

**COMMERCE, JUSTICE, SCIENCE, AND RE-  
LATED AGENCIES APPROPRIATIONS FOR  
FISCAL YEAR 2010**

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**THURSDAY, APRIL 23, 2009**

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

The subcommittee met at 10 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Reed, Pryor, Shelby, Alexander, and Murkowski.

DEPARTMENT OF COMMERCE

SECRETARY OF COMMERCE

**STATEMENT OF HON. GARY F. LOCKE, SECRETARY**

OPENING STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. The Subcommittee on Commerce, Justice, and Science of the Senate Appropriations Committee will come to order.

This is our first hearing on the fiscal year 2010 appropriations for this subcommittee and for the 111th Congress.

Today, we are beginning with the Commerce Secretary, Gary Locke. Secretary Locke brings an incredible background and has an incredible agency to do it.

First of all, I believe that President Obama made a very good pick. Secretary Locke was formally the Governor of the State of Washington. He is well known for his commitment to innovation in his own State, to being a stickler for far-reaching management, and really comes with a commitment to innovation and experience in dealing with the Pacific Rim where so much of the future of the economy is tied.

He has a compelling personal narrative as well, and we are just glad to have him.

The Commerce Department itself is a very unique agency, and it was created to promote commerce, but the commerce of the old century is not the commerce of the new century. This is why the Secretary, bringing a very forward-looking viewpoint and a President who has put the resources in, put the people in, really wants to have that commitment.

This should be the innovation agency. It should be the agency that really fosters the idea of an innovation-friendly Government,

whether it is ensuring that people do not stand forever in order to get a patent, or that we protect our intellectual property and we view it as part of our homeland security. Additionally, agencies like the National Institute of Standards and Technology develop the standards for the new ideas and the new technologies so that our private sector can invent the new products to create jobs here and compete in the world.

We also know that the agency is being called upon in the area of NOAA, which is so important to providing jobs to us in the coastal States—not providing jobs, but overseeing those things that impact on jobs. And we all know every single Senator depends on NOAA, whether it is to warn us of tornadoes, hurricanes, or to provide the information that farmers, factories, and people need. We also know that it is all part of green science which President Obama is advocating.

Last but not at all least, it also has the important Census Bureau, and we in this committee believe that everybody counts in this country and everybody should be counted. So these are the big jobs of this agency.

But we have had unrealistic funding for science programs, very little funding for technology and manufacturing partnerships, and then there have been really incredible management and cost overrun issues in terms of the NOAA satellites and also the census.

This hearing today will be reviewing both the appropriations request and also what this Secretary wants to do with accountability.

We know that the Department of Commerce was allocated sufficient funds for the stimulus package. We will be asking both today and in the days ahead how is the stimulus really promoting commerce in our country on issues like broadband and increased funding.

But we also want to see increased accountability on the management issues facing the Commerce Department. The primary one that has such an immediate urgency is the 2010 census. The other has been the poor oversight of NOAA's satellite programs, and then both with this Secretary and his predecessor, our ongoing conversation about the need to reform the patent and trademark process. While our friends in Judiciary oversee patent law, we have to make sure there is a Patent Office infrastructure so that we have an innovation-friendly Government.

Once again this year, I am pleased to say my ranking member will be Senator Richard Shelby. Senator Shelby and I have served in both the House and the Senate together. We have worked on this subcommittee now for more than 4 years, and we bring a spirit of bipartisanship, absolute civility and cooperation and consultation, and we intend to continue that. We believe that when we work together, we govern best.

I would like to just say a few words now about the census. We take our constitutional obligation very seriously to have an accurate census. In 2009, we provided \$3.14 billion to do it, \$2.4 billion through the regular appropriations process and \$1 billion in the American Recovery Act. Senator Shelby and I have deep, deep concerns about the census management. We are concerned about the techno-boondoggle that has occurred, the tremendous loss of money, and the tremendous loss of opportunity. We learned that

handheld computers could not be fully implemented. Census had to go back to pen and paper. Well, we might as well go back to the stylus and papyrus. I mean, this is the United States of America. It is being conducted under the Commerce Department, which is supposed to be the innovation agency, and we cannot get a handheld computer to work right to go knock on a door and “say are you the person that really lives here?” So we are really cranky about this.

Moving beyond cranky into really absolute frustration is the accountability at the Patent and Trademark Office. We know that we have to have a well functioning Patent Office. My State is not only home to so much of our biotech innovation, the home to NIH and FDA, but a vibrant private sector that develops biotech companies as well.

If we had our biotech executives here, they would say we stand in two lines in order to move our research into the clinical area. We stand in the FDA line for safety and efficacy. We want to be able to do that. But we also stand on the PTO, the Patent Office, and while we are standing in line, waiting sometimes 5 years, other people are in line overlooking our shoulder stealing our ideas. We cannot have that. The biggest intellectual theft in the world is going on, and it is because we have a stagnant operation there.

So we have talked about reform. The talk is over. Now it is time for action.

Then we have the NOAA satellite situation. Satellites at NOAA account for 25 percent of their total funding. Satellites are critical to predicting and warning about weather and observing changes in the Earth’s climate. With an expected \$1.3 billion request, we want to get value for our dollar. We have now triggered a Nunn-McCurdy-like process to get our satellites under some type of fiscal discipline, and we need to know how is the Department going to handle the independent recommendations that have been made to put it back on track.

We know you have a commitment to these. We know, Mr. Secretary, you have a commitment to it. We know that the President has a commitment to it. You bring a great deal of management know-how. We want to make sure we put the money in the checkbook in order to be able to accomplish these goals of ensuring jobs in America and saving our planet and also counting the people that are in our country so we know who we are, where we are and where we need to go.

I would like to now turn to my able colleague, Senator Shelby, for his opening statement.

STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Madam Chairwoman. Welcome, Mr. Secretary.

As Senator Mikulski has said, we have worked extremely well together on this subcommittee sharing many of the same goals and expectations for the agencies that this committee oversees. Senator Mikulski, I am pleased to serve beside you once again, and I look forward to working with you in a bipartisan fashion.

Mr. Secretary, as I just said, welcome to the committee. I look forward to learning more about the soon-to-be-released 2010 budget request and look forward to working with you in the years ahead.

The Nation relies heavily on the Department of Commerce to maintain America's competitiveness within the markets around the world. The Department provides revenues to promote the products and services of U.S. businesses and then helps to level the playing field by expanding, strengthening, and enforcing our international trade agreements. 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, Mr. Secretary, as you know well, are fundamental to our Nation's leadership in the global market.

The Department of Commerce plays a vital role in our Federal Government and is in dire need of a leader to oversee the programs and agencies that are in distress. I believe they have found one. Within the past year alone, we have learned of failures at the Census, cost and schedule overruns within NOAA's satellite acquisition programs, insufficient fee collections at the Patent and Trademark Office, as well as numerous IT failures and mismanagement cues.

The most serious looming crisis is the census crisis, which Senator Mikulski alluded to. Time is running out and there is great uncertainty for what was predicted to be the most modern and accurate census ever conducted. Census managers, Mr. Secretary, spent 8 years struggling to automate the information collection process by implementing the use of handheld devices that would produce more accurate data to save time and tax dollars. Managerial failures and incompetence have caused those plans to be scrapped and the census will once again be taken, it is my understanding, with paper and pencil. The price tag for this ineptitude raises the cost of the 2010 census.

I am also concerned with the potential for political mischief in the execution of the 2010 census. The administration's announcement that the census would receive direct oversight by the White House staff is troubling. Statistics collected by the census play a critical role in how important decisions are made, including how over \$300 billion in Federal funds are distributed annually. Mr. Secretary, given the broad reach of the data and how it influences the direction of these funds, the 2010 census must remain free of political tampering.

The nominee for Census Director previously advocated the use of mathematical estimates, known as sampling, to lazily back-fill and inaccurately represent the count of our Nation's residents. This approach was reviewed by the Supreme Court during the 2000 Census, and if advocated again for use in the future, a political party could disproportionately steer Federal funding to areas dominated by its own members. This could shift billions of Federal dollars over the next years from some parts of the country to others because of population-driven spending formulas.

By allowing sampling, some States could also potentially end up with more Members of Congress at the expense of others. By overcounting in one State and undercounting in another, manipulation could take place solely for political gain.

The census should be conducted in a fair and accurate manner for all political parties and people using the best methods to determine the outcome. The 2010 census is not an estimate, but a constitutionally mandated count of the entire population.

Mr. Secretary, one of the more important agencies under the Department of Commerce to my home State of Alabama is NOAA, which Senator Mikulski has also referenced. The gulf coast still lacks the infrastructure, research, and support from NOAA that other regions of the country have perpetually received. Just this past Sunday, at least 10 tornadoes touched down in my State of Alabama, killing two people.

You see the chart here, showing billion-dollar climate and weather disasters across the United States from 1980 to 2008. Look where most of them were. In the Southeast.

This NOAA chart—and that is their chart—shows the vulnerability of the southeastern United States to weather-related disasters. It plots the largest instances of billion dollar weather-related catastrophes that have occurred in the United States since 1980. The loss of life and the destruction of property from hurricanes and tropical storms account for more than half of all damages, \$367 billion. If we add the cost of other weather events, such as heat waves, droughts, and flooding, the cost nearly doubles to \$652 billion.

While not all of these events, Mr. Secretary, are limited to the Southeast, NOAA's own research shows that the Southeast experiences more severe weather events than any other part of the country. Yet, federally funded climate and weather research in the region has lagged.

To start to balance this, last year, working with the chairwoman, I provided funding for NOAA to work with the Southeastern universities to establish the Cooperative Institute for Southeast Weather and Hydrology. I am hopeful this will be the beginning of a coordinated effort to better understand the dynamics of weather and hydrology in the region and bring the citizens of the Southeast a semblance of balance in emergency forecasting and research services equal to those provided by NOAA in the Midwest.

Mr. Secretary, I am also disappointed in the Department's lack of oversight on NOAA's satellite programs. NOAA is spending billions of dollars to develop two satellite systems that provide critical weather and environmental data, the National Polar-Orbiting Operational Environmental Satellite system, NPOESS, and Geostationary Operational Environmental Satellite-R series, GOES-R.

The NPOESS satellite system was supposed to cost \$6.5 billion for six satellites. I know you were not here then. It is now estimated that taxpayers will be handed a bill for \$13.9 billion for only four satellites that are less capable than originally planned. Something is amiss. This program is a complete failure for NOAA and an even bigger failure for the taxpayers.

It is also my understanding, Mr. Secretary, that there are internal deliberations at the Department of Commerce to reward the contractor with the option to build two additional NPOESS satellites. My question to you to consider is how can you reward a contractor that has blatantly failed in its mission and cost the taxpayer billions in cost overruns. In other words, how do you evalu-

ate that and how do you reward failure? If you choose to go forward with this effort, I believe that I will oppose it.

The second satellite program is also a grave failure. The GOES-R satellite procurement was a \$6.9 billion program for four satellites which has now ballooned into a \$7.7 billion program for only two satellites with a delivery date 6 years behind schedule.

The acquisition history of these two satellite systems, as well as the failed acquisition of the census handhelds, demonstrates that management and acquisition oversight does not exist at the Department of Commerce. I want to work with you to ensure that you have the tools necessary to perform contract oversight so that the Department can correct the agencies it manages and avoid the mistakes in the future.

Finally, Mr. Secretary, no NOAA construction funding was provided to the Gulf of Mexico within the stimulus spending bill, while the Pacific Coast received more than \$262 million in construction funds. While I am happy for the Pacific Coast communities, I want to know how and why the gulf coast was neglected and look forward to hearing your explanation.

I am also looking forward to hearing your thoughts on the Department of Commerce's budget request and look forward to working with you as the committee crafts the 2010 budget.

Thank you, Madam Chairman.

Senator MIKULSKI. The committee wants to acknowledge that Senator Alexander from Tennessee is here. Senator, if you would be kind enough to withhold your statement until Secretary Locke makes his, then we will give you extra time to say a few words and go into your questions. Is that agreeable to you, Senator?

Senator ALEXANDER. Yes. I am going to have to leave shortly. But Senator Pryor is here—

Senator MIKULSKI. Yes, but you came before Senator Pryor. We also want to note that Senator Pryor is here, our newest member to the committee. You are way down there, but you are moving up pretty fast.

Senator PRYOR. Thank you.

Senator SHELBY. But we have all been down there, have we not?

Senator MIKULSKI. We have all been down there. And when we hear from Secretary Locke, we all know we have been down that road before too.

Secretary Locke, why don't you present the President's request to us and then we will jump right in with our questions?

#### STATEMENT OF SECRETARY GARY F. LOCKE

Secretary LOCKE. Chairman Mikulski, Ranking Member Shelby, and distinguished members of the subcommittee, Senator Alexander and Senator Pryor, I am pleased to join you today to talk about the Department of Commerce. I would like to make just a very brief opening statement while also submitting more comprehensive written testimony for the record.

It is my top priority to make certain that the Department of Commerce plays an integral role in President Obama's efforts to help America reboot, retool, and reinvent. The President's budget reflects the Department's broad mandate to strengthen the Na-

tion's economy, promote innovation and environmental stewardship.

More than that, I have challenged our employees to establish the Department of Commerce in the eyes of the Nation as a voice for main street businesses and family wage jobs and to work to grow local economies by fostering innovation and opening markets to U.S. products and services.

To that end, the President's 2010 budget for the Department includes some \$13.8 billion in discretionary funds. This is an increase of \$4.5 billion over the 2009 fiscal year appropriation of \$9.3 billion, not counting Recovery Act appropriations. The large increase is due primarily to the decennial census, with extra funding of \$4.1 billion.

While most of the details of the 2010 request are still under development, I am happy to share some highlights, and of course, I look forward to providing the rest in the near future.

This budget contains the resources necessary to complete the 2010 census effectively and on time, counting everyone once, only once, and in the right place. The allocation combined with the \$1 billion that the Congress provided in the Recovery Act will enable us to hire nearly 1.5 million temporary workers over the next year. And I want to assure you that we have instituted numerous management and oversight changes in response to findings by the Government Accountability Office and our Inspector General and the concerns of the Congress.

And I want to indicate to Senator Shelby that we have absolutely no intention, no plans whatsoever to use any type of statistical sampling in the reapportionment issues or the apportionment for the Congress. We will follow the Supreme Court ruling that statistical sampling is not allowed and that we will have a physical hard count of people.

The request includes more than \$1.3 billion for the National Oceanic and Atmospheric Administration satellite programs that capture key weather forecasting and climate data, as well as resources to advance climate and ocean research and support implementation of the Magnuson-Stevens Act.

Our weather satellite programs, as have been noted by the chair and by the ranking member, have been the focus of much concern by the Congress and oversight committees. Progress is being made to implement the recommendations of the GAO and the Inspector General and lessons especially from the NPOESS program have been incorporated with respect to the GOES-R program, but we still have challenges and much more work to be done.

The President's plan includes doubling the funding over 10 years for the National Institute of Standards and Technology's research activities that are critical to the Nation's technology infrastructure, as well as \$125 million for the Hollings Manufacturing Extension Partnership program and \$70 million for the Technology Innovation Program.

The Economic Development Administration will provide \$50 million in grants to support the creation of regional innovation clusters and also \$50 million to create a nationwide network of public-private business incubators to promote entrepreneurial activities in distressed areas.

The President's budget also supports the International Trade Administration's efforts to promote exports and eliminate barriers to the sale of U.S. products and services and to continue to give the U.S. Patent and Trademark Office full access to its fee collections.

I want to indicate that I have met with labor representatives of two of the major employee organizations representing POPA, as well as the unit that represents the trademark employees. We simply must work together with the employees and management and the stakeholders to drastically reduce the time it takes to process patents and to have patents issued. Otherwise, we are denying a key part of our economic recovery. It is important to get these innovations commercialized as soon as possible and to allow the American people to benefit from a lot of these technologies, whether drugs or innovations or products.

I want to thank you for entrusting the Department with nearly \$8 billion in Recovery Act funds. We have provided our proposed spend plans and will keep you informed of our progress.

The National Telecommunications and Information Administration, NTIA, will have the biggest challenge: implementing the \$4.7 billion to improve broadband deployment.

Besides planning for the next year and making sure that we use current resources effectively, I am focused on addressing the key management issues facing the Department, and these include conducting a successful 2010 census, improving and shortening the patent process, managing our satellite deployment and acquisition program, and strengthening our overall information technology infrastructure within the Department of Commerce.

#### PREPARED STATEMENT

Your support has been and will be critical to our efforts, and I appreciate the chance to hear your views on these subjects.

Thank you again for the opportunity to come before you today, and I look forward to your comments and your questions. Thank you very much.

[The statement follows:]

#### PREPARED STATEMENT OF 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. It is a privilege to serve the American people and I am grateful for the confidence President Obama has in my ability to lead this great agency. While this is my first opportunity to work with you as Secretary, I realize that the subcommittee has a critical role in achieving the Department's mission.

The Commerce Department has a broad mandate to strengthen the Nation's economy, and promote innovation and environmental stewardship. The means by which we achieve these goals are vast and varied, and the 37,000 public servants under my watch work daily to achieve them. As announced in February, the fiscal year 2010 President's Budget includes \$13.8 billion in discretionary funds for the Department, a major increase over fiscal year 2009 due primarily to the Decennial Census. We look forward to announcing the full details of the President's Budget in the near future.

This budget contains the resources necessary to complete the 2010 Census effectively and on time, with an increase of more than \$4 billion. Combined with the \$1 billion Congress provided in the American Recovery and Reinvestment Act (ARRA), these resources will enable us to conduct the Nation's largest peacetime mobilization by hiring nearly one and a half million temporary workers. The Census Bureau will also focus extensive advertising and partnership activities on hard-to-reach popu-



lations, to encourage a high response rate. All of this will be done with the goal of the most complete and accurate count of the Nation's population to date.

The request provides more than \$1.3 billion for satellites that are essential to the National Oceanic and Atmospheric Administration's (NOAA) ability to capture weather forecasting and climate data. Resources are also provided to advance climate and ocean research, and support implementation of the Magnuson-Stevens Act and its requirement to end overfishing by 2011. These resources build upon the \$830 million provided in the ARRA and will enable NOAA to meet critical mission needs.

