

**COMMERCE, JUSTICE, SCIENCE, AND RE-
LATED AGENCIES APPROPRIATIONS FOR
FISCAL YEAR 2011**

THURSDAY, MARCH 4, 2010

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

The subcommittee met at 9:59 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairwoman) presiding.

Present: Senators Mikulski, Pryor, and Shelby.

DEPARTMENT OF COMMERCE

SECRETARY OF COMMERCE

**STATEMENT OF HON. GARY F. LOCKE, SECRETARY
ACCOMPANIED BY APRIL BOYD, ASSISTANT SECRETARY FOR LEGIS-
LATIVE AND INTERGOVERNMENTAL AFFAIRS**

OPENING STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. Good morning. The Subcommittee on Commerce, Justice and Science will come to order.

This is the first hearing of the—on the President's appropriations, and we will be taking testimony from the Department of Commerce and its Secretary, The Honorable Gary Locke. We note that the Secretary has been asked to be with the President at 11:30, so we would hope to conclude his testimony no later than 11:15.

And, Mr. Secretary, we'll try to work with you on that.

My colleague, Senator Shelby, is on his way, but I wanted to move to some other items before we turn to the Secretary for his testimony.

This subcommittee, in the spirit of reform, wants very much to get, really, value for the taxpayers' dollar. We will be availing ourselves of the excellent work done by the Inspector General and by our own arm, the Government Accountability Office, to give us advice and direction on how we can make wiser use of the taxpayers' dollars, stand sentry over cost overruns, and either clean up, or avoid, boondoggles.

At the conclusion of Mr. Locke's testimony, we will turn to the Inspector General, Mr. Zinser, to give us his observations, insights, and recommendations on how, using the power of the purse, we get more value in the purse. And we will take the inspector general's

report that he sent to the Office of the Secretary in January, and we will be using that as guiding principles.

And I will be asking, Mr. Secretary, some of those questions ourselves—the issues related to the census, the issues related to the overruns at NPOESS, the insurance of cybersecurity initiatives, and also how to really deal with the perennial and persistent backlog at the Patent Office.

We're excited about you being here today, and as we listened to the President's State of the Union, and carefully noted his appropriation request, we were heartened that the President and you share the same vision as this subcommittee, which is that the Commerce Department has all of the incredible agencies that form national assets to generate jobs in the United States of America, whether it's a robust effort on trade and export, making trade a two-way street—and not only for the big—not only for the big guys that are international, iconic brands, but small- to medium-sized businesses that are flourishing in my own State, be they Ellicott Machinery, which you visited and we appreciated, that has been dredging since the Panama Canal days, but how we can make sure that exports and the way we function—make sure that small- and medium-sized business know how to really participate in this dynamic new global market.

The other, looking at the Economic Development Administration, how that can be used as engines in local communities, not to just recycle the thinking of the old, like, "Give us the money and we're going to build an industrial park and hope a warehouse comes." Been there, done that, think we can get more value for our dollar, and more business growth, more job growth, if we use it. And we look forward to your vision and whether it has a realistic revenue request to it.

We're very proud of the National Institute of Standards and Technology, because you cannot compete in a global marketplace without standards. You can't—you can invent a product, but in order to produce the product, there must be standards.

We want those standards invented in the United States of America, working with our treasured allies. We want it to be "The Freedom Standard," not "The China Standard"—that is not a xenophobic reaction, but where there are democracies that have shown a robust desire for open and free markets, just like open and free speech.

You have the EU standard, we have our standard, there's the great harmonization. This gives us a great trading way, where we're not fighting over it. But he who controls the standard can control production and trade. So, that's why I want a freedom standard, looking at those countries that believe in freedom.

So, we're looking at the appropriations. We are pleased to be joining, again, with Senator Richard Shelby from Alabama. This subcommittee has always enjoyed a bipartisan effort.

So, our goal will be, No. 1, to be able to create jobs, generate jobs using the tools of the Federal Government to do that in the private sector. At the same time, there are constitutional obligations in the census.

We know that the President has provided, for the overall Commerce Department, an \$8.9 billion request. This is less than last

year, but it doesn't truly reflect the ongoing basic needs of the agency. There's a \$5 billion decrease, because we will be in the final stages of the 10-year census, and we'll be scaling back from \$7.3 billion to \$1.2 billion.

We'll have questions on the census, because we're really apprehensive about how the census will be conducted. We believe that every person here counts, and every person ought to be counted; and we've got to be able to count on the census to get it right.

As I said, few other departments have all of the agencies in place for America to be competitive and innovative in the new economy. Commerce's science and research programs use tech transfer to help and manufacture small businesses. Funding for the EDA continues to create financial links for high unemployment communities. We want to connect business with our agencies to be able to move ahead.

The new technologies and ideas deserve protection. This is why we support so strongly the Patent and Trademark Office. Last year—or this year—four—it sounds like a number in a lotto—four-four-four million—\$444 million in fee revenue from this year allowed them to better protect intellectual property.

In the area of international trade, there is going to be an increase of \$87 million, which we will—hope will be a new export push. Often, in the past, the Secretary of Commerce, and his agency, was looked upon to be the super sales agent for American business. And that wasn't a bad model, in another century, in another economy.

Now, we need our Secretary to be the chief executive officer of the Commerce Department, using every resource, and leveraging it, and making sure that we're in the global business, which is IT.

We also want to make sure that these agencies carry out their mission, and we will be looking to be sure that we are dealing with any potential issues related to boondoggle.

We have to keep an eye on the 2010 census operations. The overall census will cost \$14.7 billion, making this the highest-cost census ever. Even though the 2011 request from the census has decreased, the oversight and accountability must be continued.

Two years ago, we learned that the hand-held computer system that we bought was a techno-boondoggle, forcing the census takers to revert back to a paper-based system. Now we've learned that, without any real-time data this year, the Bureau of the Census may be unable to move resources quickly to achieve a complete count, and to ensure that that is accurate. I want to know what the census is—what is the issue around the census, to make sure we're functioning properly.

I also want to talk about NPOESS and NOAA. And I'll ask more questions about NOAA. We're very concerned that NPOESS, under the old framework, was eating as much as 36 percent of the NOAA appropriations. Wow, when they have so much to do—other weather issues, the management of our fisheries, climate data—that's important for policymakers to determine the nature of global warming. And what we understand now is that there's going to be a divorce between NASA, the Air Force, and NOAA. We would like to know what it will be and how to ensure that these very costly—that the overruns don't continue, that for all of the money that we

spent, we actually get science and information that greater protects the planet, and that we will now come to the point to have increased discipline.

The other issue is the Patent Office. And in the Patent Office, we've been continually concerned about cost overruns. We will be interested to know, in your testimony or in the Q&A, how you intend to reduce the backlog, which was a persistent problem often tied to poor morale, poor communication—gosh, we have lots of GAO and other internal reports that do that. Knowing of your strict adherence to management principles, we'd like to know how you've gotten a handle on this, even if you've gotten one at all; what would be the path forward. If we invent it, we want to protect it.

So, we look forward to hearing your testimony, and I want to turn to Senator Richard Shelby.

OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Senator Mikulski—Madam Chairwoman.

This is the beginning of our fifth year working together on this subcommittee. We work closely together, sharing many of the same goals and expectations for the agencies that we oversee here. I'm pleased to serve beside you, once again, and want to thank you for your continued leadership on so many of these subjects.

I also welcome you back, Mr. Secretary—Secretary Locke—along with Inspector General Zinser, and look forward to learning more about your 2011 budget request for the Department of Commerce and what the Inspector General is doing to ensure that the Department's programs are being run efficiently.

The Nation relies heavily on the Department of Commerce to maintain America's competitiveness within the markets around the world. The Department provides avenues to promote the products and services of U.S. businesses, and then helps level the playing field by expanding, strengthening, and enforcing our international trade agreements.

Although, through the Department of Commerce, our country is able to maintain high technical standards as well as staying on the cutting edge of scientific research—all of which are fundamental to our Nation's leadership in the global marketplace—in particular, one area of the budget requests that accomplish this objective is a 7.3 percent increase in the National Institute of Standards and Technology's budget line. The \$918.9 million request maintains the commitment to budget levels authorized by the COMPETES legislation.

Key thrusts of this request will enable NIST to expand research on measurements and standards related to cybersecurity, health IT, the Smart Grid, and manufacturing applications.

Mr. Secretary, today we will also hear about programs that are not nearly as successful, and some that are complete failures. The administration has put forth a Department of Commerce budget request that attempts to balance priorities with a freeze on discretionary spending. Yet, this budget proposes \$1.1 billion increase, accomplished by offsetting reductions in the one-time cost of the decennial census and providing the Department of Commerce with a

significant increase in base spending. This budget simply hides a massive spending increase under the guise, I believe, of fiscal discipline through a hidden spending reduction.

Mr. Secretary, over the past year, we've learned of cost and schedule overruns within NOAA—within the NOAA Satellite Acquisition Programs—numerous information technology failures, disconcerting treatment of our fisheries, and glaring failures at the census. The National Oceanic and Atmospheric Administration, NOAA, faces many challenges in the year 2011, including the creation of the National Climate Service, the reorganization of the National Polar Orbiting Satellite Program, as well as addressing the system vulnerabilities of NOAA weather satellite data to security breaches.

Mr. Secretary, there are some proposed improvements in the management of NPOESS, but these changes are only cosmetic, I think. This restructuring will cost the taxpayers \$5 billion more than the original estimate. And, "What will this additional funding get the American taxpayer" is the question. Two satellites, which is four less than the six originally required.

I wish the failure of NPOESS was the only bad news to report about the management of national environmental satellite data and information services, but I believe there's more. For at least 4 years, NOAA has operated high-impact systems without the required security controls. The inspector general's 2009 Federal Information Security Management Act assessment of the Environmental Satellite Processing Center indicates that 110 of 134—or 82 percent—of the required security controls that should be implemented to control access to devices and information at the Center are lacking or nonexistent.

The inspector general indicates that, because of the lack of any security planning, the number of security vulnerabilities cannot ever be calculated. These failures show that the Department of Commerce is lacking in the competencies required to procure, operate, and protect the Government systems and the information they contain. The Department's total disregard for the sensitive information to which it's entrusted is an abomination. And if there is not a significant correction in the Department's direction, I will recommend that these programs, and any others that the IG questions, be ended.

From this point forward, the Department should be better served—would be better served to focus its attention on addressing the shortcomings and less on providing commentary to the IG's findings. Mr. Secretary, as NOAA attempts to actually manage NPOESS adequately, I'm concerned it may be doing the exact opposite of our Nation's fisheries, through over-regulation.

The Red Snapper Fishery provides valuable commercial and recreational opportunities in my State of Alabama, as well as being an enormous contributor to the economy. Both the fishermen's observations in my State and NOAA's own data show a dramatic increase in the nature of catchable red snapper in the Gulf of Mexico, and that's good. And yet, catch limits remain low and the season is shortened every year.

While we need to promote the health of this fishery, I believe we must balance environmental concerns with economic well-being.

We cannot overburden the hardworking men and women in the gulf whose livelihood depends on fishing by restricting their catch based on faulty science and data collection.

Today in the gulf, NOAA is continuing to put catch limits on fishermen when it lacks any comprehensive independent fisheries data that is critical to making accurate assessments of the health of the red snapper populations.

Without this independent, scientific information, the fishery and NOAA must rely on the fishery-dependent data, which are inherently biased against the fishermen and do not provide an accurate picture of the red snapper population.

I understand NOAA is required to end overfishing and rebuilt overfished stocks; we're all for that. But, fishermen along the gulf coast have suffered severe cutbacks in their catches for many years. If the science shows that stock is as healthy as it seems to be, I believe it's time for fisherman to benefit from their sacrifices.

Mr. Secretary, I want to work with you to make certain that NOAA has the resources to collect the independent data to implement fair and adequate fisheries management, and I believe you do, too.

Finally, Mr. Secretary, the Department is about to reach the height of, arguably, it's most important mission this year, the 2010 census. The census is vastly important to the representation in Congress and the allocation of Federal funds. It must proceed in as reliable and accurate manner as possible. This is an enormous undertaking that's already faced many challenges, as we both know.

During the 2010 census, the Department intended to incorporate new technology to reduce cost and to improve accuracy. Instead, we—the U.S. taxpayer—paid \$595 million for a technology that could not be operated and cannot be implemented.

The census has now turned back to the antiquated, paper-based accounting method. After wasting millions for the Department to revert back to paper and pencil counting, the Census Office spent \$2.5 million on a Super Bowl commercial to advertise that the census is required by law.

Further, the Bureau of the Census will also hire hundreds of thousands of temporary workers as part of their effort to count every single person in the Nation. There are disturbing news reports that 10,000 temporary hires were paid \$3 million for doing no work, another \$1.5 million was wasted on paying 5,000 people who worked for a single day or less, while an additional 581 employees have submitted questionable mileage reimbursement requests, and so on.

Mr. Secretary, there are many managerial failures at the Department of Commerce—and I realize it's big—many of which are highlighted today. The acquisition history of NPOESS, the overly restrictive management of the gulf fisheries, as well as the failed acquisition of the census hand-held demonstrates that management and acquisition oversight does not exist at the Department. Just these few examples show a systematic failure in the leadership at the Department I believe you need to address, and I believe you will.

Thank you.

Senator MIKULSKI. Mr. Secretary, we've got a big agenda and a little bit of time, so why don't you proceed?

STATEMENT OF HON. GARY F. LOCKE

Secretary LOCKE. Thank you very much, Chairwoman Mikulski and Ranking Member Shelby. It's a pleasure to be here.

All right, there we go.

Chairwoman Mikulski and Ranking Member Shelby, thank you very much. We're really pleased to join you to talk about the Department of Commerce's fiscal year 2011 budget, as proposed by President Obama.

With the 2010 census field operations ending this year, the President's \$8.9 billion budget request decreases overall spending from fiscal year 2010, but funds targeted increases for vital economic priorities, because, in these challenging times, the central mission of the Department of Commerce could not be more straightforward: helping American businesses become more competitive so they put more people back to work.

I want to highlight four areas where the Commerce Department's efforts, described in the fiscal year 2011, budget are integral to that goal of putting more people back to work.

First, businesses use our unparalleled statistical and technical research to develop new products, identify new markets, and make long-term investments. The National Institute of Standards and Technology, NIST, provides metrics that enable development of everything from a national Smart Grid, advanced manufacturing processes, to airport screening devices and new cybersecurity measures. As well, NIST provides consulting services to American manufacturers to become more efficient and profitable so they become more viable and competitive in a global economy.

Increasingly, businesses are turning to NOAA for its unmatched weather and climate observations, and much of NOAA's 2011 budget increase will finance NOAA's added responsibilities to implement that long-called-for restructuring of the National Polar-orbiting Operational Environmental Satellite System, called NPOESS. This effort will help us better meet civil and military weather forecasting, storm tracking, and climate monitoring requirements.

At a time where both businesses and President Obama have called for more accurate and readily available climate information, the 2011 budget assigns additional responsibilities to NOAA's proposed new Climate Service line office, which is the result of a proposed reorganization to bring together its observational and analytical resources, now scattered throughout NOAA, all under one roof.

A second key function of the Department of Commerce is overseeing the patent protection that has incentivized American inventors and entrepreneurs to create for more than 200 years. When I came to the Department of Commerce, the Patent and Trademark Office had a backlog of almost 800,000 patent applications and an over-3-year waiting period for an up-or-down determination on a patent application. We've already taken important steps to fix these problems, working with the employees and their representatives, knowing that every patent application waiting in line could be a new product not going to market and a new job not being created.

And through its short-term fee surcharge and other fee provisions, as well as make critical investments and upgrades to outdated IT systems, the 2011 budget will, along with management innovations and employee-driven process improvements, help the Patent and Trademark Office to whittle down the time it takes to grant or deny many patent applications to within 12 months by the year 2014, except those innovations that are also seeking FDA approval.

Area No. 3, Commerce provides direct consultation and funding to help communities develop crucial economic infrastructure. And through the Recovery Act's Broadband Technology Opportunities Program, or BTOP, by tomorrow we will have provided over \$1 billion to lay or activate over 20,000 miles of networked, high-speed Internet lines in underserved communities. The 2011 budget provides critical funding to ensure that all projects have rigorous oversight.

And this is a true public/private partnership, because just as the Federal Government might fund construction of a highway across a State and then have local governments build the streets that branch off of it, our infrastructure grants for high-speed Internet funds super high-speed Internet lines, or highways, that local providers, private sector, will then connect to, or tap into, to bring high-speed Internet service directly to homes and businesses.

The 2011 budget also provides \$75 million to our Economic Development Administration for planning and infrastructure grants to help communities identify their unique economic strengths and then develop regional innovation clusters, similar to what we've seen in Silicon Valley or the famous Route 128 corridor in Boston.

