

**DEPARTMENTS OF LABOR, HEALTH AND
HUMAN SERVICES, AND EDUCATION, AND
RELATED AGENCIES APPROPRIATIONS FOR
FISCAL YEAR 2013**

WEDNESDAY, MARCH 14, 2012

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:30 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Tom Harkin (chairman) presiding.

Present: Senators Harkin, Brown, Shelby, Cochran, Alexander, Graham, and Moran.

DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

STATEMENT OF HON. HILDA L. SOLIS, SECRETARY

OPENING STATEMENT OF SENATOR TOM HARKIN

Senator HARKIN. The Subcommittee on Labor, Health and Human Services, and Education, and Related Agencies will come to order.

Welcome back to the subcommittee, Madam Secretary. You are joining us today at a critical time for our Nation's workforce.

The economy is moving in the right direction. U.S. employers added 227,000 jobs in February, marking 3 months in a row of job gains of more than 200,000. In the private sector, we have had 24 straight months of job growth. The outlook for manufacturing is particularly encouraging, with 429,000 jobs added in the past 2 years.

But too many people still remain unemployed or underemployed. More must be done to ensure that all Americans benefit from economic growth, not just the wealthy in our country.

And so I applaud the efforts that you and your Department are making to get more Americans back to work, and to keep our workers safe, especially in times of budget constraints.

FISCAL YEAR 2013 PRESIDENT'S BUDGET

Under the President's request, funding for the Department in fiscal year 2013 would drop slightly below the level for fiscal year 2012. Obviously, we are going to ask you to do more with less. I am pleased, however, that within the President's total, he has pro-

posed increases for efforts to prevent the misclassification of workers, to protect whistleblowers, and to enhance oversight of the sub-minimum wage program for workers with disabilities.

The President's budget would also continue the disability employment initiative that we started in the fiscal year 2010 appropriations bill. While the overall unemployment rate in February was 8.3 percent, the rate for people with disabilities was 15.8 percent—almost double. So we must do a better job of removing employment barriers for people with disabilities. Your Department's disability employment initiative will surely help.

JOB CORPS CENTER CLOSURES

One reduction proposed by the President is to cut funding for operating Job Corps centers by \$23 million. His plan is to close a small number of centers that are chronically low performing.

As you know, I have always been a strong supporter of Job Corps. These centers play a crucial role in giving young people the training they need to enter the workforce, the military, or postsecondary education. And my experience with their work in Iowa has been very positive. The center in Denison, Iowa, is 1 of only 3 in the country to be named a Job Corps Center for Excellence by the Department of Labor (DOL).

A new center in Ottumwa, Iowa, for which you were present during the groundbreaking, opened its doors this past October, and is taking an innovative approach to training its students. The center has a partnership with a nearby community college, Indian Hills Community College, that will give its students access to higher education at the same time they are enrolled in the Job Corps center.

So I think the Congress should continue to strongly support the Job Corps program. But, then again, we also have a responsibility to hold centers accountable for their performance. If there are centers that fail to serve their students year after year, then no one is helped by continuing to provide them with taxpayer funding.

PREPARED STATEMENTS

What I will want to understand better is how the Department plans to define "chronically low-performing", and what criteria will be used to determine whether a center should be closed. And that is something for an ongoing discussion.

So, Madam Secretary, I will leave the record open at this point for an opening statement by Senator Shelby and Chairman Inouye. [The statements follow:]

PREPARED STATEMENT OF SENATOR RICHARD C. SHELBY

Madam Secretary, our Nation continues to face an unemployment rate more than 8 percent, the longest stretch of high unemployment in this Nation since the Great Depression.

Moreover, the official unemployment rate of 8.3 percent does not adequately illustrate the current employment turmoil. The official rate excludes "discouraged" workers—those who want to work, but have not searched for a job in the last month and those working part-time but who would prefer a full-time job.

If these groups were counted, the real unemployment rate would be 14.9 percent. As more and more Americans are unemployed or underemployed, they are looking toward the Department of Labor (DOL) to provide job training and employment

placement. We need to ensure that DOL is using its funds effectively and efficiently and that Americans are receiving the training they need to re-enter the labor force.

DOL's fiscal year 2013 request is for \$12 billion. DOL claims that the 2013 request reduces spending by \$1.2 billion. This is misleading.

With the transfer of the community service employment for older Americans program to another agency and the decrease in the unemployment insurance workload, DOL's request is not a decrease of \$1.2 billion, but less than one-half that amount.

In this difficult economic environment, limited funding should be targeted to programs that are most effective. I have repeatedly expressed concern about the Job Corps program. While Job Corps has a noble goal and a difficult challenge, it is an expensive program per enrollee, it has a number of historically low-performing centers in the system, and there are concerns that the program's outcomes may not justify the program's costs.

I appreciate you taking my concerns into consideration and proposing a fiscal year 2013 budget that streamlines the program and strengthens its accountability.

However, I do remain concerned that other job training programs have not received the rigorous evaluations necessary to determine whether their costs are justified by their outcomes. Many of the Workforce Investment Act (WIA) programs have not been evaluated since 2005, and we do not have current data to assess whether they are working.

In this time of record unemployment, I believe DOL should target worker training programs to ensure unemployed Americans can return to work. Unfortunately, there are several unnecessary initiatives that cost hundreds of millions of dollars, such as the Workforce Innovation Fund and the One-Stop Rebranding proposal, that will not train a single worker.

The budget submission for the Workforce Innovation Fund requests \$125 million this year while the Fund has \$175 million in the bank. I think everyone would agree that we should not add a third year of funding to a program that has not awarded a single grant and has unknown results.

In addition, the One-Stop Rebranding initiative allocates \$50 million for a publicity campaign. How will either of these proposals help Americans return to work?

In difficult budgetary times, we need to make tough choices and prioritize spending. I look forward to working with the chairman and DOL to target funding that puts Americans back to work.

PREPARED STATEMENT OF SENATOR DANIEL K. INOUE

Mr. Chairman, thank you for chairing this hearing to review the President's fiscal year 2013 budget for the Department of Labor.

I would like to extend a warm aloha to Secretary of Labor, Hilda Solis. Madam Secretary, I will continue to do all I can to support your vision of good jobs for everyone, because a strong economy depends on a strong middle class.

Senator HARKIN. And in the interest of time, since we have a series of votes starting at 11:30 a.m., Madam Secretary, I have your statement. It will be made a part of the record in its entirety.

Again, welcome back. I will, for the record, say that Secretary Hilda L. Solis was sworn in as the 25th Secretary of Labor on February 24, 2009. Prior to her confirmation, she was one of us, as a Representative of the 32d Congressional District in California, holding that position from 2001 to 2009.

The Secretary is a graduate of California State Polytechnic University, and earned her master of public administration from the University of Southern California.

So, Madam Secretary, again, welcome, and please proceed as you so desire.

SUMMARY STATEMENT OF HILDA L. SOLIS

Secretary SOLIS. Thank you so much, Mr. Chairman, and also to the subcommittee members. Senator Brown, it is good to see you and other members that I know will be joining us shortly.

I want to thank you for the invitation to testify before you today. And I provided, as you stated, my written testimony for the record, but wanted to review a few highlights with you. I also want to thank you for all that you did over the past year to assure that the Congress adopted an appropriations bill that balanced the need of deficit reduction with the real needs of American workers.

DOL's budget request reflects the approach the President has taken to make priority investments in areas that we know are essential to helping America get back to work. And some of the most significant of these proposals are not before this subcommittee, but are essential to securing the position as the most competitive economy in the world, such as proposals to include access to education and job training.

I am going to concentrate on those items before the subcommittee which address the need to invest in our workforce, protect workers on the job, and secure Americans' incomes and benefits. In some cases, we have made tough decisions on finding reductions, as you well stated, Mr. Chairman, in order to put America on a more sustainable fiscal course. This is part of the administration-wide effort to improve efficiency and find savings. My testimony lists these items, which can provide you with information to justify the specific actions.

INVESTING IN A COMPETITIVE WORKFORCE

But I want to concentrate on two particular areas this morning, first, the need to invest in a competitive workforce. And as the President has said, for an economy that is built to last, we must get all of our dislocated and low-income workers back to work.

The budget request continues the Department's commitment to those who are most vulnerable to the economic distress by maintaining and, in some cases, restoring funding for our employment and training programs. To support innovation in our workforce investment system we are asking for an increase in the Workforce Investment Fund that will allow us to test new ideas and replicate proven strategies for delivering better employment and training results. I like to call the Workforce Innovation Fund a reform effort, because we are really looking at and testing new types of techniques and coordination that actually help to enhance our programs.

We also know that returning veterans can contribute greatly to our economy. This has been a big discussion item with the Congress as well as the President. That is why the unemployment rate for recent veterans is so troubling to many of us. We will bolster our support for newly separated veterans by expanding the Transition Assistance Program, known as TAP, and employment workshops that are advanced through our State grants for veterans' employment services, by other investments necessary to implement the recently enacted Veterans Opportunity to Work (VOW) to Hire Heroes Act. I want to publicly thank Senator Murray, who is not here but has been a champion in particular, for her leadership with respect to veterans.

RE-EMPLOYMENT SERVICES FOR UNEMPLOYMENT INSURANCE
CLAIMANTS

I also would like to state that to help workers continue to receive Unemployment Insurance (UI) benefits, they also need assistance. And we are proposing a \$30 million investment for employment service grants to States to fund re-employment services for UI claimants, as well as an increase of \$15 million for re-employment and eligibility assessment.

Eligibility assessment and re-employment services have been found to be highly effective at helping UI claimants find higher-paying jobs sooner, while at the same time saving money for the UI system. You might recall that in the last few years people typically get on the phone and call in when they are having to register for their employment benefits. We have to do a bit more to actually bring the individual in so we can do an assessment, get them a program and the assistance that they need, diagnostic testing, whatever it takes, to make sure that they are successful. And those routes tell us that they are more effective, and it is more cost effective.

ONE-STOP CAREER CENTERS

As you know, the system of the one-stop career centers is the core delivery mechanism for employment and training services. To strengthen our community-based system, the budget includes a \$50 million allocation to create a uniform and recognizable brand for the system. What we are talking about is really coordination, and making very clear that the workforce systems can be easily identified by users as well as employers. As you know, even in your State, you may have a different name that doesn't relate directly to the one-stop center, and most people are confused about what that means. So we are trying to re-brand, and also create more mechanisms to use online tools, better technology. Whether you are in rural America or in an inner-city, you ought to be able to access same kinds of services. So, we are attempting to coordinate that effort.

WORKER PROTECTION PROGRAMS

We are also maintaining our efforts to ensure that persons with disabilities have the opportunity to use the system in a better way. And we also need to support the worker protection programs that are not only there to protect American workers, but are crucial to ensuring that all firms are playing by the same set of rules. Because, as you know, when wages are not provided to employees, as well as into our tax system, overall consumers and the public lose. So we think that there is more that we can do in that area.

As we continue to recover from one of the worst economic crises in three generations, it is especially important that we invest in the enforcement of key laws to protect our workers through their wages and benefits. Thus, the budget requests for funding for Wage and Hour Division (WHD), including additional funds for the enforcement of the Fair Labor Standards Act and the Family Medical Leave Act, along with an investment both in wage and hour and in unemployment insurance to address the practice of em-

ployee misclassification, as you stated earlier, Mr. Chairman. I know that that is of particular interest to you. I also want to thank you for the increase that we were able to provide to WHD, looking at the targeted enforcement program of 14c, one that you have been very involved in.

MINE SAFETY AND HEALTH ADMINISTRATION MINE INSPECTIONS

The budget also includes funding to allow for our Mine Safety and Health Administration (MSHA) to meet its statutorily mandated inspections, while maintaining our efforts within both MSHA and our Office of the Solicitor to continue the progress that we have seen already being made to reduce the backlog of contested citations. We must continue our efforts in this area to ensure that we are holding mine operators accountable if they fail to meet their legal and moral responsibility to operate safe mines.

FISCAL YEAR 2013 REQUEST SUMMARY

In conclusion, I wish to summarize: DOL's fiscal year 2013 budget request provides investments to prepare Americans with the skills they need, to assist businesses who are looking for employable individuals, and to help workers and employers find each other in a more efficient manner so that we can enhance our workforce system.

This proposal also ensures that we have fair and safe workplaces for our workers. We must continue to foster safe workplaces with respect to workers' rights, provide a level playing field for businesses, help American workers provide for their families and keep the pay and benefits that they earn. We will focus on our shared long-term goal of reducing the Federal deficit, and I believe it is possible to do so in a way that meets these goals and also helps achieve a better and efficient system.

PREPARED STATEMENT

I look forward to working with you and this subcommittee in the future on this particular area.

Again, thank you, Mr. Chairman, for inviting me here to this hearing. I appreciate that.

[The statement follows:]

PREPARED STATEMENT OF HILDA L. SOLIS

Chairman Harkin, Ranking Member Shelby and members of the subcommittee, thank you for the invitation to testify today. I appreciate the opportunity to appear before you to discuss the fiscal year 2013 budget request for the Department of Labor (DOL).

To build an economy that is built to last, we have to do more to live within our means and restore fiscal accountability and responsibility. The President has put forward a plan to make priority investments in areas essential to helping America win the race for the jobs and industries of the future, while making difficult choices to identify cuts and savings that ask for shared sacrifices across the board. The budget proposes specific steps to boost growth and secure the United States' position as the most competitive economy in the world, such as improving access to education and job training, so that our workers are the best prepared in the world for the jobs of the 21st century.

The DOL fiscal year 2013 budget request reflects this direction. To build on the economic gains we have experienced under this administration, we must create good jobs and make investments that will boost economic growth. The request makes targeted investments and introduces significant reforms to give workers a fair shot to

gain skills that make them more employable, regain their footing after a job loss, find new employment opportunities, maintain workplace safety and health, exercise their voice in the workplace, and enjoy critical wage and hour protections.

TARGETED INVESTMENTS THROUGH DIFFICULT CHOICES

As the President said in the State of the Union Address, we must renew our commitment to revitalizing our Nation's economy and to building an America that is built to last—where everyone gets a fair shot, does their fair share, and plays by the same set of rules.

DOL's 2013 budget request focuses on how we can help accomplish this goal in innovative and cost-effective ways, to ensure we are delivering critical services for American workers in everything from job training to workplace protection. However, in light of current economic realities, and like many families across the country, we had to make some tough choices to ensure we are able to:

- Invest in a competitive workforce;
- Protect American Workers; and
- Secure Americans' incomes and benefits.

In some cases, that meant making tough decisions on funding reductions that will put America on a more sustainable fiscal course. Consistent with administration-wide efforts to improve efficiency and find savings, DOL's budget proposes to streamline operations by:

Eliminating Overlapping Training Programs.—The missions of the Women in Apprenticeship in Non-Traditional Operations and Veterans Workforce Training program will continue to be advanced through other Departmental training offices and programs.

Re-proposing the fiscal year 2012 request to transfer the Community Service Employment for Older Americans program to the Department of Health and Human Services' Administration on Aging in recognition of the dual purpose of the program to support the economic well-being of seniors, while improving coordination with other senior-serving programs with similar purposes.

Closing a Small Number of Chronically Low-Performing Job Corps Centers.—While most centers meet program standards, some centers have been persistently low-performing based on their educational and employment outcomes, and have remained in the bottom cohort of center performance rankings for many years. Especially in a constrained budget environment, and given the resource intensiveness of the Job Corps model, it is neither possible nor prudent to continue to invest in centers that have historically not served students well. The populations previously served by these Job Corps centers will be eligible to attend higher-performing centers. Job Corps will also make changes to its strategies and approaches based on the findings of program evaluations, strengthen the performance measurement system, and report center-level performance in a more transparent way.

Reforming the Regional Office Structure of Five Offices Within DOL.—The Occupational Safety and Health Administration (OSHA); the Employee Benefits Security Administration (EBSA); the Office of the Solicitor (SOL); and the Women's Bureau, where the savings are reinvested dollar-for-dollar in the Wage and Hour Division (WHD), and the Office of Public Affairs. By consolidating or streamlining offices we will minimize administrative costs while ensuring that offices are strategically placed to perform DOL's functions across the country.

Curbing Nonessential Administrative Spending.—In support of the President's message on fiscal discipline and spending restraint, DOL has established a plan to reduce the combined costs of certain administrative expenses by more than 20 percent from fiscal year 2010 levels by the end of fiscal year 2013. Reduction efforts focus on travel, printing, supplies, advisory contracts, the executive fleet, extraneous promotional items, and employee information technology devices.

Improving Program Effectiveness and Efficiency.—DOL's fiscal year 2013 budget request continues past efforts to enhance program effectiveness and improve efficiency. We will invest in program evaluations to be overseen by the Chief Evaluation Officer and request expanded authority to set aside funds from major program accounts for an increased number of evaluations. These investments will provide DOL with valuable information about strategies and approaches that work and ensure that our resources are invested strategically in proven tactics.

INVESTING IN A COMPETITIVE WORKFORCE

Particularly during this time of high unemployment, we believe it is imperative to provide both a helping hand and a viable path back to employment. To get Amer-

ica back to work, DOL will continue critical investments in job training and resources for job seekers. Not only do these investments provide a lifeline for those who still need critical help, but they will also save resources of the Unemployment Insurance (UI) system and other programs at DOL by helping people get back to work. The budget documents have been provided to the subcommittee and are available on our Web site, but for now, I want to share some key investments included in our budget request before your subcommittee:

Training and Employment Services.—For an economy built to last, we must get our dislocated and low-income workers back to work. The budget request continues DOL's commitment to those who are most vulnerable to economic distress by maintaining funding for our core training programs while also restoring funding to programs that serve some of the most vulnerable populations. This includes continued requests for the joint Employment and Training Administration and the Office of Disability Employment Policy Disability Employment initiative, and our policy work aimed at increasing the employment opportunities for persons with disabilities, including integrated employment for people with severe disabilities.

Workforce Innovation Fund.—The public workforce investment system is more important now than ever, but we need to make it more efficient, streamlined, and targeted to serve our growing customer base. To ensure that our investments in employment and training are focused on reform, DOL will invest \$100 million in the interagency Workforce Innovation Fund, which will test new ideas and replicate proven strategies for delivering better employment and training results at a lower cost to service providers, allowing for more participants to be served at static funding levels. This investment will be combined with \$25 million from the Department of Education for a total fund of \$125 million in fiscal year 2013. Within the Fund, \$10 million is dedicated to building knowledge of what strategies are most effective with disconnected youth.

Veterans' Employment and Training Service.—We know returning veterans can contribute greatly to our economy and that recent veterans have particularly high unemployment rates. The Department will bolster its support for newly separated veterans by delivering effective education, employment, and other transition services that enable them to move successfully into civilian careers. The recently enacted Veterans Opportunity to Work to Hire Heroes Act expands tax credits to encourage the hiring of veterans and expands access to the Transition Assistance Program (TAP) employment workshops that are offered to separating servicemembers. The budget builds on these efforts by boosting funding for TAP and grants for employment services to veterans by \$8 million more than 2012 levels.

Employment Service.—The Nation continues to struggle with high levels of unemployment and the acute needs of employers seeking qualified workers. The employment service fills a critical role in helping connect workers with jobs, and serves more than 17 million participants annually. To help workers receiving UI get the assistance they need to find work, the budget proposes an additional \$30 million for the employment service grants to States to fund re-employment services for UI beneficiaries. These types of intensive re-employment services and job search assistance have been found to be one of the least costly and most effective ways to get the unemployed back to work.

One-Stop Career Centers.—The system of One-Stop Career Centers is the core delivery system for employment and training services. To strengthen this system, the budget includes \$50 million to create a recognizable and uniform brand for the career center system, improve access to workforce services, and create on-line tools to reach individuals sooner and more frequently while offering personalized services.

The President's budget request includes additional legislative proposals for job training and education resources that we are requesting other congressional committees to act upon. These proposals include:

Community College to Career Fund.—An educated and skilled workforce is critical for the United States to compete in the global economy. To help forge new partnerships between community colleges and businesses to train 2 million workers for good-paying jobs in high-growth and high-demand industries, the Departments of Labor and Education will invest \$8 billion more than 3 years in this Fund. These investments will give more community colleges the resources they need to become community career centers where people learn crucial skills that local businesses are looking for right now, ensuring that employers have the skilled workforce they need and workers are gaining industry-recognized credentials and receiving training relevant to the local needs of employers to build strong careers.

Pathways Back to Work Fund.—Many Americans of all ages need better access to job opportunities and employment-based training in order to succeed in today's economy. Building on successful American Recovery and Reinvestment Act programs that provided employment opportunities for low-income adults and youths, the budget also includes a \$12.5 billion Pathways Back to Work Fund to make it easier for the long-term unemployed and low-income workers to remain connected to the workforce and gain new skills for long-term employment.

PROTECTING AMERICAN WORKERS

Worker protection programs are crucial to ensure all firms are playing by the same set of rules to keep workers safe. The fiscal year 2013 budget preserves this administration's recent investments in worker protection. Some of the highlights of our worker protection request include:

Mine Safety and Health.—The Mine Safety and Health Administration (MSHA) provides miners across the Nation with safer and more healthful workplaces through enforcement of mine safety and health laws, as well as through technical assistance, training, and outreach. The budget request for MSHA of \$372 million provides funding to allow MSHA to carry out its mission, while achieving efficiencies and reallocating resources into its highest-priority activities, including statutorily mandated inspections in the coal and metal/nonmetal enforcement programs.

Case Backlog Before the Federal Mine Safety and Health Review Commission (FMSHRC).—The budget includes \$16.9 million for MSHA and SOL to continue ongoing work to address the backlog of contested citations at FMSHRC. We must continue our efforts in this area to ensure that we are holding mine operators accountable if they fail to meet their legal and moral responsibility to operate safe mines. If we do not reduce the backlog, some mine operators will continue to contest violations as a way of "gaming the system" to delay payment of civil penalties and avoid scrutiny under MSHA's existing pattern of violation regulations. This will lead to even higher contest rates and potentially unsafe mines.

Occupational Safety and Health Administration (OSHA).—OSHA uses enforcement and compliance assistance activities to ensure that this Nation's employees are able to return home safely from work every day. The request of \$565 million for OSHA includes an additional \$5 million to support OSHA's enforcement of the 21 whistleblower protection programs it administers that protect workers and others who are retaliated against for reporting unsafe and unscrupulous practices.

International Labor.—DOL must ensure American workers are given a fair shot to compete on a level playing field with their overseas counterparts. The budget requests \$95 million for the Bureau of International Labor Affairs (ILAB) to strengthen workers' rights and protections in our trading partner countries, including an increase of \$2.5 million for enhanced trade agreement monitoring and enforcement.

SECURING AMERICANS' INCOMES AND BENEFITS

It is essential that we take steps to ensure that America's workers are not permanently affected by economic distress. To that end, DOL's budget includes resources to help those who have been affected stay afloat while they struggle to get back on their feet. Some key investments we propose in the fiscal year 2013 budget to ensure Americans' income and benefits security are:

Wage and Hour.—As we continue to recover from one of the worst economic crises in three generations, it is especially important that we invest in the enforcement of key laws that protect our workers' wages and benefits. In fiscal year 2013, DOL will continue to protect workers and level the playing field for businesses by providing WHD with \$238 million, including an additional \$6.4 million for increased enforcement of the Fair Labor Standards Act and the Family and Medical Leave Act (FMLA), which ensure that workers receive appropriate wages, overtime pay, and the right to take job-protected leave for family and medical purposes.

Employee Misclassification.—When workers are misclassified as independent contractors, they are deprived of benefits and protections to which they are legally entitled, such as overtime and unemployment benefits. At the same time, those businesses that play by the rules are placed at a disadvantage against employers who violate the law. The fiscal year 2013 budget proposes \$14 million to combat misclassification, including \$10 million for grants to States to identify

misclassification and recover unpaid taxes within the unemployment insurance system and \$3.8 million for the WHD to detect and deter the misclassification of employees as independent contractors and strengthen and coordinate Federal and State efforts to enforce labor violations arising from misclassification.

Unemployment Insurance.—This administration is committed to protecting the financial integrity of the UI system and helping unemployed workers return to work as swiftly as possible. The budget provides full funding for State administration of the UI program, as well as an increase of \$15 million for re-employment and eligibility assessments. Eligibility assessments and re-employment services have been found to be highly effective at helping UI claimants find higher paying jobs sooner, while at the same time saving money for the UI system. To help those who have lost their jobs, the President's budget also seeks to strengthen the UI safety net. While not before this subcommittee, the budget request incorporates the Reemployment NOW program originally included as part of the American Jobs Act, which includes resources and reforms to help UI claimants get back to work quickly. The Reemployment NOW program provides funds to introduce programs that allow the flexible use of unemployment benefits for short-term employment and for individuals who want to start their own businesses, some of the elements of which were adopted as part of the recently enacted Extended Benefits, Reemployment, and Program Integrity Improvement Act (Public Law 112-96). The budget also proposes to put the UI system back on the path to solvency and financial integrity by providing immediate relief to employers to encourage job creation now, reestablishing State fiscal responsibility going forward, and working closely with States to eliminate improper payments.

Employee Benefits Security.—To protect health and retirement benefits, DOL is requesting \$183 million for EBSA for the protection of more than 140 million workers, retirees, and their dependents who are covered by more than 700,000 private retirement plans, 2.5 million health plans, and similar numbers of other welfare benefit plans which together hold estimated assets of \$6 trillion.