This budget supports the National Institute of Standards and Technology's (NIST) advanced measurement and standards activities that are critical to the Nation's technology infrastructure. The President's plan for investments in science includes doubling research funding within NIST over 10 years. The request includes \$125 million for the Hollings Manufacturing Extension Partnership program to enhance the competitiveness of manufacturers by facilitating the adoption of efficient manufacturing processes. The Technology Innovation Program will receive \$70 million to invest in high-impact research that will tackle critical national needs and advance innovation. These two programs had been proposed for termination in the fiscal year 2009 President's Budget. In addition, the ARRA includes \$220 million for NIST's scientific research activities and lab equipment and \$180 million for construction of NIST facilities.

The Economic Development Administration (EDA) will support economically distressed communities in their efforts to develop strategies for long-term growth with higher-skilled and higher-wage jobs. EDA will provide \$50 million in regional planning and matching grants to support the creation of regional innovation clusters. EDA will also use \$50 million to create a nationwide network of public-private business incubators to promote entrepreneurial activities in distressed areas. Oversight of the \$150 million provided to EDA in the ARRA for economic adjustment assistance and infrastructure funding, with priority for areas experiencing severe job losses, will remain active during fiscal year 2010.

In fiscal year 2010, the National Telecommunications and Information Administration (NTIA) will continue its important work of managing the Federal use of spectrum and performing cutting-edge telecommunications research and engineering, including resolving technical telecommunications issues for the Federal Government and private sector. In addition, NTIA will be administering the \$4.7 billion provided in the ARRA to expand broadband deployment and adoption, and will soon have completed the coupon program for the transition to digital television funded in the ARRA and the Digital Television Transition and Public Safety Act.

The President's Budget will also fully support the International Trade Administration's efforts to promote exports from small businesses and eliminate barriers to sales of U.S. products, and give the U.S. Patent and Trademark Office full access to its fee collections, which will provide resources to strengthen the Office's ability to encourage innovation and safeguard the value of intellectual property through more efficient and higher quality patent and trademark examinations.

While most of the details of the fiscal year 2010 request are still under development, I would also like to discuss and listen to your perspectives on the key management challenges facing the Department. Our Inspector General has identified several issues for my immediate attention, including overcoming the setbacks experienced in reengineering the 2010 Census, better positioning the Department to address information security risks, effectively managing the development and acquisition of NOAA's environmental satellites, establishing a safety culture at NIST, and ensuring NTIA effectively carries out its responsibilities for the digital transition. I'm pleased to report some progress in those areas, as the Census has entered its address canvassing phase using handheld computers, and NTIA has eliminated its coupon backlog since receiving ARRA funds, for example.

Some challenges are unique to Commerce, and some are common in the Federal Government and the Nation as a whole. The Department has to upgrade its aging infrastructure, and effective management is critical to these efforts. We are very pleased that the administration plans to use ARRA funds appropriated to the General Services Administration for the next stages in the multi-year renovation of our headquarters, the Herbert C. Hoover Building.

In closing, since its creation the Department of Commerce has played a pivotal role in a wide range of efforts important to the Nation. While we are currently facing challenging economic times domestically and internationally, to quote President Obama "the time has come to usher in a new era of responsibility that lays a new foundation of growth on which we can renew the promise of America." I am excited about leading the Department into that era.

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.

Senator MIKULSKI. Thank you, Secretary Locke.

We want to acknowledge that our colleague, Senator Alexander, is one of the candlelighters at the Holocaust Memorial remembrance that will occur very shortly. So Senator Shelby and I, as a courtesy, would like to turn to Senator Alexander. We know you have a very poignant job to do in a few minutes. So why do you not go first and then it will come back to us.

Senator ALEXANDER. That is a great courtesy, Madam Chairman. Senator Shelby, I thank you. I will only make two comments and then turn it back to the chairman.

Well, first, I thank Governor Locke for coming by to visit. I told him, Madam Chairman, that I always welcome the addition of Governors to the Senate and to the administration. I think it brings a can-do spirit to the Nation's capital that we always like to see.

And I look forward to working with you. This is a very important subcommittee. It works well together, focuses on our competitiveness and the implementation of the America Competes Act, which we all worked on and passed in 2007, which has received some additional funding this year. But we would like to keep the parts of that that belong in the Department of Commerce moving at a good rate. There is a very bipartisan focus on that and strong support out in the country for those efforts.

In that line, I am very supportive of NOAA's recent decision to locate its supercomputer for climate change research at the Oak Ridge National Laboratory. Governor Locke is well aware of Oak Ridge and of our national laboratory system since he comes from Washington State. I would say publicly what I said to him privately. I would invite you to visit Oak Ridge and see the computer operation there and see other activities that might fit within the Department's mission.

Finally, I would like to encourage you and the administration to support the Colombia Trade Promotion Agreement and let us get that settled and behind us. I was glad to see the President in Latin America last week. Some of those countries are better friends of ours than others right now, and Colombia is one of our best friends. The Colombia Trade Promotion Agreement would end a one-way benefit for Colombia because most Colombian goods already enter the U.S. duty-free. We would like for ours to do the same. It tends to isolate us from them and forces them toward other countries in the world when we want to encourage a friendship.

So it is good for American business, good for American farmers, good for our State, good for Washington State, all States. So I would hope that the President and you, working with the Congress, could find a way to make the Colombia Trade Promotion Agreement something that the Congress can agree to.

So welcome to Washington. I look forward to working with you. I thank the chairman for her courtesy.

REFOCUSING ON DEPARTMENT OF COMMERCE MISSION

Senator MIKULSKI. We will be seeing you shortly, Senator.

Secretary Locke, the first thing that I want to just acknowledge is that I am very proud of the fact that a substantial number of agencies within the Commerce Department portfolio are headquartered in my State. They are NOAA, NIST, and Census. And I had the opportunity to interact with the leadership there as well as the staff. I want you to know that throughout your agency, there are what I call the worker bees, those wonderful people that under the old pay scale were the GS-5s through the 15s. They really have kept our Government going. In some instances, they have had good leadership and in some instances not.

In our hearings, we tend to focus on “the problem agencies” but I hope we also take a look at all of the agencies and acknowledge the tremendous assets that we have in our Civil Service population. When you go over to NIST, which I hope we will have a chance to go together, you will see a civil servant that is a Nobel Prize winner. A civil servant is a Nobel Prize winner, and he is on the job right now today not only winning prizes but thinking the thoughts to win the markets.

That is why I was so pleased that you met with the Patent Office staff. We have to look at the fact that our workers are not problems, but they are part of the solution. I believe that some of the issues around contracting out, lack of resources and so on, were at times very demoralizing to our staffs.

So, therefore, what I am saying to you, as we look at it, what we need to do is look at the mission of the agency, what it is that the President wants to do, but also we need to look at the three R’s, which is to reinvigorate our Civil Service, and we do it by the right leadership, respect and resources. This is not hard to do but it takes a real commitment to do it.

Then I think we need to refocus on the mission of the agency while we dig our way out of the problems, but also where it is working like at NIST and other agencies, we really need to keep the momentum going.

So I just want to thank you for it. It was refreshing to hear that you met with the Patent Office workers there. So we are going to work with you on this.

#### CENSUS MANAGEMENT CHALLENGES

But having said those sweet things, I have got to get to a problem child which is the census. We are very concerned about the census. My first question goes to the fact that we put money, working with Secretary Gutierrez and in the stimulus, to right the wrong. But what we would like to know now is what are the resources that it is going to take for you to be able to do the census. We have two issues: the short term, which is to make sure we get the census done, and then the step of procurement reform and what are we going to do about this contractor that had this cost-plus contract and which we are out billions of dollars.

So can you tell us if we have the assurance that the census is going to be done right? What do we need to do to be able to help you do that?

#### COMMERCE EMPLOYEES

Secretary LOCKE. Thank you very much, Madam Chair.

With respect to your overall comments about reinvigorating and respecting our employees, as well as refocusing our mission, I first want to indicate that I have already been out to NIST and met with the employees and toured the facility and met with the great scientists that are there. I have also been out to the Census Bureau already and met with all the employees there and toured their facilities. I have not yet been to NOAA.

But I do want to say that, first of all, the Secretaries come and go and the political leadership of these agencies come and go. They know that we come and go. And we know that they are there for many, many years and do outstanding work. I believe it is absolutely vital that in all of the challenges that we have and all the programs that we have, that we need to rely on the expertise, the sense of pride and professionalism of the employees to help us become more efficient, more effective, and to deliver these programs that are so badly needed in the heartland of America.

Throughout the rest of America, it is story after story of local governments, State governments and businesses furloughing people, cutting benefits, eliminating jobs, laying people off, and people are very, very worried about their future. And we here in the Federal Government have an opportunity, a responsibility to execute our mission as efficiently and effectively as possible, as quickly as possible, and to get the economy going again providing good family-wage jobs throughout all of America.

I am really proud of the great professionals that we have, career people throughout all the agencies of the Department of Commerce, and it is my mission, one of my goals, as you say, to reinvigorate them, to provide them the respect so that they can say with great pride that they are an employee of the Department of Commerce, whether it is Census, whether it is NOAA, whether it is NIST, whether it is EDA, that they can say with pride that they work at the Department of Commerce.

#### CENSUS MANAGEMENT CHALLENGES

With respect to the Census, we have made a lot of changes with respect to management, with respect to oversight functions and programs at the Census, following the debacle over the handheld computers. The handheld computers were to have done two things: to provide automation as they verify addresses—and that is ongoing right now, and they still are using those handheld computers for that particular function, and it appears to be working well.

The other function of the handheld computers was to do the actual knocking on the doors, the enumeration, to get to the folks that did not mail in the census questionnaire after April 1, 2010. Because of problems there, that entire project was canceled, but costing us several millions of dollars of wasted funds.

That to me is completely unacceptable. Throughout all of the contract programs and technology programs that we have in the Department of Commerce, I believe that we should not be paying people unless they have actually performed, and until they have actually performed, they should not get most of their payment. So I believe that we need to completely change our contracting procurement processes, whether it is for satellites or for handheld computers for census or whether it is just mainframe computers and

technology within the Department of Commerce for everyday functions.

We have also followed up on the suggestions and the recommendations of the Government Accountability Office, as well as our Inspector General. There are now monthly status reports that are given to the Secretary's Office, as well as OMB, but within the Census Bureau, they now have weekly reports focusing on high-risk areas with milestones and metrics so that senior management can see what is happening and to respond immediately.

They also have a chief testing officer to oversee the testing efforts of these new programs and activities that have not yet been done before. Especially now that we are going back to paper and pencil, we have a whole bunch of processes that need to be evaluated—

#### ACCOMPLISHING THE CENSUS

Senator MIKULSKI. Mr. Secretary, are you confident that, number one, the census is going to happen? Number two, you have to hire lots of people. This is going to take money. It is going to stretch the FBI. Tell us what is required because this is an appropriations hearing as well. It sounds like you have really been standing sentry over the GAO and other recommendations. What is it going to take to do it? Do you have adequate resources to do this? Do you need resources? What about this in terms of the security clearances needed?

Secretary LOCKE. Well, with respect to the resources, we believe—

Senator MIKULSKI. My time is running out on these questions. So I get 5 minutes to cover the whole Commerce Department.

Secretary LOCKE. I believe that we do have the funds sufficient to conduct the census and we are monitoring it very, very aggressively. We feel that the President's proposal is sufficient.

With respect to the security clearances, what has been happening so far is that the FBI has been able to provide us the FBI fingerprint checks and the criminal background checks in an expeditious manner without interfering with other functions of the FBI.

It is a pilot right now. We will find out what is happening at the end of this current hiring process to make any recommendations with respect to the other million people that we will hire in the spring.

#### FBI BACKGROUND CHECKS

Senator MIKULSKI. This subcommittee also funds the FBI, and we know that our FBI is really tremendously stretched. They are fighting organized crime. They are fighting terrorism. We have now asked them to take on the mortgage fraud area, et cetera. And at the same time, they have got to do all these security clearances.

We are very firm that we must guard vulnerable populations against any potential predators that could be coming into their homes or their communities. So we want the background screening. We want the background checks. How that is defined we want to know about and then also about the resources. So if you are old, if you are a child, et cetera, we need to protect access to vulnerable populations. That is our job.

How many people are you going to hire?

Secretary LOCKE. Over a million people.

Senator MIKULSKI. A million people. That is a lot to put on the FBI, the database, et cetera.

Now, the FBI does not have a great technology record. This whole committee has been through a boondoggle with them to the loss of billions. They are now working with a private sector firm where their own data system and case management is tremendously improved, but they do not have an A-plus record. Okay? So let us not be in la-la land that all this is going to work.

I believe in what President Reagan said, trust but verify. I trust that what the FBI told you is so, but we really want verification.

And then second, if you are going to bring a million people on line and the FBI is not just sitting around waiting for its database to be used, we wonder then, as they come into the system, will this crash the system? What is this going to cost the system, et cetera? So we really need to be up on this now since now taking the census is going to be so much more labor-intensive. The FBI has a spotty record on its own technology functionality.

And number three, you cannot be screening a million people in a short period of time and not have issues. So we would like you to keep us abreast of both cost and operation.

I have used my time. I would like to now turn to Senator Shelby.

#### CENSUS PARTNERSHIPS

Senator SHELBY. Thank you, Madam Chairman.

Mr. Secretary, a lot of us were alarmed when it was discovered that the Census had plans for using ACORN as a partner in the 2010 census. ACORN employees, as you probably know, were found to be fraudulently registering voters for elections. Given ACORN's political history, a lot of us feel that the Census Bureau should not partner with organizations that have shown systemic problems with both accuracy and legitimacy.

It leads me to this. What is the Department of Commerce and the Census Bureau, under your leadership, doing to ensure that groups such as ACORN are adequately investigated prior to their involvement in something as important as the 2010 census? And the next question, is the Census in desperate need of support as to be willing to take anyone and everyone who applies? Could that not be a dangerous path?

Secretary LOCKE. Thank you very much, Senator Shelby.

First of all, the Census will not be hiring anyone from ACORN. We use these so-called partners to get the word out and to spread the word about the need for people to respond and answer the questionnaires.

Senator SHELBY. How will that work? Just reassure me.

Secretary LOCKE. Well, for instance, we have a maximum—I believe \$2,999 that we are willing to spend to help organizations get the word out. We will not make any payments to those partnership organizations. We pay the bills whether it is to pay the rent of a hall for a town meeting or to print, using our materials, materials that they can pass out.

Senator SHELBY. But they will not be taking the census, will they?

Secretary LOCKE. No. We control the hiring. We do not use any Government funds to subcontract with any organization to do any activity—

Senator SHELBY. You are not going to delegate it, in other words.

Secretary LOCKE. We are not delegating anything to ACORN.

Senator SHELBY. To anybody.

Secretary LOCKE. Or anybody.

Senator SHELBY. I like that.

#### NOAA SATELLITES

NOAA satellites. What degree of confidence do you have in the new cost and schedule estimates? And if you are confident, tell us why since every other estimate has turned out to be grossly exaggerated. And what is the level of risk of continuity of weather and our climate data and what contingency plans are being considered? If you do not have this, you can do this for the record.

Secretary LOCKE. I think we will have to give you a more detailed response.

[The information follows:]

#### SATELLITES

For the polar-orbiting satellites, the on-orbit and recently launched satellites are performing well and there is no immediate risk to data continuity for NOAA's weather and climate missions. We are concerned about the fragility of the constellation that begins to occur in 2013. This risk to data continuity occurs in the 2013 timeframe due to the schedule delays that the National Polar-orbiting Operational Environmental Satellite System (NPOESS) is facing.

NOAA is placing highest priority on the acquisition of this system to mitigate this risk. NOAA will use data from NASA's NPOESS Preparatory Project (NPP) sensors to produce data that meet or exceed the data from NOAA-19 (our current operational satellite). We have plans in place to make operational use of the data from the NPP spacecraft by increasing the number of products NOAA had planned to generate from the NPP system as a risk reduction mission.

NOAA has a contingency plan in the event there is a failure of any of its operational systems. This plan depends on using existing NOAA satellite assets, leveraging data from NASA and Department of Defense environmental satellites, and forging partnerships with international space agencies to acquire data needed to support NOAA's operational weather and climate mission. NOAA is also investigating opportunities to fly a mission with the legacy imager Advanced Very High Resolution Radiometer (AVHRR) in the event VIIRS continues to experience developmental challenges

Senator SHELBY. I know you are new there, and I believe from your background, you want to do a good job and you will do a good job. But you are going to have to get your arms around those costs there because ultimately, as Senator Mikulski has pointed out, you come back up here to the committee and we have trouble finding money if the costs keep going up and up in not just your agency, but the FBI, everywhere else because we will be allocated a finite amount of money to deal with this. You know? You spent two terms as Governor, so you can understand what we—

Secretary LOCKE. There are very limited funds, and cost overruns in satellite programs only eat up into the dollars available for other programs.

Senator SHELBY. Great overruns, gross overruns. But you will get back with us on that.

Secretary LOCKE. I will. And let me just say that the GAO has already done a progress report in April 2009 saying that, for in-

stance, the GOES-R program has incorporated a lot of the lessons learned from the NPOESS program. Still a ways to go, but they have revised cost estimates. But the GAO still points out some concerns and has made some recommendations that we intend to follow to try to get a better handle on the satellite acquisition program.

#### DEVELOPMENT OF SUSTAINABLE SEAFOOD

Senator SHELBY. Mr. Secretary, you know very well about our fisheries and seafood, coming from Washington State and serving two terms as Governor there. Safe and sustainable seafood is vital to the U.S. economy, food security, and our livelihood. The development of a sustainable marine aquaculture industry will provide jobs for the commercial fishing industry, severely depressed by competition from imported seafood products.

What research extension and marketing programs will the Department of Commerce provide to foster development in this area?

Secretary LOCKE. Thank you very much.

As our wild fishery stocks decline, it is very important that we are able to complement the wild stocks with aquaculture. NOAA really needs to engage in a program of research and setting up criteria and rules by which safe, environmentally sustainable aquaculture can operate, and right now we do not have any such rules, regulations, or guidelines. And that is something that must be done, given the fact that Americans want safe—

Senator SHELBY. Are you going to provide leadership there? Will you work with us on that?

Secretary LOCKE. Yes. We intend to pursue this and to help develop those guidelines.