Area No. 4, in foreign countries, the Commerce Department serves as the lead advocate for U.S. companies looking to break into new markets or to grow their share in existing ones. The 2011 budget proposal provides a 20-percent increase to the International Trade Administration, which, among other things, will allow us to hire some 328 new trade specialists, mostly stationed in foreign countries, to seek out new customers and buyers for American-made goods. When American companies export more, they manufacture more. When they manufacture more, they hire more people.

International Trade Administration will play a key role in implementing the President's National Export Initiative, which aims to double America's exports over the next 5 years and support 2 million new jobs.

As we implement all of these programs, results, cost-effectiveness, and accountability are paramount objectives. So, we take to heart the Department's managerial challenges and operational issues, as identified by our inspector general, Todd Zinser, and his staff. His findings are acted upon and used to reevaluate other operations and serve as benchmarks or metrics of performance improvement. And we support the President's proposed 2011 budget to provide increased funding to the inspector general's office for increased oversight of our Department's acquisitions and contracts.

PREPARED STATEMENT

So, I thank you for the opportunity to come before you today. I know you have several questions, as you've already indicated. We

thank you for your continuing support of the Department of Commerce and its programs, and we look forward to this exchange.
[The statement follows:]

PREPARED STATEMENT OF HON. GARY F. LOCKE

Chairwoman Mikulski, Ranking Member Shelby, and distinguished members of the subcommittee, I am pleased to join you today to talk about the Department of Commerce and the President's budget for fiscal year 2011. It has been my privilege to serve the American people for the past year, and I am grateful for President Obama's continued confidence in my ability to lead this great agency. We have accomplished a great deal since the beginning of this administration, and the subcommittee has played a critical role both in providing resources and conducting oversight to ensure that the Department achieves its mission.

Having steered the economy back from the brink of a depression, the administration is committed to moving the Nation from recession to recovery by sparking job creation to get millions of Americans back to work and building a new foundation for the long-term prosperity for all American families. To do this, the fiscal year 2011 budget makes critical investments in the key areas that will help to reverse the decline in economic security that American families have experienced over the past decade.

But even as we meet the challenge of the recession and work to build an economy that works for all American families, we must also change the way Washington does business—fixing programs that don't work, streamlining those that do, cracking down on special interest access, and bringing a new responsibility to how tax dollars are spent. I have been working hard to improve the way the Department of Commerce serves its customers, especially American entrepreneurs and businesses, the backbone of our Nation's economy. The Department is focused on strengthening the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship. The fiscal year 2011 budget reflects this ethic and will allow the Department of Commerce to better meet the needs of the American people.

The request of \$8.9 billion will enable the Department to effectively promote strong and equitable trade relationships critical to sustaining our Nation's ability to successfully compete in the global marketplace, improve our scientific and technological capabilities, upgrade our capabilities for weather and climate observations and forecasting, and ensure the long-term economic and ecological sustainability of our natural resources. This request is a significant decrease from our fiscal year 2010 appropriation, since major field operations for the decennial census will be completed in the current year.

The decennial census is an enormous undertaking, and we are urging everyone to mail in their forms this month. An increase of just 1 percent in the response rate will save the taxpayers roughly \$80 million. The Census Bureau is focusing extensive advertising and partnership activities on hard-to-reach populations, to encourage a high response rate and help meet our goal of achieving the most complete and accurate count of the Nation's population to date. We have expanded and accelerated those activities, with the subcommittee's support, using funds provided in the Recovery Act. Our partnership efforts have been well-received—we have already enlisted 207,000 partners. For comparison, at the end of the census in 2000 we had 140,000 partners. Our decision to advertise during the Super Bowl succeeded in reaching a massive audience—it was the most-watched TV event in history, with 116 million viewers. The results of these activities are promising: in the last 3 months, the share of people who have heard something about the census has increased from 35 percent to 75 percent, and the share of people who say they definitely or most likely will complete the census has gone from 77 percent to 85 percent.

Implementing all our Recovery Act programs effectively and efficiently remains a key priority for the Department this year and in the future. We have completed the Digital TV Converter Box Coupon program and returned unused funds to the Treasury. The pace of our grant and contract awards is increasing, and we remain on schedule to complete all awards this year. By the end of this week, we will have awarded 111 Broadband Technology Opportunity Program (BTOP) grants totaling \$1.1 billion. For example, a \$39.7 million broadband infrastructure grant to the ION Upstate New York Rural Broadband Initiative will serve more than 70 rural communities in upstate New York and parts of Pennsylvania and Vermont by constructing a 1,308 mile network and immediately connecting more than 100 anchor institutions, including libraries, State and community colleges, and health clinics.

Our second round of grants will focus on expanding Middle Mile broadband infrastructure that connects critical community anchor institutions—such as schools, hospitals, libraries, and public safety agencies—and attracts end-user connections provided by the private sector to consumers and businesses, creating a ripple effect of economic development throughout communities.

Having addressed such critical needs, the fiscal year 2011 President's budget is designed to help put our country back on a fiscally sustainable path. This will require a high level of budgetary discipline and a number of hard choices and painful tradeoffs. Nonetheless, the budget includes targeted investments in Commerce programs that meet major national needs, like export promotion that supports job creation, and research and development that can spur new ideas, new products, and new industries.

The budget provides \$534 million, a 20-percent increase, to the International Trade Administration (ITA), for its role in the National Export Initiative, a broad Federal effort to increase American exports. ITA will strengthen its efforts to promote exports from small- and medium-size enterprises, help enforce U.S. trade law, fight to eliminate barriers to sales of American products and services and improve the competitiveness of U.S. firms. President Obama has issued a challenge to double U.S. exports over the next 5 years. By increasing the number of U.S. firms that export and enabling them to increase their volume of exports, new higher-wage jobs will be created, and U.S. companies will be better able to compete in the expanding global marketplace.

The budget includes \$919 million for the National Institute of Standards and Technology (NIST), as part of the President's Plan for Science and Innovation. This proposed increase reflects the critical role that measurement science, standards, and technology services play in fostering innovation and encouraging economic growth. To support and enhance our world leadership in the physical sciences and technology, the NIST laboratories would address critical challenges in manufacturing, advanced alternative energy sources, cyber security, the Smart Grid and other important areas, and ensure that its facilities meet its needs to continue to produce world-class research. The budget also includes \$80 million for the Technology Innovation Program, which invests in game-changing new technologies that address critical national needs. The Hollings Manufacturing Extension Partnership will receive \$130 million to continue expanding its services to help smaller manufacturers adopt technological innovations that spur economic growth, and develop new products, expanded markets, process improvements, and more green technology jobs.

The request provides more than \$5.5 billion for the National Oceanic and Atmospheric Administration (NOAA), including investments to improve fisheries and the economies and communities they support, and to help green and blue businesses with a solid foundation of environmental information and stewardship. Much of this year's increase is to fund a major restructuring of the National Polar-orbiting Operational Environmental Satellite System (NPOESS). As it stands, the program is years behind schedule and billions over budget; independent reports and an administration task force have concluded that the program cannot be successfully executed with the current management and budget structure. However, the need for a successor system of polar-orbiting environmental satellites remains a national priority and is essential to meeting both civil and military weather-forecasting, storm-tracking, and climate-monitoring requirements. The restructured Joint Polar Satellite System will keep what works—common operating and ground systems, run by NOAA—but NOAA will separately procure the spacecraft for its highest priority orbit, as will the Air Force. NOAA's spacecraft procurement will be managed by the National Aeronautics and Space Administration, as has been the case with prior polar satellites and all geostationary satellites, and is fully funded in the NOAA request rather than shared with the Air Force.

Strengthening our knowledge on climate, weather and ecosystem sciences, as proposed in the budget, will also increase America's competitiveness. For example, the requested increase for the multi-agency Next Generation Air Transportation System would support enhanced weather information that, when fully integrated into the Federal Aviation Administration's operational decisionmaking process, could significantly reduce flight delays. There are also increases to strengthen NOAA's climate research and observation capabilities, including upgrades to climate science and improved modeling and assessments at the global, national and regional levels. In addition, we recently announced our plans to develop a NOAA Climate Service, and we look forward to working with the subcommittee toward that goal.

The budget includes \$2.3 billion for the U.S. Patent and Trademark Office (USPTO) to put the agency on a path to reduce first action pendency to 10 months and total pendency for patent applications to 20 months, implement a new, targeted hiring model, and make critical investments in its information technology, to sup-

port companies and innovators seeking to bring new products to market. The budget also gives USPTO full access to its fee collections and will strengthen its efforts to improve the speed and quality of patent examinations through an interim fee increase and fee-setting authority to better reflect the costs of providing services. Shorter pendency times at USPTO, in combination with patent reform legislation and other mechanisms for improving patent quality, can reduce legal uncertainty over rights and drive commercialization of new technologies.

In fiscal year 2011, with funding of \$46 million, the National Telecommunications and Information Administration (NTIA) will continue its important policy, spectrum management, and research programs that support emerging technologies and affordable, alternative communications services that can drive economic growth and create jobs. The administration and NTIA have moved aggressively to create an economic and regulatory environment in which innovations in information and communications technologies can flourish. In addition, as noted above, NTIA will focus on administering the billions of dollars in broadband grants being awarded this year; broadband is a central part of the infrastructure necessary for the economy to create jobs and thrive. The budget provides \$23.7 million for post-award administration and oversight of BTOP grants for construction and mapping, and for ongoing work with the FCC to maintain the national broadband map.

The budget includes \$1.3 billion for the Economics and Statistics Administration's (ESA) Census Bureau to process, tabulate, and release 2010 census data, conduct extensive evaluations of the census, improve the data collection methods of the American Community Survey (ACS), and begin a continuous update process of the Census Bureau's geospatial and address data, which is expected to produce long-run cost savings for the taxpayer. Understanding the demographic profile and economic structure of the Nation is key to any business or policy decision designed to promote job creation or to improve the economic well-being of American families. For example, the budget proposes to expand the ACS sample size, which will increase the reliability of ACS data, especially for areas with a population of 20,000 or less. This increased reliability will greatly benefit entrepreneurs and businesses by informing their decisions about where to expand their operations and providing better data on the changing economic, social, and demographic trends of their workforce and customers. It also will lead to more efficient allocations of more than \$400 billion in Federal funds to communities, ensuring that even the smallest of towns, communities, rural areas, and tribal lands get their fair share of funding for schools, transportation projects and job training.

The request also provides \$109 million for ESA's Bureau of Economic Analysis to develop new statistics that provide greater detail on key economic sectors to ensure that regulators, policymakers and businesses have all the necessary data at their disposal to make the most effective investment and economic policy decisions. This includes data on the American family's income, spending, savings and debt. More accessible data will help businesses of all sizes make better investment decisions that can, in turn, lead to job growth. The Bureau will also reinstate statistics on new direct foreign investment into the United States and produce data critical to analyzing the energy sector's contribution to U.S. economic growth, productivity, inflation, the trade balance, and income.

In fiscal year 2011, with funding of \$113 million, the Bureau of Industry and Security's (BIS) Office of Export Enforcement will step up its efforts to prevent illegal exports of sensitive dual-use goods and technologies that could endanger the Nation. Enhancements included within a \$10 million increase will strengthen counter proliferation, counterterrorism, and other national security programs and investigations. These funds will allow BIS to expand its field presence and increase coordination and liaison with the intelligence community as well.

The budget includes \$286 million for the Economic Development Administration (EDA), since competitive, high-performing regional economies are the building blocks of sustainable growth. As part of the administration's place-based initiative, the budget targets \$75 million toward planning and matching grants within EDA to support the creation of Regional Innovation Clusters that leverage regions' competitive strengths to boost job creation and economic growth. For example, EDA and NIST's Hollings Manufacturing Extension Partnership are currently partnering with the Departments of Energy, Education, and Labor, as well as the National Science Foundation and Small Business Administration on a joint Federal opportunity announcement for the Energy Regional Innovation Cluster. These agencies have issued a unique joint funding opportunity encouraging consortia from regions across the country to compete for a combined investment of up to \$129 million to accelerate the development of a Regional Innovation Cluster specializing in energy-efficient building technologies.

The \$32 million requested for the Minority Business Development Agency (MBDA) will further implement the Department's responsibilities under the Native American Business Development, Trade Promotion, and Tourism Act of 2000 and the Indian Tribal Regulatory Reform and Business Development Act of 2000. These funds will increase the activities and outreach of MBDA's Office of Native American Business Development and support research on Native American trade promotion and economic disparities.

The budget provides \$84 million for Departmental Management, including \$17.5 million toward renovation of the Herbert C. Hoover Building, the Department's 73-year-old headquarters in downtown Washington, DC. This long-term project, developed in coordination with the General Services Administration, addresses major deficiencies in the building's antiquated mechanical, electrical, plumbing, fire safety and security systems. The subcommittee's continued support for this project will yield great benefits for our working conditions. Also within the Departmental Management account, the budget provides small increases to improve cyber security by protecting sensitive information from increased malicious activities, and to strengthen our acquisition management workforce that is responsible for oversight of Department-wide activities. We are also requesting \$29 million for the Office of Inspector General, including additional funds to increase its oversight of Departmental acquisitions and contracts, and to support the Council of the Inspectors General on Integrity and Efficiency (established by the Inspector General Reform Act of 2008).

As part of the administration's line-by-line review of the budget to identify programs that are outdated, ineffective, or duplicative, we are proposing to terminate the Public Telecommunications Facilities Program and consolidate support for public broadcasters in the Corporation for Public Broadcasting. The budget also proposes to eliminate a yearly subsidy to a small number of firms in the worsted wool manufacturing industry that have already received about \$25 million over the past 5 years. Finally, we would rescind \$43 million of unobligated balances for the Emergency Steel Guaranteed Loan Program, which currently has no active loans, but leave \$5 million in the account in case there are future guarantee requirements.

In closing, the Department of Commerce has a broad mandate to advance economic growth, jobs and opportunities for the American people. While we are currently facing challenging economic times, this budget provides a blueprint for us to carry out that mandate and help the Nation rise to the challenge and forge ahead. Thank you for the opportunity to come before you today, and for your continuing support of the Department of Commerce and its programs. I look forward to your questions.

ADMINISTRATIVE STAFF VACANCIES

Senator Mikulski: Thank you, Mr. Secretary.

Well, we believe, in order to create jobs and also fulfill the mission of the Commerce Department and its agencies, you need the right resources, one of which is the money that is being requested in the President's budget.

However, I have another question related to management. You can't do your job without the right people. You've been in office less than 18 months, and we've asked you to be, not only the chief executive, but really the turnaround specialist at Commerce for many of the problems you've inherited. The boondoggle at Census, the boondoggle at NPOESS, the backlog at Patents preceded you. How many vacancies do you have in your top administrative staff that are pending confirmation?

Secretary LOCKE. We've actually made progress in the last few weeks, but we still have, I think, about a half a dozen still-pending confirmation, and notably the Under Secretary for the International Trade Administration. He just had his hearing, I believe, 2 days ago in the Senate Finance Committee, so we're very hopeful that that's a good sign.

INTERNATIONAL TRADE ADMINISTRATION FUNDING

Senator MIKULSKI. Well, we would hope that these confirmations would move ahead.

Which then takes me to jobs, jobs, jobs, something that I know we share, on a bipartisan basis. Looking at the President's request, there have been requests for increased funding in the International Trade Administration. What would that increased funding do, and how would it help small- to medium-sized business be able to get into the trade arena?

Secretary LOCKE. Well, as I indicated, a large amount of that funding will be to bring on some 328 trade specialists, most of them stationed in our foreign countries. It is part of the President's National Export Initiative whose goal is to double American exports over the next 5 years. And we're primarily focusing on small- and medium-sized companies.

The United States, compared to other developed countries, does not export as much as other countries. And here's an interesting statistic. Of those companies in the United States that do export, 58 percent export to only one country. So, part of our program is to partner up with other organizations, including FedEx, UPS, the U.S. Postal Service—all of them have incredible databases, they know exactly who exports, what sectors, to what countries, volume. And if we can partner with them—and we've already received word from them that they do want to work with us—along with export/import—

Senator MIKULSKI. Yes, but that's not \$87 million. So, you want to hire more commercial officers to be in foreign countries.

Secretary LOCKE. That's right.

Senator MIKULSKI. We understand that. But, it means, then, if you're small- to medium sized, you've got to pick your country, and you've got to find your foreign commercial service officer. So, my small- to medium-sized business, that could export, won't know which country to call, who's going to need them. So, what, of your \$87 million, or of your International Trade Administration, will go so that these-sized businesses would know where to go, how their Government would be on their side, so they get out there and compete on the basis of everyone—cost, service, product ingenuity? So, what would be going on—are you going to be spending money in our own country?

Secretary LOCKE. Oh, yes. For instance, the partnership I announced indicated—with respect to FedEx or UPS—will actually be reaching out to today's exporters here in America and analyzing where they export to and say, "Based on our information, with the contacts and the people we have in foreign countries, if you now export to, let's say, Europe, we really think that you can export to Latin America or to Southeast Asia." So, we will be intensifying our outreach efforts to small- and medium-sized companies that are already engaged in exporting and say, "We believe, from the additional trade specialists stationed around the world, that we will find buyers and customers for you."