Pension Benefits.—The budget proposes to strengthen the defined benefit pension system for the millions of Americans who rely on it by giving the board of the Pension Benefit Guaranty Corporation (PBGC) authority to adjust premiums and directing the board to consider a number of factors, including a plan's risk of losses to the PBGC. This action will both encourage companies to fully fund their pension benefits and ensure the continued financial soundness of the PBGC. It is estimated that this proposal will save \$16 billion more than the next decade.

State Paid Leave.—Too many American workers must make the painful choice between the care of their families and a paycheck they desperately need. While the FMLA allows workers to take job-protected, unpaid time off, millions of families cannot afford to take advantage of this unpaid leave. DOL's budget request includes a \$5 million proposal for a State Paid Leave Fund to provide technical assistance and support to States that are considering paid-leave programs to help workers who must take time off to care for a seriously ill family member.

CONCLUSION

To summarize, DOL's fiscal year 2013 budget request provides investments to help better connect workers and employers and prepare Americans with the skills they need—and that businesses are looking for—for the jobs of today and the jobs of the future. It also ensures that we have fair and safe workplaces for our workers. An economy built to last will require good jobs that pay well and provide security for the middle class, and this entails undertaking actions now to support and strengthen economic growth and reallocate resources to allow targeted investments where they are needed. Our efforts will help to get America back to work, foster safe workplaces that respect workers' rights, provide a level-playing field for all businesses, and help American workers provide for their families and keep the pay and benefits they earn. I am committed to achieving my goal of good jobs for everyone while the administration focuses on our shared long-term goal of reducing the Federal deficit. I believe it is possible to do both and stand ready to work with you in the weeks and months ahead on a responsible way forward.

Mr. Chairman, thank you for inviting me today. I am happy to respond to any questions that you may have.

Senator HARKIN. Thank you, Madam Secretary.

We will begin a round of 5-minute questions here, as soon as I figure out who has control of my clock here. Here we go. And then I will recognize Ranking Member Shelby.

Madam Secretary, first of all, I just want to say that last evening, I have looked over your entire statement and noted the sections where you are bumping up some funding. I absolutely cannot find anything that I really disagree with. I think you have got the right priorities. I think where you are focusing some additional monies is where they ought to be focused, and you have my full support in that.

Again, we will have to see how the whole appropriations process works out this year, but I do believe that you have done a great job, and your staff has done a great job in making sure we have the right priorities funded, and bumped up a little bit in those areas that are needed.

SEQUESTRATION UNDER THE BUDGET CONTROL ACT OF 2011

One question I just want to ask for the record, and I ask it of all the Secretaries that appear before this subcommittee, and that is the impact of sequestration. Under the Budget Control Act of 2011, funding for almost all programs face a possible across-the-board cut in January 2013 if the Congress does not enact a plan before then to reduce the national debt by \$1.2 trillion. In other words, the Congress could approve the Departments of Labor, Health and Human Services, and Education, and related agencies appropriations bill later this year, but find that every budget item is going to be cut by sequestration.

Now, this responsibility rests with the Office of Management and Budget (OMB). They have not announced how they are going to carry out the process. However the Congressional Budget Office (CBO), that is who we rely on, estimated that most nondefense discretionary programs would face a cut of up to 7.8 percent. Some, such as the Center on Budget and Policy Priorities, think the cut could be even larger, about 9.1 percent. But for the sake of discussion, we will go with CBO.

I just wonder, have you looked at this question? What would the impact be of a 7.8-percent cut to the services and activities of your Department? Again, I am particularly interested in what that would mean for job training programs and worker protection.

Secretary SOLIS. Thank you, Mr. Chairman.

I know that our effort, with the administration, is to work with the Congress to see that we can enact a balanced approach to deficit reduction. So that is our first priority. We still stand very committed to finding some resolution there.

With respect to the details of sequestration, I cannot get into the procedures and how that will be conducted, because I know OMB and the administration would like to avoid sequestration to begin with. Nevertheless, that is something that they will also have to help guide us on.

PROGRAMMATIC IMPACTS OF A 7.8-PERCENT CUT

But I will tell you that, based on overall, your question about a reduction of 7.8 percent, in terms of job-training programs, we are looking at a hit of about \$500 million to our workforce system, and

also the inability, to reach 1.7 additional participants. And, of course, you and I know how important this 1.7 million individuals that would be cut short of our services, and in a time of high unemployment. That is not a good sign.

With respect to veterans, which I know this subcommittee is very focused on as well, we are looking at a reduction of about \$13 million overall in the efforts to try to find employment services and provide help for veterans.

With respect to the Job Corps program—and, in fact, I have some students that are visiting us from the Potomac center here that have chosen to come and attend this hearing—we are looking at a Job Corps program cut, that would be about \$122 million reduction overall. That would mean 3,100 or 3,145 to be exact, fewer slots that we would not be able to offer around the country. And in a time of high unemployment for youth, which is at 16 percent, that obviously would have a devastating effect.

In worker protection, in terms of safety, monitoring, and being able to provide technical assistance to businesses, we are looking at a worker protection reduction in our agencies of \$136 million. Again, that would also hurt the safety, well-being, and protection of workers in the workforce.

That is about as best as I can gauge right now, Mr. Chairman. But, certainly, we want to work with you and the Congress to avoid sequestration.

Senator HARKIN. Well, thank you, I appreciate that. And I might be asking for further clarification in written correspondence, because I just think people have to know that it is not just the defense industry that would be hit. They have, of course, been very vocal in their opposition to the sequestration, about what it would mean for cuts in aircraft and warfighting equipment. But we also have to look at what it is going to do to our human infrastructure in this country, if we had the sequestration. And a lot of that falls in your Department.

So I think it is important for us to note what is going to happen if we have the 7.8-percent sequestration. So I thank you very much for outlining them.

I would yield now to our ranking member.

Senator Shelby.

Senator SHELBY. Thank you, Mr. Chairman.

Madam Secretary, we welcome you again here.

JOB CORPS: DEFINING CHRONICALLY LOW-PERFORMING CENTERS

In the area of the Job Corps, I have several concerns about the cost per student, program performance evaluations, and employment outcomes over the life of a Job Corps participant. I am pleased to see, however, that the fiscal year 2013 budget includes reforms to improve the outcomes and strengthen accountability. But we have not seen a lot of the details in your request.

The budget includes, as I understand it, a proposal to close chronically low-performing centers. That sounds good. But it does not define a chronically low-performing center.

Can you discuss aspects of your proposal, specifically the approximate number of centers that you intend to close, what classifies the center as low performing, and how will you use those savings from

the closure? I think you are going down the right road, but I want to hear some specifics, if you can discuss them.

Secretary SOLIS. Thank you, Senator Shelby. I know that this is of concern of other members on the subcommittee. And while I strongly believe that the Job Corps program is one of our premier programs, I have had the ability to work with many of them and probably have a record now as one of the secretaries that has visited most of the Job Corps centers in the country. And I can tell you that our goal remains to continue to try to have at least one Job Corps in each State, and we hopefully are continuing to achieve that, which is very important with the addition of the New Hampshire site and Wyoming site.

But we need to look at performance, and looking at how well we are doing and how well we are not doing. And I certainly care about that.

Senator SHELBY. Well, that goes to the durability and the reputation of the program, doesn't it?

Secretary SOLIS. Exactly. And it is very important that we are training individuals for good certificates, and that we don't evaluate these Job Corps centers by criteria that they have not been introduced to before. So that is one thing that we want to make sure of.

I cannot give you a list right now of the job centers that we are looking at, but we will be looking at criteria that we have used in the past to look at low-performing centers to see what improvements they have made—

Senator SHELBY. Is that how you would define a "low-performing center?"

Secretary SOLIS. There would be other aspects, as well, but nothing that I think would be out of the ordinary would be entirely new. So we would use the best criteria, and also what kind of attempt they have made over the past 3 years to correct themselves. Since I have been there, we have tried to institute better evaluation and technical assistance.

I think the message is very clear. It isn't just with Job Corps but our other programs as well. We think that there should be higher standards. In my opinion, I would love to see more of our students while obtaining their high school or GED, also enrolled at a community college. And some of our centers do that, and I want to be able to set a marker so that we can enhance the growth and ability so those young people have more choices. That is the direction that the Department will take.

Senator SHELBY. But the bottom line is, and you know this well, is you have to measure what we are spending money for, what is working and what is not working, what centers are efficient and which ones aren't. Otherwise, we are just throwing money away, aren't we?

Secretary SOLIS. And, Senator, I would tell you that before anything is made public, we will converse with you—

Senator SHELBY. Will you consult with—

Secretary SOLIS. Coordinate—

Senator SHELBY [continuing]. The chairman of the subcommittee?

Secretary SOLIS. Yes, and we will also make sure that the public is fully aware, so we give ample opportunity for communities to

come forward and also make comments. We will go through the Federal Register process.

Senator SHELBY. Sure. Thank you.

UPDATES TO H-2B RULES

I have another area, the H-2B rules. Many industries, as you well know, including the seafood and timber industries rely on DOL's H-2B visa program to find temporary seasonal workers. The seasonal nature of these industries means that these businesses routinely face shortages of local workers during their peak season.

The H-2B program not only keeps these businesses open, but also contributes to the creation of additional year-round jobs for local workers by being open.

For the second year in a row, it is my understanding that the Department has proposed an H-2B rule that would add regulatory burdens and costs to American businesses. In particular, an H-2B worker would be required to receive a minimum of three-quarters of their wages for each 12-week period they are employed, even if they do not work three-quarters of the time due to weather or other unforeseen circumstances. Further, the rule would require, as I understand it, employers to pay transportation and subsistence costs to and from the workplace for those workers hired under the program.

Many small businesses that use the H-2B program are, you know, just simply cannot afford these regulations, and will ultimately close, costing us jobs, be more job losses. These rules, I believe, are clearly not meant to reform the program but, some people believe, to shutter it.

Do you understand that these rules, as we understand it, and they are being implemented, will kill American jobs, not create them? And what can we do about this? What is the real thrust here?

What we want to do is create jobs, sustain jobs, isn't it?

Secretary SOLIS. The Department has a responsibility, as you know, to ensure that the H-2B program works for American workers. Yet, one of our priorities is to make sure that we strengthen the recruitment requirements for employers, and establish an on-line national job registry because of the high rate of unemployment.

So we also understand that there is a need to at least give American workers a chance to apply for these jobs. And what we have actually done here is try to minimize abuses that we have heard that have occurred.

Senator SHELBY. Sure.

Secretary SOLIS. With respect to recruiters that have been somewhat unscrupulous—

Senator SHELBY. Sure.

Secretary SOLIS. In terms of enticing individuals to come through the program.

Senator SHELBY. And you aim to get rid of those people, sure.

Secretary SOLIS. What we are attempting to do is to hear from the employers, and we have heard from those folks that you did mention. We did meet with them, and talked about how to look at enhancing and improving upon the system as it works now. And

I know we still have a ways to go. In fact, as a result of an appropriations rider, the effective date of the wage rule has changed from October 1, 2012.

The rule changes and the methodology of how H-2B wages are calculated will be looked at. And what our attempt here is trying to make sure that people are paid adequate wages, that foreign workers aren't just drawn here with the belief that they are going to have good wages. And then we are shortchanging other competitors, businesses that are playing by the rules. So we always look to ensure that we can provide fairness in those wages.

Senator SHELBY. Well, there should be fairness, and people ought to go by the law. And you have to root out fraud and everything else.

But on the other hand, if you put such a burden on these small businesses, look at the jobs, the unemployment rate. You know, look at the rate of people who have quit looking for a job, is 15 percent.

We shouldn't try to kill and tighten up and over-regulate these businesses, should we? I think a lot of the employers think that is what you are doing.

Secretary SOLIS. Well, we are going to work hard with business and try to see how we can better inform them of how these programs fully operate. Because the job market has changed, and the dynamics of our unemployment situation has caused us to look at things a little differently.

And we will be conducting more outreach, such as, national webinars, and making sure that the employer community is engaged with us and we are engaged with them. But we have met with several Senators on this particular issue, and we are very much aware of their comments and concerns.

Senator SHELBY. Don't forget a balanced approach.

Secretary SOLIS. Absolutely.

Senator SHELBY. What you do with regulations if you overdo it.

Thank you, Mr. Chairman.

Senator HARKIN. Thank you.

Senator Brown.

Senator BROWN. Thank you, Mr. Chairman. And welcome, Madam Secretary, nice to see you.

WORKER TRAINING PROGRAMS AND THE SECTORS ACT

Early in my term, in 2007, I conducted dozens of roundtables around Ohio where I would meet with sort of cross-sections of communities, and what was clear to me was that even as the economy worsened in 2008, is that employers oftentimes, and a wide cross-section of employers, had difficulty finding qualified workers. And what we sort of came up with, and I have introduced this legislation in three different Congresses now, is the Sectors Act, which, as you know, and as you and I have talked, Madam Secretary, pretty much empowers local businesses, community colleges, workforce investment boards, unions when applicable, to right, sort of from the bottom up, to construct, well, worker training programs.

We saw something similar to that, and that the Labor Department helped to fund. Just a few weeks ago I was at Cincinnati State in southwest Ohio with a group of, in the biosciences school,

in the school of biosciences, if you will, with employers. And they had, in part with this Labor Department grant, were seeing a number of people connected that way, and employers who need pretty highly skilled workers coming out of Cincinnati State finding them.

The President included \$8 million for the Community College to Career Fund. I think we have seen quantitative evidence that this kind of worker training works.

And I would like your thoughts on how the Department is currently supporting sector partnerships, how does the administration plan to move the fiscal year 2013 proposal forward? How does, what role does the Labor Department play in this?

Secretary SOLIS. I want to commend you for having the foresight to put forward legislation when you did, because it is exactly where we need to go. And we are not going to wait for reauthorization of Workforce Investment Act (WIA), because we have been in gridlock, even though I know the Senate has been very much more forward-thinking about working together.

We have identified programs that we have funded already that are looking at sectors. And we have partnered with other agencies like Departments of Energy and Commerce so that we can help to fund and provide new initiatives, and support in innovation for sectors.

So, just like Silicon Valley, you see a section of California that has taken off with IT over the years, and that has been changing. We want to continue to fund those kinds of regional sectors that are looking at broad growth in the next decade or so, and also looking at places like North Carolina and even Florida, where we know that the National Aeronautics and Space Administration (NASA) effort is going to be changing there. But we should not allow for that brain trust to leave by somehow incentivizing businesses and others to come forward.

And we see it best done with community colleges. We are requiring them to do much more. And while this funding has been a great opportunity, there is still much more work that we have to do because community colleges typically don't always, how can I say, go out onto the assembly line and floor and really engage with some of the businesses to get the best curriculum, and find out exactly what employers want. Some are doing a better job than others—but we need to do more. And that is why, through the Workforce Innovation Fund, we are continuing to fund those efforts.

Also, through the community college and the Trade Adjustment Assistance (TAA) program has just been phenomenal. We are already seeing some of the benefits from that. I just came off a bus tour with Dr. Jill Biden, and we visited your State of Ohio, Columbus State University, and heard from many of those businesses that have taken advantage of these programs that are now actually thrusting us into new areas of renewable energy, manufacturing, and creating a need for businesses to be attracted to a particular area because they know they are going to have better skilled individuals, and that the communities themselves are even offering up tax credit incentives to make that happen.

So I think this is a very good thing that is going on. And it is a win-win for all of us, particularly these training programs that are finally, I think, reaching the type of folks that have been out

of work for long periods, and helping to get dislocated workers into a new train of thought where if, they were doing something for 25 years and their job is no longer there, they can now receive upgraded skill certificates. So I think certificates, and making it more measurable in that way, we are having better results.

And we are using the dollars more efficiently.

Senator BROWN. Thank you. Let me shift in my last question.

YOUTH UNEMPLOYMENT AND JOB TRAINING

Ohio's unemployment rate is much too high. It is below the national average, but still much too high. Even more troubling is the unemployment rate among young people, as you know. And in Ohio, people aged 16 to 19 have, last year their unemployment rate was 19.5 percent.

I have worked on the Youth Corps Act of 2012, which would help to address the need to provide young adults, especially those who are in some sense disconnected with more employment opportunities. Talk to me about what the Labor Department is doing with employment opportunities, especially for young adults, especially as summer nears, when the mayors don't have the opportunity to put as many young people to work teaching them skills, and teaching them work habits, and giving them some financial help.

What are we doing?

Secretary SOLIS. Well, Senator, as you know, in the Recovery Act we did receive funding to help push out summer youth employment around the country. We had close to 400,000 student participants, which was good because that helped to provide them with good work experience and a pay check.

We continue to work with our youth field programs to assure that we are continuing to train individuals. And you can see in the audience here today we also have some young students from Potomac Job Corps that are entering into areas like pharmaceutical assistance and security. We are seeing that we are changing our curriculum to make it more amenable and cost effective, and really listening to what employers want we can make that bridge a lot sooner.

We also are making investments with students and young people that have had trouble with the law, through our reintegration of ex-offenders programs. That continues to be a high priority, and we are working with the Department of Justice to help alleviate some of those issues and barriers that continue to be major impediments for people to reintegrate into society.

The President also has now taken up this initiative to create summer jobs but on a volunteer basis. Since there is no funding for this initiative, we are asking for corporations to step forward. We have about 170,000 corporations that have now said that they will work with us, set up mentoring programs, internship programs, and paid positions. But we need more corporations, and more small businesses, and even nonprofits to participate. So that is something that the President has strongly gotten behind.

I remain very committed to not only Summer Youth, but to all of our youth programs, because I think that we have too many young people that are out of work; there is a 16-percent under-employment rate and in some areas, as you know, depending on

the particular ethnic backgrounds, it is much higher. And that is unacceptable at a time when we need everybody to be working.

I look forward to working with you on ideas that you might have on how we can make our programs a more efficient, and hopefully get more of the private sector involved in joining in our partnerships.

Senator BROWN. Thank you.

Senator HARKIN. Thank you, Senator Brown.

Senator Moran.

Senator MORAN. Mr. Chairman, thank you.

Madam Secretary, I am pleased to have the opportunity finally to visit with you this morning. I want to follow up on at least the topic that was just raised in your conversation with the Senator from Ohio and, in fact, in response to the question from the Senator from Alabama about youth. And I noticed that you said that we have high unemployment especially with youth. And in regard to Senator Brown, you were talking about mentoring programs and internships.

CHILD LABOR IN AGRICULTURE

And I am very concerned about the DOL's proposed regulations as they deal with youth labor in regard to farms. And disappointed—you and I know each other from our days of serving in the House of Representatives—and disappointed in the Department's effort at outreach and understanding of what I think is a very unique way of life. The Department, on its own volition, decided to alter, at least propose altering, the regulations related to young people working on farms, including young people working on their own families' farms. And this is an issue that fundamentally alters a historic and familiar relationship so important to America, and particularly important to rural America.

And so I am here to engage in a conversation, but to criticize not only the process but, at least to date, the result that your Department is pursuing in regard to these regulations.

I have asked—again, from our experience in the House I consider you to be a conscientious, well-intentioned, open-minded person. But I do want you to know that we have reached out to you, invited you to meet with me, which was declined, invited you to come to Kansas, which was declined. Not to necessarily spend time with me, but to be on family farms, to meet with Future Farmers of America (FFA) students, see what a 4-H program is like, to get an experience of something that is a pretty common way of life in many places across the country.

Also, 30 Senators wrote you, the DOL, a letter expressing concerns and raising questions. We were told—it was a bipartisan letter, we were told that the Department would not respond to that letter, but that it would be considered just like other comments made by citizens in regard to those rules.

And so I have the sense that there are those who have the ability and desire to have a conversation with you at the DOL so that you are fully aware of the consequences of the proposed changes that you are making.

The rules that you are proposing deal, at least in my view, in three broad areas. One is a parental exemption, the question of

whether or not children could work on their own family's farm. And the idea that you would even—and I understand that you are re-proposing that portion of the rule, and I am worried that that sends a message that things are okay. We don't know what that re-proposed rule is going to look like, but the fact that you would suggest rules that relate to whether a farmer's own child at age 15 can work on their own farm suggests that input is needed, that this is a major change in the way that we live our lives.

And as you talked about the need for youth employment, it is one of the few remaining opportunities for many rural youth in small towns across Kansas and around the country to find employment in the summer and throughout the school year.

In addition to that, you want to intrude upon what is currently working, in my view, well, related to student learner exemptions, and replace 4-H and FFA and county extension programs with a DOL program. And you indicate in the proposed rules that you believe 4-H and FFA and county extension are, quote, too locally driven and lacking Federal direction.

In my view, those kinds of programs that are locally driven by people who have experience, knowledge and a desire to see children in their own communities succeed is exactly the kind of programs we need.

And finally, the third component of your proposed rules deals with hazardous occupations. And in that regard, the regulation is so overly broad, regulations prohibiting a young person from working 6 feet off the ground mean that no child, no young person is going to be in the cab of a tractor or a combine. And, in fact, your rules suggest that a young person could not even use a power-driven screwdriver. The language of the legislation prohibits anything for a young person to use that is not driven by their own power. And so, based upon the broad language of this "hazardous occupation", do you believe that you are prohibiting the use of a power, a battery-powered screwdriver?

The consequences of the things that you put in your regulations lack common sense. And, in my view, if the Federal Government can regulate the kind of relationship between parents and their children on their own family's farm, there is almost nothing off limit in which we see the Federal Government intruding in a way of life.

ADMINISTRATIVE PROCEDURE ACT

Senator HARKIN. Madam Secretary, before you answer that, I just want to interject something here.

I understand the Senator has concerns about this proposal. I think we probably all do, those of us from rural areas. I still live in my hometown of 150 people. Not too many people can say that. And we are all farm-based, and so we all have concerns about it.

However, I just want to state that I and my colleagues need to recognize that the DOL must be careful to adhere to the Administrative Procedures Act (APA) while it is engaged in this rule-making. Under the APA, the Department is limited in the way it is able to discuss a proposed rule, either in meetings or in correspondence with interested parties.

So, you know, this goes back—I've been here a long time. Sometimes we all get frustrated with rulemakings. But I recognize that whether it is a Democratic or Republican administration it doesn't make any difference, they still have to adhere to the APA. And so they are limited in what they can say, and how they can approach it.

All the indications I have is that the Secretary takes the views and concerns of the agriculture community seriously. They are carefully reviewing the more than 10,000 comments it has received on this rulemaking. They are consulting with the U.S. Department of Agriculture (USDA). And any letters that I write, or anybody else writes, will be considered as part of those, as part of those comments.

So I just wanted to state that for the record, under the APA.

Please proceed.

Secretary SOLIS. Thank you, Mr. Chairman. And also, Senator Moran, I understand your concern, and have taken note of comments by other Members of Congress and Senators that have communicated with us on this rule. I take very seriously the comments that you have made. And I realize that you sent a letter to us, but it was at a point where I couldn't respond because we were already entering into that gray area where I am not allowed to publicly put anything in writing because of the comment period.

But I will tell you that other letters that we received, 10,000 in fact, had similar subject matters. So it is noted.

I also want to let you know that, while I wasn't able to visit with your local farmers or you in your district, or your State, that doesn't mean that my staff isn't available to work with you and your subcommittee staff. We have had meetings with your staff when you were unable to be there. And we have tried to mitigate and at least explain, where there are issues. Some of the comments that you make about the use of powered screwdrivers and what have you, are taken out of context, and they are not what we are proposing. So we do need to do a better job of communicating it that is what is being said out there.

I do want to make very clear that it is important for us to allow for young people to have the ability to go through education programs such as 4-H programs. I don't think this rule in any way will hinder that involvement. We are concerned when there are fatalities, when we still see the second-largest rate of fatalities occurring on farms.

And while I don't have a problem with children working on their parents' or relatives' farms, that is a question that we are going to seek comment on. Personally I agree that, those are things that should be allowable, quite frankly. But I do know that we have to protect and prevent any further injuries from young people that are working in settings that are not protected.

We have seen serious fatalities, a record of more than, 21.3 percent per 100,000. And I just received a report that was issued yesterday by the Journal of Pediatrics that also states very clearly that we have seen an increase in injury and cost to businesses because of fatalities of young people in agriculture. Not all of them have been through direct work on farms, but many of them in the agricultural industry. So I think there is a compelling reason to

look at this. We haven't upgraded the rule for 40 years. And the way business is done on farms has changed a bit.

We just want to make sure that we get it right, that we get the most abundant comments from people that are out in the field, that are running these operations, and to do our best to try to inform farmers and business owners that we want to work with them and provide as much technical assistance and help as we can. Certainly we want to clarify those areas that you pointed out, that I believe are misinterpreted.

And we will do what we can to work with you on that. Personally, I will see to it that we do that.

Senator MORAN. Madam Secretary, I just would indicate that the outreach that, in my view, should have occurred before the proposed rules were proposed, was short, fell short. And I am troubled by the fact that where you start is so contrary to a way of life, to common sense, and to the way that things are done.

I am hopeful that the comment period that you are now in will result in significant changes, if not withdrawal, of the proposed rule. In fact, we have had pages of folks who have contacted us with additional comments, but the comment period has expired.

And it does highlight how the Department's initial announcement of proposed rules is so out of touch with farm families and youth in rural communities.

I look forward to the degree that the chairman will allow the rules, to have you respond, I would be glad to continue the conversation.

Senator HARKIN. Okay, we will start another 5-minute round. Thank you.

As I stated in my letter on this issue, I noted, that experts have learned a lot in the 40 years since child labor rules in agriculture were first issued. On Monday, the Journal of Pediatrics said that more than 26,000 kids and adolescents get injured on farms and ranches in the United States every year, 26,000. I would just say, Madam Secretary, I would hope that you would, in your looking at this, make contact with an organization called Farm Safety 4 Just Kids. It was started by Marilyn Adams in 1987. It is a wonderful organization. It started in Iowa, I am very proud of that. The Web site is www.fs4jk.org.