#### INTERNATIONAL TRADE

Senator SHELBY. Touching on international trade, Mr. Secretary, our long-term economic growth—and this is an area you have done a lot of work in—and job creation must include, I believe, an exporting component. In recent years, exports have only accounted—listen to this—for 12 percent of our GDP. In fact, we export less than many other of the major G-20 nations.

What can the Department and ITA do to help more United States firms begin exporting, realizing there is a big market in the world, and to further expand our Nation's exporting capabilities? I think that is crucial for the Department of Commerce.

Secretary LOCKE. I think we really need to break down some of the silos that exist between some of the bureaus within the Department of Commerce. Trade, exports is not simply a function of the International Trade Administration, but also should be part of our Economic Development Administration working with companies, employers, large and small, on those opportunities for export and trade.

Senator SHELBY. Good. Thank you. I am through.

Senator MIKULSKI. I hope you feel better.

Senator Pryor, our newest member?



## BUSINESS INCUBATORS

Senator PRYOR. Thank you, Madam Chairman. It is great to be here, and thank you for doing this today. I understand the time sensitivity, so I am going to keep my questions brief and really just focus on two areas.

But first, let me thank you for coming to Arkansas last week. It was great to have you. Madam Chair, I think the first trip he made outside of the District was to Maryland to some of those facilities there, but the first trip out of the D.C. area, he came to Arkansas last week and we really appreciate it. Thank you for being there.

Let me ask, if I may, about a comment you made about—I think you said \$50 million for public-private partnerships and business incubators. I have a bill on science parks or technology parks or business incubators. Tell me how you think—is it \$50 million a year? Is that what it is?

Secretary LOCKE. Yes, it is.

Senator PRYOR. And tell me how you think the Department will use that money and what your criteria will be for that.

Secretary LOCKE. Well, we are going to be developing the criteria, but really it is going to be looking at proposals from local communities where we would partner with those local organizations, economic development organizations, nonprofits, colleges, universities. Obviously, we want to help leverage our funds and be a complement to those local efforts. Obviously, if it is a science park, if people want to create a science park and use that as part of an incubator, that could be a very strong proposal.

So we have no template, no cookie cutter approach, but general policies that we will draft, along with the grants that we now use, for instance, in the Economic Development Administration, competitive grants, but obviously, the more partnership at the local-State level that there are, then the stronger that proposal will be. Obviously, it is incumbent upon—even with regional clusters, that regions and municipalities and parts of the country focus on what their strengths are, what their dreams and aspirations are, and using the Federal dollars to help them achieve that mission.

Senator PRYOR. I am glad you are focused on that. In fact, the building you were in at the University of Arkansas at Little Rock on that campus where you did your town hall meeting actually has a component of it that is a business incubator, and it is exactly what you have talked about. It is a great example of a success story.

## BROADBAND TECHNOLOGY OPPORTUNITY PROGRAM

Let me change gears, if I may, and ask about broadband, the BTOP, the Broadband Technology Opportunities Program. Can you give us a status report on that? Particularly I am wondering if you are working with States to try to find the right way to implement that and what your schedule might be on that.

Secretary LOCKE. We have just closed the public comment period on how governments and the private sector and academia and policy people feel those broadband dollars should be distributed. It is roughly \$4.7 billion out of NTIA, and then there are significant funds through the Department of Agriculture. Both Agriculture,

Commerce, and FCC have been coordinating and trying to develop these policies with all the stakeholder input, over thousands and thousands of comments and ideas on how to distribute these dollars, ranging from direct distribution to the Governors and to the States, to a combination of direct distribution to the States, as well as grant proposals coming into the Federal agencies.

We hope within a few months to announce the final criteria after receiving all of this stakeholder input, digesting all of that, and there will be, I do not believe, one-size-fits-all criteria. The unserved vary from State to State. So we need to figure out a program that has maximum flexibility but, I believe, accomplishes significant national purpose or national goals so that at the end of the day, people will look back and say that with the broadband funds, limited as they are, that we were able to accomplish some very significant milestones or achievements with respect to high-speed Internet service all across America.

Senator PRYOR. Thank you, Madam Chair.

Senator MIKULSKI. But following up on Senator Pryor's question, when do you think you will issue the guidelines to apply for grants?

Secretary LOCKE. We have submitted the spend plans to the Congress. It is our intent to have the guidelines finalized, made public to America sometime in the early summer of—

Senator MIKULSKI. So if you are from Arkansas—like we in Maryland have the Maryland Broadband Cooperative, which is like a little TVA for broadband in our rural communities—when would they be able to apply for grants?

Secretary LOCKE. It is our intent—we are all shooting for early summer 2009, and with the grants actually going out the door beginning in the fall 2009.

Senator MIKULSKI. Okay, thank you.

I am going to ask a few more questions. I just want to apprise my colleagues the Holocaust Memorial starts at 11 o'clock. So we are going to want to move expeditiously.

I would like to thank Senator Pryor for raising EDA and broadband. These were two issues I was going to cover.

#### DIGITAL TO ANALOG CONVERTER BOX COUPON PROGRAM

While Senator Reed is getting himself together from Banking, I want to go to the digital coupon program. We are very concerned about whether this is really going to work. Could you bring us up to date on where you are on the digital coupon? Again, we were short on money. Everybody did this famous countdown so we knew it was changing, but then nobody knew that in addition to a converter box, they needed an antenna and so on.

Are you looking at this program related to the digital coupons not only to help our people be able to afford the conversion, but at the same time, get them what they need to conduct the conversion in a proper way and not just by buying every gizmo that they think is going to help them?

Secretary LOCKE. We have transferred from NTIA within the Department of Commerce some almost \$66 million to the FCC to help us get the word out for a smooth transition, public service an-

nouncements especially in targeted populations and targeted parts of the country.

Senator MIKULSKI. We got the announcements.

Secretary LOCKE. Yes.

Senator MIKULSKI. What we need to know is if the content in the announcements is worth anything, and number two, do you have enough money for really doing the coupons?

Secretary LOCKE. We believe that we do have the funds necessary to get the coupons out. We noticed that not all the coupons that have been distributed have actually been redeemed, but we have ample supply of coupons and funds for coupons that will go out even after the conversion on June 12.

We have already had some test markets and data from all the major media markets shows that around 95 to 97 percent of the households are ready for the conversion.

Now, we can only get the information out to people. I still have some concerns about the quality of the information, whether people truly understand these public service announcements. Some of these are funded by the private sector, but do they really understand what is happening and what they are about to face on June 12? So we are looking at upgrading the quality of the content of the public service announcements and the commercials.

Second of all, the data shows that most of the top 50 media markets around the country—some 95 to 97 percent of the households are equipped for the change.

Senator MIKULSKI. Well, Mr. Secretary, this is terrific because, number one, I am glad you are taking it so seriously and are so hands-on on it.

First, in terms of the quality of the content, people really need know to buy the right technology.

Second, I believe that there is a portion of the population that will not focus until they go to turn on the TV and it does not work. Therefore, I presume that this program will have to exist for another year after the date of conversion when people get their wake-up call, if you will, to that. We want to continue to work with you to make sure it is happening.

I will come back to satellites quickly and another quick one on the census. But let us turn to Senator Reed, a brother coastal Senator. We have been through it with the fisheries, have we not, Senator Reed, and our fishermen and watermen facing disasters and then at times dealing with Commerce was a disaster?

#### ECONOMIC ASSISTANCE TO FISHERIES

Senator REED. Well, Madam Chairman, thank you.

Senator MIKULSKI. It is a little prickly point.

Senator REED. It is. But I want to thank you for your not only interest but your effective support because you ensured there were \$10 million in the last budget for New England ground fisheries, and this is just absolutely critical to my fishing industry. Without your leadership, it would not have happened, and I thank you.

I want to welcome the Secretary. As we said yesterday, Mr. Secretary, I think Dr. Lubchenco, the new NOAA Administrator is doing a very good job in her first few days as the point person for your Department on these issues.

As you know and as Senator Mikulski alluded to, in the Northeast we are transforming the management of the ground fishery to a quota-based catch share system. It is a process that works well elsewhere. But we need to ensure that there is a continued investment in that activity. As I mentioned, Chairman Mikulski was extraordinarily helpful in securing \$10 million for New England's fisheries and Dr. Lubchenco's recent announcement of a \$16 million investment in groundfish was welcome news.

So the question is, can we assume that you will continue this transition by adequately funding it as we go forward and prioritizing this support going forward?

Secretary LOCKE. Senator Reed, we know that for these new fishing regimes to be effective, there has to be economic assistance to those affected in the fishing industry, as well as having the funds to do the research, to set up the data management systems, and to comply with other Federal laws, and not to have the fishermen and the fishing industry pay for some of these costs. So it is our intent to continue to move forward and provide this economic assistance to the fishing industry.

Senator REED. Thank you very much, Mr. Secretary.

Then there is another aspect of this, and that is the cooperative research which goes on between the fishing industry and the National Marine Fisheries Service and NOAA. It helps provide not only support for the fishing industry, but also developing new gear and more accurate stock assessments. I hope that you would also include this cooperative research as a priority in your budget.

Secretary LOCKE. We are assuming that. We know that we need that type of research to be effective.

Senator REED. Well, thank you very much. Thank you, Madam Chairman, and thank you, Mr. Secretary. I look forward to working with you.

Senator MIKULSKI. Mr. Secretary, because of the memorial, we are going to conclude this hearing. I have additional questions about NOAA. I think what you will observe is that we have a great admiration for NOAA, but it needs a lot of reform. We believe that the President has picked the right person in Dr. Lubchenco and look forward to working with her on this.

#### RECRUITING FOR TEMPORARY CENSUS JOBS

One final question on the census. These 1 million people. We are getting a lot of questions from ethnic heritage groups. How and when will people be able to apply for those 1 million jobs?

Secretary LOCKE. We anticipate receiving the applications in the early winter, shortly after 2010, and the hiring and the interviewing process will be probably in March so that they are up and running in April, receiving some training so that they can hit the field. But we know that to have a successful census, we need to have outreach to populations that typically do not trust government or do not speak English very well. So that is going to be the cornerstone of a successful census. Outreach, public service announcements, paid advertisements, and enumerators that go door to door from those hard-to-reach, hard-to-count populations so that those whose doors they knock on feel more comfortable seeing a person of their own ethnicity or background at the door.

Senator MIKULSKI. That is exactly right. We are already getting these requests, as I said. The heritage groups in the Latino community are well known, but I have a substantial Asian community as well. And people are really eager to participate and believe that they have the people to recommend for these jobs who would love to be able to do them. I believe there is a cornucopia of opportunity in our great American mosaic. We have these vibrant heritage organizations that can help us recruit and do outreach with the personnel that are multilingual and would meet the security test.

The other area for us to give consideration is realtors. As you know, so many people in the real estate community are small business people—in many instances, primarily women—women and men who know their communities cold. Well, they have not been as busy as they once were. And the reason I say that is perhaps for Census to also look, during this economic downturn—for those who not only work in the community—but know the community. They know the people. They are familiar with it. They are not running around with a GPS saying “where is Montford Avenue?” and, “am I in Fells Point?” which is in Baltimore, or Horn Port, which is out on the Chesapeake Bay.

So I would also consider that this could be an opportunity for recruitment with people who are versed with talking with people, know the community, are paperwork-oriented, and could get the job done. There might be some who were in that field. But again, I would discuss it with the National Association of Realtors.

Secretary LOCKE. Thank you. We could always use more partners.

Senator MIKULSKI. Senator Murkowski, we were just getting ready to wrap up to go to the Holocaust Memorial.

Senator MURKOWSKI. Madam Chair, if I may just very, very briefly ask a question about fisheries and the Denali Commission.

Senator MIKULSKI. Go ahead.

#### FUNDING FOR THE DENALI COMMISSION

Senator MURKOWSKI. Thank you, Madam Chairman.

Thank you, Mr. Secretary. It is a privilege to have another westerner sitting in this very important seat as Secretary of Commerce and I welcome the opportunity to be working with you in these coming-up years.

Two issues that I want to touch on this morning, and I appreciate the consideration of the chairman in giving me a couple minutes this morning.

The Denali Commission, very, very important to us in the State of Alaska in terms of how we address some of our very critical needs, whether it is water and sewer, whether it is bulk fuel infrastructure projects, education, and certainly when it comes to health care. It has been a critically important partnership between the Federal Government, the State of Alaska and tribal organizations with really the chief goal being to improve the standard of living in rural Alaska through investments in transportation, in infrastructure, rural power systems, alternative energy projects, bulk fuel, health clinics, teacher housing. It really runs the gamut, and I believe it has become a prime example of how Government should operate.

The Commission traditionally has been funded by Congress through the annual appropriations process, but I would like to work with you to see, as we move forward, if we can get that funding for the Commission included in the President's budget. I would just ask for your assistance in working with me on this important initiative.

Secretary LOCKE. I would be delighted to work with you and explore funding issues on that.

Senator MURKOWSKI. Great. I appreciate it. The Commission is set to be reauthorized this year, and I am going to be working with my colleague, Senator Begich, on this. But we will look forward to working directly with you.

#### SUSTAINABLE MANAGEMENT OF FISHERIES

On fisheries, so critically important not only to my State of Alaska, certainly your home State of Washington. But our fisheries are truly the lifeblood of coastal Alaska. Very substantial interest in making sure that we have the best scientific information to continue the management of our fisheries in a sustainable way. And I believe that the Federal funding that we have seen for fisheries science, at least in Alaska, has been inadequate for a number of years.

There has been discussion and you have indicated that funding the full implementation of the Magnuson-Stevens Act and its requirements to end overfishing will be key to you. Well, we do not have any overfished ground stocks in Alaska. We want to keep it that way.

We have got some fundamental stock assessment surveys, such as the Gulf of Alaska pollock survey, that are in danger of not being performed due to lack of funding. If NMFS is unable to do the survey because they do not have adequate funding, the implications on a huge industry can be quite sizable, having a negative effect that are far greater than the cost of any survey there.

I guess my question to you this morning, Mr. Secretary, is whether or not you agree that funding basic fisheries science such as these surveys should be prioritized, and do you intend to increase funding for this type of research within the budget?

Secretary LOCKE. I would have to get back to you with respect to the President's proposal on the funding for that specific scientific activity, but obviously, we cannot be successful in having sustainable harvests, having sustainable fisheries if we do not have the science and the scientific data to drive those policy decisions. So science is the key. It has to be a priority, and without the science, everything else is for naught.

[The information follows:]

#### BASIC FISHERIES SCIENCE

Assessment of fish stocks is a high priority for the administration in order to maintain sustainable fisheries and protect their ecosystem. Implementation of Annual Catch Limits and other provisions of the Magnuson-Stevens Reauthorization Act must be based on the best scientific information available. The Administration recognizes that high quality fish surveys, fishery monitoring, and stock assessments are necessary to attain optimum yield while confidently preventing overfishing.

The Alaska Fisheries Science Center conducts fishery surveys to measure the distribution and abundance of fish and crab stocks in the Aleutian Islands, eastern

Bering Sea and the Gulf of Alaska. The research surveys use a range of sampling techniques, measurement equipment (including acoustic instruments), and fishing gear (trawls and longlines). Survey data derived are analyzed by Center scientists and supplied to fishery management agencies and to the commercial fishing industry.

The Expand Annual Stock Assessment—Improve Data Collection (EASA) and the Survey and Monitoring budget lines fund survey, monitoring, and stock assessment activities. Funded at \$1.7 million in fiscal year 2001, the EASA budget line has grown to provide NMFS with increased funding and capacity to conduct fish surveys, fishery monitoring and stock assessments nationwide. Of the \$40.5 million for EASA in fiscal year 2009, \$2.7 million is used for these activities in Alaska. The Survey and Monitoring budget line for fiscal year 2009 is \$17.0 million, of which \$4.0 is provided to the Center for survey activities in Alaska.

NMFS continues to increase the number of stock assessments needs in Alaska and elsewhere. In fiscal year 2010 we are requesting an additional \$9.9 million in EASA and an additional \$6.3 million for survey and monitoring.

#### OCEAN ACIDIFICATION

Senator MURKOWSKI. Well, I would agree with you. That is another area that we would like to be working together with you to make sure that we have got the resources to advance that science.

On the ocean acidification—

Senator MIKULSKI. Senator, we are really going to have to—

Senator MURKOWSKI. I am going to wrap up right now, Madam Chairman, and I appreciate it. I just wanted to mention we all recognize, as we are talking about climate change, what we are seeing with the ocean acidification as one of the greatest threats to climate change. And we do not have any funding for that. So, again, areas of science and research that I would hope that we could be working on.

Madam Chairman, I have got a couple other questions about Arctic issues and endangered species.

Senator MIKULSKI. Yes. I want to just again pledge our support. It is just this very poignant ceremony and we need to be rather prompt in our—

Senator MURKOWSKI. And I appreciate your additional time. I will submit my additional questions to the Secretary for his comments.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator MIKULSKI. We both have a big investment in NOAA. So we look forward to working with you.

Senator MURKOWSKI. We look forward to working with you.

Senator MIKULSKI. Mr. Secretary, as you can see, there is no end to the topics that we could discuss with you. This is the first of what we would hope would be many conversations, both formal and informal. But the committee extends its hand to you in partnership and ongoing conversation.

[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

##### USPTO

*Question.* Patent and Trademark Office's (PTO) budget authority is based on the amount of fees the agency expects to collect each year. For fiscal year 2009, Congress gave PTO authority to spend \$1.9 billion. Yet, due to the downturn in the

economy, businesses are filing less applications, which means PTO is collecting less fees. As of March 13, PTO collected \$100 million less fees than predicted. Yet, PTO needs \$1.9 billion to operate in order to continue processing applications and to hire additional examiners to reduce backlog. What is the plan to address this short fall in fee collections?

Answer. The budget is built based on the necessary requirements and resources needed to accomplish the goals and objectives detailed in the USPTO strategic plan. Like any business, if projected fee collections are insufficient to fully meet the resource requirements for the year, the agency strives to prioritize critical activities (i.e., patent and trademark examination).