PATENT AND TRADEMARK OFFICE FUNDING

Senator MIKULSKI. Well, we want to elaborate on that more, because I think you shared, in our office visit, the fact that you actually want to be running workshops around the country to do that.

But, let me get right on to the Patent Office. Maryland really is a State, from its innovative biotech and IT industries, and others, that really use the Patent Office. This includes our great iconic universities, Hopkins in Maryland, and our private sector. We hear two problems with the Patent Office. One is the incredible backlog. The second is that, while they're standing in line, they are worried that their ideas have been stolen, in this new cybersecurity world, and that, while we're working, in cybersecurity, to secure .military, or CyberShield, there's .gov. So, it's not like they're going to break into the Net of an individual company, they can just go cruising at the Patent Office.

So, my question to you: What is the amount that you're requesting? And do you think it's sufficient to do two things: help you reduce the backlog at PTO so that they can get decisions in a timely way—time is competitiveness; and, at the second time, that, while they're standing in line for approval, their idea is not being stolen by a foreign and economic adversary?

Secretary LOCKE. First of all, with respect to cybersecurity, this is an issue that the Inspector General's Office has identified, and I'm really pleased that the President's 2011 budget does call for significant increases in efforts on cybersecurity throughout the Department of Commerce, as well as with NIST, to help develop increased standards for all businesses, as well as government. And the Department of Commerce has been an integral player with the President's task force on identifying cybersecurity risk to our entire Nation.

But, with respect to the issue of the backlog, the President's proposed budget calls for letting us take advantage of fee increases, other fee, temporary measures, as well as more staff, so that we can reduce the backlog.

But, we just can't hire more staff. We also have to be smarter about how we use, and do things, within the Department of Commerce and the Patent and Trademark Office. You know, the office that patents innovations should also be using those innovations to help us significantly speed up our flow. We've worked with the labor unions already; we've changed the notorious count system, which was really a disincentive for high quality and faster processing of patents. And under the new evaluation system and the way of working with employees, employees now are encouraged to actually sit down and consult with those seeking a patent, so that they're not talking past each other and filing paperwork that doesn't address each others' concerns, so that we're able to resolve these issues and provide that guidance.

PATENT AND TRADEMARK OFFICE BACKLOG

Senator MIKULSKI. So, what is the nature of the backlog now?

Secretary LOCKE. The backlog is around 700,000 applications. When we first took office, or joined the Department of Commerce, it was around 800,000, we've got it down to 700,000. And the time-

frame, though, for determination is still over 3 years. Our goal is to get it down to 12 months, unless you're also seeking FDA approval, because drugs or medical devices oftentimes take many years to go through the FDA process.

Senator MIKULSKI. Right. So, FDA is over here, but let's go to the other patents. So, your goal was to reduce it to 12 months.

Secretary LOCKE. Twelve months.

Senator MIKULSKI. When do you think you'll achieve that goal?

Secretary LOCKE. Our goal is to achieve that by the year 2014. We've already seen significant improvements, and, as a result we're already beginning to see increased revenue collections, just by using paralegals to take care of some of these issues where you have stacks and stacks—thousands of patent applications that have been tentatively approved by the patent examiners, but where some of the documents don't match up, the exhibits aren't properly labeled, and so forth. Instead of having patent examiners do that work, we're having paralegals and other clerical staff address those issues, then we're able to issue the patent, we collect more fees; because once a patent is approved there's a fee associated with that. We then turn around and—

Senator MIKULSKI. So, what—

Secretary LOCKE [continuing]. Use those fees to hire more people.

Senator MIKULSKI [continuing]. You're saying is that part of the money, then, is to be using appropriate staff, not just only lawyers trained in science and technology—which is not easy to come by, because whatever they can make in the Government, they could make four times as much in the private sector. Having said that—what you're saying, the use of other types of support staff will expedite this.

Secretary LOCKE. As well as upgrading our IT systems.

Senator MIKULSKI. Okay.

Secretary LOCKE. And, as we do so, making sure that they're not vulnerable to cyber attacks.

Senator MIKULSKI. Right. Senator Shelby.

RED SNAPPER STOCK DATA FLAWS

Senator SHELBY. Thank you, Senator Mikulski.

Mr. Secretary, in the area of red snapper stocks—you're familiar with that, on the gulf—in the Gulf of Mexico, I think, you know, the management of it is troubling. NOAA continues to use, we've been told, flawed data methods and survey programs that lack any real independent data. This—the fishery-dependent data and the flawed survey programs NOAA is basing its current decisions on seems inherently biased against the fishermen in the gulf and fails to provide any accurate picture of the real health of the fish stock. NOAA, with this unsound data, is imposing severe restrictions on the fishermen in my State. When will you begin to require NOAA to use transparent surveys and real, verifiable, independent data before assessing the health of a fish stock in the gulf? And why is your Department not doing more to ensure that the Government obtains and uses rigorous and timely data before undercutting the livelihoods of the hardworking people in this industry?

You know, we're all interested in fish stocks, we want them to flourish. It's been my information, from talking to people and read-

ing stuff that the red snapper has made a tremendous comeback, which we all like, in the Gulf of Mexico. We don't ever want it to be overfished, we want it to flourish. But, if this is true, if it's made this comeback, and NOAA's data is, maybe, not up-to-date, you know, not transparent, what can we look forward to there? What can you do there?

Secretary LOCKE. Well, first of all, Senator Shelby, I appreciate the concern, because, coming from the State of Washington, where we also have fishing issues—

Senator SHELBY. I know.

Secretary LOCKE [continuing]. In the Pacific, it's a very delicate balance.

Senator SHELBY. It is.

Secretary LOCKE. We understand that people's livelihood depend on, whether recreational fishing or commercial fishing—

Senator SHELBY. Both, sure.

Secretary LOCKE. We cannot allow overfishing, because if we decimate the stocks, then we ruin the livelihood for—

Senator SHELBY. Oh, I agree—

Secretary LOCKE [continuing]. Generations to come.

Senator SHELBY [continuing]. With you, totally. We all agree on that.

Secretary LOCKE. So, let me just say that, with respect to the red snapper, we do know that the stock seems to be reviving, and that's perhaps due to the conservation efforts of the past.

Senator SHELBY. True.

Secretary LOCKE. What we can say is that, I think, the—there's a council, the Gulf of Mexico Fisheries Management Council, that has recommended an increased catch quota for 2010, above the 2009 level, and it's our goal to approve and implement the Council's proposal. And we believe that the new fishing quota will be set higher than 2009 in time for the June start date of this recreational red snapper season.

Senator SHELBY. And you think this will happen soon, now. This is March, end of June, before June?

Secretary LOCKE. We believe that it will be announced in time so that everyone knows just how much more they will be able to catch. But, everyone's recommendation and recognizes—everyone recognizes the stock has recovered, and it's our belief, based on the Scientific Committee's recommendations, to increase the catch share above the 2009 level.

Senator SHELBY. Do you have any data, at your table now, that would tell us how much that would be? Or would that be a decision for the Scientific Committee?

Secretary LOCKE. I don't have that—

Senator SHELBY. Okay.

Secretary LOCKE. I don't have that specific information.

Senator SHELBY. But, it will be—it will be up some.

Secretary LOCKE. Yes.

Senator SHELBY. Based on the stock's recovery.

Secretary LOCKE. Based on the stock's recovery.

Senator SHELBY. Okay.

Secretary LOCKE. That's good news.

[The information follows:]

NOAA RED SNAPPER UPDATE

The health of the red snapper stock is improving. The recent Southeast Data, Assessment and Review (SEDAR) assessment projected that overfishing of Gulf of Mexico red snapper ended in 2009. Mathematical models indicate the stock's reproductive potential increased significantly in recent years. The ratio of current to target spawning stock biomass (biomass of spawning fish) reached a low of 6.2 percent in 1988, gradually increased to 13.1 percent in 2006 before rapidly increasing to 21.9 percent in 2009. This means the red snapper stock is rebuilding, but remains below target biomass levels.

Based on this assessment, the Gulf of Mexico Fisheries Management Council's Scientific and Statistical Committee (SSC) recommended an increased catch quota from 5.0 million pounds (MP) to 6.945 MP in 2010. At its February meeting, the Gulf of Mexico Fisheries Management Council approved a regulatory amendment that would increase the Total Allowable Catch (TAC) from 5.0 MP to 6.945 MP and the commercial and recreational quotas to 3.542 MP and 3.403 MP, accordingly.

NOAA is currently reviewing the Gulf Council's proposal to increase the red snapper total allowable catch (TAC) from 5.0 MP to 6.945 MP. NOAA expects to publish a proposed rule for public comment in the coming weeks and a final rule implementing the TAC increase sometime this month (April) if we determine the proposed increase is consistent with applicable law. NOAA's goal is to approve and implement the Council's proposed TAC (if consistent with applicable law) and quota increases prior to the June 1 start date of the 2010 recreational red snapper fishing season. These increases are believed to still allow NOAA to prevent overfishing and remain on schedule for rebuilding.

In fiscal year 2011, the requested funding will target both fishery-dependent and fishery-independent research. Regarding fishery-independent research activities, funds will be used to create high-resolution habitat maps, provide needed biological and other data, conduct tagging and genetic studies, build new and improve existing ecosystem/stock assessment models, examine the effect of decreases in shrimp effort on red snapper populations; and develop fishery-independent catch and effort estimates for comparisons with commercial and recreational data.

NIST'S ROLE IN THE AREA OF FORENSIC SCIENCE

Senator SHELBY. In the area of forensic science, Mr. Secretary, in February 2009 the National Academy of Sciences published its investigative report, quote, "Strengthening Forensic Science in the United States: A Path Forward," which was highly critical of the current status of forensic science in this country. The investigation found that forensic science testing, conducted in the 400 U.S. crime laboratories, lacks rigorous peer-reviewed scientific validation. That's troubling.

Secretary LOCKE, of the NAS's 13 recommendations—National Academy of Science—7 are core to the strength and capabilities of NIST. NIST is identified, dozens of times in the body of the report, as a critical partner, as you know, in the criminal justice system in resolving these deficiencies. And since this report was published, how has NIST supported forensic science in the criminal justice system? Has anything changed? Do you have any thoughts on that?

Secretary LOCKE. Well, as a former—

Senator SHELBY. And will they change?

Secretary LOCKE. As a former deputy prosecutor, and having worked with some of these issues—

Senator SHELBY. Right.

Secretary LOCKE [continuing]. About breathalyzers, machines—

Senator SHELBY. Sure.

Secretary LOCKE [continuing]. The reliability, and then seeing convictions tossed out or prosecutions halted, I have a great interest in making sure that—whether it's DNA profiling, biometric

measures to fingerprint analysis to measurements and analysis of firearms—

Senator SHELBY. That it works, in other—

Secretary LOCKE. We've got to make sure they work and that there are national standards that everyone agrees to—very high standards—and that they're very clear, so that the operators of these machines, the police officers, the State patrolmen are not—

Senator SHELBY. They're well trained.

Secretary LOCKE [continuing]. Responsible for—or expected to run and maintain these machines, and, if not properly done so, inadvertently, having all of these convictions tossed out.

Senator SHELBY. Sure.

Secretary LOCKE. So, NIST does play a very critical role, and we have about \$7.5 million annually that they spend to actually support the establishment and refinement of standards in the forensic science community.

For instance, NIST, right now, is even focusing on standards for the airport screening devices, to determine to what degree of accuracy they'll be able to detect certain things. And so, we're very proud of the work that NIST is doing.

Senator SHELBY. That's good.

Mr. Secretary, are you supportive—I assume you would be—of NIST taking on a larger role in supporting forensic science disciplines, including an increase in appropriations for this purpose?

Secretary LOCKE. Well, we very much support a greater role for NIST, because we think that, with its Nobel Laureate scientists, that it's a great resource and has really done great things for the country.

Senator SHELBY. Sure. I agree.

Secretary LOCKE. And so, we always look forward to a bigger, expanded role, within available dollars. But, more work for NIST, I think is a good thing.

NATIONAL EXPORT INITIATIVE

Senator SHELBY. Moving into different subjects, but it's all covered by Commerce, the National Export Initiative. As you mentioned in your opening statement, Mr. Secretary, the administration has created a National Export Initiative to meet the President's goal of doubling exports in 5 years, which we all support. Commerce leads the initiative and received a \$79 million increase for the International Trade Administration, 18 percent above 2011. ITA plans to hire 151 new Federal employees, but 51 will be headquarters staff of the 151—in other words, one-third—of which 15 employees will help with anti-dumping cases. This is important. But, the remaining new headquarters hires seem large for an initiative that was designed to expand markets overseas. Could you explain?

Secretary LOCKE. Well, we also need to make sure that, to help American companies compete and create jobs—

Senator SHELBY. Sure.

Secretary LOCKE [continuing]. That we have investigation, with the increased caseload and allegations raised, in terms of anti-dumping or countervailing duties, improper subsidies by different companies. That's equally important, because we are required to

investigate those as quickly as possible. And by making sure that we have impartial and fair determinations, but quick determinations, we can also help U.S. companies. We want to make sure that they're operating on a level playing field. And if we can help those companies by adjudicating these cases, we can actually increase their competitiveness, not just here, but around the world. So, that's also part of an export strategy.

Also, we are making sure that we focus on addressing barriers, trade barriers, market access issues imposed by other countries, to make sure that our companies can sell their products and services around the world. So, it's not just having foreign specialists around the world.

And I want to point out that the FTEs that we talk about, that are contained in the President's budget, are U.S. citizens. A lot of people that we're hiring are not U.S. citizens, but they are trade specialists—let's say, Hungarians stationed in Hungary, Brazilians stationed in Brazil, French stationed in France—to find customers and buyers for U.S. products and services. So, that's where we get a—come up with—

Senator SHELBY. I think that's smart.

Secretary LOCKE [continuing]. That's why we have some—that's why I say we're hiring close to 328—

Senator SHELBY. Okay.

Secretary LOCKE [continuing]. Trade specialists.

SATELLITES

Senator SHELBY. Okay. I want to get into the area of—and the chairwoman has been generous with our time, here—NOAA satellites, quickly.

The inspector general, as you know, highlighted the mismanagement of the National Polar-orbiting Operational Environmental Satellite System, pronounced “en-pose” [NPOESS]. It continues to be a—what a lot of us think is a disaster for the Department. In 1995, this program was projected to be six satellites with 13 instruments for \$8.5 billion, big ticket. In December 2008, the program was adjusted to four satellites with nine instruments for \$14 billion. This year, after reorganization and a name change to the Joint Polar Satellite System, the taxpayer gets two satellites with only five instruments for \$12 billion and a launch date delayed until 2016. What's going on here, Mr. Secretary?

Secretary LOCKE. Well, first of all, I believe that the two satellites you're talking about are the two satellites that would be under the control and jurisdiction and management and oversight of NOAA and NASA.

Senator SHELBY. That's right.

Secretary LOCKE. It's my understanding that we're still looking at a—the original NPOESS called for six, dropped to four. We're now engaging in a divorce, joint custody. I think there will be two that will be monitored by NOAA and NASA.

Senator SHELBY. Divorce first, and then joint custody.

Secretary LOCKE. Right, that's true. The program changes best reflect each agency's priorities.

Senator SHELBY. Okay.

Secretary LOCKE. Divorce first and joint custody. But there will be two that will be under the purview of NOAA——

Senator SHELBY. Okay.

Secretary LOCKE [continuing]. And two under the purview of Defense. So, it's still four.

But, you're right, originally six——

Senator SHELBY. It's a lot of money.

Secretary LOCKE [continuing]. Down to four, from \$8 billion for the six, now \$14 billion for the four. It——

Senator SHELBY. Is it going to work? I guess my bottom line——

Secretary LOCKE. It's going the wrong direction.

Senator SHELBY. Okay.

Secretary LOCKE. And that was——

Senator SHELBY. Well——

Secretary LOCKE [continuing]. Highlighted by the inspector general, as well as blue ribbon commissions, who basically said, "You've got to fix it, you've got to change it, you need a divorce; otherwise, you scrap the whole program."

Senator SHELBY. Are you going to do that?

Secretary LOCKE. That's why the President has supported, and the White House supports, this divorce. NOAA and——NOAA will be in charge of some of the ground and operational systems——

Senator SHELBY. Sure.

Secretary LOCKE [continuing]. For Defense satellites, as well as our satellites, but NASA, with its capabilities, proven acquisition capabilities, which now really runs the GOES-R Program——

Senator SHELBY. Sure.

Secretary LOCKE [continuing]. Which, over the last few years, has remained within budget; a troubled program before, but now pretty much on track—we're now using the GOES-R model, which is where NASA is responsible for the acquisition and the management, and we do the support.

So, we're hopeful, confident that this is a much better management structure, as recommended by everyone, including this committee.

Senator SHELBY. Absolutely.

Secretary LOCKE. And so, we're moving ahead.

Senator SHELBY. Thank you.

Thank you, Madam Chair.