They have worked with farm families all over the country on how to establish safe parameters for kids working on farms, working on farms under their parents supervision. I think they have really come up with ingenious ways of protecting kids on farms and so they could be a great source of information for you. My staff could get hold of the staff there for you.

EMPLOYMENT OPPORTUNITIES FOR DISABLED INDIVIDUALS

I had one last question, then, and that was dealing with the issue of disability. As you know, individuals with disabilities have left the workforce at twice the rate of people without disabilities, about 7 out of 10.

Because so many people with disabilities in the recession have been laid off, as we begin to re-employ people, I hope that we are going to really be looking at, again, not one-for-one, but almost two-for-one. For every one person without a disability, we have got to

hire back two with a disability just so we get back to where we were prior to the recession.

I just, again, would ask you about your disability employment initiative. We started that in the fiscal year 2010 bill from this subcommittee. I know your commitment to finalizing section 503 rule-making by October of this year. I appreciate that.

So, I just wonder if you could just tell us about the disability employment initiative. Are there other proposals in this budget that I haven't seen to address workforce issues related to individuals with disabilities?

Secretary SOLIS. Thank you, Mr. Chairman. I know you have been a tireless leader on this issue, and something that you care and many of us care very deeply about. I do want to say that we appreciate your support that you have given us at the Department. We have also looked at increasing, through a proposed rule, Federal contractors' employment opportunities for disabled individuals, which we think is moving in the right direction.

With respect to the disability employment initiative that you helped to champion, ETA and our ODEP office, that is the Assistant Secretary for ETA, and our Director, Kathy Martinez, who you know very well, are working to increase access to training, and creating new initiatives. One is the Add Us In Initiative. And I think you may be somewhat familiar with that. The Add Us In's goal is to get small businesses to better understand what the expectations are, and perceptions are, with people with disabilities to help create and foster more positive outcomes, so that people won't be frightened or afraid to hire folks with disabilities, and understand what all that means. We are also working with employer associations and other sectors to expand that field.

Senator HARKIN. A year ago I met downtown with the U.S. Chamber of Commerce, under Mr. Donahue, Tom Donahue. They have set as a goal to employ 1—is it 1 million? One million more people with disabilities by 2015. I think it is 1 million, it may be a little bit more than 1 million. But it is a very aggressive goal, and here is someplace where the DOL could work with the chamber of commerce in making that happen.

Secretary SOLIS. We are attempting to do that with some of the various business associations. Kathy Martinez, and our Assistant Secretary for ETA who is here, Jane Oates, have been working on this, and we know how serious it is. We do have to try to level the playing field. So we look forward to working with you.

Senator HARKIN. Kathy Martinez does a great job for you.

Secretary SOLIS. Thank you.

Senator HARKIN. Senator Alexander.

Senator ALEXANDER. Thanks, Mr. Chairman. And welcome, Madam Secretary.

Secretary SOLIS. Thank you.

COMPANIONSHIP RULE

Senator ALEXANDER. I would like to discuss the so-called "companionship exemption" under the Fair Labor Standards Act (FLSA), and the proposed rule of the Department, that I believe the comment period may end tonight. So I would like to make a comment about it. And then I would like to ask you three ques-

tions, all of which I believe you could answer yes or no without offending anything in the APA.

Here is my comment. I understand it has not—my worry is about changing the way overtime is considered, with the companionship exemption. Here we are talking about a situation when mostly seniors would hire someone, or some small business, to provide a nurse or a helper to live in with that person, or to come to that house every day to help someone. And the proposals that the proposed rule would seem to have concerning overtime suggests to me that the rule would mean that seniors in America would have less care, because it would be more expensive. There would be fewer jobs for those who are helping, and it would likely force a large number of people who are now cared for in homes into more expensive institutional settings, which would drive up healthcare costs in States which are already struggling with healthcare costs, and are about to be hit with the new costs that come with the Medicaid mandates on the healthcare law.

So I am concerned that the Department hasn't sufficiently evaluated the impact of the rule on what it will do to seniors who need care, on people who want jobs, and on Medicaid costs to the States.

The Office of Advocacy at the Small Business Administration (SBA) recently sent a letter to you stating the Department's economic analysis doesn't fully reflect the fact the majority of the in-home companionship services are provided by small businesses, and are paid for through the private market. These small businesses will have to pass on the higher costs of this new overtime to seniors, most of whom are single and living on fixed incomes.

So here are my three questions. One, will the Department follow SBA's recommendation to conduct a more thorough economic analysis before moving forward with this proposed rule? That is number 1.

Number 2, my office was told by your staff that the Department didn't consult with a single Medicaid director when developing the rule. Is that true? I am especially interested in that because Medicaid is 24 percent of State budgets.

And, number 3, is the Department willing to withdraw the rule to conduct a more comprehensive analysis of the impact on State Medicaid and budgets?

Secretary SOLIS. Well, Senator, I would first of all tell you that in looking at the companionship exemption through FLSA that was established back in 1974, it was intended at that time to look at other kinds of occupations, like babysitting. It didn't really encompass this whole new arena of healthcare, in-home healthcare providers. And so it has changed because of changing times.

Senator ALEXANDER. Well, but the change is that we have a lot more older people in America who don't have money, who are often single. They need help, and they can't a big overtime bill.

Secretary SOLIS. Senator, I don't disagree, but I also know that there is more professionalism that has come about in this industry. You have different providers who would like to keep people not achieving, say, a better footing, in terms of the economy, through these jobs. So they do not want to pay them. Many of them have already commented that they are very concerned about the overtime pay. But we are looking at an industry of about 2 million

women, mostly women in this area, that are already trying to make ends meet, and are paid very, very low wages—

Senator ALEXANDER. Well, if you put them out of work with higher costs caused by your overtime rule, they will really have a hard time making ends meet.

Secretary SOLIS. Well, I think one of the things that we are attempting to do here is also level the playing field. Because you do have some good providers, some good folks that are playing by the rules.

Senator ALEXANDER. There is no rule that requires overtime pay.

Secretary SOLIS. Well, what we are looking at, Sir—

Senator ALEXANDER. So what you are doing is talking about raising the cost of home healthcare to people who can't really afford it, and putting people out of work who can't get the job. That is what you are really talking about.

Secretary SOLIS. Well, we are still taking comments. And I know that we have, because of the enormous amount of comment—

Senator ALEXANDER. Well, what about the answer to my three questions? Will you get an SBA report before you move ahead? Will you—did you consult with any Medicaid director in any State? And, if you didn't, will you before you do the rule?

Secretary SOLIS. Well, certainly we have a responsibility to always look at economic impact.

Senator ALEXANDER. Well, the answer can be "Yes" or "No", Madam. Did you, or will you, follow the SBA's recommendation? Yes or no?

Secretary SOLIS. I will get back to you on that.

[CLERK'S NOTE.—Additional information is available in questions submitted by Senator Alexander under heading "Proposed Companionship Exemption Rule".]

Senator ALEXANDER. That is not a yes or a no. Did you consult with any Medicaid director in any State about the increased healthcare costs?

Secretary SOLIS. We have consulted with a broad variety of appropriate groups.

Senator ALEXANDER. Did you consult with any Medicaid director, which is 24 percent of the costs of a State budget about the impact on their healthcare costs?

Secretary SOLIS. My staff met with several stakeholder groups, yes.

Senator ALEXANDER. Did you meet with any Medicaid director?

Secretary SOLIS. I did not directly.

Senator ALEXANDER. Did your staff? They told me they didn't.

Secretary SOLIS. I have to ask my—

Senator ALEXANDER. So you don't know.

Secretary SOLIS [continuing]. Wage and Hour Deputy.

Senator ALEXANDER. You don't know? Whether you met with—

Secretary SOLIS. Not offhand. But I know that I have been informed fully that they have met with various stakeholder groups.

Senator ALEXANDER. Well, I didn't ask that. I asked whether you met with a Medicaid director about this—

Secretary SOLIS. I did not personally, Senator.

Senator ALEXANDER. And if you didn't—well, whether you did or not—

Secretary SOLIS. No, I did not.

Senator ALEXANDER. Are you willing to consult with Medicaid directors about—

Secretary SOLIS. Certainly. Certainly.

Senator ALEXANDER [continuing]. The effects of the proposed rule?

Secretary SOLIS. Certainly. Certainly. Certainly.

Senator ALEXANDER. Thank you.

Senator HARKIN. Senator Graham.

Senator GRAHAM. Thank you, Mr. Chairman. Thank you, Madam Secretary.

H-2B VISA PROGRAM

I want to talk about the H-2B program. And, one, I appreciate your staff coming over to meet with several Senators that were concerned about this. I thought it was a productive meeting. And Senator Mikulski from Maryland was deeply involved, so this is a bipartisan issue.

I think most Americans would be surprised to know, would you agree, that apparently there is a labor shortage in America, even though we have 8.3 percent unemployment in certain areas of our economy?

Secretary SOLIS. I know that in certain sectors there is that issue does exist.

Senator GRAHAM. Yes. How can that be?

Secretary SOLIS. How can that be?

Senator GRAHAM. People ask me that. I mean, I just wonder, I mean, if we have 8.3 percent unemployment, and maybe 15 percent of underemployed, and people have stopped working, how can it be that we need visa programs for the seafood industry, the landscaping industry, and H-1B, the high-tech industry?

I mean, have you got any ideas on how that happened?

Secretary SOLIS. Well, all I can tell you is that for our purposes at the DOL, we are trying to assist in providing information to American workers about these employment opportunities, these openings—

Senator GRAHAM. And I think you are doing a—

Secretary SOLIS. That are available.

Senator GRAHAM. I think you are doing a good job.

But, I mean, let me talk about the Kiawah Island Resort, they're hosting the PGA, and please come, everybody, in August 2011. They are having to expand their workforce. That is good news. They need some workers, seasonal workers all the time, but a plus-up here.

And they were advertising for service workers, you know, maids and other folks to help with the increased capacity there, increased business. And they advertised, they needed 150 workers, and I think we got nine people from the region that basically applied. And I can't give you the exact number, but about one-third of them couldn't make it because of the drug test. So now they have to go to Jamaica and try to bring in 140-something folks who work hard and do a good job, and that was astounding to me. But when you go—have you ever been in a chicken processing plant? You know, I know a lot of people from the South, it is not a real surprise that

American workers have moved on from these jobs. It is not because we are lazy, it is just because I think the American workforce has higher aspirations. And a lot of these jobs that are manual labor jobs, like landscaping, and chicken processing, and meat processing, employers just cannot find people here at home.

And I don't think it is an advertising problem. You are doing a good job trying to advertise more. And the pay scale, because of the rule, is dramatically higher than the minimum wage. And the concerns we had is that you were calculating a pay scale increase not based on the local community like work requirements, but a broader geographic area. You were requiring more transportation cost in and out that was making it harder for people to afford to get these workers.

So what I worry about is that we need to give employers access to labor, and the first person they should try to hire is an American, paying a decent wage. But if you can't hire an American, do you agree with me we should have a visa program that works for American employers?

Secretary SOLIS. Well, I would agree that our purpose is to, try to entice American workers to these jobs.

Senator GRAHAM. Right.

Secretary SOLIS. And if they are not able to find them after they have gone through a thorough advertisement, beyond just the local community paper.

Senator GRAHAM. Now, we all agree with that.

Secretary SOLIS. Because we have abused this program in the past.

Senator GRAHAM. No, we all agree with that. Let us say we do it the way that we all agree on, and you just can't find the workforce for whatever reason, we want a visa program on the high-tech and low-tech end that actually meets employers' needs, is that correct?

Secretary SOLIS. I would agree with that. And I also would think that our priority is to make sure that we don't also drive down wages in the past there have been unscrupulous employers that have not paid, say, the going rate in certain areas.

Senator GRAHAM. But, in—

Secretary SOLIS. And so they have abused the program. We are finding that out, and we are trying to clean it up.

Senator GRAHAM. But the visa program has always had a wage calculation requirement. The push-back you got from a lot of people from the seafood industry and the landscaping is that the cost of this program was getting to be exorbitantly high, and it was just not paying what people in South Carolina make. You had a broader view of things. The transportation costs increased dramatically.

And as the law, as I understand the law, you can't pay an American worker any less than you pay an H-2B visa worker, is that correct?

Secretary SOLIS. Yes.

Senator GRAHAM. So you are driving up wages even for the local workforce.

And so I just want to end with this thought: Let us keep working together to work on a visa program that meets the needs of employers, so they will stay in business, and that American workers

can go to find a decent paying job, and that the visa program doesn't put American workers at risk because we are driving up the cost unnecessarily here.

So, I just want to keep working with you on this. This is a big deal to people in my State and, I think, just throughout the country. And this is not a Republican issue, this is a bipartisan issue. So I look forward to working with you on reforming the visa program.

Secretary SOLIS. Senator, I agree, and look forward to working with you. I agree that we need to work with those industries that are growing, the high-tech area in particular, and making sure that everyone is using the same reference, in terms of bringing individuals here, and they are fully aware of what that means—but always giving preference to American workers here, that they have first dibs on those jobs. And that has been a big game change, I think, in the last few years, because of the fiscal crisis that we are in. So we do want to do our best.

And we have worked with Senators, yourself, and we thank you for your leadership on this issue and look forward to working with.

Thank you.

Senator HARKIN. Senator Cochran.

Senator COCHRAN. Mr. Chairman, thank you.

GULFPORT, MISSISSIPPI JOB CORPS CENTER

Madam Secretary, in 2005, the year 2005, Hurricane Katrina struck the Mississippi gulf coast, resulting in huge damages to property and businesses and homes all throughout the region.

Since that time, the Congress has appropriated \$14 million specifically for the reconstruction of our Gulfport Job Corps Center in Gulfport, Mississippi. And I hate to mention this, but the center has not been rebuilt yet, and I don't know why.

But I hope you can help us figure out a way to move forward with allocation of previously appropriated funds, or the use of funds that we may now appropriate, that can be used under your authorities for the construction of facilities for worker training and other activities that are appropriate under the law for a Job Corps center replacement facility.

Do you have any plans, specifically, for dealing with this need of the Department? Is it considered something that is a priority in the DOL?

Secretary SOLIS. Senator, I think the last time I was here before the subcommittee we had a conversation about this. And I do remain committed to continuing to build out that particular facility. But I know since that time there have been some local issues with respect to the construction of that facility, because there are some buildings that are historic in nature, that were brought to our attention by the local community there. So I know that that has been a challenge for us, in terms of figuring out exactly how we go about building and starting the construction.

So I am mindful of that, and want to see how quickly that can be resolved, working with you and, of course, taking in public comment.

But while we are waiting, I am responsible for using the monies that had been set aside to facilitate other construction of other fa-

cilities. So I will do that, but I will remain committed to working with you, and hopefully see that we can get some resolution on a site there that would be amenable to the community, as well as to the folks that are involved in this process. But we have to do it legitimately. As you know, I have to follow procedures, rules, that have been laid down long before I arrived as Secretary of Labor.

Senator COCHRAN. Well, I appreciate that you have to operate under the restraints of law and currently existing regulations. But the local community in the Gulfport area, and those who would benefit from the training to obtain good-paying jobs is still a very serious need in that region.

PROPOSED H2-B RULES

One other question that I have relates to the gulf coast, as well. And it involves the seafood community. There have been a lot of problems in the Gulf of Mexico that have been identified. Many of these are challenging, to say the least.

But the Department has proposed two H-2B rules that will make the process of hiring workers even more cumbersome and more challenging to deal with in a positive way.

Now, I don't know all of the specifics about this, but I am told by my staff members in the Gulfport office that we have a lot of workers available for H-2B worker's permits. And I wonder what is your reaction to the challenge of putting together a seasonal workforce under new recruitment timeframes? What can we expect?

Secretary SOLIS. Senator, we are obviously very concerned about this, as well. We have received numerous comments regarding this proposal, and know that we are trying, to address this as best we can. We want to make sure that we do our best to make sure that American workers, have access to those jobs, as well—I totally agree with you, because of the fact that we have seen such great impacts in the gulf, and want to work with you.

I want to minimize abuses that have occurred in the past. I believe that there is more opportunity to have a better, robust program that actually helps to give those individuals that are engaged in that particular visa program a good quality of life.

But we want to minimize those unscrupulous businesses that take advantage, and drive down costs, and do that deliberately because they don't want to pay good wages. So many have been able to do that in the past that we are trying to clarify and upgrade our rules.

Our intention is to be very clear and transparent about it. But I know that there are folks out in the field that may not feel that way, and we want to work with them. That is why we are doing more outreach, we are doing more webinars. We are consulting with more business, and will do whatever we need to, in particular in the gulf. I would love to have my regional staff, work with you and your staff, and those appropriate individuals, you deem appropriate that we need to work with.

Senator COCHRAN. Well, I appreciate the fact that this has your personal attention and we thank you for your efforts.

Secretary SOLIS. Thank you. Thank you, Senator.

Senator HARKIN. Thank you, Senator.

Senator Shelby.

Senator SHELBY. Mr. Chairman, Senator Kirk is unable to be here. And, Madam Secretary, he has a number of questions, and I would submit them to you for the record to answer, if you would please.

Thank you very much.

Senator HARKIN. It looks like our votes are about ready to start.

I just wanted to comment about referring to what Senator Alexander was talking about, home care workers and the proposed regulation.

It seems to me that as society has changed, more and more people want to receive care in their homes, but we have learned some things about this. We know that it is cheaper for society as a whole for the elderly to be taken care of in their homes, rather than to go to an assisted living place, an institution or a nursing home. And, in most cases the quality of life is much better for the elderly. They are in their homes, they are in their neighborhoods.

And so this whole thing has built up over the last 30 or 40 years as we are living longer in our society, I think as Senator Alexander alluded to. But it just seems to me that the answer to this is not to say that if you are low-income elderly, then we need a whole bastion of low-income workers to take care of you, who are paid sub-minimum, poverty wages. That doesn't seem to help society much, and it doesn't help the elderly.

Some States have already moved ahead. Twenty-one States currently offer some protection to home care workers. Sixteen States now require overtime for home care workers. So I think we are basically moving in the right direction.

Home care workers need to be better qualified. We know instances, case after case, of an elderly person being taken care of by someone that is not being paid very well. They are not really qualified. The elderly person doesn't take his or her medicine. They may fall because they are not supervised properly, and maybe don't have the proper barriers in the house. They break a hip, they go to the hospital, and the costs go up for society because they are covered by Medicare, or Medicaid as the case may be. Maybe they are dual-eligible.

So I think, the time has come to address this issue of home care workers, their qualifications and how they are trained, to make sure that they are paid to do a job that I think is one of the most important jobs in our society. That is to make sure that elderly have a good quality of life, that they can maintain themselves in their own homes and their own communities without being forced to go to an institution.

So we have to come up with the wherewithal to make sure they are paid adequately. As I said, the answer is not to have a whole bastion of workers out there that are paid poverty wages to take care of the elderly.

Last, we tried to get a Community Living Assistance Services and Supports (CLASS) act into ACA, where people could put some money aside for contingencies like this later in life. Well, a CLASS Act has got some problems, I know that. But it seems to me that we need to have some source of revenues for people when they get

older to make sure that they can get that kind of home care if they so desire.

The problem, as I have said many times, I have said it forthrightly, the only problem with the CLASS Act, it was voluntarily. And young people never think they are going to get old. They are never going to need that, so they're not going to put any money into it.

But we have seen the value of Social Security, we have seen the value of Medicare. We have seen the value of disability insurance, all the three components of Social Security, which are mandatory, upheld by the Supreme Court numerous times. It seems to me we need one more tranche. Because of the longevity of people living now, we need another tranche in there, and that is a mandatory part that would go toward home care for the elderly, and so that we can have a good workforce out there that is qualified, trained, paid well, to take care of elderly in their own homes.

So I would just state that for the record, if anybody wanted me to go on and on about this!

Do you have anything else you wanted to add?

Senator MORAN. Mr. Chairman, thank you. I just want to follow up.

I just want the Secretary to know that folks in rural America, farm families, care greatly about their kids and their safety. Every parent wants to make certain that their child has the opportunity to grow up in a safe environment, and have the opportunity to earn a living, and learn a trade and a profession and pursue the American dream.

I just want to make certain, absolute certain, that in this need to find this safe environment by the Department of Labor, that you don't overreact, that you don't overreach, and that we don't fundamentally alter the way that rural Americans have lived their lives.

I think teaching, for example, is a noble profession. And how do we find good teachers? How does somebody decide they want to be a teacher? Well, they experience a great teacher in their life, and so they grow up thinking, when I grow up, I want to do what this teacher has done for me.

And your rules as proposed change the way in which we are going to have the opportunity for a young person to experience working on a farm, their own family's or their neighbor's. And we are going to lose that opportunity for that young person to say, when I grow up I want to be a farmer, I want to be a rancher.

This is a huge and significant issue for those of us who care about rural America. And the rules as proposed are overly broad, and overreach, and an involvement in ways that, in my view, destroy that opportunity, alter for generations to come the chance we have to have farm kids experience that and grow up with a dream to farm and ranch in this country.

We need your help, we need your attention to this proposed rule, and would ask again that you alter the plan that you are on.

Thank you, Mr. Chairman.

Senator HARKIN. Thank you.

Madam Secretary, again, thanks for your appearance here. Thanks for your response.

Secretary SOLIS. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator HARKIN. We may have some further written questions, and we will leave the record open for 10 days for such questions. [The following questions were not submitted at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR TOM HARKIN

SEQUESTRATION IMPACT

Question. Please elaborate on your response to my question about sequestration. I'd like more specific information on the impact of a 7.8-percent cut on agencies of the Department of Labor (DOL), their missions and individuals served by their programs.

Answer. As I mentioned in the hearing, our effort, with the administration, is to work with the Congress to enact a balanced approach to deficit reduction. That is our first priority; we remain very committed to finding some resolution. By design, the sequester is bad policy, bringing about deep cuts in defense and non-defense spending and threatening continued economic growth and prosperity. The President's 2013 budget presents a balanced plan that contains sufficient deficit reduction to avoid a sequester. The budget also preserves the Department's core functions and makes important investments in areas such as job training and worker protection. Although the administration is continuing to analyze the potential impact of the sequester, I will tell you that it would be very difficult for us to manage cuts of 7.8 percent to our programs and still achieve our fundamental mission to prepare and protect American workers.

For example, a 7.8-percent decrease in funding in our employment and training programs would result in a reduction of more than \$500 million for our workforce system, meaning that more than 1.7 million fewer participants could be trained, retrained, or be helped to find a job. For the Workforce Investment Act (WIA) formula grant programs, this would mean a reduction of more than \$60.1 million for adults, resulting in approximately 483,000 fewer job-seekers receiving needed services to find sustainable employment; a decrease of \$78.6 million for dislocated workers, resulting in approximately 63,000 fewer workers served; and a reduction of \$64.3 million for youth, resulting in 18,600 fewer disadvantaged youth served. In addition, the Dislocated Workers National Reserve would be decreased by \$17.5 million, and Community Service Employment for Older Americans would be reduced by nearly \$35 million, resulting in approximately 5,500 fewer job-seeking older Americans served should this program remain in the Employment and Training Administration (ETA) of DOL.

For the statewide activities funds in each of the three formula-funded streams, some States may face a funding deficit to administer WIA in program year 2013 if the policy of reducing statewide activities funds from 15 percent to 5 percent is continued. If funded at a level that is 7.8-percent less than the fiscal year 2012 enacted level, approximately eight States (likely Wyoming, North Dakota, South Dakota, Vermont, Alaska, Nebraska, New Hampshire, and Delaware given program year 2012 formula allotments) would have less than \$300,000 available to administer their Workforce Investment Act programs.

In the Job Corps program, a 7.8-percent cut to our current level of operations funding would result in a decrease of close to \$122.4 million and would translate into approximately 5,000 fewer student enrollments. Funding at this level would also delay the opening of the new center in New Hampshire and require us to accelerate plans to close Job Corps Centers far beyond the chronically low-performing centers that we are committed to addressing, impacting not only the students who would not be served, but the communities where centers are located. Funding for Construction would be reduced by approximately \$8.2 million, delaying construction and center renovation projects and deteriorating center facility conditions, and a reduction of nearly \$2.3 million to Job Corps Administration would require a cut of 22 full-time equivalent (FTE) employees, achieved either through attrition or a reduction-in-force (RIF).

For the State Unemployment Insurance and Employment Service Operations (SUIESO) appropriation, a reduction of 7.8 percent to the fiscal year 2012 funding level translates to a decrease of nearly \$56.3 million for the employment service, re-

sulting in approximately 1,735,000 fewer job-seekers served. Funding for the One-Stop Career Centers would be reduced by nearly \$5 million, which would result in one or two fewer Disability Employment Initiative grant to States, a small reduction in labor market information grants to States, and postponement of enhancements to electronic tools.

A decrease of this magnitude would also require ETA to reduce Federal staff by about 51 full-time positions, with severe impacts on the oversight, accountability, and efficacy of ETA programs.

For our worker protection agencies, a 7.8-percent reduction in funding would mean a decrease of approximately \$136 million. This would have a significant impact on our efforts to ensure safe and healthful workplaces, and to ensure that workers get the wages and benefits to which they are entitled. These reductions would likely impact our most vulnerable workers just as we are emerging from an economic recession.

