, and it will be no surprise to see a significant decrease in funds for regulatory and rulemaking action for all of these agencies – perhaps other than funding for the repeal, elimination, or simplification of current or proposed regulations.

President Trump has already taken an aggressive stance on government regulation early in his first term by issuing a regulatory freeze and several executive orders designed to slash government regulation. This will certainly be a high priority topic during the budget approval process.

For more information about Pres. Trump’s Executive Orders to slash regulations, join Conn Maciel Carey for two upcoming webinars:



***“A Review of the DOL’s Major 2016 Regulatory Initiatives and How (and / or Whether) those will be Implemented in the Coming Year”***

***“OSHA’s old “Standards Improvement Project” and Trump’s new Exec. Orders to Slash Regulations.”***

### ***Employer Take-Away and Proactive Steps to Prepare for Revamped DOL***

Notwithstanding expected cuts to DOL’s enforcement and regulatory programs, employers should remain vigilant in ensuring compliance with Wage and Hour, OSHA, and other DOL rules. The DOL under the last Republican Administration (George W. Bush) still enforced the law. Indeed, while the enforcement budget was smaller, DOL effectively utilized a “poster child” enforcement philosophy across its various sub-agencies. That meant fewer overall inspections and nit-pick enforcement actions, but it also meant that the enforcement actions we did see were substantial, to use a single employer as an example to others.

Accordingly, employers should continue to conduct wage and hour audits of their wage payment practices and job classifications for overtime purposes, and safety and health audits to identify compliance gaps. Such precautionary steps will significantly limit the chances of an enforcement action and help facilitate resolution of

any inquiries from the government. This will be especially helpful given the anticipated shift towards a DOL that will be focused on compliance assistance and working with employers to remedy practices as opposed to penalizing them.

Employers should also carefully review their employee handbooks. Given the changes in several employment laws over past couple of years, both on the federal and state level, employers should evaluate their policies to ensure they are consistent with existing employment laws. Several policies have been the subject of recent litigation, including discipline and termination policies, trade secrets/confidentiality/non-disclosure policies, social media policies, technology use policies, drug and alcohol policies, and leave policies. An outdated handbook or safety program can be harmful to an employer if it faces a lawsuit from a current or former employee or a regulatory action by the DOL. If the handbook is updated, employers should be sure to distribute it to its employees and obtain acknowledgment signatures.