Senator MIKULSKI. Senator Pryor.

Senator PRYOR. Thank you, Madam Chairman. Thank you for having this hearing today.

Secretary Locke, always good to see you, thank you, and——

Secretary LOCKE. Senator.

Senator PRYOR [continuing]. Welcome back to the subcommittee. And thanks again for coming to Arkansas last year; it was a great trip.

BROADBAND GRANTS

I have a question about rural broadband and a bottom-line question on that. What steps are you all taking there to make sure that the grants that are being allocated are being awarded to areas that need the grants and don't already have sufficient access to the Internet?

Secretary LOCKE. That is—thank you very much, Senator, that’s a critical question. And the criteria that we use in the Department of Commerce for our broadband, high-speed Internet grants are a “but for” test. But for this funding, would the private sector jump in? Or, absent this funding, would the private sector jump in? And if they will, then we don’t get engaged, because there’s no need to duplicate what the private sector is doing. With the scarce resources, we could be providing these dollars in other parts of the country that really need it.

As of tomorrow—or by the end of tomorrow, we will have announced over \$1 billion in broadband grants for this first round, another \$3 billion in the next round. We will have all of these completed and announced before the end of this fiscal year; and then, of course, the budget calls for increased funding for oversight.

But, I can tell you that what we’re doing under the Department of Commerce is what we call our “middle-mile projects”; basically, highways, rings, interstates of high-speed Internet, fiber-optic cable, or even using wireless systems. We’re connecting major institutions, hospitals, clinics, government facilities, libraries, colleges, and universities. And from this 20,000 miles of high-speed Internet fiber-optic that we’re deploying, private-sector providers—whether telephone companies, cable operators, whomever—are then able to tap into, or connect to, this ring and then provide the direct service to businesses and to homes.

Senator PRYOR. All right.

Secretary LOCKE. And without—and our test is, without this investment by the Government, the private sector does not have the funds to move into these communities. They don’t have the funds to build the main highway. And so, we’re making it easier for them.

Senator PRYOR. Are you confident that, as of tomorrow, when you finish your announcements, that all of the projects awarded will meet your “but for” test?

Secretary LOCKE. Yes. Yes. In fact, we’ve had 1,000—I think, 1,800 applications requesting some \$19 billion from this first-round pool of just a little over \$1 billion.

Senator PRYOR. Right. And then, when you do the subsequent rounds, you’ll still keep that “but for” test?

Secretary LOCKE. Yes. In fact, we’re clarifying it, we’re streamlining the process. We had to rely on thousands of independent reviewers, the same way like the National Institute of Health or other scientific foundations issue grants. We had three independent reviewers reading all the applications. We didn’t want to have an application rejected because of the quirks of one reviewer. So, we’re streamlining that process. We’re going to have at least two reviewers—outside, independent reviewers reading these various files and then submitting it. And then we still have to do a lot of due diligence within the Department of Commerce.

REGIONAL INNOVATION CLUSTERS

Senator PRYOR. Great.

You know that I’m interested in research parks. You and I have talked about that before. And I know you are, as well. And it seems that the research park idea—and they’ve had a lot of success in

Maryland and Alabama with these research parks—but it seems like that, that idea works very well with the administration’s idea of regional innovation clusters. Am I right in that? And are we moving in the right direction on trying to get more of these research parks around the country to tap into the innovative spirit of our country?

Secretary LOCKE. Very much so, and the President’s budget does call for moving funds into the—I can’t remember the specific—within the Economic Development Administration are—let me see, what is that—what’s that program? EAA?

VOICE. Economic Adjustment Assistance Program.

Secretary LOCKE. The Economic Adjustment Assistance Program. And that’s a more flexible program, where we can provide grants for communities to focus on planning and assessments of their strengths, and then also provide infrastructure grants to help them actually implement their ideas.

The whole notion of the regional innovation clusters is to have each community, or regions of the country, focus on their natural strengths, their assets—whether it’s colleges, universities, highways, some of the existing industries that are already there—to have them really focus on what they think is most viable, sustainable over the next several decades, and make sure that our grants are helping them further that vision and their goal.

And each part of the country may have totally different goals. One part might be on recreation, one part might be on tourism, another part might be on scientific research parks. But, we need to help each of the regions determine what their natural strengths are. And they may have several different goals, not just one. But, make sure that the grants that they’re applying for actually are consistent with, and in furtherance of, those regional innovation priorities.

PUBLIC TELECOMMUNICATIONS FACILITIES—PLANNING AND CONSTRUCTION

Senator PRYOR. Let me ask about public television. You—apparently the administration believes that the Public Telecommunications Facilities Program, the PTFP, at NTIA is no longer needed now that the digital transition is complete. And is it—am I right on this that the administration recommended the PTFP not be funded in 2011? I’m not sure that makes sense to me. Could you talk about that for a sec?

Secretary LOCKE. That is the recommendation of the administration, to not fund that, and to have—because, I think, in the past, 70 percent of the grants provided under that program went for digital equipment. And now that all the stations have converted to digital television, we think that it makes more sense to consolidate all the requests and programs under funding for the Corporation for Public Broadcasting.

Senator PRYOR. I may have that wrong, but I think that that program has been around much, much longer than digital transition. I think it’s been around 45 years, or something like that. And, I think you ought to at least look at that, to maybe try to continue that, because I’m sure there’s public television stations all over the country that have benefited from that funding over time.

COMMERCE'S ROLE IN THE PRESIDENT'S NATIONAL EXPORT INITIATIVE

The last thing I wanted to ask is a little bit of a follow up on Senator Shelby's question about the goal of trying to double our exports over the next 5 years. I think that's a great goal; I think, like Senator Shelby says, everybody agrees with that. But, I would like to know what role the Department of Commerce is playing in there. You touched a little bit on it with Senator Shelby, but how does the Department of Commerce fit into achieving that goal?

Secretary LOCKE. Well, I think the Department of Commerce is really going to be the lead agency on that, but, of course, the President's National Export Initiative also calls for significant expansion of our agricultural exports, which is why, I believe, some \$50 million is allocated for the U.S. Department of Agriculture to help promote U.S. agricultural exports, reducing trade barriers that our agricultural communities and farmers face, as well as developing new overseas markets.

The President has also called for increased activity by the Export-Import Bank, especially focused on medium and small businesses, to make their loans; to increase loans that would benefit small- and medium-sized companies from the current \$4 billion to \$6 billion.

And the Department of Commerce, for instance, is the lead agency with respect to the Trade Promotion Coordinating Committee, which brings all the Federal agencies together. We've had several meetings already, and this working group of all of the different agencies will be to complement and actually do the work, as recommended, coordinated by the National Export Initiative.

What's different about the National Export Initiative from other efforts by other administrations—which have always focused on trying to increase exports—is that it is a Cabinet-level attention, with participation and direction by the President himself. And this is something that the President cares very, very deeply about; increasing exports. Because if we increase our exports, we're increasing manufacturing, and if we increase manufacturing to fill those orders, we're providing more jobs for the people.

Senator PRYOR. I agree. I think it's great.

Thank you, Madam Chair.

NOAA FUNDING

Senator MIKULSKI. Mr. Secretary, I want to come back to NOAA. The reason is that, if you look at your appropriations request, it's \$8.9 billion for the entire Commerce Department, which deals with everything from national standards, which we hope become the international freedom standards, to trade policy, to economic development in local areas. But, if you look at it, of the \$8.9 billion, \$5 billion is NOAA. Half of your total appropriation is NOAA. And if you look at NOAA, 35 to 36 percent are in this satellite program. This is why we are obsessive about this. You have a big job to do to really be an economic engine. Of that 35 percent, we are apprehensive about getting our value.

STIMULUS FUNDING

I'll just switch gears for a moment to the stimulus funding.

Four billion dollars went into building rural broadband. We held a separate hearing on that. You testified, you answered many of the questions, some of which Senator Pryor raised.

And, Senator, you'd find it very interesting, because they really did due diligence in anti-boondoggle, and yet moved it. But, it's going to end. Well, the need doesn't end. And over there, we've got NPOESS. Its apples and oranges. But, the fact is, is that for \$2 or \$3 billion, we wonder, what are we getting? And will what we're doing make a difference?

NOAA SATELLITES

So, for—one—I'll come to management issues at NOAA—but, what are we getting, with these two satellites that will have less answers than the original plan? And, are we truly saving money?

Then the other part of this is—you spoke about NOAA, which is under your purview, NASA, which is an independent agency but key to procurement, but the other partner at the table has been DOD, but they don't seem to be very involved in this divorce, and I wonder if they're picking up the money. We go from \$14 billion to \$11.9—close to \$12 billion. The NPOESS money, though there is a drop in it, jumps \$650 million a year. That's a lot of money.

And we wonder, are we going to see more escalating costs, and then you—or Dr. Lubchenco—has to go to other services, like the Weather Service, which we're so dependent upon, to pay for the increase in the satellite program.

So, here is my question. Now you're going to have the divorce—we have interesting metaphors about custody and so on—but, the fact is, for the NOAA part, it's going to cost more. And are we getting less science? And do you feel that there's a real disciplinary effort going on now to deal with this cost overrun?

There's a whole other school of thought that's advising us just to pull the plug on the program altogether. I don't want to do that, because it's been a lot of science and a lot of technology that's been developed here. And could you share with us this—can you see why—we are afraid that the voracious appetite of NPOESS will eat NOAA alive. And NOAA is already half of your appropriations request, and it's because of this particular satellite program.

Secretary LOCKE. I share those concerns, exactly, which is why the reports that I read, when I first became Commerce Secretary, from the expert committees, as well as the Inspector General's report, were very, very alarming.

As Senator Shelby indicated, originally it was supposed to be \$8 billion for six satellites, and then, more recently, its \$14 billion for only four satellites. NOAA and NASA will operate two of those four satellites—the afternoon orbits; the Defense Department will be in charge of the morning orbits and their satellites.

And it was a 50/50 cost-share arrangement. It was originally a 50/50 cost-share arrangement. So, what's really happening now is that, instead of the Defense Department paying one-half of our satellites and NOAA paying one-half of the Defense Department's satellites—that's why the increase in cost—we're now paying and responsible for, our satellites completely. But, it means that we will not be paying for the Defense Department's satellites later on, as they move forward.

We are very, very concerned that we have to have better management, for the very reason that it will eat up the budget of NOAA and the Department of Commerce. And that's why everyone recommended a complete restructuring; otherwise, the current trajectory was untenable, unacceptable. And either we make the changes or we terminate the program altogether. But, terminating the program would have left incredible vulnerabilities to our Weather Service. And people rely on that weather, whether it's forecasting hurricanes, to storms, to ocean conditions, and for fishing, and for business.

And it also impacts our defense capabilities, because even our NOAA satellites, in the afternoon, have military value and provide data to our defense forces. So, we cannot leave our defense forces and our men and women in armed services in harm's way because of a lack of data.

If we did nothing, some of our existing satellites will soon lose their operational capability, will end, and even fall from the sky. So, we would have a gap in weather and climate data, with no replacement in sight. So, that was also untenable. And that's why we moved very aggressively, urging the White House to convene a task force to really study this issue, brought together the experts that had advised us, issued the reports, and brought this to the attention of the highest levels within the White House. And we're pleased that decisions were made.

Senator MIKULSKI. Is this up at the Secretary's level? In other words, not just sitting at NOAA, is this with you?

Secretary LOCKE. I was engaged in those meetings. I was the one who went to the White House and presented the reports and said, "We have to do something. The current course is unacceptable." And we kept pushing and pushing. We got OMB, NASA, Defense, the Office of Science and Technology, and everyone else involved in the table, brought those experts in, and we kept pushing them. So, we're very pleased that a decision was made that followed the recommendations of both the inspector general's and the expert review panel's calling for a complete restructuring.

Now, of course, I tell the folks at NOAA, "You've gotten what you've asked for, the turd is in your pocket, and now we have to deliver." So, we're watching this—I am watching this very, very, very carefully.

Senator MIKULSKI. Well, we worry about NOAA. I'm very proud of the fact that it is headquartered in Maryland, as is NIST and the Census. The previous administrator had kind of a more hands-off, laissez-faire. But, as Senator Shelby has raised in his questions about NOAA, accurate numbers for red snapper, it's the same with crabs, it—the whole issue of overfishing and the decline of species is an issue.

We know that NOAA has very strong scientific capability, and we're really proud of that. But, now it needs very strong management capability that matches its scientific capability. And as it looks at creating new areas, like climate services—I understand the word is "climate services," not a "climate service." Am I correct in that? There's a difference that you provide data, but you're not standing up a new agency within an agency?

Secretary LOCKE. No, we're not standing up a new agency. It is a budget-neutral reorganization pulling together—we have climate data—

Senator MIKULSKI. I don't want to go into that, I want to come to the census.

Secretary LOCKE. All right.

Senator MIKULSKI. We need to have strong management at NOAA, and we'll come back to that.

2010 CENSUS

Secretary LOCKE. All right.

Senator MIKULSKI. I've got to go to the census, which is giving us heartburn. The last big part of it—so just know that, that there's a big distinction between a "National Climate Service" and providing "national climates services," which is data.

The last big part of the 2010 census operation, quote, "addressing canvassing," had a 25-percent cost overrun. If we see this now with the next big phase, the so-called "nonresponse followup," a 25-percent cost overrun would be another \$675 million and be—have catastrophic consequences, in terms of really providing an accurate count in the timely manner, as what the founders and the constitutional mandate gave us. So, my question to you, how are we going to make sure we really have the nonresponse followup without adding a whole new 25-percent cost overrun, given the fact that our technology has failed?

ADDRESS CANVASSING COST OVERRUNS

Secretary LOCKE. It's of great concern to us. As both of you indicated, Senator Mikulski and Senator Shelby, we had to junk the hand-held computers. We did use hand-held computers for the address canvassing operation but reverted to a paper system for the nonresponse followup operation. We now have issues with respect to the software in—and assigning people, tracking their work performance, their hours, et cetera, et cetera. We've had—not had sufficient time to fully test that, so we're—everything is behind on that. But, that is proceeding. We're cautiously optimistic that there will be no problems with respect to that.

But, we do—we have had cost savings in other areas. We have had various other parts of the operation come in under budget, ahead of schedule, so we are amassing a reserve. We have also set aside a significant reserve of almost, I think, \$500 million with respect to the nonresponsive followup, the people going door-to-door.

Part of the cost overruns on that address canvassing dealt with the fact that we hire a lot of people, we train a lot of people, to have them ready to go. We always assume that some people, after a day or two, don't like the work and will quit, or that they simply don't show up. Because of this tough economy, we had very little attrition. We didn't have that many people not showing up, not many people quitting, not many people finding another job and saying, "Well, I don't need this temporary work."

The sources for the address canvassing overrun about which the Secretary testified, the training costs cited in the testimony, accounted for \$7 million of the cost growth in the operation. Other sources included the fact that the initial workload assumptions in

the budget were too low. In fact, the Census Bureau increased its estimate by \$41 million before the operation even began. The additional workload came from various sources including State and local governments and the post office. Another \$33 million of costs is attributed to the quality control (QC) component of the operation, which took more hours and mileage than expected. This was in large part due to the number of addresses that were found to be duplicates, or were otherwise deleted by the production listers, and had to be verified by the quality control listers. Last, the actual results included fingerprinting costs, for which \$7 million was budgeted separately.

REFINED ASSUMPTIONS FOR THE 2010 CENSUS

So, we've now built those—learned those lessons, and revised our estimates, in terms of how many people we need to actually bring on board when it's time to go knocking on the door. So, we're trying to incorporate all these lessons learned, to refine our models. In fact, based on some of the audits, as well as findings and our experience on the address canvassing, where we had to go find out—is the home still here? Is this building still here? Is this a new structure that's not listed on the Post Office rolls or the rolls of the local government? And that was the address canvassing.

We have taken a lot of that work and the lessons learned to completely rescrub all of our assumptions with respect to the non-responsive followup. So, we have taken these issues to try to constantly refine, we're cautiously optimistic. We'll have a better sense, around April 20, quite frankly, what we can expect by way of the workload expected for nonresponsive followup.

Based on past experience, by March 22, when we see how many people are actually sending in—sending back their census forms, we'll have a good indicator.

The Census Bureau will know the workload for the nonresponse followup operation around April 20. By around March 22, an interactive map showing the 2010 census participation rates as compared to the census 2000 will be made available to the public for tracking the current response rate down to the census tract level.

2010 CENSUS DATA AVAILABILITY

And it's—in fact, Members of Congress and the mayors and the Governors will all have software, or programs, they can tap in, to actually see what's happening in their own communities and compare it against what happened in the year 2000. And that will give us the ability to immediately read just more public service announcements by local public officials, more outreach, more—a whole host of strategies to try to get more people to send back.

Senator MIKULSKI. That's how we'll do it, but we're—again, we're into the cost overrun.

The Secretary has to leave, momentarily, for an event at the White House, and we want to hear from the inspector general.