At this decreased funding level, the Employee Benefits Security Administration (EBSA) would be reduced by approximately \$14.3 million and 100 FTE. This would force EBSA to eliminate nearly 10 percent of its workforce and constrain spending in its enforcement, participant assistance, and regulatory programs. As a result, EBSA would conduct fewer civil and criminal investigations. In addition, effectiveness would decline as each Benefit Advisor would have to handle a greater percentage of call volume, resulting in less time to analyze and resolve participant disputes and inquiries and reducing benefit recoveries by an estimated \$16 million.

For the Wage and Hour Division (WHD), a 7.8-percent decrease would result in a cut of \$17.7 million and 122 FTE, of which 80 would likely be investigators. Such a reduction would substantially hamper the agency's efforts to level the playing field for all businesses and ensure basic fairness in the workplace, particularly affecting the most vulnerable low-wage workers in the Nation. A decline of this magnitude in WHD investigator staff would result in fewer investigations and less money in the hands of workers who purchase basic goods and services in this country. More than \$17.8 million in back wages would go uncollected and more than 21,000 workers would not receive the compensation to which they are entitled. In addition, fewer investigations could well mean that more children are exposed to threatening or hazardous workplace conditions that would otherwise be prevented by investigator site visits.

At a reduced funding level for the Office of Federal Contract Compliance Programs (OFCCP), the agency would face a decrease of \$8.2 million and 68 FTE. Any reduction in funding would significantly impact the agency's ability to protect workers from discrimination. Specifically, OFCCP would reduce the number of supply and service investigations, construction evaluations, and Functional Affirmative Action Plan (FAAP) reviews such that more than 95,000 employees will be affected.

Reducing funding for the Occupational Safety and Health Administration (OSHA) by more than \$44 million would put our Nation's workers at unnecessary risk by reducing enforcement staffing by 81 FTE, 60 of which would be Compliance Safety and Health Officers, resulting in a decrease of 2,100 inspections. With 2,100 fewer programmed inspections targeted to the most dangerous workplaces, fatality and injury and illness rates would likely increase. OSHA's whistleblower protection program would also be cut by 20 investigator FTE, leading to an increase in the already-growing backlog of cases, and making the agency unprepared to administer recent whistleblower statutes, such as for finance reform and food and safety reform.

In addition, OSHA's State Plans would be cut by almost \$8 million at a time when many States are already in difficult financial situations due to reductions in funding at the State level. This would result in the unemployment of State Plan inspectors, and would lead to 4,000 fewer inspections of hazardous workplaces. On-site consultation programs for small businesses would be reduced by \$4.4 million, which would lead to the unemployment of staff in these State-based programs and an estimated 2,200 fewer consultation visits provided to small businesses. Finally, OSHA would be forced to eliminate almost all compliance assistance specialists by cutting an additional 31 FTE. The agency would be forced to all but eliminate compliance assistance efforts for high-demand areas such as residential fall protection and severely cut its Voluntary Protection Program.

For the Mine Safety and Health Administration (MSHA), decreasing the agency's funding by more than \$29 million could result in delays of resolving potentially unsafe conditions and lessen MSHA's ability to maintain readiness in the event of a mine emergency. The recent MSHA internal review on the Upper Big Branch mine disaster documented the effects of imposing resource constraints deep enough to affect MSHA's enforcement efforts. At this level, MSHA's ability to maintain staffing levels would be impaired. Delays in hiring and training new personnel could lead

to the staffing and experience shortcoming identified in the internal review. A 7.8-percent decrease would also adversely impact the ability of the Coal Mine Safety and Health (CMSH) and the Metal and Nonmetal Safety and Health programs to conduct all of their required inspections and impact MSHA's enhanced enforcement efforts targeting the most egregious and persistent violators through the Pattern of Violations program and the Special Emphasis dust inspections. It will also affect MSHA's ability to support the mine safety and health backlog project, and to conduct impact inspections, part 50 audits, accountability reviews.

Additionally, MSHA would have to reduce engineering support to enforcement personnel as they encounter difficulties during their inspection functions, as well as administrative support for the approval of plans, such as dust, ventilation, and roof control. This would lengthen the time necessary to review the various plans submitted by operators and test equipment destined for use in mines to ensure it is intrinsically safe.

A 7.8-percent reduction would impact MSHA's ability to ensure that miners are aware of their rights and responsibilities, impeding MSHA's efforts to conduct prompt investigations of miner discrimination complaints and investigations of knowing and willful violations of the Mine Act, including civil and potential criminal violations. Likewise, at the decreased level, MSHA would be forced to reduce efforts such as the Small Mine Consultation program and production and distribution of training materials to the mining industry, impacting MSHA's ability to provide mine operators effective compliance assistance. Many of these materials are the primary vehicle for providing safety and health awareness to miners. All of these actions have the potential to place miners' safety at risk.

Funding at 7.8-percent less than the fiscal year 2012 enacted level for the Office of the Solicitor (SOL) equates to a reduction of \$9.8 million. Because SOL funding largely supports FTE who provide litigation and other legal services to the Department in all of its enforcement and program areas, a decrease of this magnitude would require a reduction of approximately 50 FTE. Based on SOL's major areas of work, this would result in approximately 1,100 fewer litigation matters opened and concluded compared to SOL's actual litigation workload completed in fiscal year 2010 of 14,630 litigation matters opened and 14,204 litigation matters concluded. Likewise, SOL would have a diminished ability to provide legal opinion and advice, with an estimated reduction of 700 fewer opinion matters opened and 400 fewer opinion matters concluded, compared to the fiscal year 2010 actual results of 8,678 opinion matters opened and 6,198 opinions matter concluded.

For the Bureau of Labor Statistics (BLS), a reduction of 7.8 percent, or \$47.5 million, in fiscal year 2013 would force the Bureau to eliminate approximately eight of its survey programs. While the administration would have to determine which programs would specifically have to be eliminated, this reduction would likely lead to cuts in widely used data used to determine the state of the economy and for other key purposes.

At the reduced funding level, the Bureau of International Labor Affairs (ILAB) would be cut by nearly \$7.2 million. Some key impacts of reductions on this scale would be diminishing ILAB's capacity to combat child labor and to support projects abroad to ensure that U.S. workers do not suffer unfair competition in today's global labor market; reducing ILAB's capacity to monitor and enforce the labor commitments of trade partners under Free Trade Agreements, and labor obligations under Trade Preference Programs; hampering ILAB's capacity to engage in oversight and auditing of projects abroad funded by appropriations for specified purposes; and reducing policy engagements on job creation and worker protection with key economies such as China, India, Brazil, Russia, South Africa, and other G-20 members.

A 7.8-percent decrease to the Veterans' Employment and Training Service (VETS) would reduce funding to this agency by more than \$20.6 million. This includes a reduction of about \$13 million to Jobs for Veterans State Grants, which would reduce State Disabled Veterans Outreach Program and Local Veterans Employment Representative staff by approximately 165 positions. This reduction in personnel would result in approximately 53,000 fewer veterans receiving specialized services, including 7,100 veterans with significant barriers to employment who would not receive intensive services and thus continue to have issues with obtaining employment.

With a reduction of \$3 million to the Homeless Veterans Reintegration Program, VETS projects that approximately 1,500 homeless veterans with significant barriers to employment would not receive critically needed employment services. Since there are no other Federal programs reaching out to homeless veterans with employment services, and based on historical placement rates, approximately 889 homeless veterans would not be placed into employment and reintegrated back into the work-

force. With these reductions, the administration's commitment to eliminate homelessness amongst veterans by 2015 will not be met.

At a 7.8-percent funding reduction for the Transition Assistance Program, VETS would only be able to provide the mandated Employment Workshop to 150,904 transitioning servicemembers and would not be able to fulfill the legislative mandates in the VOW Act. This funding level would grossly underfund a statutory requirement of the Agency and leave approximately 155,084 transitioning servicemembers unserved.

As you can see through the examples given above, a 7.8-percent across-the-board reduction to our programs would have a devastating impact on the Department. At a time when we are just starting to see strong signs of renewed economic growth, it makes no sense to undermine this progress with harmful automatic cuts to Federal discretionary spending.

WAGE EQUALITY FOR INDIVIDUALS WITH DISABILITIES

Question. The fiscal year 2013 budget request for WHD includes additional resources and staff for oversight related to the Fair Labor Standards Act 14(c) program. How will the WHD and other DOL agencies not only improve compliance with the law but also work to improve integrated and competitive wage outcomes for individuals with disabilities under the budget request?

Answer. DOL's WHD is working to enhance its investigation actions, technical assistance, and certification process on behalf of workers with disabilities. In addition, WHD and the Office of Disability Employment Policy (ODEP) are working collaboratively to ensure outreach efforts include relevant up-to-date information about available resources to ensure employers are aware of their obligations and how to comply with the law and that workers who have disabilities know and understand their rights. For example, WHD is collaborating with ODEP to include information about available resources and best practices at regional educational events in fiscal years 2012 and 2013 for Community Rehabilitation Programs that employ individuals with the most significant disabilities. WHD will also examine the Fair Labor Standards Act section 14(c) certification program to develop subregulatory processes that strengthen safeguards against noncompliance and maximize use of adaptive technology to provide frontline training to certification seekers. WHD will also collaborate with ODEP and other stakeholders to further develop existing programs and to identify new avenues of outreach to people with disabilities, caregivers, family members, and employers to ensure all stakeholders have equal access to information about effective, full employment of workers with disabilities. Among other methods, the agency will explore how the certification process may be used as a vehicle for disseminating new, state-of-the-art employment information and resources to affected employers and employees. The Department takes very seriously its role in ensuring that the Nation's workers receive the full protections afforded under the provisions of the law and will provide additional specific training to agency staff to ensure investigations and outreach efforts are timely and effective and maximize positive impact for workers with disabilities.

REGIONAL OFFICE CONSOLIDATION

Question. Please provide more information on the Department's proposed consolidation of regional offices, including how the involved agencies will continue to meet their goals and objectives under the regional reorganization and the specific factors that went into identifying the regions proposed for consolidation for each involved agency.

Answer. The budget proposes adopting a leaner, more efficient approach for five offices within the DOL:

- OSHA;
- SOL;
- Office of Public Affairs (OPA);
- the Women's Bureau (WB); and
- the EBSA.

In fiscal year 2013, each of these bureaus will consolidate their regional offices to ensure that they are strategically placed to perform DOL's key functions across the country while eliminating unnecessary administrative costs.

In an effort to streamline agency operations, OSHA proposes to reorganize its regional structure and jurisdictional authority from its current operation of 10 Regional Offices (ROs) to 7. The reorganization will involve the consolidation of OSHA's Regions 1 (Boston) and 2 (New York); Regions 7 (Kansas City) and 8 (Denver); and Regions 9 (San Francisco) and 10 (Seattle). The estimated savings would come largely from the saved compensation from three Regional Administrator posi-

tions and related benefits. Additional savings would be achieved through reduced rent needs and travel expenditures.

SOL is working on regional office consolidation to better align legal offices with the Department's component agency structures, with eventual reduction from eight to six SOL regions. As an initial step, SOL is planning to reduce one region (Kansas City) in fiscal year 2012.

OPA consolidation of regional offices includes the closure of offices in Denver, Colorado and Seattle, Washington. These offices have been essentially closed since fiscal year 2011 due to attrition of Federal staff. OPA will continue to meet agency goals and objectives continuing to have the workload of the Denver and Seattle locations processed and managed by the remaining regional offices in Chicago, Dallas, and San Francisco.

For the WB, the consolidation of regional offices will refocus the agency to its policy responsibilities as it works through other DOL agencies for its outreach functions. The Department strongly supports the work of the WB and believes that increased collaboration with other regional DOL agencies will allow the Bureau to more effectively and efficiently carry out its mission.

The WB is developing objective criteria to guide the process for consolidation of its regional offices. The goal is to continue to meet the Bureau's mission in the most coordinated and efficient manner. We anticipate that we will be able to achieve this goal by maintaining those WB regional offices in geographical locations where other DOL regional offices exist and opportunities for sister agency collaboration will be maximized.

The Department remains committed to the advancement and rights of working women, particularly those who are the most vulnerable. Consolidating the Bureau's regional offices will result in savings that are reinvested, dollar-for-dollar, in the enforcement of the Family and Medical Leave Act and Fair Standards Labor Standards Act—two laws that have a direct and tangible benefit for women in the workforce.

As with the WB, EBSA is still developing the details of its effort to consolidate regional offices. The objective of EBSA's consolidation is to increase the efficiency and effectiveness of the enforcement and worker assistance operations. Similar to OSHA's approach, a primary guiding principle in the EBSA effort is to not allow a reduction in front-line enforcement or other services for the public because of consolidation. Some of the specific factors that EBSA is considering in identifying the regions proposed for consolidation options include the closer alignment of regional offices with financial centers, number of plans, participants and beneficiaries, and total plan assets; a better alignment of regional workload; the elimination of some split state responsibility in regional jurisdictions; and taking advantage of the regional locations of other DOL offices such as SOL and the Office of Assistant Secretary for Administration and Management.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) ENFORCEMENT

Question. The President's fiscal year 2013 budget request includes \$207 million for Federal OSHA enforcement and \$104.2 million for State OSHA enforcement. At this funding level, Federal OSHA has approximately 1,000 workplace inspectors and can inspect workplaces under its jurisdiction once every 129 years. This is similar to the number of inspectors in fiscal year 2001 and compares to nearly 1,500 Federal OSHA inspectors onboard in fiscal year 1980—a time when the workforce was significantly smaller.

With so few inspectors responsible for the safety and health of 140 million workers, what is the Obama administration's strategy for ensuring that there is a strong effective enforcement program to ensure that workers safety and health is protected on the job?

Answer. The agency attempts to shape and focus enforcement activities to have an impact on as many workplaces as possible, rather than just the workplace which was the target of the inspection. To achieve its goal of reducing workplace injuries, illnesses, and fatalities through Federal enforcement, OSHA uses strategies that make the most-effective use of its limited resources and powers. The agency also is working closely with Labor's Chief Evaluation Officer to assess its strategies—through current studies involving Site-Specific Targeting (SST) and On-site Consultation—and using data and evidence to make program changes when needed. OSHA uses the following enforcement strategies.

TARGETING THE MOST HAZARDOUS WORKSITES FOR INSPECTION

In addition to inspections that OSHA is required to perform or prioritizes, such as imminent danger, fatalities, catastrophes, complaints and referrals, OSHA targets inspections through a variety of means, including:

- SST is based on the OSHA Data Initiative and targets establishments in general industry with high injury/illness rates.
- Local and National Emphasis Programs (LEPs/NEPs) target high-hazard industries (e.g., shipbreaking), hazards that may lead to severe illnesses (e.g., lead and silica), and hazards that may lead to severe injuries (e.g., amputations).
- The Construction Targeting Program (C-Target) is based on a random selection of construction projects from a data file provided by F.W. Dodge and incorporates a modeling system to predict level of activity at a given construction site.

LEVERAGING ENFORCEMENT ACTIONS TO MAXIMIZE HAZARD ELIMINATION

The agency has two enforcement strategies designed to leverage enforcement action to maximize the elimination of workplace hazards that lead to injuries, illnesses, and death:

- The Severe Violators Enforcement Program (SVEP), which is intended to focus enforcement efforts on significant hazards and violations by concentrating inspection resources on employers who have demonstrated recalcitrance or indifference to their OSH Act obligations by committing willful, repeat, or failure-to-abate violations in certain circumstances. SVEP actions include mandatory follow-up inspections, nationwide inspections of related workplaces/worksites, increased company awareness of OSHA enforcement, enhanced settlement provisions, and Federal court enforcement under section 11(b) of the OSH Act.
- Corporate or Enterprise Wide Settlement Agreements (CSAs) are made with employers that have workplace hazards at multiple sites. Through a CSA, OSHA broadens its effect on employers' compliance and abatement efforts from one establishment at a time to hundreds or even thousands of workplaces at a time.

GETTING THE MOST DETERRENCE FROM PENALTIES

Actual and potential penalties deter employers from maintaining hazardous workplaces that do not comply with the requirements of the OSH Act. However, OSHA's statutory penalty limits are low, compared to other Federal agencies. As a result, OSHA must use leveraging strategies in order to get the most deterrence from the penalties OSHA imposes.

OSHA implemented a revised penalty system in fiscal year 2011, with the goals of increasing deterrence, decreasing noncompliance, and reducing workplace injuries, illnesses, and fatalities. Since that time, OSHA has been monitoring the effect of the new penalty system and has recently adjusted the penalty policy to allow a 60-percent reduction in penalty for employers that have between 1 and 25 employees. These monitoring efforts will continue and the agency will modify the system as necessary.

FOCUSING ENFORCEMENT ON A BROADER RANGE OF HAZARDS

Under the General Duty Clause (section 5(a)(1)) of the OSH Act, employers must provide a workplace "free from recognized hazards that are causing or are likely to cause death or serious physical harm." OSHA is actively using the General Duty Clause to address hazardous conditions in areas where there are currently no standards, such as heat exposure, workplace violence and combustible dust.

INCREASED PUBLICITY AND DIRECT OUTREACH

OSHA uses increased publicity and direct outreach to reach many more workplaces, supporting its goal of reducing workplace injuries, illnesses, and deaths.

The fear of public disapproval, as a result of being identified as a violator of OSHA regulations, motivates employers to abate workplace hazards. OSHA has received reports that some employers have abated hazards in their workplaces, without any OSHA action directly aimed at them, after learning from the media about other employers who have received OSHA citations, sizable fines, and public notoriety for unsafe workplaces.

In addition, OSHA continues direct outreach to employers about hazards that OSHA believes put workers at particular risk of injury, illness, or death. For example, OSHA has continued its campaign on distracted driving and will actively work with NIOSH in support of its "Construction Fall Protection Campaign". OSHA ap-

plied this strategy in the grain storage industry in fiscal year 2011, following several grain entrapment deaths and a study by Purdue University showing that the number of grain entrapments in the United States was increasing annually. OSHA sent a strong warning letter to more than 1,900 grain storage employers in States covered by Federal OSHA and to 350 employers in State Plan States. Several months later, OSHA sent another letter to approximately 10,170 establishments, 6,200 of which were covered by Federal OSHA.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) STATE PROGRAMS

OSHA State Plans are responsible for workplace safety and health for 40 percent of U.S. workers. Although State Plans develop and enforce their own standards, section 18(c)(2) of the OSH Act requires these programs to be at least as effective in providing safe and healthful employment and places of employment as Federal OSHA programs.

Federal OSHA conducts annual on-site monitoring visits in each State plan to ensure that their standards and enforcement program are at least as effective as the Federal program. Federal OSHA is currently in the process of concluding an agreement with the state plans concerning new effectiveness measures that are scheduled to go into effect at the beginning of fiscal year 2013.

IMPROVING THE WHISTLEBLOWER PROTECTION PROGRAM

Question. Recently OSHA has reorganized their Whistleblower Protection Office to make the program more effective and to respond to criticism found by the Government Accountability Office (GAO) in several reviews. Could you describe what steps DOL/OSHA is taking to improve the effectiveness of its Whistleblower Program and how DOL intends to use the additional funds and personnel that have been requested for this program?

Answer. In addition to reorganizing and raising the status of the Whistleblower Protection office within OSHA, the agency is currently undertaking numerous internal improvement efforts in order to improve the efficacy of its whistleblower program.

Due to an increase in the number of whistleblower complaints filed with the agency over the past decade, OSHA has steadily accumulated a sizeable backlog of whistleblower complaints awaiting investigation. To address this issue, the Agency conducted a re-evaluation of its investigative processes and is developing numerous strategies for streamlining the process, including simplified paperwork requirements, new priority-based intake procedures, and a new approach for sharing information between parties of a case. Once implemented, these strategies will allow OSHA to better manage its whistleblower caseload, resulting in higher-quality investigations and better customer service.

The agency is also developing an alternative dispute resolution (ADR) program for whistleblower cases, which will serve as a valuable conflict resolution alternative to the resource-intensive and time-consuming investigative process. OSHA's ADR program will encourage early and fair resolution of whistleblower complaints by providing parties with an opportunity to explore resolution options with a neutral, third-party mediator.

OSHA is expanding its audit activities of the whistleblower program to promote accountability and ultimately improve the quality of whistleblower investigations. Newly developed audits will evaluate how closely regional investigators are following the Whistleblower Investigations Manual and applicable whistleblower regulations in their casework. Planned audit activities include a comprehensive audit of regional practices to be performed every 4 years by the National Office, as well as self-administered audits for the regions to perform during the years that they are not audited by the National Office.

STEPS TO IMPROVE EFFECTIVENESS OF WHISTLEBLOWER PROGRAM

Additional OSHA projects aimed at improving the effectiveness of the whistleblower program include:

- Drafting new chapters to the Whistleblower Investigations Manual to provide more comprehensive guidance to the investigators in the field, and to promote consistency in investigative procedures across the regions;
- Revising OSHA's information database to include a more detailed internal control system, which will allow OSHA to identify impediments to efficient investigations and better manage investigative resources by tracking and monitoring the critical phases of on-going investigations;
- Reconfiguring current training courses for new whistleblower investigators to better prepare new hires, and expanding OSHA's training offerings to include

- advanced courses for more senior investigators, as well as training for regional supervisors and whistleblower managers.
- Redesigning OSHA’s whistleblower program Web site (www.whistleblowers.gov) to improve user navigability, and developing an online complaint filing system to allow workers to initiate the complaint-filing process electronically.
- Drafting and publishing four Interim Final Rules and four Final Rules, and establishing the procedures for the handling of retaliation complaints under the whistleblower provisions of several statutes recently enacted or amended by the Congress.

PLANNED USE OF ADDITIONAL FUNDS AND PERSONNEL

The fiscal year 2013 budget provides an increase of \$4.8 million and 37 FTE for the whistleblower program. The additional funds and staff requested are essential if OSHA’s whistleblower program is to continue its improvements. Without additional investigator staff, OSHA is challenged in meeting the growing demands of its increased statutory responsibilities.

Over the past decade, large increases in the number of whistleblower complaints received by OSHA and assignment of new whistleblower statutes to OSHA by the Congress have not been matched with adequate investigator personnel to handle those complaints. A DOL Office of Inspector General (OIG) report (Number 22–12–014–10–105, issued January 20, 2012) determined that reducing the caseload to six per investigator would require an additional 58 investigators. OSHA’s fully trained whistleblower investigators currently carry around 30–40 cases at a time on average. Without more investigators, investigative quality and timeliness will continue to suffer. Additionally, investigator turnover will remain high as over-worked investigators leave OSHA for opportunities elsewhere, compromising training resources and depriving the program of experienced whistleblower investigators within its ranks.

REDUCING EMPLOYER BURDEN IN MEETING OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) STANDARDS

Question. Please describe specific actions the OSHA will take to meet “the agency’s expanded commitment to reduce the burden on employers to the extent possible while still fulfilling its mission.”

Answer. The increase provided in the fiscal year 2012 appropriations for the On-site Consultation Program will allow OSHA to increase its commitment to assisting small businesses with identifying workplace hazards, providing advice on compliance with OSHA standards and assisting in the establishment of safety and health management systems. The additional funding will provide resources for increasing awareness about the On-site Consultation Program’s services, training for consultants to ensure that their skills are maintained and expanded, and promoting and supporting OSHA initiatives through outreach, including the planned Fall Prevention Outreach Campaign, residential construction initiatives, safety and health in the healthcare sector, vulnerable workers and the Injury and Illness Prevention Program.

In addition, OSHA will provide resources to help employers comply with new or updated standards. For example, OSHA will issue additional compliance assistance resources for its updated Hazard Communication Standard. These compliance assistance resources will include small entity compliance guides for chemical producers and users and a model training program. OSHA will continue to provide employers with resources to help them comply with OSHA requirements and protect workers from a variety of workplace hazards, including falls and working outdoors in the heat.

Finally, all of OSHA’s regulatory activity includes vast opportunities for input by stakeholders, including small businesses, concerning measures OSHA can take to reduce burdens while providing the protection to workers that the OSH Act mandates.

STATE INVOLVEMENT IN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) POLICY

Question. How has OSHA involved State plans in development of national policy, including national emphasis programs?

Answer. OSHA recognizes that since States with OSHA-approved State plans are expected to participate in OSHA’s National Emphasis Programs (NEPs), they should have the opportunity to participate in the development of these programs. OSHA meets several times every year with the Occupational Safety and Health State Plan Association (OSHSPA), an organization that represents the 27 States with OSHA-

approved safety and health programs. When prospective NEPs are discussed at an OSHSPA meeting, States are encouraged to raise any concerns or experiences that they have on the issue, either during or following the meeting.

To further improve communication, OSHA implemented a more formal system to give the State plans an expanded opportunity, beyond discussions at regular OSHSPA meetings, to provide input into the development of specific NEPs and other major OSHA policy documents. Directives and other policy documents that constitute changes to the Federal program which will impact State programs, including NEPs and other enforcement policies, are being shared in draft on a special limited access Web site for State review in draft and comment prior to issuance. Six documents, including five NEPs, have been shared with the States in this manner, and conference calls were held between the States and the OSHA technical staff involved in developing the policies. OSHA has made significant changes in the directives in response to written comments submitted by States. OSHA also welcomes any State suggestions for hazards or industries that rise to the level of a national problem.

VOLUNTARY PROTECTION PROGRAM

Question. For the past 5 years with closed data, under the fiscal year 2012 budget and fiscal year 2013 request please provide a history for the approval of new Voluntary Protection Program (VPP) sites, renewal of VPP sites and total number of VPP sites.

Answer.