Due to current economic conditions, the agency anticipates end of year fee collections will be approximately equal to actual collections in 2009. In response, USPTO management has made decisions to implement cost-saving measures, which include:

- Fiscal year 2009 Patent Hires Frozen at 600 attrition replacements
- Instituted an exception hiring process to limit hiring to critical vacant positions or areas of need.
- Eliminated Discretionary Awards and essentially stopped Non-Revenue Generating Overtime
- Curtailed Revenue Generating Overtime
- Significantly curtailed Training Expenditures not required to sustain job-critical qualifications or that was already obligated.
- Suspended the Law School Reimbursement Program
- Reduced spending IT System Development/Improvement Efforts
- Reduced spending Patent Workload-based Contracts
- Reduced spending Non-IT Contracts/Services
- Reduced global IP training programs and conferences, and reduced international travel
- Reduced domestic Travel and Supply Purchases

*Question.* What steps will PTO take if fee collections continue to decline?

Answer. Should the economy continue to decline resulting in further reductions to USPTO resources, several options still exist to reduce funding requirements including:

- Suspending all patent examiner recruitment & retention bonuses
- Suspending all production and revenue generating overtime
- Further reducing spending on IT infrastructure strengthening and replacement projects
- Further reducing global IP training programs and conferences, and reducing international mission travel
- Reducing IT and non-IT operational support functions

The USPTO is working with my staff and the Office of Management and Budget to improve the current operating model so that it can responsibly accommodate both positive and negative changes in the economic landscape. We look forward to engaging Congress to develop the optimal model to ensure continued USPTO success.

*Question.* How will this affect the current backlog?

Answer. The USPTO had planned to hire 1,200 patent examiners in fiscal year 2009. In an effort to address the short fall in fee collections, the office now plans to hire only 600 patent examiners. The agency would have expected the additional 600 examiners to process approximately 6,000 applications in fiscal year 2009. However, given the decline in patent application filings, USPTO's current projections of average wait times, which are contained in the 2010 Budget are lower than the same projections made in the 2009 Budget.

*Question.* The Commerce Inspector General concluded PTO is one of the top management challenges facing the Department. The patent backlog continues to grow, and is on track to have a backlog of 800,000 cases this year with the average time to process an application is almost 3 years. In the past, PTO blamed funding shortages for the problem, yet even with increased funding, the problem seems to be getting worse. What steps will the new Secretary take to reduce the backlog?

Answer. For clarification, the USPTO anticipates the backlog at the end of the year will be approximately 740,000. This estimate reflects that the USPTO anticipates a decrease in its backlog by approximately 10,000 cases this year.

Hiring—while not the sole answer to reducing the backlog—remains an important means for examining record numbers of new patent applications. In 2005, when the USPTO set a strategic goal of hiring 1,000 new examiners per year, many in the public said that it couldn't be done. Yet, the USPTO successfully hired and trained these new employees, and then went on to hire and train over 1,200 new patent examiners in fiscal year 2007 and fiscal year 2008. These new patent examiners have helped cut into the patent backlog, by decreasing the rate at which the backlog was increasing.



In addition to hiring, providing patent examiners with training, mentoring, better electronic search and examination tools, and reviewing ways to improve the quality of patent applications are reforms the USPTO is pursuing to help it reduce the backlog. Additionally, the Accelerated Examination option introduced in August 2006, allows any applicant to obtain a patent decision within 12 months. To date, over 3,060 of patent applications have been filed under the Accelerated Examination program.

*Question.* In 2008, GAO report found that PTO hiring efforts were not sufficient to reduce the backlog of patent applications. For every patent examiner PTO hired, the agency lost two patent examiners. Patent examiners leave because cost of living in DC is high, they want more hands on experience, and the private sector offers better opportunities. GAO found bonuses; special pay rate and opportunities to work remotely would greatly increase retention. The GAO in June 2005 recommended 2 steps to improve hiring and retention of examiners, which included improving communications between management, patent examiners and union officials. Fostering greater collaboration will resolve issues underlying the quota system and the need for continuous technical training. What is the current staff retention rate?

*Answer.* To clarify a misstatement in the question, for every two patent examiners hired, the USPTO loses one patent examiner. The USPTO does not lose two examiners for every one hired. The attrition rate is an overall rate based on the entire examiner population.

The current patent examiner overall attrition rate, as of April 2009, is 6.8 percent. This figure translates to a 93.2 percent retention rate.

Since the GAO released a report on USPTO hiring efforts in September 2007, the USPTO has experienced improvement in patent examiner attrition rates. At the time of the GAO report, the overall patent examiner attrition rate was 8.5 percent, and first year attrition rate was 15.6 percent. In the fiscal year 2008, this dropped to 12.9 percent, which represents a 30 percent decline. The average attrition rate for patent examiners with less than 3 years experience was 15.5 percent when the GAO report was released. Currently, the rate has dropped nearly 21 percent to 12.3 percent. Notably, the average attrition rate for patent examiners with greater than 3 years experience is currently 2.2 percent. Overall, the USPTO attrition rate is lower than the average rate for Federal workers (8.5 percent vs. 11.2 percent).

We believe this improvement in attrition is attributable to the economy along with a strong work life quality program and a number of targeted initiatives including:

- Flexible work schedules;
- Expansive teleworking programs;
- Recruitment bonuses;
- Part-time employment;
- Lap top computers available for overtime work away from the office;
- Productivity award programs
- Increased training opportunities tailored to examiners' needs;
- Focused training for new examiners; and
- Movement toward a nationwide workforce.

To date, however, several of these initiatives have been suspended due to reduced fee collections.

- Reimbursement for advanced technical education and law school;
- Annual adjustment to examiner special pay.

*Question.* What steps will you take as the new Secretary to ensure these recommendations are implemented to continue to reduce attrition and retain employees?

*Answer.* Since the June 2005 GAO report, the USPTO has taken steps to strengthen communications between management, patent examiners, and union officials. These steps include instituting weekly work group meetings and larger bi-weekly meetings between managers and employees; establishing a policy that first-line supervisors hold regular meetings; holding regular monthly meetings with union officials and the Patent Office Professional Association; and working to institute a quarterly Joint Labor Management meeting with all unions.

As noted in the response above, the USPTO has also instituted a number of retention initiatives. The USPTO recognizes that a qualified corps of patent examiners is essential to effectively handle its important responsibilities. Attracting and retaining those highly qualified employees through a range and incentives and a positive work environment are absolutely necessary. I intend to review all initiatives currently in place with the emphasis of expanding and improving them.

## ITA US&amp;FCS

*Question.* Created under the Foreign Service Act, the United States & Foreign Commercial Service is the trade promotion arm of the International Trade Administration. They represent U.S. business interests internationally, and small-and-medium-sized businesses rely on this service to promote the export of goods and services from the United States. In recent years, management trends at the Department of Commerce suggest that the number of commercial officers overseas is diminishing, while officers serving in domestic locations in non-commercial roles grow. This trend has the potential to seriously jeopardize the support of expanding U.S. businesses overseas.

How many Foreign Service officers did the Commercial Service have in fiscal year 2004 versus what the Department expects in fiscal year 2010?

*Answer.* In fiscal year 2004, US&FCS had 246 officers. In fiscal year 2010, US&FCS expects to have 237 officers.

*Question.* How many current officers serve in domestic positions?

*Answer.* A total of 49 officers are currently serving in domestic positions.

*Question.* What is the attrition annual rate of Foreign Service officers?

*Answer.* The annual attrition rate for the Foreign Service officers for each of fiscal year 2005, 2006 and 2007 was 7 percent. In fiscal year 2008, it was 5 percent and in fiscal year 2009, it is expected to be 3 percent.

*Question.* How many overseas posts did the Commercial Service have in fiscal year 2004 versus fiscal year 2010?

*Answer.* In 2004, US&FCS had 153 overseas posts in 82 countries. It is expected that US&FCS will have 131 overseas posts in 80 countries in fiscal year 2010.

*Question.* How many of those positions are not currently filled?

*Answer.* We currently have 13 vacant Foreign Service Officer overseas positions in fiscal year 2009.

*Question.* Explain how the fiscal year 2010 budget request adequately supports the mission of the U.S. Commercial Service and that of the Foreign Service Officers.

*Answer.* The fiscal year 2010 budget provides adjustments for inflationary expenses in personnel and US&FCS fixed costs related to the provision of support services to both international and domestic offices and the headquarters. In addition, the request includes \$5.2 million to expand ITA presence in emerging markets in Asia, Africa and Eastern Europe.

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 QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

## NTIA—BTOP/TARGETING RURAL AREAS

*Question.* Secretary Locke, I wanted to ask you about the Department of Commerce's plans to deploy the more than \$4 billion in American Recovery and Reinvestment Act broadband deployment funding Congress and the Administration gave to your agency. I am especially concerned about ensuring that this funding reaches rural America, the Department of Commerce's definitions of underserved and unserved, the Department of Commerce's anticipated timeline for distributing these funds, and the agency's intent to consult with States about pre-existing broadband deployment plans.

The digital divide runs deeply through rural America—and especially through rural Vermont. I firmly believe that places like the Northeast Kingdom of Vermont—the three most Northeastern counties of Vermont, areas in southern Vermont isolated by the Green Mountain National Forest and vast numbers of “digitally disconnected” Vermonters living in between these two areas receive priority when it comes to distributing funding for your Broadband Technology Opportunities Program. This will mean carefully defining unserved and underserved. Preference for funding must be given to Americans with no access to broadband. However, communities where the private sector has “cherry picked” profitable customers and left their rural neighbors offline must be afforded funding opportunities through the ARRA broadband programs.

I commend you, and Secretary Vilsack of the Department of Agriculture, for adopting aggressive timelines to formulate plans for the distribution of these broadband funds. I believe that the NTIA must continue this aggressive posture to deploy these funds in time for the 2009 construction season, a short window in Northern climates like Vermont. A 100 million broadband project in east central Vermont, East Central Vermont Fiber, is shovel ready right now—a victim of the financial collapse. Dozens of wireless projects are on hold, from companies like Great Auk (AWK) Wireless and Cloud Alliance in Vermont, ready for construction if Federal funding can be identified. The Vermont Telecommunications Authority

has \$40 million in State bonding authority waiting for a matching Federal investment. North-Link, a fiber project in northwestern Vermont, is under construction already—but awaiting a final investment to finish construction. These projects can deliver broadband access to Vermonters by the end of the summer—but it will depend on you and your agency pushing to get this money out the door as quickly as possible.

And finally, I want to bring your attention to the work the Vermont Congressional Delegation and Vermont's Economic Stimulus and Recovery Office have undertaken since Congress passed the recovery act. We began aggregating broadband infrastructure grant proposals throughout Vermont in an attempt to offer NTIA and RUS a comprehensive strategy towards building broadband infrastructure to every Vermonter. This effort has brought together private, public and non-profit providers who have shared their proposals and plans with our offices and State officials. As ARRA requires NTIA to consult with States, I hope you and your team will take such comprehensive approaches into consideration when making decisions on broadband funding applications. Should the Department of Commerce decide to provide block grants to States, I also ask that you not base your decisions on population, but instead on a State's true build out needs. For years private telecom providers have chosen to deliver services first to high population areas and second to rural Americans. This strategy has left America's largest digital divide in low population, rural States like Vermont. At a minimum, any block grant should include an all-State-minimum of no less than three-quarters-of-one-percent of all ARRA broadband funds.

Given the rural paradox of telecommunications, where those most isolated and who benefit the most from telecommunications infrastructure are the last to receive such access, does the Department of Commerce plan to specifically target rural and underserved areas such as Vermont through the Broadband Technology Opportunities Program.

*Answer.* The Broadband Technology Opportunities Program (BTOP), as set forth in the American Recovery and Reinvestment Act of 2009 (Recovery Act), has many important goals. One of these is to ensure access to broadband service for consumers living in "unserved" areas of the United States. The Recovery Act also provides funding to improve broadband access in "underserved" areas—whether they are in rural, suburban, or urban settings. Within the Department of Commerce, the National Telecommunications and Information Administration is in the process of defining these and other statutory terms in order to establish funding eligibility criteria. While the final criteria have yet to be established, I am confident that they will ensure that applicants seeking to serve rural and underserved areas of Vermont will be able to compete effectively for BTOP funding.

*Question.* I understand the Department has already suggested a tentative timeline for issuing solicitations for BTOP funding. Does the Department of Commerce plan to stick to that timeline?

*Answer.* NTIA is working as expeditiously as possible to implement the BTOP. On March 12, 2009, NTIA and the Department of Agriculture's Rural Utilities Service (RUS) issued a joint Request for Information (RFI), inviting public comment on implementation of BTOP. NTIA is currently in the process of reviewing the public comments filed in response to the RFI and plans to issue a Notice of Funds Availability (NOFA) this summer to allow eligible entities to apply for BTOP funds. NTIA plans to issue two subsequent NOFAs, inviting additional grant applications, which will be timed to ensure that all grants are made before the statutory deadline of September 30, 2010.

*Question.* Would you consider a more aggressive timeline that might get all of the funding to States this construction season?

*Answer.* The Recovery Act requires that all funds be obligated by September 30, 2010. In order to meet this requirement and to provide all participants a reasonable opportunity to apply, NTIA is considering giving applicants three opportunities, or rounds, to apply for BTOP funds over the life of the Program. The agency's current plan is to publish a NOFA this summer and to hold workshops in a number of locations across the country, soon thereafter, to answer questions about the application process. This process would be repeated in late calendar year 2009 and again in spring 2010, so that prospective applicants who are not ready this summer can prepare to apply for BTOP funds during the second or third rounds. The three rounds would also allow NTIA to make program adjustments based on the experience from the earlier rounds. NTIA believes that having several opportunities for organizations to apply is equitable and effective—especially for smaller organizations that have fewer resources and may need more time to prepare their applications and will help ensure that the funds are used in the most efficient manner possible.

Furthermore, multiple rounds will also help organizations in States like Vermont apply for funds in time for their respective construction seasons.

*Question.* Will States like Vermont, where a coordinated effort is already underway to provide NTIA with a comprehensive and consolidated broadband grant application, be more competitive than States that submit piece-meal applications?

*Answer.* In the Recovery Act, Congress wisely directed that NTIA consult with the States with respect to the best ways to identify areas to which broadband grant funds should be directed and the proper allocation of grant funds. NTIA has already begun meeting with officials from the States and has been actively soliciting input with regard to best practices. I expect different States to adopt different approaches to the BTOP program, but we will not be able to assess the relative merits of any particular approach until all the applications have been filed.

*Question.* Would you support including additional appropriations to the Broadband Technology Opportunities Program into the annual appropriations process?

*Answer.* The Recovery Act provides NTIA with \$4.7 billion for the purposes of increasing broadband deployment and adoption in unserved and underserved areas of the United States, and the statute requires that these funds be obligated by September 2010. Accordingly, NTIA is working to implement the program and to issue grants quickly and efficiently to qualified recipients. I will be working closely with the Assistant Secretary of NTIA, the Office of Management and Budget, and Members of Congress as the program develops in order to assess whether it is fulfilling its objectives within existing appropriations. Decisions about future appropriation requests will be made in the context of program performance and the Administration's budget process.

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#### QUESTIONS SUBMITTED BY SENATOR JACK REED

##### NTIA—COMPETING FOR BTOP FUNDS

*Question.* The Recovery Act provides \$4.7 billion to establish a national broadband service development and expansion program, known as the Broadband Technology Opportunities Program or BTOP. This program will provide competitive grants to improve broadband access in “unserved” and “underserved” areas.

Can you provide any assurance that agency guidance related to “unserved” and “underserved” areas will be defined in a way that ensures that States that do not contain mainly rural areas, like Rhode Island, will be able to effectively compete for this important funding?

*Answer.* Yes. The Broadband Technology Opportunities Program (BTOP), as set forth in the American Recovery and Reinvestment Act of 2009 (Recovery Act), has many important goals. One of these is to ensure access to broadband service for consumers living in “unserved” areas of the United States. The Recovery Act also provides funding to improve broadband access in “underserved” areas—whether they are in rural, suburban, or urban settings. In addition, the Recovery Act contemplates grants being awarded in every State and directs NTIA to provide support for an array of initiatives, including broadband education, awareness, training, access, and equipment for strategic institutions, such as schools, job-creating facilities, libraries, and healthcare providers. In view of these statutory objectives, I am confident that applicants from Rhode Island will be able to compete effectively for BTOP funding.

##### EDA—TRADE ADJUSTMENT ASSISTANCE

*Question.* The American Recovery and Reinvestment Act reauthorized the Trade Adjustment Assistance (TAA) for Firms and tasked the program with covering service industry firms.

Can you provide an update on Economic Development Administration's progress in expanding its cover of serving service firms?

*Answer.* On May 5, 2009, EDA published a proposed rule in the Federal Register that implements the provisions of the reauthorization statute, including inclusion of service sector firms.

On May 18, 2009, EDA sent comprehensive guidance to the Trade Adjustment Assistance Centers addressing the addition of service sector firms. EDA directed the Centers to accept applications from service sector firms immediately.

The guidance package included worksheets and templates that augment the existing application form (ED-840P) to provide the additional information required for service sector firm certification and to comply with the performance data collection requirements of the reauthorization statute.

EDA will conduct teleconference training with Trade Adjustment Assistance Center personnel to update them and provide ongoing support for both the Centers and applicant firms.

EDA will engage the Centers in the development of the revised certification form and other documentation prior to seeking Paperwork Act Reduction approval of any new forms.

*Question.* Do you believe EDA will have sufficient resources to meet its new responsibilities without reducing assistance to manufacturers?

*Answer.* EDA can meet its new responsibilities while still assisting manufacturers. The Recovery Act authorized EDA to use \$350,000 of its appropriations each fiscal year on full-time administrative positions for the TAA for Firms program. The majority of the EDA FTE administering the TAA for Firms program evaluate and certify firm eligibility. EDA is required to conduct both a programmatic and a legal review of each certification petition. EDA anticipates that service sector firm certifications will be approximately equal to the existing number of manufacturer certifications. As a result, overall certifications are expected to double.

With respect to the eleven Trade Adjustment Assistance Centers, EDA anticipates significant transition issues because the Centers' existing staff is geared almost exclusively to the manufacturing and producing firms that have been the focus of the program for over 25 years.

EDA is exploring policy options that will allow the TAA for Firms program to effectively assist more firms, in both the manufacturing and service sectors, without the need for additional funding or increased overhead.