I'm going to say to my two colleagues, turning first to Senator Shelby, if we could stick to the theme of the census, which I know has been of great concern—did you have any questions on the census?

Senator SHELBY. I don't have any more. I think the Secretary understands my concern, and I think he shares that, and we just—and a lot of that happened before you came here, and I know that.

Senator Pryor.

Senator PRYOR. No.

Senator MIKULSKI. Well, Mr. Secretary, we know we've got a lot of followup to do. We want you to be able to keep your obligation to President Obama. And we really—we do look forward to staying in touch with your staff on these very vital issues that are affecting us.

So, thank you, and your presence here is—

Secretary LOCKE. Thank you.

Senator MIKULSKI [continuing]. Excused.

We now are going to ask Mr. Zinser to come up, our inspector general, to give us what he thinks are the big challenges and where we can—and his observations and insights on how we can get a better handle—using the appropriations process to get more value for our dollar.

Mr. Zinser, we're glad to see you. And really, on behalf of the subcommittee and, I think, of the Nation, we want to thank you for the job that you're doing.

I am a great believer in the inspector general process. The whole idea was waste, fraud, and abuse, and that we would have an independent force giving us this evaluation. And to the extent that you see, particularly, where there is waste or the possibility of cost overruns, where the boondoggle banging on our budget, banging on the mission of the agency, we welcome your observations about the Commerce Department, and any recommendations that you think we need to take in our appropriations process to ensure that we have smart government.

Please proceed.

STATEMENT OF HON. TODD J. ZINSER, INSPECTOR GENERAL

Mr. ZINSER. Thank you, Madam Chairwoman, Mr. Pryor. Thank you for the invitation to be here today.

As you well know, and as the Secretary just testified, the Department of Commerce faces many challenges. We have submitted a written statement that summarizes our January report on those issues, as we consider the top management challenges facing the Department.

Trying to narrow that list to a manageable number of priorities is a challenge in and of itself, given the very diverse mission of the Department. We drafted our report based on a thinking that too many priorities result in no priorities, so we identified five specific risk areas, which I will list in a moment.

But, our list does not include what is perhaps the overarching priority of the Secretary, which has his lead responsibilities in the area of economic growth and job creation. We recognize the importance of those responsibilities.

Our A list includes the decennial census, IT security, departmentwide, NOAA's Environmental Satellite Program, the American Recovery and Reinvestment Act, and the U.S. Patent and Trademark Office, to include significant financial management and process issues.

And if I could just make two more points, Madam Chairwoman. First, our list is not meant to criticize anyone or any program. We hope that it helps all of us focus on important problems.

And second, I think the subcommittee should know that I have found the leadership of the Department, almost to a person, to be very management-minded. They have rolled up their sleeves and seem intent on implementing much-needed management reform, and I think that's good for the Department and for the taxpayers.

PREPARED STATEMENT

With that, I'll conclude my remarks and respond to any questions you or other members of the subcommittee may have.
[The statement follows:]

PREPARED STATEMENT OF HON. TODD J. ZINSER

Chairwoman Mikulski, Ranking Member Shelby, and members of the subcommittee: Thank you for inviting us to testify today as you consider the fiscal year 2011 appropriations for the Department of Commerce. Today I will highlight five areas that we identify in our recent Top Management Challenges report and that the subcommittee may want to include on its short list of watch items. I will also address several organizational issues and other matters of importance to the Department.

The challenges I will discuss focus on the following five areas:¹

—*Decennial Census*.—Mitigating issues with the 2010 decennial while addressing future census challenges.

—*Information Technology (IT) Security*.—Continuing to enhance the Department's ability to defend its systems and data against increasing cyber security threats.

—*National Oceanic and Atmospheric Administration (NOAA) Environmental Satellites*.—Effectively managing technical, budgetary, and governance issues surrounding the acquisition of NOAA's two environmental satellite programs.

—*American Recovery and Reinvestment Act*.²—Meeting the challenges of accountability and transparency with effective oversight of program performance, compliance, spending, and reporting.

—*United States Patent and Trademark Office (USPTO)*.—Addressing the Patent Office's resource and process issues.

Most of our audit and evaluation efforts this fiscal year are being expended in these areas. In planning our work for fiscal year 2011, we are, for the first time, conducting a formal risk assessment of Commerce activities to identify those most in need of oversight. Specifics on our current Top Management Challenges follow.

DECENNIAL CENSUS—CENSUS NEEDS TO ENSURE ACCURACY AND CONTAIN 2010
DECENNIAL COSTS WHILE ADDRESSING FUTURE CENSUS CHALLENGES

With a life-cycle cost estimate now projected to total \$14.7 billion, the 2010 census is a massive undertaking made up of many moving parts. The bureau must integrate 44 separate operations (with a total of some 9,400 program- and project-level activities). In just over a week, the public will begin receiving their census forms in the mail. The rate at which they return their responses will be critical in determining the overall cost of the census. Households that do not mail back their forms will be visited by an enumerator during nonresponse follow-up (NRFU). The most expensive operation of the decennial, it is estimated that NRFU will cost \$2.3 billion.

The fiscal year 2010 decennial budget for carrying out the 2010 census involving the 10 question short form was \$6.9 billion, which included \$100 million carried over from fiscal year 2009. For fiscal year 2011, the bureau has requested slightly more than \$477 million to complete the 2010 census.

The mission of the census—to count each of the over 300 million people in more than 130 million households in the United States once, only once, and in the right place—is a daunting task. For decennial field operations, temporary bureau man-

¹A more detailed discussion of these challenges is presented in our January 12, 2010, report, Top Management Challenges Facing the Department of Commerce, Final Report No. OIG-19884 (<http://www.oig.doc.gov>).

²American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

agement staff must run just under 500 local offices and manage over 600,000 temporary workers—while recruiting substantially more.

While much of the bureau's plan is on track, NRFU efficiency and accuracy are at some risk, and final decennial costs remain uncertain. The success of NRFU—which begins in just 8 weeks—hinges on how effectively Census controls the enormous NRFU workload and workforce, and it must do so using a Paper-based Operations Control System (PBOCS) which, because of system development problems, will have less functionality than planned and is currently experiencing performance problems. PBOCS is essential for efficiently making assignments to enumerators, tracking enumeration forms, and reporting on the status of the operation.

Cost Containment is Essential for Field Operations, but Requires Strong Budget Estimation Capability and Effective Internal Controls

The ability to produce valid budget estimates is essential for cost containment. Yet Census reported a 25-percent cost overrun for address canvassing and spent 41-percent less than anticipated for group quarters validation.³ Inaccuracies of this magnitude in estimated budgets, combined with wide variances among early local Census offices in address canvassing costs, indicate significant weaknesses in the bureau's budget estimation capabilities.

Also essential to cost containment is better management of Census fieldwork. We found inefficiencies in wages, travel, and training during the address canvassing operation, including workers being paid to attend training classes but who subsequently performed little or no work, workers who made excessive mileage claims, and workers who were reimbursed for mileage at a higher-than-authorized rate. Given the significantly larger scale of NRFU, it is important that Census develop effective internal controls and ensure that managers scrupulously follow them during this operation.

The final decennial cost remains uncertain; three key factors could have significant cost impact. According to the bureau, the mail response rate could have the greatest impact, with enumerator productivity a second major cost driver. The third issue concerns the capabilities and performance of PBOCS for NRFU. This, along with the bureau's ability to implement effective workarounds for PBOCS shortfalls, will determine the ultimate schedule and degree of efficiency, and thus the final cost.

OIG Oversight Plan For Decennial Operations

The Office of Inspector General (OIG) will continue to monitor the bureau's progress on PBOCS and other key decennial activities. In addition, over the next several months, about 100 members of our staff will be participating in what is for us an unprecedented effort in scope and resource commitment to go on the road and observe Census workers in action. Such oversight, while census activities are ongoing, will allow us to immediately observe successes as well as any problems that might arise, and notify the bureau without delay.

The Groundwork for an Improved and Cost-effective 2020 Census Should be set This Year

The cost of the decennial census has doubled every decade since 1970 (not adjusted for inflation). On the current trajectory, the price of the 2020 census could total more than \$30 billion. Census must find ways to rein in costs while maintaining or enhancing accuracy. It is crucial for the bureau to lay the groundwork now for the 2020 census.

The Supplemental Appropriations Act of 2008⁴ gave the Census Bureau an additional \$210 million to help cover spiraling 2010 decennial costs. As directed in the explanatory statement accompanying the act, OIG has been providing quarterly reports to congressional appropriations committees that assess the bureau's progress against its 2010 decennial plan. In our first quarterly report, we reported that the bureau's ability to effectively oversee decennial progress has long been hampered by inherent weaknesses in its systems and information for tracking schedule activities, cost, and risk management actions. Our recommendations to address these problems for the 2020 decennial emphasized the need for an integrated method for planning and tracking of budget, schedule, and progress.

To effectively plan and manage the next decennial, Census needs to significantly improve its cost estimation capabilities and provide a well-documented cost estimate as early as possible. Our first quarterly report also noted that Census needs to de-

³The group quarters validation operation is aimed at verifying information from all potential group quarters—such as dormitories and prisons—nationwide.

⁴Pub. L. 110–252, title II.

velop transparent decision documentation for the 2020 census that clearly identifies the basis for spending decisions and the rationale for changes to plans provided to Congress and other stakeholders.

The findings of our two subsequent quarterly reviews, combined with other evaluations we conducted throughout the decade, demonstrate that Census needs to identify more cost-effective approaches to the decennial and should give serious consideration to the use of such alternatives as administrative records, the Internet, and targeted address canvassing. These and other possible approaches have the potential to contain costs while increasing accuracy and efficiency.

INFORMATION TECHNOLOGY (IT) SECURITY—COMMERCE MUST CONTINUE ENHANCING THE DEPARTMENT'S ABILITY TO DEFEND ITS SYSTEMS AND DATA AGAINST INCREASING CYBER SECURITY THREATS

Commerce's budgets for information technology have increased since fiscal year 2008, primarily for investments at Census and NOAA (see table). Despite the millions of dollars spent on cybersecurity, Commerce's approximately 300 computer systems, many that process and store sensitive mission-critical data, are not always adequately protected.

COMMERCE BUDGET FOR IT AND IT SECURITY

[Dollars in millions]

Fiscal Year	IT Budget ¹	IT Security Budget ¹	Percentage of Budget Spent on IT Security ¹
2008	\$1,789	\$116	7
2009	\$2,273	\$170	8
2010	\$3,042	\$240	8
2011	\$2,631	\$307	12

¹ Rounded.

Source: Estimates provided by the Department of Commerce, Office of the Chief Information Officer.

While maintaining IT security is inherently challenging, Commerce's decentralized management structure adds to the difficulty. Commerce operating units have separate management structures that preclude direct accountability to the Department's Chief Information Officer (CIO). This decentralization gives the CIO only limited authority over the daily management of IT security within Commerce's operating units, and adds complexity to Department-wide information security initiatives.

Commerce is Taking Steps to Strengthen its IT Security Workforce

An audit we conducted in fiscal year 2009 found that the Department needed to devote more attention to the development, guidance, and performance management of its IT security personnel. We made recommendations to improve employee training, professional development, and performance management. Among the numerous improvements that the Department is now making, it plans to require professional certifications for employees with significant IT security responsibilities. This is a noteworthy step in building a highly competent IT security workforce—one that few, if any, civilian agencies are taking.

Departmental Actions to Resolve Material Weakness in IT Security Are Showing Progress, but More Work Will Be Necessary

The Federal Information Security Management Act of 2002⁵ (FISMA) requires agencies to certify that their systems and data are protected with adequate, functional security controls before systems are authorized (accredited) to operate. If a management control weakness is sufficiently serious that the agency head determines it should be reported in the annual Performance and Accountability Report, it is termed a material weakness. IT security has been reported as a material weakness since fiscal year 2001 pursuant to the Federal Managers' Financial Integrity Act of 1982.⁶ While the Department is continuing to make progress, our fiscal year 2009 FISMA review identified vulnerabilities in technical security controls that leave Department systems and data at risk for internal and external malicious at-

⁵ Pub. L. 107-347, title III, §§ 301-302, 44 U.S.C. §§ 3541-3549, 40 U.S.C. § 11331.

⁶ Pub. L. 97-255 (codified as amended in scattered sections of 31 U.S.C.).

tacks. Therefore, we recommended—and the Department agreed—that the material weakness should stand until more improvements are made.

We report on USPTO separately for purposes of FISMA because, as a performance-based organization, it submits a separate Performance and Accountability Report. Although the two USPTO systems we evaluated in fiscal year 2009 met FISMA requirements, we did not have sufficient evidence to recommend removal of the material weakness. In our view, the bureau has not demonstrated a consistent, effective process for certification and accreditation, and we continued to identify problems that we reported on in the past. Nevertheless, USPTO management determined that its IT security issues have been adequately resolved and did not report IT security as a material weakness in its fiscal year 2009 Performance and Accountability Report—a position with which we disagree.

In this fiscal year, the Department's CIO will begin implementing a 3-year plan that takes a Department-wide, holistic approach to improving Commerce's overall security posture. The plan addresses continuous monitoring of security controls, situational awareness, incident detection and response, and other aspects of an effective IT security program, including improving IT workforce competencies.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) ENVIRONMENTAL SATELLITES—NOAA MUST EFFECTIVELY MANAGE TECHNICAL, BUDGETARY, AND GOVERNANCE ISSUES SURROUNDING THE ACQUISITION OF TWO ENVIRONMENTAL SATELLITE SYSTEMS

NOAA is modernizing its environmental monitoring capabilities, in part by spending an estimated total of nearly \$20 billion on two critical satellite systems: the National Polar-orbiting Operational Environmental Satellite System (NPOESS) and the Geostationary Operational Environmental Satellite-R Series (GOES-R). Space acquisitions such as NPOESS and GOES-R are highly technical and complex; such programs have a history of cost overruns, schedule delays, and reduced performance capabilities.

The NPOESS and GOES-R programs have already suffered significant cost increases and delays. Because of serious problems with NPOESS, the program is beginning to undergo a restructuring, as discussed below. These programs will continue to require close oversight to minimize further disruption to the programs and prevent any gaps in satellite coverage. Such gaps could compromise the United States' ability to forecast weather and monitor climate, which would have serious consequences for the safety and security of the Nation.

NPOESS Background

The objective of NPOESS was to provide continuous weather and environmental data for longer term weather forecasting and climate monitoring through the coming two decades. NPOESS has been managed jointly by NOAA, the National Aeronautics and Space Administration (NASA), and the Department of Defense. NOAA and Defense shared the cost of the NPOESS program equally. The initial project plan called for the purchase of six satellites at a cost of \$6.5 billion, with a first launch in 2008. But problems with a key sensor raised costs and delayed the date of the first launch, even as the number of satellites in the system was reduced to four.

By December 2008, NPOESS' total estimated life-cycle cost had grown to \$14 billion. NOAA announced in March 2009 that it would delay the first launch to 2014 because of continuing problems with the sensor. It also delayed the planned NPOESS Preparatory Project⁷ launch date from 2010 to 2011.

Restructuring of the NPOESS Program Deemed Critical to Its Success

In the spring of 2009, an independent team was appointed to examine the program's status. The team, comprising satellite experts from industry, academia, and government, found that the NPOESS program had a low probability of success. In the fall of 2009, NOAA, NASA, and Defense worked with the White House Office of Science and Technology Policy and the Office of Management and Budget to select the best option for restructuring. The option chosen, called Divergence, was considered the most feasible because it would not require Defense and NOAA to continue to try to resolve their conflicting perspectives and priorities. As a result, NOAA and NASA plan to acquire a separate satellite, called the Joint Polar Satellite System (JPSS).

The three agencies have formed a transition team to implement the Divergence plan. Although the complete details of the plan are still being developed, NOAA/

⁷The NPOESS Preparatory Project was planned as a risk-reduction effort to test NPOESS' new instruments in flight. NASA is taking the lead in this activity.

NASA intend to use the applicable components for JPSS that were funded and developed under the previous NPOESS structure.

Under Divergence, Defense will be responsible for the early morning orbit, Defense and the European Organization for the Exploitation of Meteorological Satellites will cover the mid-morning orbit, and a NOAA/NASA-managed JPSS acquisition will cover the afternoon orbit. The orbits are based on the local time that the satellite crosses the equator as it circles the earth. Satellite coverage in all of these orbits allows the same point on the earth to be sampled frequently enough and at the correct time of day (under sunlight or darkness) to meet each agency's operational requirements, provide sufficient data for both severe storm prediction and detection, and provide climate monitoring for our Nation's safety and security.

NOAA, NASA, and Defense will implement the transition plan from now into fiscal year 2011. To accomplish this, NOAA'S fiscal year 2011 budget request for JPSS totals \$1.1 billion, a \$679 million increase over the fiscal year 2010 budget. The JPSS program will continue development of the instruments needed for the afternoon orbit. The JPSS management structure is planned to be similar to NOAA's next generation GOES-R, in which NOAA manages the overall program with assistance from NASA. NOAA will acquire two JPSS satellites and will continue climate sensor acquisitions under the NOAA climate program. The cost estimate for JPSS is \$11.9 billion; this includes funding for transition of instrument acquisitions from Defense to NASA, NOAA's share of NPOESS contract termination costs, and procurement of two JPSS satellites.