VPP DATA

Fiscal year	New	Reapprovals	Total active end of fiscal year
Fiscal year 2007 actual	256	203	1,902
Fiscal year 2008 actual	230	235	2,110
Fiscal year 2009 actual	172	239	2,284
Fiscal year 2010 actual	175	253	2,446
Fiscal year 2011 actual	101	298	2,445
Fiscal year 2012 operations plan	100	280
Fiscal year 2013 budget	60	280

Question. Also, what has the VPP Review Workgroup found in terms its review of VPP and recommendations for program improvement?

Answer. OSHA formed a VPP Review Workgroup in 2011 made up of representatives from OSHA's National and Regional Offices. The workgroup was responsible for conducting a comprehensive review of the VPP and submitting recommendations for improving the program. The recommendations of the workgroup are currently under review. OSHA has begun evaluating and prioritizing suggested recommendations for changes that are determined to be key and that will strengthen the program's effectiveness and integrity.

ONE-STOP CAREER CENTER SYSTEM REVIEW

Question. ODEP and ETA are conducting a separate independent survey of the physical, programmatic, and communications accessibility of the One-Stop Career Center system and review of Workforce Investment Board policies and procedures relative to the availability of intensive and training services for individuals with disabilities. What are the findings from this work? What corrective actions are planned?

Answer. ODEP, ETA, and the Chief Evaluation Office (CEO) currently are planning the accessibility study and review of Workforce Investment Board policies and procedures. CEO will provide the funding for designing and conducting the accessibility study and currently is in the process of developing a Blanket Purchase Agreement (BPA) in order to competitively secure services to do so. The DOL's CEO has indicated that the BPA contract should be awarded this spring, at which time the Task Order for the accessibility study will be the first procurement action. The accessibility study is expected to begin in summer 2012, with findings projected to be available in late 2013.

UNIVERSAL DISLOCATED WORKER PROGRAM

Question. Earlier this month the Obama administration announced a proposal to create a Universal Dislocated Worker program. The proposal would consolidate the

Trade Adjustment Assistance program with the Workforce Investment Act's Dislocated Worker program and provide the same benefits to all workers. Can you explain how National Emergency Grants (NEGs), which are funded through the National Reserve, fit into the Universal Displaced Worker program proposal? Would NEGs continue to be funded with discretionary funding?

Answer. NEGs give the Secretary of Labor the ability to provide resources in situations where the workforce system is unable to meet an unanticipated need for re-employment services, such as a natural disaster or a large plant closure. These grants would work in conjunction with the Universal Displaced Worker (UDW) program, as they do currently with the Workforce Investment Act's (WIA) Dislocated Worker formula program. Since NEGs are designed to respond to unanticipated events that yield unknown needs for workforce services, we believe it appropriate that they continue to be funded with discretionary funds out of the WIA appropriation, and accordingly NEGs would continue to be funded separately. It is important that the Secretary retain this flexibility to respond to events such as natural disasters, large plant closures, and other events which temporarily create more demand for services than the affected State and local workforce systems can address on their own, or which require a unique set of services, such as employing dislocated workers in jobs related to disaster recovery. We would work with the Congress to ensure that the benefits and services NEGs provide complement those provided under the UDW program.

FEDERAL REGULATION WAIVERS

Question. The President's budget requests legislative language that would allow the Secretaries of Labor and Education to waive statutes and regulations relating to the Workforce Investment Act of 1998, the Wagner-Peyser Act and title I of the Rehabilitation Act in instances when the Secretaries believe waivers would substantially improve education and employment outcomes. Additionally, in the Solicitation for Grants Announcement for the Workforce Innovation Fund (SGA/DFA PY-11-05) you encourage applicants to include information on how waivers of Federal laws or regulations, if waived, would enhance the proposed innovations. Can you provide examples of which laws and regulations you believe are prohibiting successful outcomes for workforce services delivery and information? Can you also describe how you would evaluate waiver requests? How would you define "substantial improvement of education and employment outcomes"?

Answer. Waiver authority can be one of the most effective tools the Federal Government has to spur experimentation and innovation. Particularly in the absence of significant funding to entice States and locals to come forward with new ideas, administrative flexibility is a powerful tool.

Because States and local areas are in the best position to identify statutory or regulatory barriers that may impede innovation and improvements in workforce service delivery, the President's budget requests expanded waiver authority for the Workforce Investment Act of 1998 (WIA), the Wagner-Peyser Act (W-P), and title I of the Rehabilitation Act to provide greater opportunity and flexibility to States in designing strategies that best fit their needs. Enhanced waiver authority would enable States to test innovative structural and service delivery approaches in a limited setting to improve participant outcomes and the cost-effective delivery of services.

The Department has exercised its authority under WIA to approve hundreds of waivers requested by States during the last decade, and has a well-established process for evaluating such requests. The Department believes this process can easily be adapted in the context of the Workforce Innovation Fund to incorporate a collaborative review of waiver requests with the Department of Education that affect programs administered by both agencies, including approval of such requests by both the Secretaries of Labor and Education or their designees. In reviewing applications, we would expect requesters to be able to demonstrate how their proposed approach would improve outcomes consistent with the purpose of the programs involved. As set forth in the fiscal year 2013 budget, waivers would only be provided to projects which include:

- A plan to effectively evaluate the impact of the strategies being tested on outcomes for program participants;
- A strong accountability system, including outcome measures which show outcomes for program participants and demonstrate that subpopulations with the greatest barriers to employment are being appropriately served by the workforce system; and
- Other required elements, as established by the Secretaries in regulation or grant solicitation.

DOL also requires States to report annually on outcomes achieved by waivers in the WIA annual performance report that States are statutorily required to submit to the Department, and would continue to do so.

NATIONAL APPRENTICESHIP ACT

Question. DOL is working on regulations for Equal Employment Opportunity in the National Apprenticeship Act, which should increase nontraditional job opportunities for women and underrepresented populations and accomplish the same goals of Women in Apprenticeship and Non-Traditional Occupations Act (WANTO). Can you provide an update on the timing of the regulations?

Answer. Since 2010, ETA has consulted stakeholders, including the Secretary's Advisory Committee on Apprenticeship, to gather input for development of this rule through a variety of methods, including virtual Webinars and in-person town hall meetings. The Department is in the process of drafting this Notice of Proposed Rule Making, and anticipates publishing it in 2012.

JOB CORPS CENTER CLOSURES

Question. Can you tell me more about how "chronically low-performing" Job Corps centers will be defined and the process the Department will undertake to close a center? Can you tell me more about how low-performing centers have been identified in the past and what opportunities they have been given to improve?

Answer. The Department has established a comprehensive performance management system to assess program effectiveness across multiple components of services and programs offered to Job Corps students. The performance management system serves three primary purposes, as follows, to:

- Meet accountability requirements for establishing performance measures (also known as metrics) and reporting student outcomes for the Job Corps system prescribed in the WIA legislation, Common Performance Measures for Federal youth training programs, and DOL priorities;
- Assess centers' and agencies' accomplishments in implementing program priorities and serving students effectively; and
- Have a management tool that provides useful and relevant feedback on performance, while encouraging continuous program improvement.

To assess center performance against established goals and priorities, the Office of Job Corps' Federal staff conduct on-site center assessments and monitoring trips, and electronic desk monitoring and contractor performance reporting. Underperforming centers may be placed on a corrective action plan or performance improvement plan. Such a plan may be targeted to a specific area of performance (e.g., academic attainment) or in cases of significant underperformance, may include overall center operations.

Chronically low-performing centers are those that have consistently failed to meet performance standards over the past several program years. The Department is using its existing performance measures as the key component for developing its methodology for identifying centers for closure that will be published in the Federal Register for the public and stakeholders to provide feedback, prior to its use in selecting centers for closure.

Further, the Department will ensure that it follows the legislatively mandated process for closing a Job Corps Center, per section 159 of the WIA, which includes the following:

- Advance announcement to the general public of the proposed decision to close the center, through publication in the Federal Register or other appropriate means;
- Establishment of a reasonable comment period, not to exceed 30 days, for interested individuals to submit written comments to the Secretary; and
- Notification of the Member of Congress who represents the district in which such center is located, within a reasonable period of time in advance of any final decision to close the center.

REBRANDING OF WORKFORCE CAREER CENTERS

Question. The President's budget includes a proposal to rebrand the workforce career centers. Can you provide additional information or examples of why the system needs rebranding? What barriers does the current branding pose to workers in need of services? And would States compete for funding or would the Department work with each State on the rebranding process?

Answer. A 2005 GAO report ("Employers Are Aware of, Using, and Satisfied with One-Stop Services, but More Data Could Help Labor Better Address Employers' Needs") found that only about one-half of employers are aware of the public work-

force investment system. In addition, each year, 20 million individuals tap into our existing workforce system resources, but there are millions more who could benefit from being able to reliably find the services they need to succeed in today's economy. Currently, names for One-Stop Career Centers vary from State to State, or even from town to town, and online Federal, State, and local tools are spread across many Web sites with different names. Jobseekers may not understand that these resources are available to connect them to training and other supports. Veterans transitioning to civilian life might look for a One-Stop Career Center, but cannot find anything nearby with that name. Businesses that are well-connected to the workforce system in one State may not be aware that the same services are available to them elsewhere, under a different name.

The Department's initiative to establish the American Job Center Network is designed to give workers and businesses an easily identifiable source for the help and services our workforce system provides. While the Department will initiate this effort in fiscal year 2012, under the President's fiscal year 2013 budget proposal, the Department will:

- Use a significant portion of the funds (approximately 70 percent) to support collocation among partner programs, increase the number of American Job Centers and service points, and increase public awareness and accessibility of workforce services through nationwide outreach and education using the American Job Center brand. These funds would be distributed to States and locals, with a small national reserve for administration and technical assistance.
- To increase the number of service points, funds can be used to establish new service points for workforce services in local communities, such as computers at a library or community-based organization to access online services, or expanding access to workforce services within community colleges and schools, or even creating kiosks in major commercial chains.
- The recipients may also use these funds to expand workforce services during hours convenient for working adults and businesses, particularly small businesses. In addition, States will use the funds to fully implement the American Job Center brand, and funds could support Web site adjustments and outreach through multiple media. The Department will also seek to create a national outreach and education plan to increase awareness and usage of the public workforce investment system.
- The Department will use the remaining funds to expand current national electronic tools to provide more interactivity between the online customer and the virtual services currently available through www.CareerOneStop.org. The new electronic tools would include a jobseeker portfolio, an interactive resume analysis tool, an interactive knowledge and diagnostic database providing automated responses to common questions, and virtual chats with career counselors. For jobseekers who lack computer skills or Internet access, the Department will also expand its telephone contact centers to provide on the phone some of the personal interaction offered through staff-assisted services at brick and mortar One-Stop Career Centers.

RE-EMPLOYMENT SERVICES FOR UNEMPLOYMENT INSURANCE CLAIMANTS

Question. The President's budget includes increased funding for Employment Service Grants to States to carry out more intensive re-employment services for Unemployment Insurance (UI) claimants, among other activities. Can you provide information on the successful re-employment services that the Department will highlight and encourage States and local areas to implement?

Answer. Providing effective re-employment services to unemployed (including long-term unemployed) jobseekers and minimizing erroneous payments are high priorities for the Department and its partners, the State workforce agencies. Re-employment assistance can result in more rapid re-employment, shorter claim duration, and fewer erroneous payments of UI benefits. For example, in Nevada, a pilot program of Re-employment and Eligibility Assessments (REAs) coupled with re-employment services reduced weeks claimed by 2.96 weeks and benefits received by \$805. Further study revealed that REAs in Nevada increased re-employment by close to 20 percent initially and by close to 10 percent into the second year following participation in the program. REAs also increased earnings by 25 percent initially and close to 15 percent into the second year after participation in REAs. Thus, eligibility assessment and re-employment services not only shorten UI duration, but also persistently boost employment and earnings. Effective re-employment services for UI claimants include at the minimum the provision of labor market and career information, an assessment of the skills of the individual, and orientation to the services available through the One-Stop Centers established under title I of WIA. Some

claimants benefit from additional services such as comprehensive and specialized assessments, job search counseling and the development or review of an individual re-employment plan, individual and group career counseling, and training services. The Department encourages States and local One-Stop Centers to consider the claimants' individual circumstances and adopt approaches that are most likely to effectively speed their return to work.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUE

COMPACT OF FREE ASSOCIATION

Question. In 1986, the United States entered into Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands. In 1994, the United States entered into a similar relationship with the Republic of Palau. The Compacts set forth the bilateral terms for government, economic, and security relations between the United States and the Freely Associated States (FAS), and the laws approving the Compact set forth the U.S. policy context and interpretation for the Compacts. Section 141 of the Compact provides that certain FAS citizens “may be admitted to, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories.” However, the Congress also stated, in section 104(e)(1), that “it is not the intent of Congress to cause any adverse consequences for an affected jurisdiction.” It is estimated that affected areas of the United States are spending upward of \$200 million annually for healthcare, education, and other services for FAS migrants. Although the Compacts allow the FAS migrants to engage in work in the United States, employers find that there is a significant need for language and cultural education and job training. How best can the Department of Labor assist States and territories in preparing Compact migrants for employment opportunities?

Answer. Migrants from the Marshall Islands and Micronesia are eligible to receive labor exchange and employment services and Workforce Investment Act (WIA) authorized employment and job training programs in One-Stop Career Centers across mainland United States and outlying areas. There is a wide range of services available through the One-Stops that can be tailored to meet the employment and training needs of these individuals. Many outlying areas—Guam, American Samoa, the Virgin Islands, and Northern Mariana Island, including the Republic of Palau—receive annual WIA title I (WIA Adult, Dislocated Worker and Youth programs) formula allotments. The availability of WIA title I funding to Palau has also been extended through fiscal year 2012 in the Consolidated Appropriations Act of 2012 (in the Department of Education’s General Provisions at section 306, title III, division F, Public Law 112–74).

In addition to the One-Stops, the Department’s competitive grants to States and outlying areas, such as the recent Trade Adjustment Assistance Community College and Career Training Grant program, bolster the capacity of the workforce system to provide quality employment and training services and programs. Freely Associated States migrants can potentially benefit from access and participation in these programs to improve their employment outcomes.

Since 2003, the Marshall Islands and Micronesia no longer receive WIA title I funding for employment and training services provided through the WIA Adult, Dislocated Worker and Youth programs, but have been receiving funds from the Department of Education’s appropriation (see Compact of Free Association Amendments of 2003, Public Law 108–188 (December 17, 2003)), codified at 48 U.S.C. 1921d(f)(1)(B)(iii) (the “Compact”).

ALIGNING HAWAII’S PREPAID HEALTH CARE ACT AND THE AFFORDABLE CARE ACT

Question. Hawaii has traditionally experienced a much lower rate of uninsured individuals due to the landmark State law, the Prepaid Health Care Act (PHCA), which requires employers to provide healthcare coverage to full-time employees. As the State works to implement elements of the Affordable Care Act (ACA), questions have arisen regarding the ability for Hawaii’s law to interact with the ACA in a manner that would allow Hawaii residents maximum benefits. Will there be further guidance from the Department of Labor (DOL), specific to Hawaii’s healthcare environment, on how the PHCA can work in conjunction with the requirements of the ACA? Is it DOL’s desire for Hawaii to maintain the requirements of the PHCA?

Answer. DOL is committed to working with the State of Hawaii regarding the coordination of the PHCA and the ACA. DOL also works with our Federal partners in ACA implementation, such as the Department of the Treasury and the Department of Health and Human Services, on these issues, as necessary. Conversations

about specific interactions have already begun and will continue to ensure the best result for Hawaii residents and their health coverage.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

GOVERNMENT ACCOUNTABILITY OFFICE PRINCIPLES FOR SUCCESSFUL COLLABORATION
BETWEEN EMPLOYERS AND EMPLOYEES

Question. In the January 2012 Government Accountability Office (GAO) report, “Innovative Collaborations between Workforce Boards and Employers Helped Meet Urgent Local Workforce Needs”, GAO identified six principles for successful collaboration, including leadership, leveraging resources, and providing business responsive services by examining 14 examples of collaborations between local workforce board, employers, community colleges, Manufacturing Extension Partnerships (MEPs), economic development and others. How is the Department of Labor (DOL) using its resources to ensure that all boards and the entire system are putting these principles in place?

Answer. GAO’s report findings validate the Department’s longstanding position that stronger partnerships between employers and the public workforce system improve employment and retention outcomes for our Nation’s workers. The report also echoes the Department’s strategic thinking on the importance of linking workforce services to meet the needs of regional and local economies, and the need for public workforce system reform through the reauthorization of the Workforce Investment Act of 1998 (WIA).

A key area of exploration for the Department is enhancing our dual-customer approach to effectively serve both workers and employers. We continue to provide technical assistance on business engagement to workforce system practitioners. For example, in May 2011, we provided in-person and virtual training for business liaisons in local workforce areas, and established a set of online resources available for business liaisons across the country. In 2012, we are planning to offer a series of activities and learning opportunities to promote and enhance services to business customers, beginning with a National Job Fair Month, scheduled for June 2012. In addition, we want to emphasize that while the Department provides policy leadership and guidance to the One-Stop delivery system, States have a critical role in making business engagement a priority, including tracking data on services to employers. The Department’s on-line technical assistance platform for workforce practitioners contains numerous examples of promising State and local practices in business engagement.

The Department is also working across Federal agencies to streamline administrative processes and better align resources and programs to ensure effective service delivery. The Departments of Labor, Health and Human Services, and Education continue to seek opportunities to develop joint guidance to State and local grantees, and to implement cross-cutting demonstration projects that encourage partnerships and improve models for delivering quality services across programs at lower costs.

WORKFORCE INVESTMENT ACT PROGRAM PERFORMANCE

Question. The annual performance results for WIA programs this past year noted that nearly 8.7 million workers received assistance and more than one-half of the people who got help through WIA gained employment, despite the fact that there are nationally more than four jobseekers for every available job. On top of that, 4 out of 5 job seekers who gained employment through WIA were retained in their employment according to the Department’s data. Additionally, 8 out of 10 employers who utilized the workforce system were satisfied by the assistance they received from the workforce system. What does this data reveal about WIA programs ability to effectively respond during periods of high unemployment, such as the country has experienced for the last several years?

Answer. These data illustrate in a statistical manner the value of the services provided by WIA programs. The workforce system experienced a tremendous increase in demand for its services during recent economic downturn. In response, the Department has implemented various strategies including:

- on-the-job training;
- setting new goals for the increased attainment of industry-recognized credentials, including degrees and certificates by workforce system participants;
- issuing guidance on entrepreneurship and self-employment activities;
- emphasizing the importance of longer-term training; and
- encouraging the development of career pathways, especially for low-skilled youth and adults.

The benefits of these strategies are evidenced by the higher-employment outcomes of WIA program completers.

It is worth noting that according to the latest Job Openings and Labor Turnover Survey data provided by the Bureau of Labor Statistics (BLS), there are roughly 12.8 million unemployed Americans looking for work and 3.5 million job openings. This ratio shows that the average job seeker only has a 27-percent chance of obtaining the job they want and need due to the high level of competition. However, WIA program completers are finding employment at more than twice that rate, further showing the value of WIA program services in helping job seekers gain skills that employers demand.

Although the Department is proud of the accomplishments of the workforce system, we recognize more must be done to create an economy that is built to last. The President's blueprint for growth includes new proposals that would allow the Department to pursue additional strategies intended to strengthen manufacturing, energy, education, and skills training. Additionally, the reauthorization of WIA remains a unique opportunity to modernize and position the workforce system to help even more workers and employers.

JOB CORPS CENTER CLOSURES

Question. Please provide a detailed plan regarding the Department's plan to identify and close "low-performing" Job Corp centers. Please include a time line, a description of the selection factors, the Department's definition of "low-performing" and which centers the Department would currently label as "chronically low-performing." Please also include a description of the cost-effective strategies identified in rigorous evaluations that the Department plans to move toward as well as the changes in performance measurement and reporting. Finally, please describe how the Department will work with the Department of Agriculture regarding the evaluation of Civilian Conservation Centers.

Answer. Chronically low-performing centers are those that have consistently failed to meet performance goals over the past several program years. The Department is using its existing performance measures as the key component for developing its methodology for identifying centers for closure that will be published in the Federal Register for the public and stakeholders to provide feedback, prior to its use in selecting centers for closure. A timeline has not yet been developed for the closure process.

The Department will ensure that it follows the legislatively mandated process for closing a Job Corps center, per section 159 of the WIA, which includes the following:

- Advance announcement to the general public of the proposed decision to close the center, through publication in the Federal Register or other appropriate means;
- Establishment of a reasonable comment period, not to exceed 30 days, for interested individuals to submit written comments to the Secretary; and
- Notification of the Member of Congress who represents the district in which such center is located within a reasonable period of time in advance of any final decision to close the center.

As you may know, the U.S. Department of Agriculture Forest Service operates 28 Job Corps centers under an Interagency Agreement with the DOL. The performance of these centers is evaluated in the same manner as those centers operated by private entities under contract with the Department. DOL's Federal staff perform the same on-site and electronic monitoring of the operated centers, including the development and implementation of performance improvement plans, when necessary. All Job Corps centers will be evaluated for closure using the same methodology.

The Department is currently conducting a study to review the program's operations and performance management practices. The final results of this study will be available in summer 2013 and will be used to implement reforms and efficiencies system-wide.

Regarding changes to performance metrics and reporting, beginning in Program Year 2010, the Department began tracking Job Corps student attainment of industry-recognized credentials. These credentials, which include industry certifications, state licensures, and pre-apprenticeship credentials, provide students with geographic and economic mobility. They demonstrate to employers that Job Corps graduates have attained the skills and knowledge necessary to compete in today's workforce.

The Department is also taking steps to make Job Corps' performance measures more transparent and accessible to the public and the program's stakeholders. The Office of Job Corps has launched on its Web site an interactive map (at http://www.jobcorps.gov/AboutJobCorps/performance_planning/omsdata.aspx) that pro-

vides information on each Job Corps centers' performance. Job Corps will also offer an online guide explaining the program's performance management system in layperson terms. Later this year, the Department will submit a report to the Congress detailing the results of each of the metrics outlined in the WIA.

JOB CORPS CENTER CONTRACTS

Question. Please provide a description of the process the Department uses to award contracts for Job Corp centers. Also please describe any planned changes to this process, the rationale for any changes, and the anticipated impacts of such changes.

Answer. DOL uses competitive procedures prescribed by the Federal Acquisition Regulations (FAR) 6.1 and FAR 6.2. In accordance with FAR Part 10 and FAR 19.502-2, DOL reviews the market research conducted by the Contracting Officers to determine if a requirement shall be set-aside for small business concerns, HUBZone small business concerns, 8(a) firms, or Service Disabled Veteran Owned Small Business concerns. On rare occasions, and only as permitted by the exceptions provided in FAR 6.3, DOL uses this authority to award contracts without competitive procedures.

DOL utilizes "contracting by negotiation" techniques defined under FAR Part 15 and, when doing so, conducts a trade-off analysis among evaluation factors to determine which contractor offers the best value to the Government. When the Department conducts such a trade-off analysis, technical approach (e.g., quality of services provided to the students) is the most important evaluation factor.

Due to pending litigation, the Department cannot comment on any planned changes to this process.

REGIONAL OFFICE CONSOLIDATION

Question. Please provide a detailed description of the Department's regional office closure plan including specific offices and locations. In addition, please describe how the services provided by such center will be provided under the consolidation plan.

Answer. The budget proposes adopting a leaner, more efficient approach for five offices within the DOL:

- the Occupational Safety and Health Administration (OSHA);
- the Office of the Solicitor (SOL);
- the Office of Public Affairs (OPA);
- the Women's Bureau (WB); and
- the Employee Benefits Security Administration (EBSA).

In fiscal year 2013, each of these Bureaus will consolidate their regional offices to ensure that they are strategically placed to perform DOL's key functions across the country while eliminating unnecessary administrative costs.

In an effort to streamline agency operations, the OSHA proposes to reorganize its regional structure and jurisdictional authority from its current operation of 10 Regional Offices (ROs) to 7. The reorganization will involve the consolidation of OSHA's Regions 1 (Boston) and 2 (New York); Regions 7 (Kansas City) and 8 (Denver); and Regions 9 (San Francisco) and 10 (Seattle). The estimated savings would come largely from the saved compensation from three Regional Administrator positions and related benefits. Additional savings would be achieved through reduced rent needs and travel expenditures.

The Solicitors' Office (SOL) is working on regional office consolidation to better align legal offices with the Department's component agency structures, with eventual reduction from eight to six SOL regions. As an initial step, SOL is planning to reduce one region (Kansas City) in fiscal year 2012.

OPA consolidation of regional offices includes the closure of offices in Denver, Colorado and Seattle, Washington. These offices have been essentially closed since fiscal year 2011 due to attrition of Federal staff. OPA will continue to meet agency goals and objectives continuing to have the workload of the Denver and Seattle locations processed and managed by the remaining regional offices in Chicago, Dallas, and San Francisco.

For the WB, the consolidation of regional offices will refocus the agency to its policy responsibilities as it works through other DOL agencies for its outreach functions. The Department strongly supports the work of the WB and believes that increased collaboration with other regional DOL agencies will allow the Bureau to more effectively and efficiently carry out its mission.

The WB is developing objective criteria to guide the process for consolidation of its regional offices. The goal is to continue to serve the highest number of women possible in the most coordinated and economically efficient manner. We anticipate that we will be able to achieve this goal by maintaining those WB regional offices

in geographical locations where other DOL regional offices exist and opportunities for sister agency collaboration will be maximized.