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QUESTIONS SUBMITTED BY SENATOR BEN NELSON

NTIA—BTOP/TARGETING RURAL AREAS

*Question.* It is critical that the broadband stimulus funds are spent in a way that targets them where they are needed most. Is it your intent to make unserved areas, those areas where broadband has not previously been deployed, as the number one priority at NTIA?

*Answer.* The Recovery Act charges the Department of Commerce with the responsibility of addressing the broadband needs of both "unserved" and "underserved" populations, facilitating greater use of broadband services, increasing broadband speeds, and increasing broadband access to community institutions, among other objectives. While I expect NTIA to pursue all of these objectives, I agree with you that the Broadband Technology Opportunities Program provides a unique opportunity to expand broadband access to communities that desperately need it, particularly those areas of the United States that are currently unserved.

*Question.* The Recovery Act does not define the terms "unserved," "underserved," or frankly, even for that matter, "broadband." The House-Senate conferees provided some guidance, but ultimately, the definitions are up to the agencies.

I believe that it is important that we do not establish definitions for broadband that are so high that they would end up actually leaving rural areas behind. If our goal is to build broadband infrastructure, if we set speed thresholds too high, the digital divide between rural and urban areas could be further exacerbated. Demanding the fastest possible speeds—in areas that don't even support basic broadband today—as a condition of awarding a grant seems like a recipe for deterring any investments in these areas, depriving them of jobs in building out broadband and perpetuating the lack of broadband service there.

How do you plan to implement the definition of broadband in a way that will result in deployment of broadband at advanced speeds?

*Answer.* Among other things, the Recovery Act directs NTIA to provide the greatest broadband speed possible to the greatest population of users. To help implement these requirements, NTIA and the Department of Agriculture's Rural Utilities Service (RUS) published a joint Request for Information (RFI) on March 12, 2009, seeking the public's input on these definitions, as well as a number of other policy and procedural issues. NTIA received over 1,000 comments in response to the RFI by the April 13, 2009 deadline. NTIA is in the process of reviewing the public comments filed in response to the RFI and plans to issue a Notice of Funds Availability (NOFA) this summer to allow eligible entities to apply for BTOP funds and setting forth eligibility criteria. I am confident that these criteria will be consistent with the statutory directive to maximize the number of consumers with access to broadband, while at the same time increasing the speed of broadband service that is available.

## QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

NOAA

## ELECTRONIC LOG BOOKS ON THE GULF SHRIMP FLEET

*Question.* In January 2008, NMFS promulgated regulations implementing the red snapper rebuilding plan requiring the shrimp fleet to reduce fishing effort and by-catch in juvenile red snapper habitat areas by 74 percent. Failure to achieve this target reduction triggers the closure of those areas to the shrimp fleet. This program is the principal means to monitor the level of shrimp fishing effort and by-catch in the red snapper habitat areas as required by these regulations.

What is NMFS doing to assist the shrimp industry with their efforts to install Electronic Logbooks on the Gulf shrimp fleet in order to monitor shrimp fishing effort?

*Answer.* NMFS is funding a contract to support acquisition and installation of Electronic Logbooks on shrimp vessels, and collection and analysis of the data gathered by the devices for use to estimate effort in the shrimp fleet. In fiscal year 2009 NMFS is applying \$200,000 to the contract. NOAA has not requested funds for this in fiscal year 2010.

*Question.* Are the log books effective in assisting NOAA in determining bycatch levels?

*Answer.* Yes, the data obtained from this program assists us in estimating levels of sea turtle and red snapper bycatch mortality in the shrimp trawl fishery, as well as bycatch levels for other species such as blacknose sharks. This program has improved the accuracy of shrimp fishing effort estimates. Since inception, 538 Electronic Log Books (ELBs) have been installed in a representative sample of the Gulf of Mexico shrimp vessels (about one-third of the active fishing fleet covering the entire Gulf of Mexico from south Florida to south Texas) and 470 of these units are still deployed and functioning.

*Question.* If so, why is NOAA not assisting the boat captains with the cost to implement these regulations?

*Answer.* Currently, there are no costs to the boat captains for implementation of the ELB program, other than providing the information through the ELB.

*Question.* Installing electronic logbooks on shrimp boats is the only means available for NMFS to accurately measure shrimp fishing effort and, thus, to prevent the closure of this fishery and the loss of thousands of jobs. If NMFS is going to require that shrimp fishermen reduce their fishing effort by 74 percent in some of their best fishing areas in order to support your red snapper plan, don't you think it makes sense for NOAA to assist in funding the purchase and installation of these electronic logbooks—and fund the collection and analysis of the data?

*Answer.* Currently, there are no costs to the boat captains for implementation of the ELB program, other than providing the information through the ELB. All ELB installation, data collection, and data analysis, are covered by a NMFS funded contract.

*Question.* NOAA has created a funding disparity between the Northeast, Northwest, and the Gulf of Mexico. Despite the fact that some of the largest river systems in the Nation pour into the North Central Gulf of Mexico and the existence of well-respected research facilities along the Gulf Coast, NOAA has consistently focused its resources in other parts of the country. The ecosystems of Mobile River (America's 4th largest river system) and Bay along with Alabama's coastal communities support tourism, commercial and recreational fishing, and important habitats for fish and wildlife. What will you do Mr. Secretary to ensure that the Gulf of Mexico is treated more equitably in the distribution of NOAA research and weather dollars?

*Answer.* The Department agrees that NOAA has an important role to play in supporting the Gulf of Mexico. NOAA continues to work to address the unique and critical needs of all regions of the country, including the significant needs of the Gulf of Mexico region. NOAA is committed to addressing the needs of the Gulf region and continues to implement a number of activities to assist the region. Despite the fiscal constraints of the fiscal year 2010 budget, it includes continued support and increases for NOAA activities in the Gulf of Mexico. Additional details and examples of activities supporting the Gulf are included below.

NOAA Fisheries budget includes \$20.5 million specifically for Gulf of Mexico activities, an increase of \$8.0 million or 64 percent over 2009. This increase includes \$2.5 million to collect and analyze data to improve our understanding of the fishery impacts of hurricanes, our efforts to mitigate those impacts, and our ability to minimize the impacts of future storms. The funding will support time on ships and other platforms for surveys of fish, shrimp, other living marine resources as well as social and economic surveys of the fishing industry and fishing communities. This program

provides the data and core assessments needed to support fisheries management in the hurricane-prone areas. The budget requests an additional \$1.1 million to support economic surveys of commercial fishing fleets and recreational anglers, and development of decision support tools for assessing catch shares, fish stock rebuilding plans, community impact analysis, and other management measures. Additional economic surveys that will be conducted include a series of marine protected area surveys and protected species valuation surveys.

The budget provides additional resources for observer coverage in the Gulf. An increase of \$1.1 million for observer coverage of pelagic longline fishery of Atlantic Bluefin tuna in the Gulf of Mexico will allow NMFS increase the observer coverage required for the Gulf of Mexico pelagic longline fleet and an additional \$0.1 million will augment observer program coverage in the Gulf of Mexico reef fish fishery. This observer program monitors the catch and discard of reef fish species and other finfish and ESA species in the Gulf of Mexico reef fish fishery.

The fiscal year 2010 budget also provided additional resources to support the implementation of Annual Catch Limits. An increase of \$1.4 million will support fishery independent surveys in the Gulf of Mexico to produce the best technical advice to the Fishery Management Councils and support the implementation of Annual Catch Limits. An inshore trawl survey to support the assessment of gag and other snapper-groupers also will be implemented. In addition, an increase of \$0.5 million for the Gulf Regional Council provide it with important resources to set, evaluate, and revise annual catch limits (ACLs) and accountability measures (AMs) to end overfishing on stocks subject to overfishing by 2010 and for all other stocks by 2011 and to develop amendments to their Fishery Management Plans (FMPs) that implement ACLs and AMs. An additional \$0.4 million will support the improvement and enhancement of the independent peer-review process for scientific data required to appropriately set the annual catch limits for managed fisheries in the Gulf of Mexico.

The budget also provides additional resources to gather more accurate data on fisheries landings. It includes an increase of \$0.3 million for commercial fisheries biological sampling and to support more timely reporting of commercial fisheries landings through the development and implementation of electronic reporting technologies. It also includes \$0.6 million to support work by State agencies to provide more complete and timely information on marine recreational fishing participants (anglers and for-hire vessels) for inclusion in the National Saltwater Angler Registry. More complete and up-to-date registries can be used for more efficient and precise telephone surveys of fishing effort in both State and Federal waters.

In addition to NMFS activities, the National Ocean Service (NOS) continues to support activities to address the critical needs of Gulf of Mexico communities and ecosystems, including an increase of \$1 million in fiscal year 2010 for the Gulf of Mexico Alliance. Highlights of NOS activities in the Gulf include:

- Since 2008, NOS has conducted a competitive grant program to address priority activities of the Gulf of Mexico Alliance: create hazard resilient coastal communities; ensure healthy beaches and shellfish beds; support habitat conservation and restoration; increase environmental education; promote ecosystem integration and assessment; and reduce nutrient inputs to coastal ecosystems. The fiscal year 2010 Presidents Request includes \$5 million for this grant program, an increase of \$1 million over fiscal year 2009 appropriation.
- All five Gulf of Mexico States participate in the State-Federal coastal zone management partnership created under the Coastal Zone Management Act of 1972 (CZMA). Gulf States receive annual grants from NOAA ranging from \$1–2 million, matched approximately 1 to 1 by State and local resources. In fiscal year 2008 the five States received a total of \$10.3 million to implement their programs, and the fiscal year 2010 President's Request includes this level of funding for the States as well (estimates pending final appropriations). The Gulf of Mexico State coastal zone management programs focus on a range of issues important to the region: coastal habitat protection, mitigation, and restoration; managing coastal development to protect lives and property and enhance community resiliency; and engaging in outreach and education about the importance of the region's tremendous coastal resources.
- NOS distributes water level information from a network of approximately 70 Federal and partner monitoring stations in the Gulf, including 4 new stations built in 2008 to withstand a Category 4 Hurricane. These hardened stations were designed following the devastating 2005 hurricane season to provide critical oceanographic and meteorological information throughout storm events. The water level information provided by NOS supports marine navigation, storm surge warning systems, coastal restoration activities, and climate monitoring.

NOS continues to support other activities in the region including hydrographic surveys for nautical charts, accurate positioning, oil spill response, tides and currents data for marine transportation and other uses (including 8 Physical Oceanographic Real-Time Systems (PORTS®) in the Gulf of Mexico region by the end of fiscal year 2009), regional coastal ocean observing systems, resource protection through four National Estuarine Research Reserves and one National Marine Sanctuary, coastal and estuarine land conservation, coastal zone management and coastal storms capacity building, status and trends of chemical contamination of U.S. coastal waters, Harmful Algal Bloom Forecasts, and other efforts to support the region.

*Question.* This Administration contends that global warming poses a serious risk to the country's ecosystems. In Mobile Bay, for instance, many contend that global warming and saltwater intrusion will fundamentally alter the ecosystems that many of Alabama's citizens depend on for their livelihoods. What is NOAA doing to research the effects of global warming, specifically in important estuary systems like Mobile Bay?

*Answer.* Estuaries are biologically and ecologically important ecosystems that provide important services to the surrounding communities and ecosystems. Through the National Estuarine Research Reserve System (NERRS), NOAA is working to understand and protect valuable estuarine ecosystems around the country. These sites also serve as important "living laboratories" for research, including studies to improve understanding of how ecosystems respond to climate change. There are four NERR sites in the Gulf of Mexico (including Weeks Bay in Alabama) and a total of 27 sites around the country.

NERRS is a network of protected areas established for long-term research, education and stewardship. This partnership program between NOAA and the coastal States protects more than one million acres of estuarine land and water, which provides essential habitat for wildlife; offers educational opportunities for students, teachers and the public; and serves as living laboratories for scientists.

NOAA is supporting interdisciplinary, multi-year competitive research programs investigating how oceanic and coastal ecosystems respond to climate variability and change. The goal is to provide managers with the scientific knowledge and tools, including ecological models, to prepare for climate change impacts with more certainty in scale, timing and local detail. This research, supported through the National Centers for Coastal Ocean Science (NCCOS), focuses on three issue areas in particular: fisheries, protected resource impacts and sea level rise.

#### LARVAE SAMPLE ANALYSIS

*Question.* Is it true that the National Marine Fisheries Service routinely sends its larvae samples all the way to Poland for analysis? I understand that this is a critical piece of the process for researching ecosystems, the health of fish stocks, and other scientific questions. I also understand that by sending these samples to Poland, we are forcing our research community to wait as much as a year for results and pay enormous amounts of money to a foreign entity.

Shouldn't NOAA be focused on building this capability in this country, putting Americans to work, and improving the ability of our research facilities to do timely work?

*Answer.* The National Marine Fisheries Service (NMFS) and the Morski Instytut Rybacki (Sea Fisheries Institute) of Poland have a 35-year bilateral agreement to conduct joint research on fisheries ecology. This cooperative research effort began in 1974 as a way for Poland to repay its debt to the United States for financial assistance after World War II. In the early years, NMFS plankton specialists trained the Polish marine scientists in the detailed methods of identifying fish larvae from all U.S. waters. Although the war debt was repaid in the mid-1980s, this highly successful scientific collaboration has continued, because it is beneficial to both sides.

The Polish Sorting Center is the most economical, accurate, and timely way to accomplish the detail-oriented work of sorting and identifying the contents of plankton samples. For example, the Alaska Fisheries Science Center spends \$180,000 per year for the sorting and identification of their 2,000 samples by the Polish Sorting Center. To accomplish this same level of effort in-house, the Alaska Fisheries Science Center recently estimated that they would incur personnel costs of approximately \$900,000 annually, as well as additional costs for supplies, equipment, and modifications to their laboratory space. The Polish Sorting Center's turn-around time for NMFS' samples is typically 3–10 months. Their staff has been doing this work for 35 years, and they are experts in the identification of larval fish and zooplankton from at least seven of the Large Marine Ecosystems (LMEs) managed



by NMFS. This depth of experience enables them to maintain high standards of quality control, and to provide consistent data year after year.

At present, three NMFS science centers (Northeast, Alaska, and Southeast) and the Dauphin Island Sea Lab are participants in this agreement. If NMFS were to lose this relationship, we would need an immediate qualified partner to accomplish the ongoing work and avoid a multi-year delay in providing data to our stakeholders. At this time there is only one other sorting center that could process NMFS' samples from multiple LMEs. However, that center is also outside of the United States. The time necessary to establish a sorting and identification center and train staff is approximately 3–5 years. Loss of continuity in standardized identifications, especially for problematic species groups such as tunas, mackerels and snappers, would put data integrity at risk. A disruption of this magnitude would jeopardize NMFS' ability to meet our fishery-management mandates, including the requirement to provide fishery-independent indices from plankton surveys for the federally managed species in the Gulf of Mexico.

*Question.* We have seen an appalling decline in interest among young people in science and research. There are many worthwhile programs around the country that try to get kids interested in science. For instance, the Dauphin Island Sea Lab in Alabama brings school groups from all over the State and Southeast United States to the Lab for educational programs designed to help them better understand and appreciate the world they live in. What can NOAA do to increase young peoples' interest in natural science and help programs like those sponsored by the sea labs?

*Answer.* In the America COMPETES Act of 2007, Congress provided NOAA with a broad mandate to “conduct, develop, support, promote, and coordinate formal and informal educational activities at all levels.” As the lead agency in ocean and atmospheric sciences, NOAA is in a unique position to motivate and connect the younger generation to the world they live in. NOAA has many well-established national and regional programs that provide meaningful educational opportunities to the younger generation. NOAA will continue to support NOAA's education activities to increase students' interest in natural science and provide teachers the tools needed to nurture and encourage that interest through Competitive Education Grants, that allows NOAA to expand our partnerships with capable education institutions such as the Dauphin Island Sea Lab. Below are just a few examples of education programs and activities across NOAA:

*Competitive Education Grants.*—NOAA's Office of Education offers several grant programs that are intended to provide K–12 students with instructional materials and/or experiences within or outside of the classroom that will encourage their interest in science and the application of that knowledge to real-world problems. The Competitive Education Grants program supports regional to national scale projects in both formal and informal education and is intended to reach a wide variety of audiences. These grants support teacher professional development, instructional materials development and publication, citizen science programs, science camps, and exhibits related programs at science centers, aquariums and natural history museums around the Nation. As an example, this program supported the installation of Science on a Sphere (SOS) at the McWane Science Center in Birmingham, AL. Institutions such as the Dauphin Island Sea Lab are eligible for funding support from Competitive Education Grants and B-WET (see below). NOAA is requesting an increase of \$4 million for a total of \$5 million in fiscal year 2010 to expand this program.

*Bay-Watershed Education and Training (BWET) Program.*—The B-WET program supports local and regional projects that offer meaningful watershed educational experiences to K–12 students. The B-WET program currently serves Chesapeake Bay, California, Hawaii, Pacific Northwest, New England and Gulf of Mexico regions.

*NOAA's National Sea Grant Program.*—Sea Grant's innovative and effective marine and aquatic education programs have been a cornerstone of the Agency's education portfolio and have produced a record of successes spanning three decades. An established network of Sea Grant educators, located at universities across the Nation, is committed to NOAA's goal of advancing environmental literacy and educating future environmental professionals and leaders. Sea Grant educators tailor their K–12 marine and aquatic education offerings to meet the needs of their regions, developing relevant science-based educational programs for schools, professional education opportunities for teachers, and workforce training. Last year, Mississippi-Alabama Sea Grant education efforts alone reached more than 11,000 elementary, middle and high school students and nearly 300 educators (attending professional development seminars). Nearly 28,000 attendees participated in programs for children and families in Mississippi and Alabama.

*National Estuarine Research Reserve System.*—The National Estuarine Research Reserve System is a network of protected areas established for long-term research,

education and stewardship. This partnership program between NOAA and the coastal States offers educational opportunities for students, teachers and the public. In Alabama, the Weeks Bay Reserve offers programs that encourage student interest in science and research. For example, The Baldwin County Grasses in Classes Program involves approximately 1,000 new students each school year in habitat restoration. Not only do the students take an active role in growing the plants for restoration, but they work side by side with environmental professionals from U.S. Fish and Wildlife, the Alabama Dept. of Conservation and Natural Resources, and Weeks Bay Reserve to implement the restoration projects. It is the hands-on, “real science” experience part of this program that excites the students. Each school year, over 3,500 K–12 students come to the Reserve for fieldtrips where they participate in a wide variety of grade specific hands-on activities outside.