Defense is also conducting a study to evaluate the best approach for maintaining continuity of its polar satellites. It has two remaining satellites under the ongoing Defense Meteorological Satellite Program (DMSP). The availability of DMSP satellites through 2018 could significantly delay the need to acquire a replacement satellite. However, it is essential that Defense maintain funding to account for the long lead time required to build satellite capability because it remains responsible for data continuity in the early-morning orbit beyond the last DMSP satellite's life span.

GOES-R Background

The GOES-R⁸ system is intended to offer an uninterrupted flow of high-quality data for short-range weather forecasting and warning, as well as provide climate research data through 2028. NOAA is responsible for managing the entire program and for acquiring the ground segment, which is used to control satellite operations and to generate and distribute instrument data products. NOAA awarded the ground segment contract in May 2009, which has a 10-year duration and a total estimated value of \$736 million, if all options are exercised.

NASA's Goddard Space Flight Center in Greenbelt, Maryland, is responsible for acquiring the spacecraft and instruments for the program. In December 2008, NASA's award of the GOES-R spacecraft contract—with a total estimated value of \$1.1 billion for two spacecraft, including the options for two additional spacecraft—was protested by the losing bidder. Work stopped until the protest was withdrawn in August 2009. As a result, launch readiness for the two satellites was deferred by 6 months.⁹

According to program documentation, the overall GOES-R program acquisition is on track and within budget to meet the revised launch schedule for systems engineering and integration and both the flight and ground segments. The next significant program events are the system design reviews for the spacecraft and ground segment, scheduled for this month and next, respectively.

Any further delays in the satellite's launch readiness will increase the risk of NOAA's not meeting its requirement to have an on-orbit spare and two operational GOES satellites available to monitor the Pacific and Atlantic basins in 2015. We will monitor the program's cost and schedule to ensure that the bureau mitigates the risk of any further delays.

AMERICAN RECOVERY AND REINVESTMENT ACT—MEETING THE RECOVERY ACT CHALLENGES OF ACCOUNTABILITY AND TRANSPARENCY WITH EFFECTIVE OVERSIGHT OF PROGRAM PERFORMANCE, COMPLIANCE, SPENDING, AND REPORTING

The Department of Commerce received \$7.9 billion in funding under the American Recovery and Reinvestment Act of 2009 (see table). In addition to OIG, five Com-

⁸Since 1975, the GOES series of satellites have provided the United States with critical meteorological data for weather observation, research, and forecasting. Satellites in production are given letter designations, which are changed to numbers after the satellites reach orbit.

⁹The first satellite's launch date has been delayed from April to October 2015; the second from August 2016 to February 2017.

merce agencies received stimulus funding. Of the \$5.3 billion going to the National Telecommunications and Information Administration (NTIA), \$4.7 billion was for the Broadband Technology Opportunities Program (BTOP). With the goal of developing and expanding broadband services in areas that have no service or are underserved, as well as improving broadband access among public safety agencies, BTOP is by far Commerce’s most challenging stimulus program.

COMMERCE STIMULUS FUNDING ¹

NTIA	\$5 billion
Census	\$1 billion
NOAA	\$830 million
NIST ²	\$610 million
EDA ³	\$150 million
OIG	\$16 million

¹ Rounded.

² National Institute of Standards and Technology.

³ Economic Development Administration.

Source.—OIG.

We have taken several steps to implement an appropriate oversight framework to track the stimulus activities undertaken by Commerce. These steps include the assignment of dedicated Recovery Act staff; advisory participation in Department steering committees and working groups; and development of training programs to include fraud awareness, administration of grants and contracts, and development and execution of a risk-based audit plan. Some of the larger challenges that Commerce faces, as identified by this oversight, are summarized below.

Oversight Burden Will Increase in Fiscal Year 2011

The sheer amount of Recovery Act money Commerce agencies received, coupled with the unique requirements of the act, makes ensuring appropriate spending—while also providing economic stimulus as quickly as possible—a particular challenge. Commerce agencies must spend funds appropriately with little time to prepare for the many new and expanded programs, grants, and contracts established under the act.

Attached to our testimony is a table that presents Department of Commerce Recovery Act obligations and spending. As of February 19 of this year, the Department had obligated approximately \$2.1 billion in funds and spent approximately \$649 million.

Although spending volumes are currently low, all funds must be obligated by fiscal year 2011. The need to distribute funds quickly to communities and businesses increases the risks for fraud, waste, and abuse in both Recovery Act-funded activities and those Commerce operations with more traditional funding mechanisms. Recovery Act agencies will need sufficient resources to ensure that programs are delivering as intended, while providing oversight to guard against misuse of funds. The Recovery Act substantially increases the Department’s contracting and grants workload, particularly at NIST and NOAA, whose grants and contracts offices must manage not only the over \$1.4 billion they received under the Recovery Act but also the \$4.7 billion BTOP program. NTIA relies on NIST and NOAA for grants administration because it does not have its own staff and systems for this purpose. Such increases place added pressure on these agencies to hire and retain qualified personnel.

The Recovery Act has provided a relatively significant funding increase for NIST and NOAA construction projects. To complete them successfully, these agencies will need to dedicate construction managers across Recovery Act grants, contracts, and regular appropriation-funded projects.

Meeting Agency and Recipient Reporting Requirements

The Recovery Act establishes specific reporting requirements for both agencies and fund recipients. Federal agencies must report key information such as awards, obligations, outlays, and major activities on a weekly basis. Fund recipients need to report on a quarterly basis the projects and activities created and their completion status, as well as jobs funded by stimulus money. Available to the American public, these data reports must accurately reflect the use and impact of Recovery Act funds. An effectively designed internal control structure that detects and prevents errors and omissions is vital to data integrity.

We recently reviewed the adequacy of key information technology and operational controls of the primary (source) grants, contracts, and/or financial systems for Cen-

sus, EDA, NIST, NOAA, and NTIA, to determine whether their controls ensure that the Commerce reports posted on <http://www.Recovery.gov> are complete, accurate, and reliable. Generally, the Commerce systems we reviewed had adequate data input/edit controls. However, the lack of automated data transmission or interfaces from the grants systems to Commerce's financial system could lead to errors.

Without additional automation, it will become more difficult for Commerce agencies to effectively manage their own reporting as the volume of grants and contracts increases; it will also be difficult to ensure complete and accurate recipient reporting. Additional automation would add efficiencies to the reporting process and decrease the risks of reporting errors and delays.¹⁰

In fiscal year 2009, the Recovery Accountability and Transparency Board asked Inspectors General to audit bureaus receiving Recovery Act funding to assess their ability to perform reviews, identify reporting omissions and errors, and notify recipients who should make appropriate and timely changes. Our audit found that Commerce and its bureaus have proactively ensured that Recovery Act recipients recognize and meet reporting requirements and deadlines. In addition, the Department has provided policy, guidance, and oversight to bureau grants and contracts officials to facilitate department-wide standard review processes. The Department agreed with our recommendations to fine-tune review procedures.¹¹

Effectively Setting Up and Managing the New Broadband Technology Opportunities Program

A major Recovery Act initiative, NTIA's BTOP, faces significant application and pre-award review challenges to achieving its goals. The program aims to award over \$4.5 billion in grants in fewer than 18 months, a level of grants-award activity that no Commerce operating unit has ever undertaken.

With BTOP, NTIA has had to staff a program office, develop grants program rules and regulations, coordinate activities with several other departments and agencies (including Agriculture and the Federal Communications Commission), award grants, and perform effective oversight activities—all while limiting expenditures to 3 percent of the program's appropriation (\$141 million).

In early January, we met with the Assistant Secretary for Communications and Information to discuss the status of our evaluation. We communicated program challenges that—if unaddressed—we believed could cause NTIA to face difficulties in meeting its statutory deadline of issuing broadband grants by September 30, 2010, and in monitoring the grants after they are awarded. We shared the following concerns:

- NTIA faces operational challenges with its current staffing levels, especially given the program's complexity and deadline.
- Documentation is not consistently available for operational program procedures, program staff roles and responsibilities, and key management decisions.
- NTIA encountered problems with the application-intake system during the first round of the application process because the system was unable to handle the volume of applications submitted; this resulted in extending the deadline for receiving applications. While system modifications were made, there was only a short period of time in which to sufficiently test the system and ensure that adequate functionality and capacity were delivered for the second-round application cycle.
- NTIA also encountered challenges with the application review process. Volunteer peer reviewers failed to complete reviews or submit review scores in a timely manner. Supplemental contract reviewers were subsequently used to complete many of the application reviews. The review of applications was delayed nearly 3 months.

As NTIA enters its second round of issuing broadband grants, it needs not only to avoid the problems with applications intake and recruitment of sufficient reviewers but also to enhance internal program management operations for grants already awarded. In our opinion, the program is at risk of not being able to efficiently and effectively issue its second round of awards by the September 30, 2010, statutory deadline while simultaneously providing post-award monitoring of first-round recipients. Continued focus on improving program operations in these areas is critical.

¹⁰ More Automated Processing by Commerce Bureaus Would Improve Recovery Act Reporting, Final Report No. OIG-19779, December 2009 (<http://www.oig.doc.gov/recovery/reports/ARR-19779.pdf>).

¹¹ Commerce Has Implemented Operations to Promote Accurate Recipient Reporting, but Improvements Are Needed, Final Report No. OIG-19847, October 30, 2009 (<http://www.oig.doc.gov/recovery/reports/Final%20Audit%20Report%20ARR-19847.pdf>).

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)—USPTO MUST ADDRESS ITS
RESOURCE AND PROCESS ISSUES

With an enacted budget of \$1.7 billion in fiscal year 2010 and an fiscal year 2011 budget request of \$2 billion for patent operations, USPTO continues to struggle with increasing patent backlogs and the need to improve patent examination efficiency and quality.

As shown below, since fiscal year 2000, the number of patent examiners has more than doubled, yet the length of time to process a patent has increased 40 percent. Further, the backlog of applications awaiting review increased 139 percent.

COMPARISON OF ANNUAL PATENT WORKLOAD AND PENDENCY, FISCAL YEAR 2000 AND FISCAL
YEAR 2009

	Fiscal Year 2000	Fiscal Year 2009	Change (percent)
Patent Examiners	2,900	6,200	114
Total Time to Process (months)	25	35	40
Applications Backlog	308,000	736,000	139
Applications Filed	312,000	486,000	56

Source.—USPTO.

Over the years, USPTO has worked to increase the number of patent examiners to address the growing backlog; however, simply adding to the workforce without improving processes and quality control will not suffice. The bureau must consider how to reform and reengineer the various components of the patent application process to ensure timely and high-quality application review. Further, its IT systems need to be updated to ensure that they are able to process increasingly complex applications safely and securely, and provide greater management oversight.

Fee Structure, Funding Mechanisms Intertwined

USPTO must also address challenges with its funding mechanisms and fee structure. It is now funded entirely by application, maintenance, and other fees paid by patent and trademark applicants and owners. Congress is also involved in this process by setting many of the fees legislatively and establishing a ceiling, through the appropriations process, as to the maximum amount of fees USPTO can spend in a given year. For fiscal year 2011, the administration proposes a 15-percent increase in certain patent fees to generate additional revenue to cover operating expenses. It also proposes that USPTO be given fee-setting authority and the authority to establish an operating reserve to manage operations on a multiyear basis.

In November 2008, our Top Management Challenges report suggested that USPTO's unique financing structure could become increasingly risky. Subsequent downturns in the U.S. and global economies quickly showed the structure's vulnerabilities. In the President's fiscal year 2009 budget, the bureau estimated that it would collect over \$1.8 billion in patent fees. However, by the end of that year, patent fee collections totaled just over \$1.6 billion. Multiple factors contributed to this difference, including a reduction in the number of patent applications filed and a decline in maintenance fees collected for existing patents. To align expenses with actual patent fee collections, USPTO took steps that included deferring the hiring of patent examiners, and curtailing or suspending overtime and training.

These reductions increase the risk to USPTO's ability to operate effectively in current and future years, and its capacity to ensure that America's intellectual property system encourages investment in innovation and contributes to a strong global economy. More immediately, USPTO may not be able to process as many patent applications, which will add to the backlog instead of working toward reducing it. In effect, fewer maintenance fees will be available to collect in the future because fewer patents are being issued today.

As a result, in our view, the Department and Congress must require transparency and quality with respect to USPTO's cost data. This could include a review of USPTO's cost accounting system and how the system could be used to support decisionmaking in general—and in the event of cost reductions in the future, such as those that were necessary in fiscal year 2009.

The Under Secretary of Commerce for Intellectual Property, who is also the Director of USPTO, has publicly acknowledged these and other difficulties. A 5-year plan contained in the President's fiscal year 2011 budget sets forth bold goals, such as reducing the time it takes for a patent application to be initially reviewed to 10 months (from the present 26 months) by fiscal year 2013. Similarly, by fiscal year

2014, the bureau’s goal for making a decision on a patent application is 20 months, down from the present 35.

OTHER CHALLENGES FACING THE DEPARTMENT OF COMMERCE

In addition to these five top management challenges, we have identified several organizational issues facing the Department in the coming year:

Centralized Management and Oversight

The Department needs to continue its actions to centralize management and oversight in order to make departmental operations more efficient, consistent, and productive. The Department’s operating units have long-standing and independent business models, cultures, and practices. This decentralized structure has created obstacles to Department efforts to integrate and administer internal processes such as financial services, human resources, grants and contracts management, IT, and major acquisitions. Increased centralization has the potential to yield cost savings.

Commerce awarded over \$2.2 billion in grants to some 4,000 recipients and over \$3.2 billion in contracts to over 7,000 contractors during 2009. Grants and contracts are administered by five separate bureaus, using three different grants systems and four different procurement systems. Additionally, the Department’s Office of Acquisition Management has limited authority over the agency’s grants and procurement offices, which further contributes to the inconsistent management approaches across the Department and adds to the difficulty in overseeing the effectiveness of operations and programs.

Contracts and Grants Management Workforce

Sufficient staffing for the contracts and grants management workforce has also been a long-standing issue for the Department. Now, primarily as a result of the Recovery Act, the Department and its operating units are issuing more grants and contracts than ever. According to Department data, there are more than 1,500 Commerce employees holding certifications in various acquisition positions (see table). While the Department does not track the number of grants personnel, we recently conducted a survey of the sufficiency and qualifications of the Recovery Act acquisition and grants workforce. Based on our survey, for the five Commerce agencies receiving Recovery Act funding, the grants workforce totaled over 800 employees. This includes grant officers, grants program managers, and grants specialists.

COMMERCE ACQUISITION WORKFORCE—NUMBER OF CERTIFIED PERSONNEL

Position	Personnel
Contracting Officer/Specialist	180
Contracting Officer’s Representative/Contracting Officer’s Technical Representative ¹	1,313
Program/Project Manager ^{1 2}	49
Total	1,542

¹ Employees in these positions may not all be currently working on acquisitions.

² Certifications are only required if managing major acquisitions.

Source.—Commerce Office of Acquisition Management.

Despite these numbers, however, the Department’s ability to appropriately issue and oversee grants and contracts is hampered by a serious shortage of skilled, specially trained staff. To ensure that grants and contracts are issued effectively and funds properly spent, the Department needs to build up the size and skills of this workforce and improve its oversight processes.

NOAA Headquarters Leadership Structure

NOAA continues to face the challenge of carrying out its multifaceted mission of understanding and predicting changes in the earth’s environment and conserving and managing coastal and marine resources to meet our Nation’s economic, social, and environmental needs. NOAA is realigning its headquarters leadership structure to streamline decisionmaking and provide greater policy-level attention to day-to-day management and oversight of its programs. The realignment is intended to provide additional strategic guidance and leadership direction for the bureau’s stewardship responsibilities, including fisheries.

One of the key components of this mission is management, research, and services related to the protection and rational use of living marine resources. We discussed NOAA’s need to balance conservation and commercial fishing in last year’s Top Management Challenges report. Over the past year, we have issued two reports that

demonstrate, in particular, the difficulty of achieving this balance. In our first report, we evaluated a series of issues regarding the work and scientific methods of the National Marine Fisheries Service's (NMFS) Northeast Fisheries Science Center.¹² Our second report, which we recently completed, provides an assessment of the policies and practices of the Office for Law Enforcement within NMFS and NOAA's Office of General Counsel for Enforcement and Litigation.¹³

Commerce Headquarters Renovation

Finally, the Department's headquarters, the General Services Administration (GSA)-owned Herbert C. Hoover building in Washington, DC is undergoing an extensive renovation. The renovation will take about 13 years and is estimated to cost almost \$960 million to complete. The project is being funded mostly by GSA, but has the greatest potential to disrupt Commerce operations and affect its workforce. Accordingly, the Department has a primary interest in ensuring that the renovation is completed on time, within budget, and free of fraud. To meet this goal, Commerce and GSA need to provide comprehensive oversight throughout the project's life cycle.