The Department remains committed to the advancement and rights of working women, particularly those who are the most vulnerable. Consolidating the Bureau's regional offices will result in savings that the budget would reinvest, dollar-for-dollar, in the enforcement of the Family and Medical Leave Act and Fair Standards Labor Standards Act—two laws that have a direct and tangible benefit for women in the workforce.

As with the WB, the EBSA is still developing the details of its effort to consolidate regional offices. The objective of EBSA's consolidation is to increase the efficiency and effectiveness of the enforcement and worker assistance operations. Similar to OSHA's approach, a primary guiding principle in the EBSA effort is to not allow a reduction in front-line enforcement or other services for the public because of consolidation. Some of the specific factors that EBSA is considering in identifying the regions proposed for consolidation options include the closer alignment of regional offices with financial centers, number of plans, participants and beneficiaries, and total plan assets; a better alignment of regional workload; the elimination of some split State responsibility in regional jurisdictions; and taking advantage of the regional locations of other DOL offices such as SOL and the Office of Assistant Secretary for Administration and Management.

CONSOLIDATION OF WORKFORCE INVESTMENT ACT PROGRAM EVALUATIONS

Question. Please describe how the Department will sufficiently evaluate programs under title I of the WIA should program evaluation and research responsibilities be consolidated under the Departmental Program Evaluation office as proposed under the budget. What impact, if any, would such consolidation have on the gold standard evaluation?

Answer. The fiscal year 2013 budget proposes the use of a set-aside to finance evaluations for DOL's WIA programs, as well as pilots, demonstrations, and research considered applied research for employment and training programs, building on language that was included in the 2012 enacted appropriations bill. The 0.5 percent evaluation set-aside, which currently applies to the rest of the Department's funding, is intended to ensure that sufficient funding is available to carry out comprehensive, rigorous, and robust research and evaluations and to promote greater stability of funding for these efforts across the Department as a whole. Specifically, the Department is requesting that up to 0.5 percent of the amounts appropriated for training and employment services also be made available to support evaluations under the oversight of the Department's Chief Evaluation Officer. The projects on Employment and Training Administration (ETA) programs will continue to be guided by the current Five-Year Research and Evaluation Strategic Plan, which is specified under WIA section 171, and ETA's Five Year Learning Agenda developed jointly with the Chief Evaluation Office. This set-aside proposal for evaluations is an addition to a provision included in the Consolidated Appropriations Act of 2012 that authorized the Secretary to "reserve not more than 0.5 percent from each appropriation made available in this Act identified in subsection (b) in order to carry out evaluations of any of the programs or activities that are funded under such accounts."

There will be no effect on the Workforce Investment Act Adult and Dislocated Worker Programs Gold Standard Evaluation (WGSE); that evaluation is included in the ETA Strategic Plan and in the ETA Learning Agenda. Initiated in fiscal year 2010, the WGSE is a random assignment evaluation of two major programs under title I of WIA. The evaluation measures the postprogram impacts on employment and earnings of receiving intensive services and training funded through WIA, as compared to receiving core services only and/or services funded through other sources. The complete evaluation is being conducted over the course of 7 years and represents a major improvement in the specificity and quality of previous WIA evaluations. We anticipate the final report being available in late 2017.

WORKFORCE INVESTMENT ACT RESEARCH PROGRAMS

Question. How does the Department plan to conduct pilot, demonstration, and research projects under WIA should funding for such projects be eliminated as proposed under the budget?

Answer. In fiscal year 2013, the Department requests the use of a set-aside funding mechanism to finance evaluations, as well as pilots, demonstrations, and research for employment and training programs. The new set-aside approach is intended to ensure that sufficient funding is available to carry out comprehensive, rigorous, and robust research and evaluations and to promote greater stability of funding for these efforts across all DOL programs, including the WIA, Job Corps, Unem-

ployment Insurance, and the Employment Service. The projects that the Department undertakes will continue to be guided by the current Five-Year Research and Evaluation Strategic Plan, which is specified under WIA section 171, and ETA's Five Year Learning Agenda developed jointly with the Chief Evaluation Office. Specifically, the Department is requesting that up to 0.5 percent of the amounts appropriated for these programs be made available to support this effort. Evaluations (which may include demonstration components) and applied research projects using these funds will be conducted by DOL's ETA under the oversight of the Department's Chief Evaluation Officer. This set-aside proposal builds on the provision included in the Consolidated Appropriations Act of 2012 that authorized the Secretary to "reserve not more than 0.5 percent from each appropriation made available in this Act identified in subsection (b) in order to carry out evaluations of any of the programs or activities that are funded under such accounts." The Department considers pilots and demonstrations previously funded under WIA section 171 to be components of evaluations designed to test program interventions, services, and models.

In addition, WIF will support pilot and demonstration activities to test innovative approaches to the delivery of employment and training services.

WORKFORCE INVESTMENT ACT "PAY FOR SUCCESS" PROJECTS

Question. Please provide a detailed description of how "Pay for Success" projects will be identified for award and implemented under the Workforce Investment Fund (WIF).

Answer. ETA plans to make available approximately \$20 million for Pay for Success pilot grants, funded out of the fiscal year 2012 Workforce Innovation Fund (WIF). In piloting the Pay for Success model, which is currently being piloted in the United Kingdom, the Department will provide funding for projects that will demonstrate the feasibility and viability of this innovative financing model. Under the Pay for Success grants, third-party investors pay the operating costs of an intervention, with the goal of achieving pre-negotiated outcomes. The Government repays the principal investment made for funding the intervention and a return on investment only if results are achieved. In this way, the model is different from how Government agencies typically fund services; Government funding is shifted from paying for specific processes and services to paying for specific outcomes.

The Department plans to announce the competition for Pay for Success pilot project grants in a Solicitation for Grant Applications to be published in spring 2012. Eligible applicants will be State, local, or tribal government entities in partnership with a managing intermediary organization. This partnership must agree to a common goal of achieving specific workforce development-related outcomes. On the basis of this partnership, the intermediary will raise operating capital from philanthropic, private sector, and/or other social investors, manage the delivery of services, and be responsible for achieving outcomes and overall cost savings to the public sector as negotiated with the Government. The independent investors take on the risk of funding the project based on an expectation of an additional return on their investment if project outcomes are met. An independent entity, procured by the applicant, will verify if outcomes have been met for the purposes of repayment. The Department will pay the administrative costs of the grantee and the costs of the independent validator as they occur. Upon verification of the achievement of negotiated outcomes by the independent validator, the Department will confirm that the validation methodology was followed and make the appropriate payments to the State/local/tribal government grantee, which then flows through the intermediary to the investor(s). If the outcomes are not achieved, the Department will not release the funds. To support grantees' success and workforce system knowledge about Pay for Success, the Department will provide technical assistance and evaluation of the Pay for Success financing strategy.

Grants under the Pay for Success financing model will be awarded competitively to those highly qualified applicants who best address the following key elements in their proposals:

- a well-defined problem and associated target population;
- a flexible and adaptive preventative service delivery strategy;
- a commitment of funds from independent investors to cover all operating costs of the intervention;
- one or more well-defined, achievable target outcomes;
- a well-defined outcome measurement and verification methodology;
- a project timeline that clearly indicates the date by which the outcome will be achieved and validated;
- a financial model that shows public sector cost savings or efficiency gains; and

—a payment arrangement between the applicant and the intermediary, to be triggered by the verified achievement of the proposed outcome(s) within the grant period.

To the extent funds are not used for PFS grants, they will be allocated to fund non-PFS projects under the WIF.

TARGETING TEEN UNEMPLOYMENT UNDER THE WORKFORCE INNOVATION FUND

Question. Please provide a justification for the Department's request to target youth younger than the age of 20 within the WIF.

Answer. The teen unemployment rate continues to be at or near historic highs. In March 2012, the seasonally adjusted unemployment rate for individuals age 16–19 was 25 percent, nearly three times the overall unemployment rate of 8.2 percent. In addition, the Nation's high school dropout rate remains too high. It is critical for the Department to invest in innovative projects focused on improving services for disconnected youth so that they acquire the skills and tools necessary to build successful careers. In addition, the goal is to focus specifically on younger youth because less is known about what interventions are effective for them. However, while the \$10 million innovation fund set aside is focused on youth ages 16 through 19, the Department anticipates other innovation projects may serve the broader pool of disconnected youth.

WORKFORCE INNOVATION FUND FUNDING AWARDS

Question. Please explain how the Department plans to target and award WIF funding should funding not be contributed by programs under the Department of Education.

Answer. The Department will coordinate with the Departments of Education and Health and Human Services in the administration of the WIF to encourage collaboration across program "silos". In fiscal year 2011, the Department consulted with its partner agencies in the development of the WIF grant competition and invited partner agency staff to help panel applications. We anticipate working with our colleagues at the Departments of Education and Health and Human Services to provide technical assistance to grantees on cross-program alignment as needed.

REBRANDING AND STRENGTHENING ONE-STOP CAREER CENTERS

Question. Please describe how the Department's plans to distribute and administer the additional \$50 million in funds requested under the Workforce Information-Electronic Tools-System Building line for rebranding and strengthening the one-stop career centers, including how such funds will be distributed to the States. Please provide a description of the activities planned with this funding and the timeline for implementation.

Answer. Under the President's fiscal year 2013 budget proposal, the Department will:

- Use a significant portion of the funds (approximately 70 percent) to support collocation among partner programs, increase the number of American Job Centers and service points, and increase public awareness and accessibility of workforce services through nationwide outreach and education using the American Job Center brand. These funds would be distributed to states and locals, with a small national reserve for administration and technical assistance.
- To increase the number of service points, funds can be used to establish new service points for workforce services in local communities, such as computers at a library or community-based organization to access online services, or expanding access to workforce services within community colleges and schools, or even creating kiosks in major commercial chains.
- The recipients may also use these funds to expand workforce services during hours convenient for working adults and businesses, particularly small businesses. In addition, States will use the funds to fully implement the American Job Center brand, and funds could support Web site adjustments and outreach through multiple media. The Department will also seek to create a national outreach and education plan to increase awareness and usage of the public workforce investment system.
- The Department would begin this initiative within 45 days of enactment of an appropriations act, and complete it within a year.
- The Department will use the remaining funds to expand current national electronic tools to provide more interactivity between the online customer and the virtual services currently available through www.CareerOneStop.org. The new electronic tools would include a jobseeker portfolio, an interactive resume analysis tool, an interactive knowledge and diagnostic database providing auto-

mated responses to common questions, and virtual chats with career counselors. For jobseekers who lack computer skills or Internet access, the Department will also expand its telephone contact centers to provide on the phone some of the personal interaction offered through staff-assisted services at brick and mortar One-Stop Career Centers. Within 120 days of enactment of an appropriations act, the Department would begin to offer expanded services through its telephone contact centers. Requirements definition and development of the new online electronic tools features would begin within 90 days of enactment of an appropriations act, and phase one of the new Web site features would launch within a year of enactment of an appropriations act.

CONTINUING WOMEN IN APPRENTICESHIP AND NONTRADITIONAL OCCUPATIONS ACT
MISSION

Question. Please describe how the Department will serve the mission and intent of the Women in Apprenticeship and Nontraditional Occupations (WANTO) program through other activities.

Answer. The Department remains firmly committed to the goals of the WANTO program and will continue to work tirelessly to promote opportunities for women to enter Registered Apprenticeship and to access to non-traditional occupations.

The Department will continue to address the goals and objectives of WANTO through revisions to the Equal Employment Opportunity regulations governing Registered Apprenticeship as well as through technical assistance efforts and guidance from ETA, in conjunction with the WB. We also believe that the broader workforce investment system can help women access the supports and services needed to enter and stay in nontraditional jobs. The number of female participants receiving services through the various workforce programs has increased in the last few years by more than 40 percent, to more than 15.7 million. In some American Recovery Act and Reinvestment grants, particularly the Pathways Out of Poverty grants, we were encouraged by solid outcomes for those projects that trained women in clean energy jobs. The Department will utilize these findings to inform new technical assistance to the broader workforce system.

Last, pre-apprenticeship has shown promise in creating a more diverse, next generation of apprentices. ETA is developing a national framework to establish consistency and quality across pre-apprenticeship programs that can help women and other under-represented populations gain greater access to apprenticeship and non-traditional employment opportunities.

COMMUNITY COLLEGE CAREER FUND

Question. When does the administration plan to provide legislative recommendations for the new community college to career fund?

Answer. On March 20, 2012, H.R. 4227, Workforce Investment Act of 2012 was introduced, including provisions that would establish a Community College to Career Fund. These provisions reflect extensive technical assistance that the Departments of Labor and Education provided and thus, align with the priorities and activities envisioned in the administration's Community College to Career Fund proposal.

GUIDANCE FOR H-2A PROGRAM USERS

Question. Secretary Solis, as you know, ensuring a stable workforce for our Nation's agriculture producers is critical to keeping food on our plates and not rotting in fields. The H-2A program, which is the pathway to bringing farmworkers in to meet these needs legally, has been the subject of regulatory tweaking during both this administration and the prior administration. My farmers are looking for consistency across the Department—for all of your employees to be saying the same thing, at any given time. I've been working with both the agriculture and labor constituencies for many years now trying to find a path forward in the form of AgJOBS. Given that legislation is not likely to move, it's incumbent on all of us—the Congress, and the agencies charged to implement H-2A program—to provide farmers and farmworkers with consistent guidelines and recommendations.

Secretary Solis, my farmers are telling me that the Department lacks clear and consistent instruction for H-2A program users. For example, one grower is currently awaiting results from a DOL audit while simultaneously preparing contracts for the upcoming harvest season. However, since the grower has not seen the results of the audit, it is unclear how he can properly and accurately write his new contracts to avoid another audit. My staff have also intervened in several cases when Department requirements and State requirements were directly in conflict. Our farmers, your staff and congressional staff should not have to spend countless hours ironing

out inconsistencies within the H-2A program, but should instead spend that time making the program work and ensuring the health and safety of our farmworkers.

Madam Secretary, how will you lead your staff from the top-down to ensure that the Department provides consistent guidelines for users of the H-2A program?

Answer. The Department understands the important role that agriculture, especially apple and cherry production, plays in the State of Washington's economy. The issuance of the 2010 H-2A Final Rule was a top management priority for the Department, making it possible for all those who are working hard on American soil to receive fair pay while at the same time expanding opportunities for U.S. workers. We share your concerns about this workforce issue and view the H-2A program as a legal means by which growers may obtain foreign labor, but only when they have first recruited U.S. workers and given them a fair opportunity to secure these jobs.

We know employers with legitimate needs are successfully using the H-2A Program, and I assure you that we are continuing to take steps to assist H-2A employers in complying with the program's requirements by providing consistent and clear guidance and continuing to process applications efficiently. For example, we implemented a number of actions designed to clarify program requirements for participating employers and improve program performance. Over the past year, the Department engaged in extensive outreach and education efforts to familiarize program users with regulatory changes implemented through the 2010 H-2A Final Rule, including hosting three national stakeholder briefings in December 2011. Each of these briefings was designed to assist H-2A employers in preparing their agricultural job offers and applications for the 2012 planting season.

The Department continues to meet with employers, including those representing Washington State, and other stakeholders to provide additional assistance and explanation of the H-2A program's requirements. The Department is continuing its efforts to make the program more effective and efficient for employers. The following are a few examples of resources for the Department has produced and posted on its Web site to make the H-2A program most user-friendly for employers:

- a new employer Handbook;
- “Filing Tips” to avoid common mistakes;
- four rounds of frequently asked questions to provide clear and useful guidance to growers; and
- other technical assistance materials all aimed at providing consistent guidelines to farmers participating in the H-2A program. All of these resources are available on the H-2A page of the Department's foreign labor certification Web site at <http://www.foreignlaborcert.doleta.gov/h-2a.cfm#>.

We are pleased with these efforts and our actual program performance under the new regulations has improved significantly over prior years. For fiscal year 2011, the Department certified 93 percent of all H-2A applications filed covering more than 74,000 farm worker positions with approximately 85 percent of our final decisions issued timely. In the first 6 months of fiscal year 2012, the Department received more than 3,700 H-2A applications requesting more than 46,000 farm workers—a 3-percent increase more than the same period a year ago. Employers received certifications for approximately 95 percent of H-2A applications filed with more than 82 percent of our final decisions issued timely. We believe these performance data indicate the H-2A Program is being widely used, and we expect that our performance will continue to improve.

The Department will continue to work directly with employers participating in the H-2A Program who encounter issues or problems with their application. The H-2A Final Rule includes a process for employers to correct application or job order deficiencies, rather than having the application denied. However, I feel obligated to note that some of these required modifications are not the result of changes in the H-2A Final Rule, but rather the employer's (or their representative's) failure to comply with long-standing program requirements such as offering to pay the most current reimbursement to workers for meals when traveling or paying the current hourly Adverse Effect Wage Rate (AEWR). Requiring that an employer offer and pay the appropriate subsistence level and wage rate is essential to meeting our statutory mandate to ensure that the employment of H-2A workers will not have an adverse effect on the wages and working conditions of similarly employed U.S. workers.

In other instances, the requested modifications are necessary to ensure the employer meets the eligibility criteria for participating in the H-2A Program only where there is a legitimate temporary need. Based on our program experience, we know that a large number of issues or deficiencies which affect our timely processing of applications pertain to applicant error or oversight and not from policy or regulatory disagreements.

Question. Will you direct your staff to work in partnership with H-2A users on issues that arise that are problematic for the Department and/or H-2A users?

Answer. The Department has been and continues to be willing to work with H-2A users on issues that arise that are problematic for the Department and/or H-2A users. For instance, in an effort to improve customer service and provide greater assistance to the employer community in complying with program requirements, we recently expanded the use of email to quickly communicate and resolve minor deficiencies with employer-filed H-2A applications. Once an employer corrects these minor deficiencies, the application and job order are accepted for processing, and the employer is provided with instructions through email for completing the application process. This E-Mail Pilot Notification Program has been well received by the grower community and, as a result, our deficiency rate has significantly decreased. For the first 6 months of fiscal year 2012, the percent of employer-filed applications requiring a formal notice of deficiency was 38 percent; compared to approximately 66 percent in fiscal year 2011.

Finally, in an effort to continue the progress in improving communications and work in a closer partnership with growers, the Office of Foreign Labor Certification recently established an H-2A Ombudsman Program whose primary purpose is to facilitate the fair and equitable resolution of concerns that arise within the H-2A Program community by conducting independent and impartial inquiries into issues related to the administration of the program and proposing internal recommendations designed to continuously improve the quality of services provided to H-2A Program users. A number of growers and worker advocacy organizations are already taking advantage of the new Ombudsman Program in order to resolve their issues. To get more information on the H-2A Ombudsman Program and how your constituents can get connected, please visit our Web site at: http://www.foreignlaborcert.doleta.gov/h-2a_ombudsman_program.cfm.

QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

H-2B RULE 2

Question. American consumers are searching for more ways to “Buy American” and support their local food producers. According to some estimates, the United States already has a severe seafood trade deficit with imports accounting for 86 percent of all seafood consumed. Did Department of Labor (DOL) review any specific studies on the economic impact of the H-2B regulations announced last month (the “H-2B Rule 2 Regulations”) on the U.S. seafood industry? Did DOL solicit input from the Department of Commerce on the impact of the H-2B Rule 2 Regulations on the seafood industry?

Answer. Although the Department did not specifically solicit input from the Department of Commerce, it did provide opportunity for all interested parties to provide their views on, and analysis of, the proposed rule leading to the Temporary Non-agricultural Employment of H-2B Aliens in the United States Final Rule published February 21, 2012. See 76 FR 15130 for the notice of proposed rulemaking and 77 FR 10038 for the final rule. Comments in response to the proposed rule provided only anecdotal information on the impacts of the proposed rule on the seafood processing industry. We reviewed the comments received, and based on our review of existing data and the information received from the public, there was no indication that the Department overlooked or failed to consider economic studies or analysis specific to the seafood industry.

Question. Would the DOL be willing to delay implementation of H-2B Rule 2 Regulations (set to go into effect on April 23d) until the Small Business Administration (SBA) is able to complete an economic impact study of the impact of the final rules on small businesses that participate in the H-2B program?

Answer. The Department has provided ample time and opportunity for stakeholders, including the SBA, to provide their views on, and analysis of, the Temporary Non-agricultural Employment of H-2B Aliens in the United States Final Rule published February 21, 2012 (77 FR 10038). The Department met with a wide variety of stakeholders, including small and seasonal business representatives, during the development of the proposed rule published March 18, 2011 (76 FR 15130), upon which this Final Rule is based. The SBA’s Office of Advocacy reviewed the proposed rule prior to its publication, during clearance required by Executive Order 12866. In addition, the Department provided the public 60 days in which to provide comment on the rule and during that 60-day public comment period, the Department met with stakeholders during a Small Business Roundtable, convened by the Office of Advocacy. The Chief Counsel for Advocacy submitted a comment on the proposed rule, which the Department addressed in the Final Rule, including by identifying a number of changes (e.g., such as extending the length of the three-

fourths guarantee calculation period from 4 weeks to 12 weeks for job orders lasting 120 days or more and 6 weeks for job orders lasting less than 120 days, adding catastrophic man-made events such as oil spills or controlled flooding to the list of triggers that employers could use to request cancellation of the job orders, send workers home, and relief from the three-fourths guarantee, and reducing the period during which employers are required to accept State Workforce Agency referrals of U.S. applicants from the later of 3 days before the date of need or the date of the last H-2B worker's departure to 21 days before the date of need) intended to alleviate the concerns Advocacy expressed. Finally, the Office of Advocacy also reviewed the Final Rule prior to publication under Executive Order 12866. SBA has had more than a year to complete and provide to the Department their analysis of the economic impact of the Temporary Non-agricultural Employment of H-2B Aliens in the United States Final Rule published February 21, 2012 (77 FR 10038) and has not yet elected to do so.

On April 26, 2012, the court in the U.S. District Court for the Northern District of Florida, Pensacola Division, granted a nationwide preliminary injunction enjoining the Department of Labor from enforcing the Temporary Non-agricultural Employment of H-2B Aliens in the United States Final Rule published February 21, 2012 (77 FR 10038).

Question. The H-2B Rule 2 Regulations require employers guarantee both H-2B and "corresponding" American workers a total number of work hours equal to at least 75 percent of the workdays in every 12-week period—regardless of whether unforeseen factors like hurricanes or oil spills mean that production may be shut down. Although employers may seek relief from the three-quarters guarantee following a serious disaster, what guarantee can you provide that DOL will respond in a timely manner to these requests so that small businesses participating in the program are not penalized by an unforeseen disaster? Given the gulf coast's track record with disasters and its dependence on workers in the H-2B program, this is a key issue for many seafood businesses along our coastline.

Answer. In the H-2B Notice of Proposed Rulemaking, the Department proposed to allow employers to terminate a job order in the event of an unforeseeable, catastrophic event (such as a hurricane) in order to address circumstances beyond the control of the employer or the worker. In response to employer comments on the proposed rule, the Department modified the provision in the Final Rule to include acts of man (such as an oil spill or controlled flooding) as well as acts of God. Termination of the job order under this provision allows employers to end a worker's employment and fulfill the three-fourths guarantee through the job order termination date, as opposed to fulfilling the three-fourths guarantee through the entire period of the job order.

The Department recognizes that a timely response to an employer's request to seek relief under this provision is a key issue for businesses, including coastal seafood firms, and is confident in our process for responding to employers. The Department's Employment and Training Administration (ETA) has established a process for employers to electronically submit requests to terminate the job order and ETA commits to responding to terminations requests within 2 working days of receipt of such requests.

Please note that on April 26, 2012, the court in the U.S. District Court for the Northern District of Florida, Pensacola Division, granted a nation-wide preliminary injunction enjoining the DOL from enforcing the H-2B Final Rule.

OPERATING THE VOLUNTARY PROTECTION PROGRAM WITH REDUCED RESOURCES

Question. In the President's fiscal year 2013 budget, DOL has proposed reducing Voluntary Protection Program (VPP) budget by more than \$3 million and reducing the number of full-time equivalents (FTEs) by 31. This drop is problematic because Occupational Safety and Health Administration's (OSHA) proposed workload for fiscal year 2013 includes only 60 approvals for new VPP sites. Currently, there are more than 100 sites in the VPP in and actively pursuing VPP status in the State of Louisiana. Collectively, these sites employ approximately more than 20,000 workers. How will the proposed shift in the DOL's OSHA resources from compliance assistance to enforcement impact these VPP sites in terms of their ability to either obtain or retain VPP their ability to participate in the VPP in 2012 and 2013?

Answer. The reduction of \$3 million and 31 FTE is proposed for OSHA's entire Federal Compliance Assistance budget activity, not solely VPP. This reduction would be achieved through the consolidation of compliance assistance personnel in geographically dense regions and the completion of outreach and training materials development in fiscal year 2012, which will not be needed in fiscal year 2013, and will help offset the very urgent need for increased resources for OSHA's whistle-

blower protection responsibilities. In addition to taking steps to enhance the efficiency of compliance assistance, OSHA will no longer offer the Corporate and Merit VPP programs. The agency plans to focus on maintaining the number of current VPP sites by recertifying 280 current sites.

It is important to note that none of the steps we are taking will eliminate the access of small businesses to the VPP program. In addition, we are maintaining the increase for our State Consultation program, which is the largest source of OSHA assistance to small businesses.

Question. According to Government Accountability Office (GAO) report on the VPP published in May 2009, approximately 80 percent of VPP worksites have fewer than 500 employees. Has OSHA studied and concluded separately on the impact on small businesses of the fiscal year 2013 DOL budget proposal to shift OSHA resources from compliance assistance to enforcement?