*NOAA’s Ocean Exploration and Research Program.*—The Ocean Exploration and Research Program (OER) has a formal Exploration Education Alliance Partnership with Dauphin Island Sea Lab, supporting the professional development of Alabama educators of Grades 5–12. This curriculum is designed to bring the science of NOAA’s deep ocean exploration and discovery, including the STEM (science, technology, engineering, and mathematics) disciplines that comprise it, into classrooms throughout the country.

*National Marine Sanctuaries Program.*—The Office of National Marine Sanctuaries (ONMS) works with partner organizations, on location and in classrooms, to increase the interest of students and their teachers in natural science through field studies and hands-on environmental monitoring activities, such as Ocean for Life and LiMPETS, as well as workshops and in-class presentations (Rivers to Reefs, Coral Reef Classroom, Down Under Out Yonder, and MERITO (Multi-cultural Education for Resource Issues Threatening the Ocean)). ONMS also reaches out to classrooms across the United States to engage students through innovative use of the world-wide web (Encyclopedia of the Sanctuaries, ONMS Media Library, social media, ACES: Animals in Curriculum-based Ecosystem Studies and other online curricula) and telepresence (OceansLive!, MONITOR and Thunder Bay National Marine Sanctuaries telepresence centers, and theme missions), bringing the ocean and its sciences into their classroom.

*NOAA’s Teacher at Sea Program.*—The Teacher at Sea Program provides a unique environment for learning and teaching by sending kindergarten through college-level teachers to sea aboard NOAA research and survey ships to work under the tutelage of scientists and crew. The valuable skills and knowledge that teachers acquire are then brought to the classroom. NOAA’s Teacher at Sea Program has supported 52 teachers from the Gulf States and 2 from Alabama. As an example, on June 9, 2009, Alabama middle school teacher, Ruth Meadows, will sail on NOAA Ship HENRY B. BIGELOW for two weeks. Opelika Middle School students will follow her adventure live on the web. Ms. Meadows will write weekly logs, take photos and video, and answer questions while on board the vessel. When she returns, she will create lesson plans about the science and teach her students and others in her local community.

*Educational Partnership Program (EPP).*—The EPP program operates summer science training workshops for K–12 teachers to reach underserved student and teacher populations. Established under the auspices of five Minority Serving Institutions (MSIs), NOAA’s Cooperative Science Centers (CSCs) are located around the country, including the southeastern portion of the United States. These CSCs act as educational change agents in their training and outreach activities for K–12 teachers and students with science content workshops for teachers and weather camps for students. EPP provides financial assistance, through competitive processes, to students and Minority Serving Institutions that support the training of students and research in NOAA mission sciences.

*National Ocean Science Bowl.*—NOAA supports this national program that offers opportunities to encourage and engage students in learning more about science and scientific research. The National Ocean Sciences Bowl (NOSB) is an academic competition for high school students focusing on ocean science, technology and maritime history and policy. The program has 25 regional events around the country including the Hurricane Bowl, which includes schools from panhandle of Florida, Alabama, Mississippi and Louisiana.

*JASON Project.*—The JASON Project is a program that uses technology to engage students in learning about science and technology by connecting them to explorers and explorations of our planet. The JASON Project engages students and their teachers through a variety of media and online experiences. NOAA works closely with the JASON Project to involve NOAA scientists in missions that explore aspects of Earth. JASON offers professional development to teachers who want to integrate this program into their classroom teaching.

*National Science Teachers Association Partnership.*—NOAA has maintained a strong partnership with the National Science Teachers Association (NSTA), the world's largest science education organization. Through that partnership, opportunities are provided for teachers to have face-to-face learning as well as online seminars and resources. NOAA partnered with NSTA at the recent national conference in New Orleans in March 2009, providing science education updates and teaching materials to many teachers from coastal States.

*Other NOAA Education Efforts.*—That NOAA also has several centers around the country that engage with the public, local schools and educational institutions. NOAA's Weather Forecast Office in Huntsville, Alabama developed a series of weather educational presentations using the NASA Digital learning network. The presentations were delivered via teleconferencing to 20 schools across the United States, training around 600 elementary and middle school students and teachers in the NWS Jetstream and Professor Weather curriculum.

NOAA also manages several education websites, widely used by audiences across the country, containing tutorials, lesson plans, interactive activities and games, and a wealth of information about coastal ecology, weather, pollution, hurricanes, sea level, global positioning, tides and currents that teachers can incorporate into their classrooms. The Lesson Plan Library includes over 50 lessons that middle and high school teachers can use to supplement their mathematics and science curricula.

*Question.* In December the NPOESS total life cycle cost estimate increased by \$1 billion to \$13.6 billion. The updated estimate reflected additional costs for the development of the Visible Infrared Imager. What degree of confidence do you have in the new cost and schedule estimates?

*Answer.* The December 2008 life cycle cost estimate of \$13.6 billion reflects an updated Acquisition Program Baseline (APB) signed in 2008. The cost estimate included an update to the operations and support costs of approximately \$1.1 billion that was not part of the 2006 Nunn-McCurdy certification. The estimate also included an increase of approximately \$300 million of additional development costs due to program development challenges with Visible Infrared Imaging Radiometer Suite (VIIRS) and Cross-track Infrared Sensor (CrIS) sensors encountered to that point.

Cost estimation for the NPOESS Program has followed the standard Department of Defense acquisition processes of estimating near the 50 percent confidence level. This means the program has approximately a 50 percent chance of successfully executing within budget. This confidence level has a higher level of risk of future cost growth than is now standard with NOAA programs and it is an issue we are exploring. NOAA policy now requires that budgets reflect estimates with a confidence of 80 percent, which helps to ensure that a program has a high probability of remaining within its budget through the life of the program.

Because of the importance of accurate budget planning, I have directed NOAA to work with the other NPOESS Executive Committee agencies, DOD and NASA, to develop an estimate at the 80 percent confidence level.

*Question.* If you are confident tell us why since every other estimate has turned out to be grossly exaggerated.

*Answer.* We recognize the importance of ensuring cost stability to the NPOESS program and are working with NASA and DOD to produce and evaluate alternative cost estimates. As noted, because of the importance of accurate budget planning, I have directed NOAA to work with the other NPOESS Executive Committee agencies, DOD and NASA, to develop an estimate at the 80 percent confidence level.

*Question.* What is the level of risk to continuity of weather and/or climate data and what contingency plans are being considered?

*Answer.* For the polar-orbiting satellites, the on-orbit and recently launched satellites are performing well and there is no immediate risk to data continuity for NOAA's weather and climate missions. We are concerned about the fragility of the constellation that begins to occur in 2013. This risk to data continuity occurs in the 2013 timeframe due to the schedule delays that the National Polar-orbiting Operational Environmental Satellite System (NPOESS) is facing.

NOAA is placing highest priority on the acquisition of this system to mitigate this risk. NOAA will use data from NASA's NPOESS Preparatory Project (NPP) sensors to produce data that meet or exceed the data from NOAA-19 (our current operational satellite). We have plans in place to make operational use of the data from the NPP spacecraft by increasing the number of products NOAA had planned to generate from the NPP system as a risk reduction mission.

NOAA has a contingency plan in the event there is a failure of any of its operational systems. This plan depends on using existing NOAA satellite assets, leveraging data from NASA and Department of Defense environmental satellites, and forging partnerships with international space agencies to acquire data needed

to support NOAA's operational weather and climate mission. NOAA is also investigating opportunities to fly a mission with the legacy imager Advanced Very High Resolution Radiometer (AVHRR) in the event VIIRS continues to experience developmental challenges

*Question.* Safe and sustainable seafood is vital to the U.S. economy and food security. The development of a sustainable marine aquaculture industry will provide jobs to a commercial fishing industry severely depressed by competition from imported seafood products. Our Nation should work to reduce seafood imports and ensure the viability of economically and culturally important water dependent communities. Realizing the potential benefits of marine aquaculture will address the environmental, engineering and production needs of the fledgling offshore marine aquaculture sector.

What research, extension, and marketing programs will the Department of Commerce provide to foster development of a sustainable and diverse marine aquaculture industry while also protecting and strengthening independent and family-owned fishing operations?

*Answer. Research.*—The Department of Commerce, through NOAA, has a number of competitive external grants programs available to fund marine aquaculture research, including the National Marine Aquaculture Initiative, the Small Business Innovation Research Program, and the Saltonstall-Kennedy Grant Program. NOAA funds internal marine aquaculture research at NMFS, OAR, and NOS science centers.

NOAA's external and internal research funding supports a wide range of research topics, including: development of environmentally sound aquaculture practices for both finfish and shellfish, development of alternative feeds (e.g., substituting plant-based proteins for fish meal and fish oil), surveys to inform decisions on where to site aquaculture operations, stock enhancement to rebuild overfished and depleted species, and genetics and disease research.

*Extension.*—NOAA's Sea Grant program combines research and outreach/extension efforts for marine aquaculture that have contributed to the creation of several new aquaculture-based industries. These industries include the Gulf of Mexico and South Atlantic soft shell crab industry, the Pacific Northwest oyster and clam industry, the hybrid striped bass industry, and the Mid-Atlantic hard clam industry. In addition, Sea Grant investments have helped to establish new businesses throughout the United States, and have provided improved technologies to these businesses. The combined impact of Sea Grant-developed technology amounts to at least \$100 million annually and supports thousands of jobs in the United States.

*Marketing.*—The National Marine Fisheries Service operates the voluntary Seafood Inspection Program. This program is an outgrowth of the Agricultural Marketing Act of 1946 that provides voluntary inspection and certification program on a fee-for-service basis. This program offers a variety of professional inspection services which assure compliance with all applicable food regulations. In addition, product quality evaluation, grading and certification services on a product lot basis are also provided. Benefits include the ability to apply official marks, such as the U.S. Grade A, Processed Under Federal Inspection (PUFI) and Lot Inspection.

In addition, some funding for marine aquaculture marketing programs has been provided through competitive grants programs.

*Question.* Two Federal agencies have historically played significant roles in aquaculture, USDA and NOAA. What are the Department's plans to increase interagency collaborations among USDA, NOAA, EPA, NSF and others to provide a greater level of support to aquaculture?

*Answer.* The primary nexus for inter-agency collaboration on marine aquaculture issues is the Joint Subcommittee on Aquaculture (JSA). The JSA was created by the National Aquaculture Act of 1980 and is chaired by the Secretary of Agriculture. The JSA operates under the auspices of the Executive Office of the President, Office of Science and Technology Policy. The JSA serves as the Federal interagency coordinating body to increase the overall effectiveness and productivity of Federal research, technology transfer, and assistance programs in support of a globally competitive, technologically advanced, and environmentally sound aquaculture industry in the United States. The JSA has three active working groups/task forces—the Working Group on Aquaculture Drugs, Vaccines and Pesticides; the National Aquatic Animal Health Plan Task Force; and the National Aquaculture Research and Technology Task Force. NOAA is active on the National Aquaculture Research and Technology Task Force and the National Aquatic Animal Health Plan Task Force, and represents the Department of Commerce on the JSA's Executive Committee.

EPA and the Army Corps of Engineers (COE) both issue permit for marine aquaculture projects. NOAA, through both NMFS and OAR, works with both EPA and COE to provide technical review and advice on a range of marine aquaculture per-

mitting issues. If NOAA is granted authority to issue permits for aquaculture operations in Federal waters (e.g., through national legislation or under existing mandates such as the Magnuson-Stevens Fishery Conservation and Management Act), NOAA will work with EPA and COE to coordinate regulatory roles and permit reviews.

*Question.* According to NOAA data, the Southeast United States has experienced over 50 weather-related disasters over the past 28 years that resulted in losses of \$1 billion or more. That's more than any other region of the country. In Alabama, severe weather has resulted in 148 deaths, 1,723 injuries, and property losses of almost \$5 billion over the past 18 years. Even a small reduction in the impact of severe weather could save many lives and billions of dollars.

Are the current NOAA assets and infrastructure in the Southeast adequate to address the death, injuries and destruction caused by severe weather there?

*Answer.* We agree the Southeast United States experiences a significant number of destructive severe weather events each year: and more than any of the other five NWS regions across the Nation. However, the United States in total experiences more severe weather events than any other country in the world. As such, severe weather is a national and not a regional issue. We believe current NOAA assets and infrastructure across the Southeast are adequate to address the severe weather regime. NOAA's severe weather statistics show NWS forecasts and warnings are meeting or exceeding the national GPRA goals.

Currently, NOAA operates 122 Weather Forecast Offices (WFO) and 13 River Forecast Centers (RFC). The Southeast (Mississippi, Louisiana, Alabama, Florida, Georgia, and South Carolina,) is home to 16 of the 122 WFO's and 3 of the 13 RFC's (West Gulf RFC, Lower Mississippi RFC, and the Southeast RFC). NOAA's National Hurricane Center and its sister research lab (AOML/Hurricane Research Division) are physically located in the Southeast (Miami, Florida).

To improve services for the southeast and elsewhere across the Nation, NOAA has begun the Hurricane Forecast Improvement Project to improve our forecasts of hurricane track, intensity and storm surge. We are also implementing dual polarization of our Doppler radars, which will improve the detection of severe weather and improve our warning accuracy. We are also engaged with the university research community and conduct our own research projects to improve our understanding of severe weather events to improve our warnings.

*Question.* Although the Southeast experiences the worst weather in the Nation, NOAA labs and cooperative research programs are concentrated in other areas of the country. How can NOAA justify this misallocation of resources when it's clear the Southeast is the region most at risk?

*Answer.* While our data shows the most severe storms and hurricanes impact the southeast, the Alaska region might argue they have consistently some of the worst weather in the Nation. NOAA labs are concentrated in areas with similar interests and to leverage expertise in the Federal, academic, and private sectors. The NOAA Severe Storms Research Laboratory and the Storm Prediction Center, with national forecast responsibility for severe storms, are collocated with the Norman Forecast office and the University of Oklahoma to leverage the synergy, capability, research, and knowledge that each component offers. NOAA's National Hurricane Center is located on the campus of the Florida International University and near its sister research lab (AOML/Hurricane Research Division) in Miami, Florida. Here, too, NOAA leverages expertise and synergy to improve understanding of the weather phenomena and improve services. NOAA has a Cooperative Institute for Marine and Atmospheric Studies (CIMAS) in association with the University of Miami and the NOAA facilities in Miami Florida. CIMAS focuses on Marine, ecosystem, and atmospheric research. In 2006, NOAA established the Northern Gulf Institute (NGI) at Stennis Space Center, Mississippi, in partnership with Mississippi State University.

*Question.* Severe weather develops differently in the humid Southeast than in other areas. Would you agree that there is much more that can be done by NOAA in terms of research and planning focused on the unique weather of the Southeast that can help address these issues?

*Answer.* As a science agency striving to constantly improve services, we agree more research can aid our understanding and prediction of severe weather events in the southeast and across the rest of the Nation as well. To help address this, the President's fiscal year 2010 Budget increases funding for research to improve severe weather forecasts, including funding to accelerate improvements in hurricane intensity and track forecasts.

*Question.* Will NOAA support a long-term commitment to improve the infrastructure related to weather, climate and hydrology in the Southeast in order to reduce the number of deaths and injuries and the multi-billion dollar losses in the Southeast due to severe weather?

Answer. NOAA has a long-term commitment to improve the infrastructure related to forecasting weather, climate and hydrology in the Southeast and elsewhere across the Nation to help protect life and property and enhance the economy. It is our mission and we look forward to working with Congress to attain our goals.

*Question.* Can you provide an update on a proposal to NOAA by the University of Alabama in Huntsville to establish a NOAA Cooperative Institute for Remote Sensing on that campus? I know UAH has been working with NOAA for some time now on this proposed institute. This institute would take advantage of the world-class atmospheric research programs at UAH using satellite remote sensing.

Answer. NOAA has been impressed by the University of Alabama in Huntsville (UAH) research programs, particularly its work in the area of air quality and remote sensing. NOAA's Cooperative Institute policy requires that each Cooperative Institute must be competed in a group competition. NOAA will continue to work with UAH as it plans its competition for new Cooperative Institutes.

*Question.* What needs to be accomplished in order to make this institute a reality?

Answer. NOAA has encouraged UAH to submit an application to any of NOAA's calls for Cooperative Institute competitions, either as the primary institute or in partnership with a primary institute. NOAA intends to issue a Federal Register notice in the summer 2009 soliciting proposals for Cooperative Institutes.

*Question.* Can you give me a timeline in which you think this institute could be accomplished?

Answer. Establishment of a Cooperative Institute from the summer 2009 request for proposals could occur as early as July 1, 2010.

#### NIST

*Question.* The Federal Information Security Management Act charges NIST with creating mandatory security standards for all non-classified Federal information systems. Our Nation's cyber infrastructure is facing a growing threat from Russian and Chinese hackers. Recent news accounts have brought up the real possibility of our Nation's power grid being brought down by these hackers. Given the seriousness of this threat, is the annual appropriation of approximately \$25 million provided to NIST enough to address these threats?

Answer. Cybersecurity is a major concern, and NIST plays a vital role in ensuring that our Federal systems are secure. NIST will support the research necessary to enable and to provide the cybersecurity specifications, standards, assurance processes, training and technical expertise needed to secure U.S. Government and critical infrastructure information systems. NIST must continue to work freely and openly with industry and internationally. NIST cybersecurity activities also need to be closely coordinated with national security and both domestic and international private sector cybersecurity programs. As NIST formulates future budgets, it will continue to place a high priority in the area of cybersecurity, consistent with NIST's mission and role.

*Question.* The Administration has recently conducted a "60-Day Review" of all Federal cyber security systems. It was stated that this "review will develop a strategic framework to ensure that U.S. Government cyber security initiatives are appropriately integrated, resourced and coordinated with Congress and the private sector". Because the Department of Commerce is responsible for several key aspects of Federal cyber security, can you share your thoughts on the review?

Answer. The content of the Administration's "60-Day Review" has not yet been released.

*Question.* The Smart Grid integrates digital information technology to transform the Nation's electric system into a dynamic system with improved reliability, security and efficiency. NIST is responsible for developing the standards framework associated with a future smart grid. As part of this effort you recently announced that you would chair a meeting with CEO's to begin the process for reaching agreement on smart grid standards. How else is NIST engaged with the private sector in its efforts to develop this framework?