In conclusion, Madam Chairwoman, there is no doubt that the Commerce Department faces much important yet challenging work in fiscal year 2011. Accomplishing it will require continual management oversight, and we intend to perform our role as well in monitoring the progress of these essential programs. This concludes my prepared statement. I would be happy to respond to any questions that you or other members of the subcommittee may have at this time.

¹² Memorandum to National Marine Fisheries Service re: Northeast Fisheries Science Center, February 26, 2009. (<http://www.oig.doc.gov/oig/reports/correspondence/Northeast%20Fisheries%20Science%20Center.pdf>).

¹³ Review of NOAA Fisheries Enforcement Programs and Operations, Final Report No. OIG-19887, January 21, 2010 (<http://www.oig.doc.gov/oig/reports/2010/OIG-19887.pdf>).

DEPARTMENT OF COMMERCE RECOVERY ACT SPENDING, AS OF FEBRUARY 19, 2010
[Dollars in millions]

Bureau	Purpose	Total Appropriation	Total Obligations ¹	Total Disbursements	Remaining Unspent	Percentage Remaining
EDA	Economic Investment—Economic Adjustment Assistance Program	\$150	\$148	\$6	\$144	96
Census	2010 Census—Additional personnel, training, targeted media purchases, and risk reduction.	\$1,000	\$340	\$210	\$790	79
NTIA:	Competitive grants to accelerate broadband deployment in unserved and underserved areas and to strategic institutions.	\$4,690	\$705	\$18	\$4,672	99
Broadband	Digital-to-analog converter box coupon program	\$650	\$338	\$332	\$318	49
Digital Television	Research, grants, research fellowships, and advanced research/measurement equipment and supplies.	\$220	\$87	\$16	\$204	93
Science/Technical Research/Services	Transfer from HHS for the Health Information Technology Program	\$20	\$1	\$1	\$19	98
NIST:	Transfer from Energy for the Smart Grid Interoperability Framework	\$10	\$2	\$1	\$9	94
Construction of Research Facilities	To address NIST's backlog of maintenance and renovation and for construction of new facilities and laboratories.	\$360	\$186	\$7	\$353	98
NOAA:	For backlog of research, restoration, navigation, conservation, and management activities.	\$230	\$212	\$47	\$183	80
Operations, Research, & Facilities	For construction and repair of NOAA facilities, ships, and equipment; to improve weather forecasting; and to support satellite development.	\$600	\$30	\$10	\$590	98
Procurement, Acquisition, & Construction	ARRA oversight	² \$16	\$1	\$1	\$15	94
OIG						
	TOTALS	\$7,946	\$2,050	\$649	\$7,297	92

¹ The obligation amount does not include activity for contracts awarded to other Federal agencies and referred to as interagency transfers. This is to remain compliant with OMB reporting guidance, which requires only the receiving agencies of funds to record obligation and spending activity to avoid double-counting of activity across Recovery Act programs. Given this, the obligation and spending levels reported are lower than the activity tracked in Commerce's financial records. The Department estimates amounts not included in the reporting to total \$355 million in obligations, which relate primarily to the NTIA Broadband Technology Opportunities Program and the NOAA Procurement, Acquisition, and Construction programs.

² Includes \$6 million from the Recovery Act that is available until September 30, 2013, and \$10 million transferred from the \$4.7 billion NTIA appropriation for oversight of the Broadband Technology Opportunities Program.

Source: Department of Commerce and OIG.

CYBERSECURITY

Senator MIKULSKI. Well, I want to get right to the information technology issues and I'm going to translate that to the words of cybersecurity. And I would prefer that we continue, with staff, that conversation in a secure environment.

As a member of the Intelligence Committee—I know Senator Pryor is a member of the Armed Services Committee—we've both seen it from the purview of .military. We feel we need to protect .gov so we can ensure the future of .com. It's a klutzy metaphor, but there are issues that we believe need to be raised. We would like you really to look at the Commerce Department request to ensure that we're making prudent building-block investments on our cybersecurity, knowing you can't do this in a day. But, we believe that if we look at a properly planned, appropriately sequenced building-block approach, that, over the next few years, we could really secure .gov, particularly in those agencies that are most ready to be under these phishing expeditions—"p-h," not the kind that we enjoy on the bay. And we feel that that would be better in a more staff-oriented and classified environment where we could do that.

And I know this would be a keen interest of Senator Pryor and Senator Shelby, who once chaired the Intel Committee.

So, we get it, and we want to talk about it. We want this. Do you think the building-block approach is the good way to do it?

Mr. ZINSER. Yes. We have been working with the Department. We think they have a—they have a 3 year plan that they have developed; we think that plan has a lot of merit. But, we'd be happy to work with the staff and get into the details.

NOAA SATELLITE PROGRAM

Senator MIKULSKI. Well, let me, right then go to one of my favorite topics, which is NOAA. You heard my comments to the Secretary. Close to a \$9 billion appropriations request, \$5 billion of that in NOAA; and of that, 35 percent, this satellite program that seems vociferous.

You've heard his recommendation—and it's not a debate with the Secretary; it's really your professional assessment—what tools would you recommend that we put in the appropriation, or report language, to encourage the agency to follow certain directions to ensure that, as we move forward with the new path, we get scientific value for our dollar and we really end this cost-overrun situation. Do you have thoughts that you could share with us on that?

Mr. ZINSER. Yes, Senator. I think that the NPOESS program, or now the JPSS program, can learn some lessons from GOES-R. And GOES-R did learn lessons from the problems with NPOESS.

DEPARTMENT-LEVEL OVERSIGHT BOARD FOR ACQUISITIONS

But, one of the key things that remain for the Department to do is to establish a Department-level oversight board of some type to—and not just for JPSS or GOES-R; this really applies to major acquisitions, in general, but especially for the satellite program. Right now, the Department is still trying to develop a Department-

level acquisition oversight process, and they really need to do that for the satellite program.

Senator MIKULSKI. Mr. Zinser, are you talking about at Commerce or are you talking about at NOAA?

Mr. ZINSER. I'm talking about at Commerce, at the Secretary, Deputy Secretary level, some process for them to get some type of independent review of what NOAA is doing in the management of the program.

Senator MIKULSKI. Well, NOAA—you know, Commerce and—I know, it's an old saw now, as the Democrats have taken over, to say, "Oh, we inherited a mess from the last administration," but we did. In the census, you know, the techno-boondoggle there with Harris, where we gave them \$600 million and don't even have a bag of microchips to show for it. Now—and then we have the NPOESS model. Commerce doesn't seem to, within its various departments; know how to buy big technology. Do you—is this what you're looking at, in terms of an overall department? Perhaps you could flesh that out with us and give us your insights. Because we're not creating departments just for the sake of creating it, but we just can't have this at the Commerce Department. Money is too scarce, the missions are too important for it to go into something where we don't have anything to show for it at the end of the day. That's why the taxpayers are so grouchy. And we're grouchy, too.

My colleague, here, from Arkansas, has a reputation for, you know, frugality and thrift, and I feel the same way in this subcommittee. So—

Mr. ZINSER. Well, I think one of the big lessons from the handheld computer debacle—when the committees called the Secretary up to answer about that issue, the Secretary—Secretary Gutierrez—wasn't all that well informed on what the problems were, because his staff did not have a system in place to review those projects.

When Secretary Locke came in, I recommended that the heads of the agencies should have, at the administrator level, some type of dashboard of the mission-critical contracts that their bureau has, and they ought to visit those contracts on a regular basis to see how well they're progressing. I think that the—that leadership of the agencies have to be that involved in these major acquisitions.

Senator MIKULSKI. I think that's a very important lesson, and we would like to talk with you more about it, about the practicality of implementing some, working in conjunction with the Secretary.

I want to come back to the census issue, but—Senator Pryor.

INTERNET SECURITY/CYBERSECURITY

Senator PRYOR. Well, thank you, Madam Chair.

Let me just kind of follow up on one of the chairwoman's questions, here, about Internet security, cybersecurity. Are you generally confident about the Department of Commerce's ability to protect itself against cyberattacks?

Mr. ZINSER. We think there are a lot of risks involved. There are approximately 300 systems in the Department, and what we're trying to do is look at, departmentwide, the types of policies and procedures that they have in place at a departmental level.

One of the issues is that the management of IT security is very fragmented. There are—

Senator PRYOR. Is part of that the contractor issue, where they contract some of this out?

Mr. ZINSER. That's part of it. The other is just the structure for the chief information officers. There's a chief information officer for every bureau, and some bureaus have more than one. And trying to get all of those people on the same page and implementing the processes and procedures necessary is not easy.

And then the other part of the problem is individual systems and—the security of critical, individual systems—those systems involving weather, for example, or export control licenses and things like that.

Senator PRYOR. And is this sort of fractured management system—has that just evolved over time?

Mr. ZINSER. Sir, that is the nature of the Commerce Department. And, to their credit, the new leadership is trying to get a handle on that, and one of their goals is much more integrated management of the Department, and we've been pushing that for a long time.

Senator PRYOR. Okay. So, do you have a set of recommendations on how they should handle this?

Mr. ZINSER. We have been working with the CIO's office. They do have a plan in place. Some of it involves a "C" word that is not comfortable for people, which is "consolidation" of some of these responsibilities, but we have been working with them on that.

Senator PRYOR. Okay. And does it sound like they are taking those steps?

Mr. ZINSER. We're working with them on that, sir.

Senator PRYOR. Okay.

And I guess the last question is—back to, sort of, my original question—as they go through this process, is it your belief that the Commerce Department will become more secure from an Internet cybersecurity standpoint?

Mr. ZINSER. Yes, I do.

Senator PRYOR. Okay.

Thank you, Madam Chair.

Senator MIKULSKI. Senator Pryor, our next hearing will be with the FBI, and we will have—we'll follow the policy I established last year, which is, we'll have an open hearing. But, then, because the FBI has national security, counterterrorism, other counter issues, we're going to have a classified hearing. And I would welcome your—once again, your participation. But, some of these issues will also be a very good place to raise this with the FBI, because they're our law enforcement agency. And in many ways, what's happening at Commerce is, its cybertheft, of a grand scale, but, instead of stealing your money, they're stealing your intellectual property, coming in through .gov back to .com. Interesting, isn't it?

And we'll be able to go into more on that. And we're going to ask the Director to elaborate on it in his testimony.

Senator PRYOR. Great. Well, thank you for doing that, because I think that's the right approach. Thank you.

Senator MIKULSKI. Census. We're going into—we've now landed. You know, the 10 questions that take 10 minutes that determine 10 years are now in mailboxes, et cetera, and there's this magic number of March 22. Do you have any advice and direction on things that we could actually be doing right now, working with the—working with Commerce—Census, so that we don't have more cost overruns? And do you have any ideas on how we can recoup any of the money we spent that we didn't get value for our dollar?

Mr. ZINSER. Yes, Madam Chairwoman. The major risks for the decennial at this point—it is true, they are at battle stations at this point, and it is, in many respects, like a battle. There are a lot of things that are going to happen, and the experience of the field staff to work through those problems is a key.

Unfortunately, there are two critical systems that are having performance problems and functionality problems. The Secretary referenced them, they are aware of them. One involves something called a Paper-Based Operation Control System, which they'll use to deploy and manage all the 600,000 enumerators that will be doing nonresponse followup. The other is a more basic system, called DAPPS, which is a Decennial Applicant Personnel and Payroll System which is used to hire people and keep track of their time and pay them. Very important functions, both of those systems are having problems.

On the Paper-Based Operation Control System, it's to the point they're—they're developing, testing, and implementing in stages—kind of, in time for the specific operations. And the key is that they have to stop developing, and, for those functions they've got to drop, they've got to come up with workarounds. And the key is to develop those workarounds and have those applied uniformly across the country.

For example, one of the problems could be that not enough people in the regional offices can get onto this system all at the same time. Right now, the latest number I have is that five people in the local Census office can access the system at one time. Well, that wasn't the original criteria. There needs to be more people accessing that system. So, they have to come up with workarounds.

Another problem, for example, is that people at a lower level, their passwords—they can't access the system with their password. Well, one way to get around that, that we've heard, is that a supervisor will start giving people their passwords. You can't do that. You have to come up with a more uniform, acceptable workaround.

So, that's what we've recommended, they've got to come up with standard workarounds for those functionalities that they weren't able to sufficiently develop and implement.

Senator MIKULSKI. I think those are very good observations. And I know Secretary Locke has asked his team to stay behind, and we really encourage them to work with some of the insights provided by the inspector general so that really—I guess it's really the next 100 days.

NONRESPONSE FOLLOWUP OPERATION

I have a question for Secretary Locke's management team. When will you be hitting the streets on the nonresponses, and when will you come to closure on that?

Ms. BOYD. I would love to have Dr. Groves follow up with you on that. I know the Secretary is doing a lot of work in order to lessen the—

Mr. ZINSER. Madam?

Ms. BOYD [continuing]. Need for nonresponse followup.

Senator MIKULSKI. Yes. Do you have the answer?

TIMEFRAME FOR NONRESPONSE FOLLOWUP

Mr. ZINSER. Yes. The nonresponse followup operation runs from May 1 through July 10, so it'll be about a 10-week period.

Now, right now, as they start to ramp up and hire, employees go into training sometime before that, but they will actually hit the streets around May 1.

Senator MIKULSKI. So, they have to be hired and have their—remember that famous background check—

Mr. ZINSER. That's correct.

Senator MIKULSKI [continuing]. That gave us pause last year, because of access to vulnerable populations with an official badge from the United States of America? So that hiring has to be completed, and all appropriate background checks, by May 1. So, they have to be kind of street-ready—which is not like shovel-ready, but street-ready—

Mr. ZINSER. That's correct.

Senator MIKULSKI [continuing]. May 1.

Mr. ZINSER. That's correct.

Senator MIKULSKI. So, then it'll be May, June, and July.

Mr. ZINSER. Yes.

Senator MIKULSKI. Those 3 months are really the follow-up months.

Mr. ZINSER. Yes.

Senator MIKULSKI. So, that's the time that we really are concerned about—

Mr. ZINSER. Yes. What—

Senator MIKULSKI [continuing]. Underestimating what it's going to take.

Mr. ZINSER. What we have planned for our office, Senator, we have identified a number of operations, and our staff is going to go out and form observation teams. We're ramping up. And probably within about a month, I will have 75 percent of my staff out making observations about the way the enumeration is being conducted.

Senator MIKULSKI. But, the Secretary referenced that, on March 22, he'll have a picture of how the returns are going. I presume that would be based on the rate of return, by then, and projections of the next phase that—there's always the "Oh gosh, I forgot." So, we have to remind people to do the census when it arrives—the 10 minutes, the 10 questions, 10 years—and then, near the end of March, a really significant public education campaign, "Get your form in."

Mr. ZINSER. That—

Senator MIKULSKI. And the greater the rate of return, the less this—enumerators—

Mr. ZINSER. Correct.

Senator MIKULSKI [continuing]. Will be needed, isn't that—

Mr. ZINSER. The estimate is that, for every 1 percent increase in the mail response rate, the cost of the decennial will be reduced between \$80 million and \$90 million. So, right now the response rate is estimated to be 64 to 65 percent. If you can get that up to 75 percent, you're going to save \$800 million to \$900 million. And again, all of that is because of how labor-intensive and how many people have to be hired to go out and actually knock on doors and try to get this information in person.

And what the March 22 date represents is the tracking of that response rate. And the Census Bureau has plans to track that on a daily basis and target additional outreach to areas with a lower-than-expected response rate, and to get their partnerships involved in trying to get the response rate up.

Senator MIKULSKI. Well, thank you, this has been very insightful.

And before we conclude, is there anything that you feel you wanted to tell me, that we haven't covered?

Mr. ZINSER. No. We appreciate the opportunity to be here. I think that the risk areas that we've identified in our written statement are ones that we're going to continue to work on and try to keep the Department's attention focused on.

OFFICE OF INSPECTOR GENERAL FUNDING

Senator MIKULSKI. Well, thank you very much. Last year, the Commerce—Justice made sure that we carved out \$2 million for your office to help with the oversight, not to do it in a schoolmarmish way, but we need a lot of red alerts and alarms and—to know where, as you say, kind of like the dash—the lights on a dashboard—where are we in this process? We only have—we have such a mandated timeframe to do it right.

I believe we need to use all the tools of the new way of communicating, particularly the social networking. And when people hear “10 questions”—because the old census form was really cumbersome—but “10 minutes, 10 questions, determine Federal funds to your State for 10 years”—I think are a—very significant.

So, we thank you. We need to talk to you about your appropriations, as well, to ensure that you have what you need to continue this due diligence.

We'd like to thank you, and the people who work for you for giving us this kind of advice. It's really very edifying. And would you thank them for me?

Mr. ZINSER. Thank you, Senator.