Answer. In its report, GAO was looking at the size of the worksite and not the size of the company owning the worksite. Only 6 percent of the total number of VPP sites meet the small business definition (250 or fewer employees and are not part of a corporation/organization with 500 or more employees).

OSHA's Safety and Health Achievement Recognition Program (SHARP) is a recognition program similar to VPP that is focused exclusively on small businesses. Employers that have a full On-site Consultation visit and meet other requirements may be recognized under SHARP for their exemplary safety and health management systems. As of February 29, 2012, there were 1,568 SHARP sites, of which 154 are new SHARP site that were initially recognized in fiscal year 2011.

In fiscal year 2012, the On-site Consultation Program budget was increased, which enabled OSHA to increase its commitment to assisting small businesses with identifying workplace hazards, providing advice on compliance with OSHA standards and assisting in the establishment of safety and health management systems. This increased commitment to assisting small businesses will continue in fiscal year 2013.

Question. What are OSHA's plans to review the impact on small businesses that participate in the VPP of implementing a user fee system to fund VPP?

Answer. OSHA has no plans to implement a user fee system to fund VPP.

MEASURING VPP PERFORMANCE

Question. The May 2009 GAO report found merit in the VPP programs overall, but that OSHA had not developed goals or measures to assess the performance of the VPP, and the agency's efforts to evaluate the program's effectiveness had not been adequate. OSHA generally agreed with the GAO Report's recommendations to develop procedures and measures to assess the performance of the VPP. What is the current status of implementing the recommendations from the GAO report for assessing the performance of the VPP?

Answer. OSHA has implemented a number of new policies to improve the performance of VPP participants is continuing to evaluate and develop ways to improve internal controls and measurement of program performance and effectiveness as part of the ongoing VPP continuous improvement process. The Assistant Secretary's series of VPP policy memoranda (five to date, the earliest signed August 3, 2009, and the most recent, June 29, 2011) include instructions to strengthen nationwide consistency in OSHA's administration of VPP; improve the quality and documentation of OSHA actions following a fatality at a VPP site; strengthen internal controls, audit procedures, tracking, and proper documentation of OSHA actions; and improve annual data submissions required of all VPP participants and OSHA's review of the submissions and follow-up actions. OSHA continues to provide GAO with annual updates on its recommendations to improve administration and oversight of VPP.

OSHA formed a VPP Review Workgroup in 2011 made up of representatives from OSHA's National and Regional Offices. The group was responsible for conducting a comprehensive review of the VPP and submitting recommendations to the Assistant Secretary for improving the program and developing goals and measures. The Workgroup reviewed extensive documentation and also interviewed Regional and National Office managers and staff, VPP participants, and other external stakeholders to solicit their views and recommendations for improving VPP. OSHA has begun working on suggested recommendations for changes that are determined to be key and that will strengthen the program's effectiveness and integrity.

QUESTIONS SUBMITTED BY SENATOR JACK REED

WORK SHARING

Question. My work-sharing legislation was recently signed into law. Many States are now awaiting guidance from the Department in order to implement work sharing or strengthen their existing program.

When will the Department issue guidance, specifically with respect to Federal financing and grants? What are the Department's plans for formulating model work-sharing legislation? What are the Department's plans for fulfilling the intent and purpose of the legislation—to encourage more States to adopt work-sharing, strengthen existing programs, and prevent layoffs—and maximize outreach to State work force agencies and businesses?

Answer. The Department has been working as quickly as feasible to implement the many reforms to the Unemployment Insurance program contained in the Middle Class Tax Relief and Job Creation Act of 2012, including the Short Time Compensation (STC) or work-sharing provisions. Early priorities were implementation of the complex changes to the Emergency Unemployment Compensation program and the requirement that states provide re-employment services and re-employment and eligibility assessments for Emergency Unemployment Compensation (EUC) claimants, since these provisions had to be implemented by States immediately.

With regard to the STC provisions, to inform our guidance and to meet the statutory requirement to consult with stakeholders and program experts, the Department held "listening sessions" via two Webinars on March 19 and 20, 2012. The Department envisions there will be several pieces of program guidance. The first guidance will address the new program definition, the transition provisions for States currently operating STC programs, new program reporting requirements, and the process for 100-percent reimbursement of STC benefits for States currently operating STC programs. The first guidance will provide preliminary information on the new 2-year Federal STC program and the grants. Our current target for issuing this guidance is the first week of May 2012. Model legislative language is in development and should be ready to release by the end of May 2012. As soon thereafter as feasible, the Department will issue more comprehensive guidance on the new 2 year Federal STC program and the grants, which is already in development. Subsequent to each piece of guidance, the Department will host Webinars with States to review the guidance and offer technical assistance.

The Department is excited to be implementing the STC provisions in the act as a critical lay-off aversion tool for States. We currently are developing a robust outreach and technical assistance plan to support State take-up and employer engagement, including collection and dissemination of best practices. We will be happy to share that plan upon completion.

LIBRARIES AND THE WORKFORCE INVESTMENT SYSTEM

Question. Public libraries are a key access point to our workforce investment system. However, they are often connected to the one-stop system on an ad hoc basis. What role will public libraries play in the American Job Center Network (AJCN) proposal that the administration rolled out on March 12, 2012?

Answer. Libraries will play a key role in the AJCN. The Employment and Training Administration (ETA) has met with representatives from the Institute of Museum and Library Services (IMLS) and the American Library Association (ALA) to brief them on the AJCN proposal. All three organizations have agreed to work together to meet the goals of the AJCN proposal. ETA representatives have participated at Library events sponsored by IMLS and ALA to discuss the administration proposal and will provide training to library staff on the Department of Labor (DOL) electronic tools designed to assist job seekers.

Question. Please provide an update on the activities and outcomes as a result of the Department's Memorandum of Understanding with IMLS.

Answer. DOL and the Institute of Museum and Library Services (IMLS) entered into a partnership in October 2009 in recognition of the important roles that both the public workforce system and libraries have in addressing the varied employment-related needs of American workers, job seekers, unemployed workers, and employers. IMLS and the Department continue to involve their respective strategic partners in the workforce and library systems to raise awareness and share examples of partnerships at the local level. In June 2010, the Department published a Training and Employment Notice announcing the ETA-IMLS partnership to the workforce system and highlighting examples of partnerships between the workforce system and public libraries at the State and local levels.

Additionally, the Department has:

- provided information on where to find libraries on the Department's CareerOneStop Web site—America's Service Locator;
- provided electronic training materials on various electronic tools (e.g., mySkills myFuture, ReEmployment portal, Workforce3One, CareerOneStop electronic tools) for distribution at national meetings of the Public Library Association (PLA) and ALA;
- delivered Webinars to the public workforce system and library staff nationwide to promote and identify effective partnerships between the public workforce system and libraries, and provided training to library staff on ETA electronic tools; and
- continued to interact with leaders at IMLS and the ALA.

Most recently, the Department has met with representatives from the IMLS and the ALA to brief them on AJCN proposal and has invited their input and participation in this initiative.

Question. How many of the first round applicants for the Workforce Innovation Fund (WIF) have included working with public libraries as part of their proposal? In the next round of applications, will the Department emphasize public libraries as key partners in an innovative workforce investment strategy?

Answer. The WIF grant solicitation closed on March 22, 2012, and applications are being paneled. The Department will continue to emphasize the importance of a wide range of partners, including libraries, as appropriate, in future rounds.

JOB CORPS

Question. The Department has rightly been focused on working with Job Corps Centers to strengthen accountability and improve outcomes for students. However, the Department's interpretation of the small business set-aside requirements may mean that performance is not one of the key criteria for awarding or renewing Job Corps contracts.

What criteria are used in the Department's determination to set aside a Job Corps contract? Are factors such as center performance, operator past performance, and student outcomes the primary factors in set aside determinations?

Answer. Employment and Training Administration (ETA) supports the use of small businesses as part of the economic engine for the economy. ETA's determination to set aside Job Corps procurements arises under the express terms of Federal Acquisition Regulations (FAR) section 19.502-2(b), which requires the Contracting Officer to set aside a procurement more than \$150,000 for small businesses, "when there is a reasonable expectation that: (1) Offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns; and (2) Award will be made at fair market prices."

In determining if there is a reasonable expectation that offers will be obtained from at least two responsible small business concerns, the Contracting Officer performs market research. This market research may include an analysis of prior procurement history and recent performance of contractors similar in size, scope, and complexity to the pending requirement. Thus, contractor quality and performance are primary factors in the small business set-aside determinations.

The Contracting Officers in the ETA use market research, most often via a sources sought notice, to arrive at the most suitable approach for acquiring services, as discussed in FAR 10.000. ETA uses the resulting market research to determine if there is a reasonable expectation that offers will be obtained from at least two responsible (i.e., capable) small businesses and that the award will be made at fair market prices. ETA's market research allows DOL to identify companies that have experience performing services of a similar size and scope to that of the contract in question. For example, if a contractor has operated one or more Job Corps centers within the recent past that were similar in size and scope to the requirement, DOL will consider that information in assessing the available sources to compete for a potential contract award.

In addition, the procurement process includes an analysis of several evaluation factors in which technical approach (i.e., quality of services provided to the students) is the most important. Also, companies' past performance is evaluated during the procurement process and is considered in this analysis. Past performance is not the most important factor, but it is an important factor that is considered in the evaluation. Also, the past performance evaluation includes a consideration of the student outcomes achieved if the contractor has past performance that includes operating a Job Corps center.

Question. Are there Job Corps centers that have chronically underperformed under several different operators? What performance criteria has the Department

considered in making its estimates of the number of centers that could potentially be closed for chronic low performance?

Answer. Yes, there are Job Corps centers that have had more than one operator and have continued to underperform. The Department is using its existing performance measures as the key component for developing its methodology for identifying centers for closure that will be published in the Federal Register for the public and stakeholders to provide feedback, prior to its use in selecting centers for closure. A timeline has not yet been developed for the closure process.

QUESTIONS FROM SENATOR BARBARA A. MIKULSKI

H-2B PROGRAM RULES

Question. It is my understanding that the Department of Labor (DOL) currently requires that all workers requested on an application be brought over on that application's singular date of need. This policy has been raised as a concern in the context of the upcoming comprehensive rule, which among many provisions, will require that employers pay each H-2B employee three-quarters of the hours guaranteed in the contract, over a 12-week period.

Does the Department believe that practical interaction of these two policies—that all workers must come over at once, and then be paid three-quarters of the hours in the contract—is a realistic expectation of employers in the H-2B program?

Answer. The Immigration and Nationality Act provides for the importation of foreign workers in nonagricultural employment through the H-2B program. The Department's Employment and Training Administration (ETA) approves applications for foreign workers under the H-2B program only if no U.S. workers are available for the job. To determine the availability of U.S. workers for the job, ETA requires employers to test the labor market—that is, to see whether U.S. workers are available for the job under the conditions specified in the job order and for the period of need specified in the job order. To allow employers to recruit for U.S. workers based on an application representing a singular date of need when, in fact, the employer has multiple dates of need, unfairly discriminates against U.S. workers who may be available for some of the later period, but not the entire period, indicated on a singular job order. The Department takes very seriously its responsibility to ensure that employers are not authorized to bring in foreign workers when U.S. workers are available for the jobs. In addition, both the 2008 DOL regulations and those from the Department of Homeland Security prohibit the practice known as "staggered entry dates" on a single labor certification. In other words, if an employer needs workers at different times (staggered) in their DOL-approved period of temporary need, they are required to submit separate applications for those "staggered" dates of need in order to timely test the labor market for domestic workers.

The three-fourths guarantee is a necessary protection that ensures that workers—both United States and H-2B workers—are given a chance to evaluate the desirability of the offered job and that their commitment to a particular employer results in a real job that meets reasonable expectations for the full-time work that is required for an employer to participate in the H-2B program during the period requested by the employer. The three-fourths guarantee also ensures that employers do not overstate their need for workers, thereby using visas that could have gone to other employers with legitimate needs.

Question. If so, does that assessment hold true for small, coastal businesses that are dependent on nature, such as the seafood industry?

Answer. The Department recognizes the impact weather can have on seasonal businesses and therefore, included a provision whereby employers can seek to have their job orders terminated in the event of fire, weather, or other act of God that makes fulfillment of the job order impossible. The Department also included catastrophic or man-made events, such as controlled flooding or oil spills as reasons for termination of the job order. An employer whose contract is terminated under this provision would be required to comply with the three-fourths guarantee provision through the cancellation of the contract rather than through the entire period of the job order.

Question. Has the Department taken a thorough review to make sure that its existing regulations work in harmony with its revised regulations in order to make sure that they are imposing requirements on small businesses which are readily achievable?

Answer. The Department carefully reviewed the proposed requirements, comments received on the proposed rule, and current program operations and sought to achieve a final rule that balances important protections for U.S. workers, H-2B

workers, and employers who seek to play by the rules with the needs of employers using the H-2B program.

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

WORKFORCE INNOVATION FUND

Question. Madam Secretary, I remain concerned that as more workforce training programs become competitively awarded they will not reach those for whom training programs are intended. I also have reservations about appropriating a third year of funding for the Workforce Innovation Fund (WIF), a competitive program whose first year of funding has not been awarded yet. Why is \$100 million from the Department of Labor (DOL) in fiscal year 2013 necessary for an unproven, untested program that already has \$175 million in the bank?

Answer. The purpose of WIF is to support innovative approaches to the design and delivery of employment and training services that generate long-term improvements in the performance of the workforce system, both in terms of employment and training outcomes and cost-effectiveness. Each grant awarded under WIF must include an independent third-party evaluation; thus, we anticipate that the benefit of WIF investments will extend not only to those individuals who receive services under the grant, but also to the broader workforce system, which will be able to learn about and adopt those practices shown to be promising. We believe having this source of funding is critical to drive continuous innovation and evolution in the largely formula-funded WIA system.

Fiscal year 2011 WIF resources must be obligated by September 30, 2012. This extended period of obligation was intentional to provide the Department with sufficient time to create a well-designed program in consultation with workforce system stakeholders and Federal agency partners, including the Departments of Justice and Education. We intend to award approximately \$118 million of fiscal year 2011 funds and approximately \$30 million of the fiscal year 2012 funds by September 30, 2012 under SGA-DFA-PY11-05. The remaining \$20 million of fiscal year 2012 funds will be used to fund Pay for Success grants under the solicitation we anticipate releasing this spring. By the time fiscal year 2013 funds become available, the first round of WIF grantees will have been operational for at least a year, giving us valuable information about the program and which innovations warrant further support in the form of additional grants.

GOVERNOR'S SET ASIDE

Question. The Governor's Workforce Investment Act (WIA) set-aside allows 15 percent of WIA funding to be used by the Governor, at the State level, to pursue creative workforce development initiatives. In both fiscal years 2011 and 2012 and proposed for 2013, the set-aside is reduced to 5 percent.

The fiscal year 2013 budget proposal states that the funding for the WIF will offset the loss of such funds for statewide initiatives by providing targeted demonstration projects across the country. However, the loss of funds from the reduction in the set-aside is significantly more than the WIF request in 2013.

Are you concerned that the WIF grants will not be awarded to every State and that Governors no longer have the flexibility to implement innovative statewide projects?

Answer. WIF will test the most compelling and innovative models across the country and build knowledge that can be applied to future programming. While there will be an effort to fund high-quality applications across the country, we do not expect that will be awarded to every State. By the time fiscal year 2013 funds become available, approximately \$154 million in WIF grants (fiscal year 2011 funds and part of fiscal year 2012 funds) will have been operational for at least a year. Funding for the fiscal year 2013 WIF will provide States with another opportunity to participate in the initiative.

VETERANS—TRANSITION ASSISTANCE PROGRAM

Question. In the past several years, the unemployment rate for veterans has been significantly higher than the national average. It is critical that veterans can transition effectively out of military service into civilian life.

The budget request assumes that 160,000 transitioning servicemembers are expected to use the Transition Assistance Program (TAP) in fiscal year 2013. However, it is my understanding that with the new requirement that all separating servicemembers participate in the TAP, combined with the high number of veterans separating from service this year, the amount of veterans using the TAP could be

as high as 290,000. It is critical that adequate funding be provided for TAP to ensure our servicemembers receive proper services during their transition period.

Madam Secretary, are you concerned the budget request cannot support increased TAP utilization?

Answer. We are looking at the issue you have highlighted to ensure that we have the ability to meet needs of separating servicemembers. In fiscal year 2011, Veterans' Employment and Training Service (VETS) conducted 4,200 TAP Employment Workshops to more than 144,000 servicemembers and their spouses at military installations worldwide using a combination of State Workforce Agency employees and contract facilitators. With the passage of the VOW Act, and based on separation projections from Department of Defense (DOD), we anticipate that participation in the DOL Employment Workshop will increase by nearly 40 percent to approximately 201,000 in fiscal year 2013. We are continuing to work with DOD to refine those separation estimates and to better understand the plans of our DOD and VA partners for delivering their components of the TAP workshops.

MANDATORY PROPOSALS

Question. Madam Secretary, I believe it is important to review the entire budgetary picture when appropriating funding. Although the Senate Appropriations Committee only has jurisdiction over the discretionary side of the ledger, it is still critical that we understand how much funding programs receive in mandatory dollars so we are able to make responsible choices.

The President has recently announced several large, mandatory programs that affect the DOL. In particular, he has announced an \$8 billion Community College Initiative which will be funded by \$4 billion from the DOL and \$4 billion from the Department of Education; \$4 billion for the "Reemployment Now" Initiative; and \$12.5 billion for a "Pathways Back to Work" fund.

Madam Secretary, how will these programs supplement current worker training programs?

Answer. The administration's proposals that you mention will help community colleges and businesses train Americans to acquire the critical skills that employers need to succeed and help businesses succeed and grow. While the DOL has worked closely with local businesses and community colleges through various workforce system programs, the Community College to Career Fund provides the resources and support necessary to enhance the development and improvement of educational and career training programs for workers. These investments will give more community colleges the resources they need to become community career centers where people learn crucial skills that local or regional businesses are looking for right now. Through increased employer partnerships, this investment will also ensure that employers have the skilled workforce they need and that workers are gaining industry-recognized credentials and receiving training relevant to the local or regional needs of employers to build strong careers.

This administration is committed to protecting the financial integrity of the Unemployment Insurance (UI) system and helping unemployed workers return to work as swiftly as possible, and the Reemployment NOW Initiative supports that effort. The proposed Reemployment NOW program would provide funds for programs that allow the flexible use of unemployment benefits for short-term on-the-job training or for claimants to start their own businesses. The bipartisan Middle Class Tax Relief and Job Creation Act of 2012 adopted a number of the reforms the President proposed in the American Jobs Act, including some of the initiatives that would be eligible for funding under the Reemployment NOW Initiative. This new law, enacted in February 2012 extends UI to prevent 6 million long-term unemployed Americans looking for work from losing their benefits, while at the same time reforming the system to help them build real skills and connect to real jobs. For example, as the President proposed last year, Reemployment and Eligibility Assessments (REAs) and Reemployment Services (RES) are now required for claimants entering the Emergency Unemployment Compensation (EUC) program. That initiative is already being implemented by the States. REAs and RES have been found to be highly effective at helping UI claimants find higher-paying jobs sooner, while at the same time saving money for the UI system. The Middle Class Tax Relief and Job Creation Act also included the President's proposal for making EUC recipients eligible for State Self-Employment Assistance programs, which provide support to claimants who start their own businesses. Finally, the new law allows for 10 States to conduct demonstration programs similar to the proposed Bridge to Work program that would help speed claimants' return to work. These demonstrations would allow States to use funds from the unemployment trust fund, but the programs must be cost neutral.

Building on successful American Recovery and Reinvestment Act programs that provided employment opportunities for low-income adults and youths, the Pathways Back to Work Fund makes it easier for the long-term unemployed and low-income workers to remain connected to the workforce and gain new skills for long-term employment, through subsidized employment and other innovative work-based strategies. Pathways Back to Work offer a win-win strategy for job seekers and employers. It gives job-seekers an opportunity to gain and demonstrate in-demand skills for an extended period of time, while earning much needed income to support themselves and their families and stimulate their local economies. At the same time, it provides employers with a low-risk approach to staffing their businesses and building their talent pipeline to remain competitive. The “earn and learn” approaches to be supported by Pathways Back to Work are an important complement to more traditional, classroom-based occupational training currently supported by DOL and enhance the ability of program participants, particularly those lacking work experience, to benefit from occupational training.

Question. How can you ensure that such an influx of funding, twice the size of the DOL’s current discretionary budget, will be efficiently and effectively spent?

Answer. DOL will work to ensure that these requested mandatory grant dollars are efficiently and effectively spent through the same strong management and oversight processes it uses now for its grants. DOL already utilizes comprehensive processes to regularly review and monitor all of its grantees, including an electronic grants management system, required quarterly reporting from all grantees on their financial and technical performance, and on-site grantee monitoring visits. DOL reviews grantees’ progress against the program performance metrics of entered employment, employment retention and average earnings, and plans to use this set of common measures as the basis for future programs in addition to any program-specific measures. DOL also provides technical assistance to help grantees meet the outcomes to which they commit in their grant statements of work.

DOL is also working to leverage its investments to increase their impact across the country by coordinating with other Federal agencies on a number of initiatives. Examples of inter-agency coordination activities include joint guidance on programs serving similar populations, jointly funded discretionary grant programs, and efforts to identify opportunities for promoting joint strategic planning across programs.

DUPLICATION AND OVERLAP

Question. The Government Accountability Office (GAO) released a report in February that stated, “HHS is collaborating with Labor to conduct an evaluation to better understand policies, practices, and service delivery strategies that lead to better alignment of the Workforce Investment Act and Temporary Assistance for Needy Families.”

Can you provide further information on this collaboration, including examples of State and local practices that may be models for other areas to follow and how the Workforce Investment Act (WIA)/Temporary Assistance for Needy Families (TANF) duplication can be reduced?

Answer. The Department of Health and Human Services (HHS) is working in close collaboration with the DOL to conduct an evaluation to better understand policies, practices, and service delivery strategies that lead to better alignment of WIA and TANF, including identifying promising State and local practices for successful coordination between these programs. The Work Participation and TANF/WIA Coordination Study will identify strategies to improve the employment outcomes of current and former TANF recipients, reduce administrative inefficiencies, and remove the structural and policy barriers that inhibit coordination between WIA and TANF. Researchers also will document the reasons for collaboration and the process for creating and sustaining partnerships. A technical workgroup of subject-matter experts is currently working on selecting States and local areas for approximately nine site visits, to be conducted during summer 2012, to examine governance structures, policy coordination, service delivery pathways, shared data systems, and funding. We anticipate that the final report will be available for dissemination in spring 2013. The Departments will share the results of the evaluation with the public workforce system and other stakeholders.

As another example of DOL–HHS collaboration, a report entitled “Using TANF Funds to Support Subsidized Youth Employment: The 2010 Summer Youth Employment Initiative” was published and posted recently on both Departments’ Web sites. This work is the culmination of the Departments’ continued collaboration throughout a study to evaluate WIA and TANF coordination and the potential benefits and challenges of the TANF-funded summer youth employment initiative. Funded through an Interagency Agreement between the Departments, this study followed

up on the 2010 joint DOL–HHS letter that encouraged States to use TANF funds for subsidized youth employment and for workforce and human service agencies to co-enroll youth in WIA and TANF programs.

Question. GAO report also noted that the DOL will award competitive grants to encourage States to reduce program overlap. Can you describe the program overlap that could be eliminated through these grants?

Answer. By September 30, 2012, DOL intends to award approximately \$118 million of fiscal year 2011 funds and approximately \$30 million of the fiscal year 2012 funds provided for competitive grants under WIF. The WIF provides States and local areas with an opportunity to pursue a variety of innovation strategies, including those that foster stronger cooperation across programs and funding streams—such as integrated data management information systems, “braided” funding, or changes that create a more seamless service delivery experience for participants who need help from multiple programs.

DOL also anticipates awarding up to \$20 million through a separate grant competition for Pay for Success pilot projects to support an innovative approach to funding public social service programs, for example through leveraged capital from private or philanthropic investors. Under the Pay for Success model, the government pays for services only after clearly defined outcomes are achieved. This allows effective and evidence-based solutions to be identified and implemented while maximizing taxpayer dollars by paying only for demonstrated results.

It is our goal that grants awarded under WIF will achieve greater efficiency in the delivery of quality services, such as achieving positive outcomes for a lower cost or reducing program overlap and administrative costs. We expect that successful strategies will be sustained beyond the grant period through other funding streams currently available to grantees.

Question. At last year’s hearing, we discussed GAO’s 2011 report on duplication across job training programs. In particular, the report stated that 44 of the 47 Federal employment and training programs identified overlap with at least one other program. What steps has the DOL taken to reduce duplication within job training programs over the past year?

Answer. DOL recognizes that there are opportunities for the further alignment and streamlining of employment and training programs, and our fiscal year 2013 budget reflects this reality by including several proposals. These proposals include expansion of the WIF which will support innovative ways of delivering services working across program silos; the transfer of the Senior Community Service Employment Programs to the HHS, where the program can work more closely with other senior-serving programs; developing single access points for job seekers to access all available services through a rebranded and improved network of American Job Centers; the elimination of the Women in Apprenticeship and Nontraditional Occupations and Veterans Workforce Investment grant programs, whose missions can be met through other programs and activities; and the merging of the Trade Adjustment Assistance and WIA Dislocated Worker program into a single program providing a uniform and comprehensive suite of services to all displaced workers in fiscal year 2014.