Answer. In addition to the CEO meeting, attended by 74 CEO's and public sector leaders from around the country, NIST, through its contract with Electric Power Research Institute, has organized a series of public workshops to engage the private sector in developing the framework. Approximately 430 representatives of electric utilities, electric industry manufacturers, IT and telecom providers, industry associations, standards development organizations, and universities participated in the April workshop. Over 680 Smart Grid representatives attended the May 19-20 workshop, and hundreds more are expected at the July 2009 workshop. A web-based collaboration tool is also being used to allow individuals and organizations who cannot attend the workshops to be informed of progress and submit comments.

*Question.* NOAA and NIST play key roles in climate change. Mr. Secretary, there is a lot of talk about the need for a “cap and trade” program to reduce the growth in emission of green house gases. A “cap and trade” system is not the answer, but we do need to develop technologies that allow industries to produce with fewer emissions.

As the Department charged with overseeing American industry, what are your plans for developing and adopting these technologies?

*Answer.* NIST partners with U.S. industry in many ways to support and help it adopt technologies and other processes which lead to reduced energy consumption or the use of alternative energy sources to reduce carbon emissions. As an example, NIST works with manufacturers of continuous emission monitoring equipment to ensure measurement accuracy at the source. Such information enables the user to make more informed decisions about energy consumption, which can lead to reduced energy consumption.

Further, NIST performs critical measurements and standards work in a variety of areas such as:

- Smart Grid.*—NIST is partnering with industry and other Federal agencies to guide the standards development process which will ensure interoperability of the Smart Grid and associated devices. For example, smart meters, to which NIST measurement science is fundamentally important, can have a positive impact on consumption by informing consumers on the best time to use energy.
- Green Buildings.*—NIST is working to provide the measurement science that will enable the development, deployment, and use of energy technologies useful to the building sector. For example, the use of solid-state lighting, advanced building materials and smart heating and air conditioning systems will lead to more energy efficient buildings.
- Alternative Energy.*—NIST is working with industry to provide metrology tools, techniques, and standards to enable the evolution of energy technologies from pilot projects to full commercial applications through the development of technical infrastructure. For example, decreasing the cost of and increasing the efficiency of solar energy will enable the shift toward a larger U.S. share of the solar marketplace.

The Hollings Manufacturing Extension Partnership (MEP) program works directly with small manufacturers to:

- Reduce demand for electricity and fuel, reduce waste and contaminants in the production process, and incorporate green design in manufactured parts;
- Help companies to identify opportunities for reducing the energy footprint at all tiers of the production process;
- Assist manufacturing companies (especially auto suppliers) in market diversification efforts, to transition from supplying declining industries to making components for growing industries such as renewable energy providers and medical devices;
- Collaborate with renewable energy providers to identify new technologies from Federal labs and universities (technology scouting) and new suppliers (supplier scouting) to assist them with increased production demands; and
- Work with the Department of Labor to support the training needs of workers and employers in “green job training” and in support of the emerging energy efficiency sector.

*Question.* Mr. Secretary, this Committee, as well as others, have dedicated billions of dollars over the last several years to improve radio interoperability for first responders. One of my priorities has been to ensure that a process exists that will make sure that these radio systems being purchased will work together, regardless of the manufacturer. I know that NIST has been one of the leaders in putting this program in place. Can you tell the Committee where we stand in the development of this program?

*Answer.* The NIST Office of Law Enforcement Standards (OLES) and DHS’ Office for Interoperability and Compatibility has built a coalition of public safety users and communications equipment manufacturers to create the independent Compliance Assessment Program (CAP), which allows Project 25 (P25) equipment suppliers to formally demonstrate their products’ compliance with a select group of requirements by testing it in recognized labs.

Test laboratories demonstrate their competence through a rigorous and objective assessment process, conducted by NIST/OLES and based on internationally accepted standards. The first batch of laboratory assessments began in December 2008 and continued through April 2009. During the assessment, the NIST/OLES laboratory assessment team examined equipment, facilities, test reports, and the management system; observed demonstrations of testing; reviewed quality and technical records;

and reviewed the credentials of staff to determine their competency in particular areas of expertise.

On May 6, 2009, DHS/OIC recognized eight laboratories to conduct this equipment testing. P25 manufacturers will soon begin to submit their equipment through the testing process, and will release standardized summary test reports from these recognized laboratories, along with declarations of compliance. This documentation will be available on a publicly accessible website to help equipment purchasers make informed decisions. The response community will be able to select from multiple vendors that build innovative products according to the same standards. This documentation will serve to increase the public's confidence in the performance, conformance, and interoperability of P25 equipment.

Additional laboratories may continue to apply to the program and will continue to be assessed, further expanding the pool of laboratories that manufacturers may choose to test their equipment.

*Question.* Also, how is the program being used by the various Federal grant agencies providing funds for interoperable communications equipment?

*Answer.* A 6-month grace period provides equipment manufacturers and laboratories time to perform the necessary interoperability tests on equipment. After 6 months, equipment delivered to grantees receiving funds following SAFECOM grant guidance, which includes numerous Federal grant programs, will be required to have the supporting documentation.

At this time, the following Federal grant programs are leveraging the P25 CAP:

- DHS Interoperability Grants
- NTIA PSIC Grants
- COPS Interoperable Communications Grant Program

In addition, NIST has been informed that all Department of Defense radio procurements will require compliance to the P25 CAP. This program, through grant guidance, provides a means of verifying that Federal grant dollars are being invested in standardized solutions and equipment that promote interoperability for the public safety community.

*Question.* Mr. Secretary, we have been hearing that some first responders, especially firefighters, are having some issues with the new digital radio systems. Apparently, these new digital radios don't work as well as the older systems when there is loud background noise. As I understand it, your people at the Public Safety Communications Research program in Boulder are working on this issue. Can you tell me what you have found to date and what is being done to address the issue?

*Answer.* When a firefighter's life is in danger, the ability to communicate a call for help and to warn others is essential. However, some background noises created by firefighting equipment, such as chainsaws and personal alert safety systems (PASS), can interfere with digital communication. Sometimes this interference is so severe that it can prevent a firefighter and the person talking with them from understanding each other at the most critical moments. To understand how background noise affects voice communications and to determine what technology improvements are needed to overcome any background noise issues, NIST/OLES has worked with practitioners to develop and implement tests that measure how digital radios operate in the presence of loud background noise.

NIST designed and conducted subjective listening experiments that enabled quantification of the performance issues being reported in the field. Disseminating this information will ensure that voice implementations by manufacturers will meet the operational needs of public safety officials. NIST worked directly with fire departments to obtain high-quality recordings of typical firefighting noise and partnered with practitioners from various agencies to conduct numerous tests with three different communications systems in nine different noise environments. NIST has identified immediate behavioral, procedural, and technical steps agencies can take to avoid or minimize emergency response background noise.

A technical report was published in June 2008 describing the testing and results. The report, which is available at [www.its.bldrdoc.gov/pub/ntia-rpt/08-453/](http://www.its.bldrdoc.gov/pub/ntia-rpt/08-453/), notes that in some environments analog radios performed better than digital radios and explains that in some environments no radios performed well. This report is supplemented by a July 2008 report from the International Association of Fire Chiefs, which recommends operational changes for fire agencies using digital radios. The IAFC report is available at [www.iafc.org](http://www.iafc.org).

Since issuing the June 2008 report, NIST/OLES has begun a second round of audio quality testing with practitioners that will continue to inform our understanding of this audio quality problem. Additionally, this second round of testing will identify potential areas that could be improved in order to mitigate the problems being reporting by firefighters.



*Question.* Mr. Secretary, the recent National Academies of Science (NAS) report was a sobering assessment of the state of forensic science in this country. There is no doubt we have to make some serious improvements. Looking at the report, it is obvious that the authors see your Department, especially NIST, as a key element in forging improvements in forensic science in the United States. What steps is the Department of Commerce taking to fulfill the leadership role NIST is being called upon to provide to the government to help improve forensic science in this country?

*Answer.* In anticipation of the publication of the NAS report entitled Strengthening Forensic Science in the United States—A Path Forward, NIST undertook plans to engage other Federal agencies with forensic science programs. Also, a NIST scientist was a member of the NAS Committee that worked on this report. The NIST Office of Law Enforcement Standards Forensic Science Program is already working with other forensic science agencies to address the NAS recommendations: to develop standards and validate forensic science protocols; to conduct research and development of improved forensic science technologies; to develop interoperability of automated fingerprint identification systems; and to identify strategies to mitigate contextual bias in impression evidence analysis.

Further, in collaboration with the National Institute of Justice, NIST has begun a working group focused on Human Factors in Latent Print Analysis to study human errors in latent fingerprint testing. NIST has impaneled several dozen experts from Federal, State and local crime laboratories, and statisticians and psychologists from academia, to evaluate and reduce contextual bias in fingerprint analysis. Finally, NIST is working closely with OSTP to address the NAS recommendations at the Federal level, and maintains frequent dialog with State and local crime laboratories, academia and the private sector to implement improvements in forensic science in the United States.

#### CENSUS—CHANGES TO DECENNIAL CENSUS IN FISCAL YEAR 2009

*Question.* Over the past year we have witnessed the decision by the Census to revert to a paper census, rather than continue forward with using handheld computers for non-response follow up. This has raised the total cost of the 2010 Census to \$15 billion. There is still time for further issues to emerge that could drive this cost even higher. This is an effort that gets highlighted to the public once every 10 years, but has been almost a decade in planning with less than spectacular execution of cost saving improvements. Please provide what, if any, significant changes have occurred to plans for the Decennial since the beginning of the fiscal year?

*Answer.* Other than the expansion from the American Recovery and Reinvestment Act (ARRA) for program enhancements to our partnership and outreach/advertising efforts and the Coverage Follow-Up activities (designed to help find and resolve situations where respondents were unsure who to include on their questionnaire), no significant changes to plans have occurred since the beginning of the current fiscal year. As to issues or unexpected events that might yet emerge and have a large cost impact on the census, such as a much lower than anticipated mail response rate, or a major natural disaster, we have included contingency funding in both the fiscal year 2009 amended budget and the fiscal year 2010 President's Budget Request. These contingency funds are part of the estimated lifecycle total of \$14.7 billion.

*Question.* Have the budget and schedule estimates that Census has been using for the 2010 Census been an adequate forecast of the actual costs we now see for the Census?

*Answer.* We have made changes to our budget and schedule estimates over the decade as a result of testing results, program decisions, revised operational plans, and the like. Given that our actual plans for 2010 Census operations must be finalized, and funding requests made, nearly 2 years in advance of operations, it is always difficult to predict how external events and conditions might affect things during implementation. For example, when we prepared our staffing, budget, and schedules for the Address Canvassing operation now underway, we could not have forecast the current economic conditions, or how those conditions might affect such things as our ability to recruit and retain the workforce needed for that operation. We will now examine the results of the Address Canvassing operation to determine whether we might need to make changes to budget and schedule assumptions for future field operations. At this time, we believe we have the funds necessary to conduct the 2010 Census.

*Question.* How have the funds provided in the stimulus been used to mitigate problems that have emerged as we move toward the 2010 Census?

*Answer.* \$250 million of the funding from the ARRA is being used for program enhancements to our partnership and outreach/advertising efforts to minority communities and hard-to-reach populations, and to enhance our Coverage Follow-Up ac-

tivities (designed to help find and resolve situations where respondents were unsure who to include on their questionnaire). The increased funding for partnership and advertising will help us maximize the mail response rate next year, and thereby reduce the need to conduct expensive personal visit follow-up to non-responding households. One of our largest risks for the 2010 Census is a mail response rate lower than our budgeted rate of 64 percent—we estimate that each 1 percentage point change in the mail response rate will require an additional \$80 \$90 million in costs to visit the non-responding addresses, and there also are numerous logistical challenges if we must recruit and train a significantly larger workforce than planned.

*Question.* For the activities related to the 2010 Census, the bureau will hire hundreds of thousands of temporary workers in a short period of time. The Census initially relies on the FBI to screen potential employees and then the Census Bureau conducts further follow up reviews. In the last Census, 930,000 applicants, around 25 percent of the total, were flagged by the FBI. Many of these jobs require going door to door in order to get the information required for the 2010 Census. I am concerned about the safety of the public as they are asked to open their doors by representatives of the government. How can the public be assured of their safety when, according to the 2000 Census data, there is a 1 in 6 chance that the person at the door has a record that has been flagged by the FBI?

*Answer.* The Census Bureau has no data to support the assertion that 1 in 6 enumerators may have a criminal history record. The Census 2000 Census Hiring and Employment Check (CHEC) System data does show that 25 percent of applicants were identified through the FBI's name-based screening process as having a potential criminal record. However, after manual review, 312,544 applicants (approximately 8.6 percent of applicants) were determined to be potential matches to criminal history records that showed significant arrests.

These applicants were not hired. Rather, these applicants were notified by letter and advised that if they wanted to be considered for employment they must either provide fingerprints to allow a fingerprint search of FBI records, or provide court records indicating that the criminal history noted was resolved. Approximately 93 percent of those applicants with potential matches did not respond to this letter and were listed as unavailable for hire.

For Address Canvassing and other 2009 field operations, the Census Bureau is fingerprinting all hires at their first day of training, as an additional security check. Their fingerprints are electronically submitted to the FBI for identification and the results are returned to the Census Bureau electronically. So far, the turnaround time for this process has been approximately 24 hours. The Census Bureau will use this experience to determine whether fingerprinting will be carried out for 2010 field operations.

If there is no match to the submitted identifiers, these employees are cleared for field work. If the submission results in a match, the CHEC Office will flag the case for manual review, and the employee's work will be suspended until a final decision is made. If after review the employee is deemed to be a potential risk, they will be offered the opportunity to provide mitigating information. If after manual review the employee is determined suitable for continued employment, they will be placed back in active status and will be given additional work.

*Question.* What criteria does the Census use to determine if an applicant's past criminal history disqualifies them for employment?

*Answer.* The criteria for the CHEC program are designed to identify those applicants who, based on their criminal history background, present an unacceptable risk to the process of gathering information for the Decennial Census. In the course of making determinations on applicants based upon the criteria established for this purpose, the Census Bureau is mindful of the delicate balance between hiring persons of the highest integrity to represent the government and the need to hire quickly an unusually large workforce for positions to perform limited information gathering duties for periods of 6 weeks or less.

At the same time, the Census Bureau realizes that those who are hired will, even if for a limited period, represent the Census Bureau and the government and, in that capacity, will be invited into private homes and communities for the purpose of collecting information. Thus, we follow the general guidelines below to ensure that each applicant is an acceptable risk to collect census information from residents of a community as a representative of our government.

Most FBI rapsheets do not list the final criminal justice dispositions; therefore, applicants will be asked for official court documentation showing the final outcome of any arrest(s) that contain the following:

- manufacturing/sale of any controlled substance
- breaking & entering

- burglary
- robbery
- embezzlement
- grand theft
- violent crimes against person or property (includes assault, battery, kidnapping, manslaughter, vehicular manslaughter, murder, arson)
- crimes against children
- sexual offense (includes sexual harassment, sexual misconduct, sexual assault, rape, statutory rape)
- weapons charge (includes carrying concealed weapon, possession of illegal weapon, sale of firearms)
- terrorism
- any pattern of arrests (3 or more arrests in the last 15 years)
- any arrest within the last 36 months

A conviction for the above offenses will likely disqualify an applicant for employment. However, this list is not all-inclusive; there may be additional types of offenses for which a conviction depending on the date, severity, and nature of the offense, may render an individual unsuitable for hire.

*Question.* What qualifications do those that screen potential hires have for making evaluations about the safety of the public?

*Answer.* Census Hiring and Employment Check (CHEC) Office senior staff worked on the 2000 Census, and since that time they have been responsible for the suitability reviews of low-risk fulltime FTEs at the Census Bureau's Headquarters and Regional Offices. The USDA Graduate School trains all staff in Office of Personnel Management Suitability Standards.

Temporary staff are comprised of experienced law enforcement professionals, such as retired police officers, and are familiar with suitability evaluations. Additionally, all adjudicators were given extensive in-house system training and completed an FBI training course on criminal history records and adjudication procedures.

*Question.* Address canvassing is one of the most critical operations for the success of the Decennial Census. It is the process by which the Census identifies all of the potential places of residence for sending 2010 Census forms. The canvassing will also include the use of hand-held computers to set GPS markers for each address that will further inform States as they begin the process of redistricting for their representation in the House of Representatives. In light of the management challenges facing the 2010 Census, did AdCan operations begin on schedule?

*Answer.* Yes. Moreover, the field listing for the Address Canvassing operation began in eight offices on March 30, one week ahead of schedule. Some listings were completed prior to March 30 as part of training sessions.

*Question.* What have the early results been with the hand-held units and when will Census complete its quality assessment of Address Canvassing operations?

*Answer.* The handheld computers are generally working well. We have experienced several issues that required immediate resolution. Corrective steps were put in place, and work is continuing on or ahead of schedule.

The Address Canvassing Quality Profile, which reports on results from the Quality Check operation, is scheduled to be completed by the end of November 2010. The Address Canvassing Assessment, which is a broad review on the entire Address Canvassing operation, is scheduled for completion in August of 2010 and an assessment of the Address Canvassing automation is scheduled for February 2011.

*Question.* During these field operations, are census workers collecting significantly more addresses than initially identified by the Geography Division at the start of address canvassing?

*Answer.* Early indications based on preliminary review and processing of the Address Canvassing results have not shown anything significantly beyond our expectations. Until the Address Canvassing operation is complete and all data processed, it will be difficult to assess what the final address count will be.

*Question.* Based on your current collection progress, how accurate and complete will the results of address canvassing be?

*Answer.* We do not have any mechanism to independently measure the accuracy of the address list following address canvassing. However, as part of our overall address list development program (which also includes updates from the U.S. Postal Service and from local, State, and tribal governments), we are confident the Address Canvassing operation is helping us ensure the most complete address file possible for the 2010 Census. For Address Canvassing, we have a quality control (QC) operation in place to check the quality of each lister's work to ensure they are following procedures (and to re-train them, or re-do their work, if necessary). We also conduct a quality check for each assignment area to ensure the overall canvassing results are of acceptable accuracy. It would be prohibitively expensive to conduct a QC

check large enough to ensure 100 percent accuracy for all assignments—the QC operation we have in place is designed to ensure that the average critical error rate does not exceed 8.1 percent.