ADDITIONAL COMMITTEE QUESTIONS

Senator MIKULSKI. At this time I would like to ask the subcommittee members to submit any additional questions they have to the witnesses for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

TRADE WITH CHINA

Question. U.S. paper manufacturers have claimed that China and Indonesia have two unfair trade practices for coated paper products:

—China and Indonesian governments have directly subsidized their countries' coated paper manufactures making it difficult for U.S. companies to compete with cheaper paper imports from Asia. The Department of Commerce's recent preliminary review showed that this claim seems to have some merit and warrants further investigation.

—China has manipulated its currency, fixing the value of the Yuan against the dollar, undervaluing their currency. Paper companies claim this is also a form of countervailing subsidy—same as directly funding paper companies. This currency manipulation affects many commodities than just paper products. To date, the Department of Commerce has not taken any action on this issue.

What is Commerce's position on China's currency manipulations?

Answer. President Obama underscored the need to rebalance the global economy in his speech at the Export-Import Bank's Annual Conference on March 11, 2010, by stating that for China, "a more market-oriented exchange rate will make an essential contribution to that global rebalancing effort."

The authority to monitor and report on currency manipulation is delegated by law to the Department of the Treasury. At the same time, as you point out, the Department has received an allegation in an on-going countervailing duty investigation that China's currency valuation represents a subsidy that should be countervailed under U.S. trade remedy laws. Let me assure you that the Department of Commerce is analyzing the currency allegation carefully and thoroughly to determine whether it meets the requirements under our statute for initiating a countervailing duty investigation. Finally, I want to reiterate that we are committed to vigorously enforcing our trade remedy laws to help ensure that U.S. producers and workers have a level playing field on which to compete with their foreign counterparts.

Question. How does Commerce's new National Export Initiative resolve this problem of currency manipulation with China, our second largest trade partner?

Answer. The National Export Initiative (NEI) is a critical new effort that will lead to long-term economic growth and the creation of new jobs. It is not intended to address directly the question of Chinese currency practices. However, to the extent that U.S. exporters may face a range of barriers to the Chinese market, the NEI is an enhanced and comprehensive program to help tackle such barriers and enable U.S. firms and workers to better position themselves to reap the benefits of expanded export opportunities. The NEI will help solve the related problems that stand in the way of our increasing exports to China and supporting more jobs being created in the United States.

This is the first time the United States will have a Government-wide export-promotion strategy with focused attention from the president and his cabinet. Under the NEI, \$140 million in additional funding—across Federal agencies—will be provided to help meet the President's goal of doubling exports during the next 5 years to support 2 million jobs in America.

In the State of the Union Address, the President outlined a series of proposals to create jobs and put the Nation on the path to sustainable economic growth, focusing on help for the Nation's small businesses. Proposals include a new tax cut for small businesses to encourage them to hire new employees and increase wages for existing employees, and a new initiative that will transfer \$30 billion from the Troubled Asset Relief Program (TARP) to a program that will support small business lending. The administration's efforts are focused on three key areas: (1) improving access to credit, especially for small- and medium-sized businesses; (2) expanding the administration's trade advocacy efforts; and (3) increasing the Government's focus on barriers that prevent U.S. companies from getting free and fair access to foreign markets.

The Department of Commerce will soon unveil a comprehensive and significant effort aimed at ramping up and maximizing exports—and job creation—during the next 12 months. President Obama's fiscal year 2011 budget called for an additional \$78.5 million to implement the strategies developed through the NEI and ultimately empower U.S. exporters as they compete in the global economy. The President's budget will allow ITA to bring on as many as 328 trade experts to serve as advo-

cates for U.S. companies to grow their export sales in 2011. ITA is going to put a special focus on increasing, by 50 percent, the number of small- and medium-sized businesses exporting to more than one market.

I have made it clear that one key to the successful implementation of the NEI is to address unfair foreign market barriers and to vigorously enforce our trade laws. I am committed to promoting a level playing field for U.S. companies and will work with Congress to ensure that U.S. companies benefit from strong enforcement of U.S. trade remedy laws in accordance with our international rights and the obligations of our trading partners.

ADVANCED IMAGING SOUNDER IN GEOSTATIONARY ORBIT

Question. A high spectral resolution imaging sounder in geostationary orbit, or “advanced imaging sounder,” will enable advance warning of severe weather events, including tornadoes, an hour or more before they are visible from satellite cloud imagery or by ground-based Doppler radar. Studies also show that wind profiles measured by such an advanced imaging sounder in geostationary orbit would enable significantly improved landfall prediction for hurricanes, both location and time. The National Academy of Sciences has recommended that the U.S. develop and launch an advanced imaging sounder in geostationary orbit, and the UN’s World Meteorological Organization has recommended that such advanced imaging sounders cover the globe as a part of the Global Observing System. The European advanced imaging sounder in geostationary orbit is scheduled to be launched in 2017. Other countries are also developing such advanced sounders. China has stated that they plan to launch such a sounder in geostationary orbit by 2015.

What is the status of U.S. plans to deploy an advanced imaging sounder in geostationary orbit?

Answer. Beginning in 2006, NOAA explored the concept for developing an advanced sounder and coastal imaging capability, called the Hyperspectral Environmental Suite (HES), for deployment on the Geostationary Operational Environmental Satellite-R (GOES-R) series. At that time and after reviewing other NOAA needs, NOAA determined that the concept was too technologically complex and expensive for NOAA to develop and implement for GOES-R. Currently, there is no on-going research within the United States to address the technological impediments we encountered on HES that would provide the needed foundation to allow NOAA to build and deploy the sensor on an operational GOES platform.

NOAA is aware that other nations are evaluating their capabilities to host an advanced sounder on its operational geostationary weather satellites. NOAA is monitoring those efforts and may consider developing collaborative partnerships with those agencies in order to address the challenges that currently exist with this technology.

NOAA remains open to hosting an advanced sounder on future GOES satellites.

Question. Is it correct that most of the western hemisphere, including the continental United States, may be one of the last regions of the globe to have such protection?

Answer. At this time, there are no advanced sounders in orbit on operational geostationary spacecraft and the capability is not available to cover any region of the globe. However, the Europeans and the Chinese are evaluating the possibility of placing this capability on their future operational geostationary satellites. Based on our assessment of these agencies plans, the Europeans would be the first to fly an advanced sounder capability in geostationary orbit. China has stated its interest in developing this capability but we do not have enough information to confirm their ability to implement these plans. Regardless, of which region gets protection first, NOAA is committed to keeping communications open to develop international partnerships that could result in benefits beyond any single region.

Question. What agency within the U.S. Government has responsibility for developing and deploying an advanced imaging sounder in geostationary orbit?

Answer. NASA has the responsibility to develop advanced technology, which when mature enough for operational use, could be made available to NOAA for hosting on an operational geostationary satellite. Following that initial technology development phase, NOAA would have the responsibility of deploying such new technology on its operational satellites. NOAA remains open to hosting an advanced sounder on future geostationary satellites once the technological challenges have been addressed.

Question. The Geosynchronous Imaging Fourier Transform Spectrometer (GIFTS) was to be a U.S. demonstration of an advanced imaging sounder at geostationary orbit. The instrument was built, but never launched. Why did we spend money to

build GIFTS, and then leave it sitting on the ground? What agency is responsible? What value would GIFTS bring to NOAA if it were re-furbished and launched?

Answer. The effort to develop GIFTS is primarily a NASA-funded activity. At the time GIFTS was being developed, NOAA considered using GIFTS as a risk reduction mission for its plans to develop an advanced sounder for GOES-R, such as HES. However, this opportunity was no longer available when the GIFTS development was halted. The future of GIFTS remains a NASA decision.

With respect to the value of GIFTS to NOAA, if GIFTS was re-furbished, launched, and proven on-orbit by NASA, it could potentially serve as a useful demonstration as a first flight of a new capability for possible use by NOAA. However, since GIFTS was developed in the early 2000s, NASA would need to evaluate the use of the dated parts and also consider the possibility of more cost effective newer developments.

QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

NATIONAL MARINE FISHERIES SERVICE

Question. In California's Bay-Delta, the restrictions on pumping operations due to the Biological Opinions, one of which was issued by the National Marine Fisheries Service, are having severe ramifications for communities that rely on Delta exports for water supply. What is the Commerce Department planning to do to address the many other stressors in the Delta, including predator fish, toxic discharges such as ammonia, and pesticides such as pyrethroids?

Answer. The Commerce Department's National Oceanic and Atmospheric Administration is undertaking several actions to address the many stressors that jeopardize the existence of several threatened and endangered species that occur in California's Bay-Delta and are under the jurisdiction of the National Marine Fisheries Service (NMFS) including the following:

- NMFS' 2009 Central Valley Project and State Water Project (OCAP) biological opinion Reasonable and Prudent Alternative (RPA) includes a requirement to implement predation control actions including; interim operational restrictions on the Red Bluff Diversion Dam and the Clifton Court Forebay, as well as improvements in the primary and secondary louvers at the fish handling facilities (such as increasing the efficiency of the louvers and decreasing predation at the release sites).
- The RPA requires development of a salmonid life-cycle model that can be used to assess the impacts of non project-related stressors (other stressors) on juvenile and adult salmonids. In addition, NMFS has also created a process by which it can amend specific measures prescribed in the RPA based on new information such as the effects of other stressors through the annual science panel review required in the OCAP Biological Opinion.
- NMFS is collaborating with the Interagency Ecological Program to review and fund necessary studies in the Bay-Delta region that will identify impacts of other stressors.
- NMFS is in the final stages of completing the Central Valley Recovery Plan for salmon and steelhead. This plan identifies and prioritizes actions needed to recover Central Valley salmonids listed under the Endangered Species Act (ESA). The recovery plan lays out a framework for addressing all of the primary stressors that impact these species. Although the recovery plan does not set regulatory requirements it does guide future recovery efforts, consultations and conservation plans.
- NMFS is participating in the Federal Workplan and the newly formed California Landscape Level Conservation Plan, led by the Department of the Interior that will help bridge data gaps and bring agencies together in developing a multi-species ecosystem-wide plan for the Bay-Delta region.
- NMFS regularly consults on construction of new waste water treatment facilities, and analyzes the projected effects of nutrients and toxics in wastewater through these consultations.
- NMFS consults with the U.S. Environmental Protection Agency on water quality standards for toxics and on pesticide registrations.
- The Central Valley Water Quality Control Board and State Water Resources Control Board regularly request NMFS' technical assistance in analyzing and prioritizing water quality issue and impacts within the range of ESA-listed salmonids.
- In conducting ESA section 7 consultations on Central Valley projects involving impacts to channel margin habitat, (for example, repairs to levees), NMFS re-

quires action agencies to protect or improve riparian vegetation, shaded riverine habitat and sub-surface channel margin habitat conditions, so as to improve sheltering/refuge habitat for juvenile salmonids and reduce predation by non-native predators.

—NMFS is participating as a lead Federal agency in the planning and implementation of the Bay Delta Conservation Plan (BDCP). This is a broad-based habitat conservation plan intended to address the many stressors affecting the Bay Delta ecosystem while protecting water supply reliability for the State and Federal projects. A detailed description of NMFS' participation in the BDCP is provided below in the response to the following question.

Question. California's Natural Resources Agency is developing a habitat conservation plan with a group of stakeholders for the Bay-Delta with the dual goals of ensuring ecosystem restoration and water supply security. What resources is the Commerce Department prepared to commit to the Bay Delta Conservation Plan to ensure its timely completion and implementation?

Answer. NMFS is fully committed to the completion and implementation of the Bay Delta Conservation Plan (BDCP). NMFS has participated since the early stages of development of this plan and has created an entire branch of the NMFS Sacramento Area Office dedicated specifically to the completion and implementation of the BDCP. NMFS personnel that make up the BDCP branch include a Supervisor/Branch Chief, four full-time fishery biologists, a full time bio-modeler (currently being recruited), and a part time hydrologist/hydro-modeler (also currently being recruited). The Sacramento Area Office Supervisor is also heavily involved in the executive leadership of the BDCP. The Area Office Supervisor sits on several executive committees and management groups including the BDCP Steering Committee, BDCP Leadership Council, and the Program Executive Team (among others). NOAA General Council is also fully engaged in the BDCP process, attending Steering Committee meetings and other program coordination meetings, and providing frequent input into many aspects of the BDCP process. In total, NMFS and NOAA General Council participate in approximately 10 BDCP related meetings per week, often with 2 or more staff members attending each meeting.

NMFS is a lead Federal agency responsible for the development of an Environmental Impact Statement for the BDCP. NMFS will also be writing an ESA section 10 take permit for this habitat conservation plan, and conducting a formal ESA section 7 consultation on the issuance of the section 10 permit and the implementation of the BDCP. NMFS intends to continue to provide the necessary staff and other agency resources to insure the timely completion of these important elements of the BDCP and maintain continued involvement in the implementation, monitoring and adaptive management of the plan over the long term.

BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

Question. While broadband penetration is continually improving, and clearly a top priority of the broadband stimulus funds, I want to emphasize to you the importance of also addressing broadband adoption—the extent to which families actually get broadband, as opposed to being unconnected to the “pipe” that passes by their home or apartment.

Adoption was detailed as a priority in the legislation passed by Congress. And, the American Reinvestment and Recovery Act mandated that at least \$250 million of the funds it provided be spent for grants to promote adoption. However, I understand that so far only \$39 million has been awarded to adoption applicants. I am very pleased that one of those applicants was in my own State of California, but many adoption applications are still pending, and those need to be given serious consideration.

Can you tell us about the NTIA's efforts on the broadband adoption grants and your expectations about the speed with which we can get these out the door and delivering?

Answer. I wholeheartedly agree with you regarding the vital role that adoption programs play in fulfilling the promise of broadband for all Americans. As of April 15, 2010, NTIA has awarded 12 Sustainable Broadband Adoption (SBA) grants totaling \$81 million in Federal grant dollars and impacting 14 States. Combined with \$23 million in applicant-provided matching funds, there is now a total of \$104 million dedicated to broadband adoption under the Recovery Act. The grants are designed to fund projects that promote broadband demand, including projects focused on providing education, awareness, and training, as well as access, equipment and support for broadband usage. To date, NTIA has awarded two SBA grants, totaling nearly \$15 million, that directly impact California, including: \$7.2 million to the California Emerging Technology Fund to increase adoption of broadband in vulner-

able and low-income communities in Los Angeles, the Central Valley, Orange County, San Diego, and the Inland Empire; and \$7.6 million to the Computers for Youth Foundation, Inc. and the Los Angeles Unified School District, which plan to expand a successful pilot program to increase broadband technology awareness and usage among an estimated 34,000 low-income individuals and 15,000 households in Los Angeles.

In the first funding round, NTIA expects to obligate approximately 44 percent of the statutory minimum allocation for SBA projects. By comparison, NTIA has awarded approximately 29 percent of its infrastructure funding allocation and 28 percent of its Public Computer Center project allocation in round one. NTIA recently received approximately 250 SBA project applications requesting approximately \$1.7 billion in the second round of grant funding. As required by the Recovery Act, NTIA is on track to award at least \$250 million for SBA projects by September 30, 2010.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

EMERGENCY STEEL GUARANTEED LOAN PROGRAM

Question. The economic instability that began in 2008 and continues today led to idled steel plants, displaced steel workers, and a very tight credit market. For this reason and others, the steel industry supported Congressional action to keep an emergency capital loan program in place at current levels. In 2009, the Congress agreed to extend the Emergency Steel Guaranteed Loan Program until fiscal year 2011.

The President's fiscal year 2011 budget includes a proposal to cancel \$43 million of ESGLP unobligated funds, leaving \$5 million as a placeholder. In January 2004, the GAO issued an opinion that the appropriations available in this fund are not available for rescission by any Department, and that only the ESGLP Board has the authority to incur an obligation against this appropriation.

Mister Secretary, this leads me to ask these questions:

Under what authority does OMB propose to cancel unobligated ESGLP funds?

Answer. The administration has the authority to propose actions such as a cancellation of unobligated ESGLP funds, but the Congress has the sole authority to actually cancel the funds if you so choose.

The GAO opinion concerns the authority of the Secretary with respect to ESGLP funds, not the authority of Congress. It states that the Secretary does not have the discretion to draw on ESGLP funds to satisfy a general rescission of the Department's unobligated balances in an appropriations act. However, the budget proposes a specific legislative rescission of the ESGLP funds, not a general rescission that the Secretary would allocate. As a result, the proposal is not in conflict with the GAO opinion.

Question. What is the rationale for leaving \$5 million in this fund?

Answer. The Emergency Steel Loan Guarantee Board has not issued a loan guarantee in almost 7 years. While it is highly unlikely that another application for a loan guarantee will be received, in that event the remaining unobligated balance would be available to fund the credit subsidy and administrative expenses required.

SUBCOMMITTEE RECESS

Senator MIKULSKI. This hearing is concluded and we stand in recess until March 25 at 10 a.m., when we take the testimony of the NASA Administrator.

[Whereupon, at 11:35 a.m., Thursday, March 4, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, March 25.]