UPPER BIG BRANCH

Question. The recent internal review by the Mine Safety and Health Administration (MSHA) regarding the tragic accident at Upper Big Branch claimed that much of the managerial and personnel issues in district 4 stemmed from budget cuts prior to 2006. However, MSHA’s budget increased from \$246.3 million in fiscal year 2001 to \$277.7 million in fiscal year 2006. Blame can be placed on many factors for the Upper Big Branch tragedy, but Secretary Solis, why did DOL choose to place culpability mainly on funding levels, especially given that MSHA’s budget increased \$129 million from fiscal year 2000–2010?

Answer. The internal review is about more than funding levels. The internal review team was comprised of career MSHA employees with various specialties and expertise who did not have current enforcement responsibility in Coal Mine Safety and Health District 4. Their report attributes the shortcomings identified to a number of underlying causes in addition to resources, including inspector inexperience, management turnover, supervisory and managerial oversight, internal communication of policies, and training. We are looking at all of these issues to ensure they are addressed.

As Assistant Secretary Main recently noted during testimony before the House Education and Workforce Committee:

“The internal review team found the number of coal enforcement personnel had eroded to 584 by the end of fiscal year 2005, a result of attrition and budget con-

straints. By comparison, there were 653 such personnel in fiscal year 2001. Following the 2006 Sago, Darby and Aracoma disasters, MSHA received additional funds to hire more inspectors. However, despite efforts to re-establish staffing levels, by the time of the UBB explosion, the inspection and supervisory staff was significantly composed of new inspectors, replacing a number of experienced inspectors who retired. For example, from fiscal year 2005 to fiscal year 2008, MSHA lost 252 coal enforcement personnel from its ranks. Some inspectors retired, were recruited by industry, moved to new positions within the agency, or left MSHA for other reasons . . . The budget constraints and constant loss of experienced personnel due to attrition adversely affected the entire agency.”

I appreciate all of the support that the subcommittee has provided to ensure that MSHA obtains the funding needed not only to meet these critical inspection activities, but in related activities such as the work that MSHA and the Office of the Solicitor are doing to address the backlog of cases before the Federal Mine Safety and Health Review Commission.

PENSION BENEFIT GUARANTEE CORPORATION

Question. Secretary Solis, as Chair of Pension Benefit Guaranty Corporation (PBGC), how are you addressing the systemic problems uncovered in the Inspector General reports on the National Steel and United Airlines (UAL) pension plans? What timelines have been set up to address the serious issues raised in the report, to include the possible reorganization of the Benefits Administration and Payment Department office?

Answer. The PBGC Office of Inspector General (OIG) found long-standing systemic failures at the PBGC that resulted in errors in the valuations of assets of the terminated UAL and National Steel pension plans, as well as other plans trustee by the PBGC. The OIG uncovered serious flaws in the work of the original contractor and the re-valuation work prepared by a second contractor. The PBGC board is working with the OIG and the PBGC leadership to ensure that appropriate steps are taken to remedy deficient asset valuations for terminated plans, erroneous benefit determinations for affected participants, and any systemic failures.

PBGC is redoing the asset valuations for the pension plans of UAL and National Steel and taking other actions to make corrections where necessary. The board and PBGC are committed to finalizing the asset re-valuations for UAL and National Steel as quickly as possible without sacrificing accuracy or quality. Participants in UAL or National Steel plans whose benefits change as a result of the asset re-valuation will be notified this summer.

For other asset valuations, PBGC is using the experience gained from the UAL and National Steel reviews to develop a risk-based approach to screen the other plans on which the original contractor worked, and to identify plans where contractor errors may have affected beneficiaries. The PBGC continues to review its actions with the OIG and the board.

By law, the PBGC's Director is responsible for administering the PBGC's operations, and the board is responsible for setting policy and providing oversight. The Board is committed to holding the PBGC management accountable for effectively selecting and monitoring outside auditors. This is a core management function of being a good steward for the plans the PBGC trustees and for making sure these mistakes do not happen again. Over a year ago, PBGC began a strategic review to make improvements to the Benefits Administration and Payment Department's (BAPD) organizational structure and operations. Based on that review, PBGC identified a wide range of actions to address long-term systemic failures within BAPD and to ensure that BAPD has sufficient expertise to effectively select and monitor outside auditors. The agency has already begun to make changes in its organization, personnel and processes, including the qualifications and training of BAPD staff, improved contractor management, and improved quality control overall.

WYOMING JOB CORPS CENTER

Question. Secretary Solis, can you provide an update on the progress of the Wyoming Job Corps Center, including when you anticipate publishing a construction bid in the Federal Register and your timeline for opening the Center?

Answer. A new center in Wyoming is planned to open after program year 2013.

VOLUNTARY PROTECTION PROGRAM

Question. Assistant Secretary Michaels recently stated the Voluntary Protection Program (VPP) would be expanded. However, the budget request for the Occupational Health and Safety Administration (OSHA) decreases compliance assistance in

fiscal year 2013. Further, OSHA is projected to conduct far fewer VPP site evaluations (down 40 percent from fiscal year 2011) and will completely halt the corporate and merit VPP program at new sites. Can you explain why the Department is announcing VPP is expanding, when no budget documents support this claim?

Answer. Assistant Secretary Michaels supports the expansion of VPP to additional worksites that meet the criteria for VPP participation. To that end, OSHA plans to approve 60 new VPP sites and to recertify 280 during fiscal year 2013. The VPP program is not being cut. In order to achieve efficiencies, OSHA will no longer offer its Corporate and Merit VPP programs. It is also important to note that none of the steps we are taking will eliminate the access of small businesses to the VPP program.

In May 2004, OSHA created the VPP Corporate Pilot to significantly expand participation in VPP by allowing corporations committed to VPP and interested in achieving VPP recognition at multiple facilities a more efficient means of accomplishing this. Over the years, several of the corporate participants have failed to meet their commitments to bring in 10 participants within 5 years and others have chosen to drop out of the program. In addition, it became clear that the Pilot did not produce the expected application and onsite evaluation efficiencies. Eliminating VPP Corporate will not adversely affect a company's ability to achieve VPP status.

After evaluating participation in the Merit program, OSHA has concluded that its resources could be more effectively used for site visits to bring qualified companies directly into VPP rather than putting resources into developing new VPP candidates, many of whom never qualify for VPP, spend little time in the program after qualifying, or would qualify without the Merit program. Resources OSHA previously used for site visits and reevaluations for Merit participants will be directed towards new VPP sites and recertifications of existing sites.

FARM LABOR

Question. Secretary Solis, the DOL announced it would re-propose a regulation on the existing agriculture "parental exemption" after the original, highly controversial proposed rule was withdrawn. The original proposal significantly narrowed the application of the parental exemption by limiting it to parents that wholly owned the family farm. This change ignored the structure of modern agriculture. While I appreciate the rule being withdrawn, I question whether a re-proposal is even necessary.

Why is DOL moving forward with another rule? Will DOL rewrite the new rule based on the numerous public comments that were made? Is DOL conducting outreach with the agriculture industry to ensure that the new rules take into account the current structure of the modern farm?

Answer. As you may know, DOL announced on April 26, 2012, the withdrawal of the proposed rule addressing hired farm workers under the age of 16. In the same announcement, DOL committed to working with the U.S. Department of Agriculture and with rural stakeholders, such as the American Farm Bureau Federation, the National Farmers Union, the Future Farmers of America, and 4-H, to develop an educational program to reduce accidents to young workers and promote safer agricultural work practices.

QUESTION SUBMITTED BY SENATOR THAD COCHRAN

GULFPORT JOB CORPS CENTER

Question. The Gulfport Job Corps Center was destroyed by Hurricane Katrina in 2005. Since that time, I worked to appropriate both dedicated funding of \$14 million, as well as other annual construction funds for use towards the rebuilding efforts for that facility. The bulk of the dedicated \$14 million in funding was used for a temporary facility and to construct a dorm, but I understand that \$4.5 million in dedicated funds remain. I continue to work on behalf of the community to ensure that the new facility balances their priorities with the best interest of the Job Corps training activities. It is my understanding that the Department of Labor (DOL) is continuing to consult with the Gulfport community, as well as the State of Mississippi, to resolve outstanding issues relating to specific design details. Please discuss the path forward for this project as well as your plan to protect the money that has been reserved for the Gulfport Job Corps facility's new construction. Will the construction phase cost more than the remaining dedicated funds? If so, how will you approach securing the balance?

Answer. I recognize that you have been a tireless champion for the Job Corps program and have been very eager to see us move from a temporary facility to a perma-

ment one in Gulfport—one that we both hoped would serve double the amount of students of the temporary center, while creating employment opportunities for the community both in the construction and operations phases.

Several months ago, the redevelopment of the Gulfport Job Corps Center was placed on hold as the project proposed the demolition of the former 33rd Avenue High School, which was eligible for inclusion in the National Registry of Historic Places. Since that time, DOL has been engaged in the section 106 process, as outlined in the National Historic Preservation Act, to gather feedback and input from interested parties before making a determination to move forward with the proposed project. In addition to the DOL and the Advisory Council on Historic Preservation, this process has included consultation with the Mississippi Department of Archives and History (MDAH), the city of Gulfport, and Gulfport community members.

Because a mutually agreeable resolution to move forward with the proposed project was not reached, on Friday, March 16, 2012, DOL terminated the construction contract to redevelop the Gulfport Job Corps Center. This will allow the portion of the project's funding that expires on June 30, 2012, to be reallocated prior to its expiration. The remaining \$4.5 million of funding dedicated to the project does not expire and will remain available for future redevelopment efforts.

DOL is committed to serving the youth of the Gulfport community, having operated a center in this gulf coast region for more than 30 years. The DOL will work with the MDAH, the city of Gulfport, and all identified consulting parties to begin a new section 106 process for the redevelopment of the Gulfport Job Corps Center, which will inform future decisions about the establishment of a permanent center in Gulfport, Mississippi.

As you point out, the cost of a new construction project will exceed the remaining amount of dedicated funds. By redistributing the funding from the cancelled contract to other shovel-ready projects, our intent was to free up future years' construction funding for Gulfport, rather than allowing those funds to expire. As you know, the Job Corps program receives an annual Construction, Rehabilitation, and Acquisition (CRA) appropriation each year, and develops a funding plan with priority given to the most critical deficiencies. As with each new funding cycle, DOL will review the redesign for a Gulfport Center redevelopment project alongside the program's other construction and rehabilitation needs before making a final funding determination. We will continue to work with the Appropriations Committee and your office on this matter and appreciate your support for the Job Corps program.

QUESTIONS SUBMITTED BY SENATOR LAMAR ALEXANDER

PROPOSED COMPANIONSHIP EXEMPTION RULE

Question. At a January 25, 2012 briefing, representatives of the Department of Labor's (DOL) Wage and Hour Division and the Centers for Medicare & Medicaid Services (CMS) told my staff that they did not meet with a single State's Medicaid Director.

Did DOL directly consult or meet with any State Medicaid Directors when promulgating the proposed rules? If yes, please provide details regarding which State Medicaid Directors DOL met or consulted with, the substance of their recommendations, and how their recommendations were incorporated into the proposed rule and accompanying economic impact analysis. If no, will DOL be willing to withdraw the rule to meet with State Medicaid Directors and conduct a more comprehensive analysis of the impact of the rule on State Medicaid programs and budgets that incorporates their recommendations before moving forward?

Answer. In development of the proposed rule, Application of the Fair Labor Standards Act to Domestic Service (76 FR 81190, December 27, 2011), DOL reviewed publicly available data to estimate the impact of the proposed revisions, and consulted with the Department of Health and Human Services' CMS. A significant number of comments were received on the Department's proposed rule, including a few from State Departments of Human Services, as well as from the National Association of Medicaid Directors representing the Nation's 56 State and territorial Medicaid agencies. DOL is currently reviewing the comments received on the proposed rule and will continue to consult with the Centers for Medicare and Medicaid Services on this important matter. Any final rule resulting from this Notice of Proposed Rulemaking will address comments received on the proposal, including those expressing concerns about the potential impact of the proposal on State Medicaid budgets.

Question. On March 12, 2012, the Office of Advocacy at the Small Business Administration sent a letter to you stating that DOL's economic analysis does not fully reflect the information provided by small businesses in the companion care industry

and recommending that DOL consider the impact and regulatory alternatives, as required under the Regulatory Flexibility Act, before moving forward. Will the DOL withdraw the proposed rule to conduct a more thorough economic impact analysis that accurately reflects the nature of the private market for companion services, economic impact of the rule on small businesses, and alternatives proposed by industry?

Answer. On December 27, 2011, DOL published a proposed rule: Application of the Fair Labor Standards Act to Domestic Service. After two extensions of public comment period, the comment period closed on March 21, 2012. The preliminary regulatory impact analysis contained in the proposed rule is based on the best available data. DOL relied on data from: the Bureau of Labor Statistics (BLS) 2009 Occupational Employment Survey employment and wages by State for the standard occupational codes covering Personal Care Aides and Home Health Aides, the workers most likely to be impacted by the proposed rule; BLS National Employment Matrix, 2008; BLS Quarterly Census of Employment and Wages, 2009, the 2007 Statistics of U.S. Businesses, and the 2007 Economic Census by State for industries most likely to be impacted by the proposed rule, Home Health Care Services, and Services for Elderly and Persons with Disabilities. In estimating the number of employees potentially impacted, and the average hours worked by home health aides, DOL also considered research from Paraprofessional Healthcare Institute (PHI) which was based, in part, on the Centers for Disease Control and Prevention's (CDC) National Home Health Aide Survey.

The letter from the Office of Advocacy at the Small Business Administration was received during the comment period for the proposed rule and is a part of the rulemaking record. See Office of Advocacy, Winslow Sargeant, comment id: WHD-2011-0003-7756 available at: <http://www.regulations.gov/#!documentDetail;D=WHD-2011-0003-7756>. In its comment letter, the Office of Advocacy referenced the Small Business Roundtable it had convened; a summary of the Small Business Roundtable meeting as well as materials provided to the Department during that meeting are part of the rulemaking record (document id: WHD-2011-0003-3235, available at: <http://www.regulations.gov/#!documentDetail;D=WHD-2011-0003-3235>). In addition, the Office of Advocacy's letter mentioned comments submitted as part of the rulemaking record, including those from the International Franchise Association which submitted, as part of its comment, a study it commissioned by IHS Global Insight, and the California Association of Health Services at Home. These comments are included in the rulemaking record (<http://www.regulations.gov/#!documentDetail;D=WHD-2011-0003-9590> and <http://www.regulations.gov/#!documentDetail;D=WHD-2011-0003-0134>, respectively).

DOL is continuing to review the comments received on the proposed rule, including the letter from the Office of Advocacy and the comments referenced in that letter; however, we note that very little economic data was provided by the more than 26,000 individuals who commented on the proposal. The comments and other materials are part of the rulemaking record, available at: <http://www.regulations.gov/#!searchResults;rpp=25;po=0;s=WHD-2011-0003>.

PROPOSED CHILD AGRICULTURAL SAFETY RULE

Question. Based on the major effects this rule would have on the agriculture community do you plan to delay implementation of the rule and hold more listening sessions with stakeholder groups to gain a better understanding of the complexities in a farming operation?

Answer. As you may know, the Department announced on April 26, 2012, the withdrawal of the proposed rule addressing hired farm workers under the age of 16. In the same announcement, the Department committed to working with the U.S. Department of Agriculture (USDA) and with rural stakeholders, such as the American Farm Bureau Federation, the National Farmers Union, the Future Farmers of America, and 4-H, to develop an educational program to reduce accidents to young workers and promote safer agricultural work practices.

Question. If you cannot commit to delaying the implementations, what assurances can you give farmers that this will not limit the ability for their children to help out on the family farm?

Answer. As you may know, the Department announced on April 26, 2012, the withdrawal of the proposed rule addressing hired farm workers under the age of 16. In the same announcement, the Department committed to working with USDA and with rural stakeholders, such as the American Farm Bureau Federation, the National Farmers Union, the Future Farmers of America, and 4-H, to develop an educational program to reduce accidents to young workers and promote safer agricultural work practices.

PROPOSED COMMUNITY COLLEGE CAREER FUND

Question. The President's fiscal year 2013 budget includes \$8 billion in new spending, over 3 years, to support a new community college career fund for the Departments of Labor and Education to jointly support new partnerships between States, community colleges and businesses that will train 2 million workers for good-paying jobs in high-growth and high-demand industries.

While I appreciate the goals of this proposal, we are continually facing significant near and long-term funding gaps in the Pell grant program. Based on the March 2012 Congressional Budget Office baseline estimates, it is projected that Pell grant funding requirements will balloon to \$30.7 billion in fiscal year 2014, resulting in a funding gap of between \$6 billion and \$9.7 billion. At the same time, the maximum Pell grant award in 2012–2013 is \$5,550, while the average tuition rate at community colleges in the United States is under \$3,000 per year. Therefore, rather than creating another duplicative program, wouldn't the requested \$8 billion be better spent in support of Pell grants, which would then enable more low-income students to attend the university or community college of their choice?

Answer. The Pell grant program and the Community College to Career Fund serve two different purposes and are complementary rather than duplicative. DOL supports the Pell grant program's goal of expanding low-income students' access to postsecondary education and believes this program is a key component for meeting the President's goal of every American completing at least 1 year of postsecondary education or training. Unlike Pell grants, which are awarded to individual students, the Community College to Career Fund will support competitive grants to community colleges that have partnered with employers to provide individuals with the training and industry-recognized credentials that are needed by employers. In addition to providing training to individuals, the Community College to Career Fund primarily will be used to address the serious capacity shortages of many community college training programs in high-growth occupations. In combination, the Pell grant program and Community College to Career Fund will provide individuals with access to a greater range of education and training opportunities.

 QUESTIONS SUBMITTED BY SENATOR MARK KIRK

VETERANS' JOBS PROGRAMS

Question. I am the co-chair of the Veterans Jobs Caucus in the Senate, which is working to ensure that our veterans have access to and information about available jobs especially as they return from overseas. I was a co-sponsor of the first "Hiring Our Heroes" fair held in Chicago last spring, sponsored by the U.S. Chamber of Commerce. The U.S. Chamber has held numerous similar fairs across the country over the last year, with the 100th being in Chicago at the end of this month.

A number of programs and initiatives exist across different agencies that are designed to help our veterans enter the civilian workforce. While agencies like the Departments of Labor (DOL) and the Veterans Affairs and the Office of Personnel Management all have something to add to these programs, I am concerned that a lack of coordination and duplicative efforts are actually hindering the end goal: to get veterans jobs. Especially as the Veterans Opportunity to Work (VOW) to Hire Heroes Act, passed last fall by the Congress, comes online, I have the following questions: Which is the lead agency responsible for coordinating veterans' jobs programs? And who within DOL is the point person on interagency coordination?

Answer. DOL's Veterans' Employment and Training Service (VETS) is the lead agency for employment and training programs for veterans. Deputy Assistant Secretary Junior Ortiz is the point person, and ensures coordinated efforts amongst other Federal agencies in issues and initiatives related to veteran employment.

Question. How is DOL ensuring that you handle initiatives that fall within your jurisdiction and expertise, such workforce training?

Answer. DOL has developed an internal workgroup that leads and oversees all efforts related to employment and training for veterans. This workgroup is co-chaired by the VETS Deputy Assistant Secretary, John Moran, and Employment and Training Administration (ETA) Deputy Assistant Secretary, Gerri Fiala. The mission of the workgroup is specifically to monitor all initiatives, legislative requirements, and ongoing programs that directly benefit our transitioning servicemembers and veterans.

Question. What is DOL doing to ensure that veterans know where to go to find jobs that match up the skills they have developed in the military with the needs in the civilian workforce?

Answer. VETS has recently redesigned our Transition Assistance Program (TAP) Employment Workshop, which includes a module specifically on transferrable skills. During the Employment Workshop, participants are educated on the services available through the nearly 3,000 American Jobs Centers funded through DOL. With the recent passage of the VOW to Hire Heroes Act, attendance at our TAP Employment Workshop is now mandatory for all separating military personnel with only limited exceptions.

DOL funds several employment programs for job seekers, which are operated out of the American Jobs Centers. These centers serve as the cornerstone for the Nation's workforce investment system. By law, veterans receive priority of service in all DOL-funded programs administered through the American Jobs Centers. DOL and the State workforce agencies actively outreach to both job seekers and employers to raise awareness of the services available at these centers. Outreach to job seeking veterans occurs prior to separation for both active duty military and members of the Guard and reserves. American Jobs Centers staff are often present at the Transition Assistance Program Employment Workshop and at demobilization events.

During job fairs, American Jobs Center staff will make contact with participants and ensure they are aware of the services available.

Disabled Veterans Outreach Program (DVOP) specialists conduct targeted outreach to located those veterans that face barriers to employment. Typical outreach will include visits to Homeless Veteran Reintegration Program grantees, homeless shelters, Vet Centers, and VA Medical Centers.

Further, VETS provides grants to each State to fund two staff positions DVOP specialists and Local Veterans' Employment Representative staff to provide specialized services to veterans.

In addition, DOL launched a new suite of on-line tools, My Next Move for Veterans (www.MyNextMove.org/vets). On My Next Move for Veterans, transitioning servicemembers and veterans can access a simple and quick search engine where they enter their military experience (branch of service and military occupation code or title) and link to the resources they need to explore information on civilian careers and related training, including information they can use to write résumés that highlight related civilian skills.

QUESTION SUBMITTED BY SENATOR JERRY MORAN

ADDRESSING THE SHORTAGE OF MEDICAL LABORATORY TECHNICIANS

Question. One of the many challenges facing our Nation involves a shortage of well-trained allied health professionals to meet the increasing medical needs of the aging workforce. Hospitals, laboratories, and other employers in my home State of Kansas and across the country are having difficulty finding medical laboratory technicians (lab techs) who can fill current job openings. As a lab tech, an individual with a 2-year degree in laboratory science can earn an annual salary of around \$35,000–\$50,000, but employers are struggling to find qualified individuals with the appropriate education and training to fill these science and healthcare jobs.

Does the Department of Labor (DOL) currently direct any Federal funding it receives to initiatives that support laboratory education programs in community colleges and other educational institutions to address this healthcare workforce shortage?

Answer. Yes, through the American Recovery and Reinvestment Act of 2009 (ARRA), DOL awarded more than \$150 million to projects focused on healthcare under the Healthcare and Other High-Growth and Emerging Industries grant program. The grants allow community colleges, community-based organizations, State workforce agencies, and other public entities to deliver training that leads to employment in a range of healthcare fields, including laboratory technicians. In addition, DOL recently awarded more than \$130 million to healthcare-focused projects under the H-1B Technical Skills Training grants. This grant program is designed to provide education, training, and job placement assistance in the occupations and industries for which employers are using H-1B visas to hire foreign workers, and the related activities necessary to support such training. DOL also funded 18 projects that include healthcare as a focus area under the first year of the Trade Adjustment Assistance Community College and Career Training (TAACCCT) program. The TAACCCT program provides \$2 billion over 4 fiscal years to institutions of higher education to expand and improve their ability to deliver education and career training programs that can be completed in 2 years or less; result in skills, degrees, and credentials that prepare program participants for employment in high-

wage, high-skill occupations; and are suited for workers who are eligible for training under the TAA for Workers program. DOL intends to widely disseminate the results, including curricula, of successful grantees from these initiatives to the public workforce system and stakeholders.

Question. The Bureau of Labor Statistics estimates that there will be almost 11,000 laboratory professional job openings each year annually through 2018. However, our Nation is currently only graduating around 5,000 students each year that are capable of filling these job openings. What actions is DOL taking to address this workforce shortage?

Answer. DOL will continue to address the education and training needs of the healthcare sector through workforce development programs that are designed to be responsive to the demands of the labor market, especially at the regional level. These programs will continue to support training programs for industries and occupations that are high-growth, including laboratory professionals. These activities will occur through both the formula-funded public workforce investment system, as well as discretionary grant programs, such as future years of the TAACCCT program previously discussed.

JOB CORPS

Question. As a supporter of Job Corps, it is essential that students enrolled in this education and job training program receive the best instruction and support. What is the DOL doing to ensure that student outcomes and performance remain the foundation of Job Corps' procurement policies and practices?

Answer. As you know, Job Corps provides high-quality services to help students acquire the skills and tools they need to be successful in good jobs or further education. Thus, all contract statements of work, which describe the contractor's expected outcomes, required deliverables, and levels of performance, are crafted with the intent of ensuring that students receive quality education, training, and support services. The program's policies and requirements are either directly stated, or incorporated by reference, in Job Corps' Outreach and Admissions, Center Operations, and Career Transition Services contracts. Contracts are performance-based, providing financial incentives and penalties directly tied to student outcomes.

Question. What is DOL's justification for its current use of the "Rule of Two" in Job Corps operations contracting?

Answer. Job Corps procurements are governed by Federal Acquisition Regulation (FAR) section 19.502-2(b), which requires the Contracting Officer to set aside a procurement more than \$150,000 for small businesses,

"when there is a reasonable expectation that: (1) Offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns; and (2) Award will be made at fair market prices."

Due to pending litigation, DOL cannot comment further on its use of the "Rule of Two" in Job Corps operations contracting.

SUBCOMMITTEE RECESS

Senator HARKIN. Thank you very much, Madam Secretary.
Secretary SOLIS. Thank you very much.

[Whereupon, at 11:45 a.m., Wednesday, March 14, the subcommittee was recessed, to reconvene subject to the call of the Chair.]