*Question.* At this time, is address canvassing running on schedule, behind schedule, or ahead of schedule?

Answer. Overall, Address Canvassing work throughout the country continues on or ahead of schedule. As of May 27, 96 percent of Assignment Areas (AAs) have completed all phases of the Address Canvassing operation, including the Quality Check, as compared to the established goal of 65 percent.

*Question.* Are there specific areas that will finish earlier than expected?

Answer. Yes, at this time, it appears that some Local Census Office areas will finish earlier than scheduled.

*Question.* If significant national or local problems are identified as this activity progresses, what are the contingency plans for correcting the problems and has the Census estimated the range of costs for ensuring this activity is properly carried out?

Answer. Given how well the operation has gone to-date, our contingency planning efforts have shifted focus from plans to replace the Address Canvassing operation now underway, to focus on a county-level review of the Address Canvassing results to determine if special efforts are needed in selected areas. Until the completion of Address Canvassing and the county-level review, we won't know if contingency efforts will be necessary, and if so, their scope. However, contingency planning efforts are ongoing. As part of that effort, we are assessing the potential cost impacts but do not have estimates available at this time.

*Question.* As I mentioned in my opening remarks, I am concerned about the potential for politicizing the 2010 Census. Our citizens do not deserve to be short-changed because of manipulation of the results from the Census. Provide a detailed description of what role the White House is playing in the execution of the 2010 Census, including the person at the White House the Census must report to, and that person's role in directing Census activities?

Answer. Secretary Locke has made explicit his commitment to the need for independence of the Census Bureau Director, that the Director will report to him, and that the White House has assured him that they have no interest in politicizing the census.

*Question.* How is the Census ensuring that the integrity of the 2010 Census data is not manipulated for political gain?

Answer. The Census Bureau and its leadership have long recognized, and insisted upon, the need for statistical information of all types to be independent of partisan politics. If the information we produce is in any way considered to be manipulated by such influences, the credibility of the data, and of the Census Bureau, will be lost, and difficult (if not impossible) to restore. A key to ensuring this integrity is, and always has been, the Census Bureau's commitment to openly sharing its plans, methods, findings, and decision criteria with all stakeholders.

*Question.* I was alarmed when I discovered that the Census had plans for using ACORN as a partner in the 2010 Census. ACORN employees have been found to be fraudulently registering voters for elections. Given ACORN's political history, I feel that the Census Bureau should not partner with organizations that have shown systemic problems with both accuracy and legitimacy. What is the Department of Commerce and Census Bureau doing to ensure that groups, such as ACORN, are adequately investigated prior to their involvement in something as important as the 2010 Census?

Answer. The goal of the Census Bureau's partnership program is to combine the strengths of State, local, and tribal governments, community-based organizations, faith-based organizations, schools, media, businesses and others to ensure an accurate 2010 Census. These governmental and private sector businesses and organizations know their local conditions and circumstances better than the Census Bureau and have the connections in the local community to encourage and mobilize participation in the census. Partners are not Census Bureau employees and have no responsibility for counting, collecting, or processing census data.

The selection of 2010 Census partners is extremely important. While not Census Bureau employees, partners are advocates for census cooperation and participation. During partnership training, detailed information is given to partnership specialists about the type of partners the Census Bureau should and should not seek partnership agreements with. Prior to obtaining a formal partnership agreement, partnership specialists also research potential partners and meet with them to learn more about the support and outreach activities the organizations can provide to help ensure an accurate count of their constituents.

Census Bureau staff at the regional and national level use the following guidelines and criteria when identifying potential 2010 Census partners.

Select partner organizations that:

- Promote the goals of the Integrated Communications Campaign to:
  - Increase mail response,
  - Improve accuracy and reduce the differential undercount, and
  - Improve cooperation with enumerators.
- Reach and motivate households and individuals, particularly those who live in hard-to-count areas.
- Have communications vehicles designed to reach their members and/or constituents.
- Agree to take ownership of the outreach process to their members and/or constituents.
- Have influence and respect in their community.
- Are viewed as “trusted voices” by their community.

Do not select partner organizations that:

- Are not trusted or are viewed negatively within the community, such as a company or organization located within an African American community that has a negative reputation for mistreatment of African Americans or other population groups.
- Produce products that may create a negative connotation for the Census Bureau, such as sexually related products.
- Could distract from the Census Bureau’s mission.
- May make people fearful of participating in the census, such as groups that espouse violence or hate-crimes or extreme anti-immigrant views.

Partnership specialists are trained to consult with management if they are in doubt about the choice of an organization or corporation as a 2010 Census partner. When expressing concerns to management about a potential partner, the staff member outlines the concerns that caused them to doubt the validity of a potential partner organization choice. We fully utilize the expertise and experience of regional management staff and Regional Directors during this process, since they know best the organizations that will or will not resonate with the hard-to-count populations in their regions.

#### ITA EXPANDING U.S. EXPORTING

*Question.* Our long-term economic growth and job creation must include an exporting component. In recent years, exports have only accounted for 12 percent of our GDP. In fact, we export less than many of the major G-20 nations. Yet I hear that there are often long wait times for U.S. businesses who have asked the International Trade Administration for help breaking into new markets or for help to get started in exporting. I also understand that the number of people you have in ITA has been declining and it appears as if your budget is relatively flat for export promotion activities. What can the Department and ITA do to help more U.S. firms begin exporting and to further expand our Nation’s exporting capabilities?

*Answer.* ITA plays an important role in creating and sustaining high-paying jobs through export assistance, especially for small and medium-sized businesses, and market access and advocacy support to ensure fair trade. ITA’s efforts are focused on increasing the number of American exporters and on increasing the number of markets to which American firms export. The Commerce Department, as the chair of the interagency Trade Promotion Coordinating Committee (TPCC), also has the lead role in ensuring that all U.S. export promotion programs and resources are deployed in a strategic and effective manner. I will work to ensure that the Department’s export promotion programs, and those of the TPCC member agencies, maximize the competitiveness of U.S. businesses in the global marketplace. In the months ahead, I will be consulting with other TPCC agencies to develop a strong set of national priorities for boosting U.S. exports.

*Question.* Mr. Secretary is there currently a hiring freeze at the Foreign Commercial Service (FCS)?

*Answer.* No, but US&FCS has implemented hiring restrictions to ensure that budgetary resources go where they are most needed.

*Question.* Can you tell us how long this has been in effect and what is the amount of their estimated budget shortfall?

*Answer.* These hiring restrictions have been in effect since October 2008. We anticipate that ITA will be able to manage effectively within its budgetary resources.

*Question.* Mr. Secretary, the responsibility for managing the ever expanding universe of Internet domain names used to be handled by the Department of Commerce, but is now handled by the Internet Corporation for Assigned Names and Numbers (ICANN) under a memorandum of understanding with the Department called the Joint Partnership Agreement, or “JPA.” ICANN has been very open about its desires to terminate the JPA, which would effectively sever its ties to the U.S. Government.

Do you believe ICANN is ready to manage its responsibilities for global Internet protocol address allocation and root zone management for the Domain Name System (DNS) on its own?

*Answer.* The Department of Commerce remains committed to preserving the security and stability of the Internet’s domain name and addressing system (DNS), and any decision with respect to the future of the JPA will be consistent with that goal. NTIA released on April 24 a Notice of Inquiry (NOI) seeking comments on these issues. The public record developed through this process will inform any decision made about the JPA’s future, and the Department looks forward to working with Congress on this important issue.

*Question.* If ICANN is allowed to completely sever its ties to the U.S. government, how will we ensure that the voices of U.S. businesses (and the U.S. government, for that matter) are heeded in ICANN decision making?

*Answer.* It is very important for U.S. business to have a voice in ICANN decision making. Regardless of whether the JPA is terminated, modified, or extended, NTIA will continue to be an active participant in ICANN by representing the United States government in ICANN’s Governmental Advisory Committee (GAC) as well as filing comments, as needed, in ICANN’s various public consultation processes. In addition, the Department’s relationship with ICANN will continue, as ICANN currently performs the Internet Assigned Names Authority (IANA) functions under contract to the Department.

*Question.* Who would ICANN then answer to?

*Answer.* ICANN is a United States not-for-profit organization that coordinates the Internet DNS. As such, it answers to its Board of Directors and the stakeholders that participate in its bottom-up policy making process, including the GAC on which NTIA represents the United States government.

*Question.* What evidence is there that ICANN will take U.S. interests and concerns seriously, since there is some question as to whether they have done this even while operating under the auspices of the JPA?

*Answer.* NTIA recently released a NOI soliciting comment on these issues, specifically on whether there are sufficient safeguards in place to ensure that all stakeholder interests are adequately taken into account in ICANN’s decision-making processes. The Department expects to work with Congress to ensure that these important issues are satisfactorily addressed.

*Question.* Are you aware that ICANN’s budget—which is funded through fees set entirely by ICANN—has grown at an annual compound rate of 34 percent since 1999? (In stark contrast, the budget of the Department of Commerce which grew at about 4 percent annually during that same period).

*Answer.* Under the terms of the JPA, the Department of Commerce reviews ICANN’s performance to ensure completion of the JPA tasks. The Department of Commerce also provides expertise and advice on certain discrete issues (such as processes for making the root server system more robust and secure). The Department does not exercise oversight in the traditional context of regulation and plays no role in the internal governance or day-to-day operations of the organization or its budget.

*Question.* Do you know why ICANN has required such dramatic funding increases year after year?

*Answer.* The continual growth of the domain name market (i.e., increases each year in the number of domain names registered) has resulted in an increase in ICANN’s budget, because a significant portion of the budget is comprised of fees paid by registry operators to ICANN.

*Question.* Are you aware that its Executive Director made close to \$1 million, including benefits, in 2007?

*Answer.* The Department is aware. However, under the terms of the JPA, the Department of Commerce’s role is limited to reviewing ICANN’s performance to ensure completion of the JPA tasks. The Department also provides expertise and advice on certain discrete issues (such as processes for making the root server system more robust and secure). The Department of Commerce does not exercise oversight in the traditional context of regulation and plays no role in the internal governance or day-

to-day operations of the organization, including issues such as executive compensation.

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QUESTIONS SUBMITTED BY SENATOR GEORGE V. VOINOVICH

EDA—PEER REVIEWED EVALUATION PROCESS

*Question.* In 1998, Congress established a peer review, performance evaluation system for the allocation of funds under EDA's University Center Economic Development Program. However, in 2004, EDA imposed a regular competition for resources distributed through the program. The frequent competitions have resulted in unpredictable funding levels, making it difficult for universities to make long-term commitments.

What are your views on the peer-reviewed evaluation process for this program versus a competition?

*Answer.* Section 506 of the Public Works and Economic Development Act requires EDA to evaluate performance: "To determine which university centers are performing well and are worthy of continued grant assistance under this act, and which should not receive continued assistance, so that university centers that have not previously received assistance may receive assistance."

We believe the Congress' insight into the program was visionary and this requirement for competition has made the program a much stronger economic development resource for America's distressed communities. Judging by the robust competition that occurs annually, we believe the section has served its purpose well and helps ensure that additional institutions of higher education do indeed obtain the opportunity to compete (this year's competition is being conducted in the Atlanta and Seattle regional offices). This section already requires EDA to include peer review in its evaluation of the university centers. We think the requirement to include at least one other university center in the evaluation strikes the right balance of ensuring input by a peer into the evaluation, but at the same time ensuring that the final evaluation is conducted by career EDA professionals responsible for oversight of the program.

It is important to note that university centers that wish to undertake larger or longer-term projects may apply and compete for traditional Economic Adjustment Assistance grants.

*Question.* The EDA has a local match requirement of 50 percent for its grants. This requirement helps ensure local commitment to projects, and I certainly support it. However, current regulations allow EDA to reduce the local match in some cases. Given the current economy, would you support giving the Assistant Secretary broad flexibility to reduce matching requirements?

*Answer.* As you have stated, current regulations allow EDA to reduce the local match requirement. Any decision to reduce the matching requirement is based on the relative needs of the area in which the project will be located and is assessed on a case by case basis. This process has been very effective and the current regulations allow the flexibility needed to make these determinations.

*Question.* As part of its fiscal year 2009 appropriations, EDA was directed to increase its efforts to hire staff at both the regional and local levels. Can you please provide details on the agency's staff levels in its six regional offices, including field-based economic development representatives?

*Answer.* EDA's regions have 3 vacancies out of their 122 permanent positions. One of these vacancies is due to a recent retirement in the Philadelphia Regional Office, and the position is in the process of being advertised. For the remaining two vacancies in the Seattle Regional Office, offers have been made to candidates. All 19 field-based economic development representative positions have been filled.

USPTO—STOP! INITIATIVE

*Question.* I have long been a champion of strong intellectual property rights enforcement and outreach. President Bush established the Strategy Targeting Organized Piracy (STOP!) initiative, a good deal of which was coordinated with and operated out of the Department of Commerce. I worked with my colleagues to give this initiative a permanent structure as part of the PRO-IP Act (Public Law 110-403). More recently, I joined Senators Leahy, Bayh, and Specter in a letter to President Obama urging him to appoint the Intellectual Property Enforcement Coordinator (IP Coordinator).

Can you describe what steps the Department of Commerce is taking to transition the institutional knowledge related to the STOP! initiative to the office of the IP Coordinator?

Answer. The USPTO, through its Office of Intellectual Property Policy and Enforcement (OIPPE), worked very closely with Mr. Chris Israel, the former U.S. Coordinator for International Intellectual Property Enforcement. As an important part of the interagency team charged with implementing STOP, the USPTO was instrumental in spearheading three separate programs that fall under the general STOP initiative: (1) establishing the STOP toll free hotline; (2) posting IP experts in U.S. embassies in countries/regions where intellectual property protection and enforcement remain a challenge; (3) IP public awareness and outreach programs targeting small and medium sized companies (for full description of these initiatives, see response to question no. 71). All of these initiatives are fully established and have become important components of the STOP initiative. The USPTO is drafting briefing materials providing background on the development, maintenance and continuation of these programs, which will be provided to the new IP Coordinator, at his/her request. In addition, the USPTO is considering new ways to gauge and improve the effectiveness of these programs, and looks forward to sharing these thoughts with the IP Coordinator. The USPTO looks forward to being an integral part of the IP Coordinator's efforts, and to closely working with the IP Coordinator to fulfill his/her duties.

*Question.* What specific efforts does the Commerce Department intend to undertake related to IP enforcement, and educating American companies about the need to protect intellectual property when conducting business abroad?

Answer. The Department of Commerce is taking a wide variety of actions related to IP enforcement and educating American companies about the crucial importance of protecting their intellectual property rights when conducting business abroad.

To avoid an overly voluminous response here, the following is merely a listing by category of the types of IP enforcement efforts and educational outreach efforts that the Department is already undertaking:

*Capacity Building/Technical Assistance*

Year-round IP enforcement training programs—for foreign and domestic judges, prosecutors, police, IP-Office officials and others—at the USPTO's Global Intellectual Property Academy (GIPA), located in Alexandria, Virginia. In 2008 alone, GIPA provided training to more than 4,100 officials from 127 countries on a variety of topics, including IP protection and enforcement, and technology transfer.

—Programs customized to the needs of a particular country.

—Regional programs, such as hosting an APEC/ASEAN enforcement conference in June in Malaysia, and is co-sponsoring a companion APEC/ASEAN enforcement conference in July, in Hawaii.

*IPR Attaches*

A key IP enforcement effort over the past several years has been the placement of IPR Attaches in key regions around the world. The USPTO, FCS, and State have worked cooperatively to post six attorney-advisor intellectual property experts in: Bangkok, Thailand; New Delhi, India; Beijing and Guangzhou, China; Moscow, Russia; and, Sao Paulo, Brazil.

These IP attachés provide expertise to U.S. embassies and consulates on IPR issues, advocate U.S. intellectual property policies, coordinate training on IPR matters, and assist U.S. businesses that rely on IPR protection abroad

*Promoting Strong IPR Enforcement In and Through International Agreements*

The Department, through the USPTO, ITA and other bureaus, provides support to the State Department and USTR, assisting in rafting, negotiating and implementing the intellectual property provisions of free trade and other international agreements. These provisions generally require U.S. trading partners to provide stronger, more effective protection for intellectual property than is required under the World Trade Organization's Trade Related Aspects of Intellectual Property Rights ("TRIPs") Agreement.

In 2008, the Department participated in post Free Trade Agreement (FTA) implementation discussions and/or follow-up talks with several countries, including Peru and Costa Rica.

The Department also supports USTR efforts for Trade and Investment Framework Agreements (TIFA) negotiations in various countries such as Nigeria and Indonesia, as well as in negotiating the Anti-Counterfeiting Trade Agreement (ACTA), where the objective is to negotiate a new, state-of-the art agreement to combat counterfeiting and piracy.



*Public Awareness Efforts**STOP*

Through the USPTO, the Department manages a hotline (1-866-999-HALT) that helps small-and medium-sized businesses (SMEs) leverage U.S. government resources to protect their intellectual property rights in the United States and abroad. In fiscal year 2008, the Hotline received 1,289 calls, including calls regarding counterfeiting and piracy concerns with respect to China and other countries.

The Department also maintains the [www.stopfakes.gov](http://www.stopfakes.gov) website, which provides in-depth information about the STOP initiative. A key feature of the website is the country-specific “toolkits” that have been created by our overseas embassies to assist SMEs to understand the business environment and how to protect and enforce their rights in a particular country. There are now 16 toolkits, including toolkits for the BRIC countries.

The USPTO also established the [www.stopfakes.com/smallbusiness](http://www.stopfakes.com/smallbusiness) after a study revealed that only 15 percent of 1,000 small businesses that do business overseas are aware that a U.S. patent or trademark provides protection only in the United States.

*Public Outreach*

The Inventor’s Assistance Program, run by the USPTO, reaches out to inventors and entrepreneurs to educate the public about the importance of intellectual property by hosting educational conferences, creating and posting computer based training modules, and posting pod casts on I-tunes. In addition the Office conducts live on-line chats, has established a mailbox for inventor questions, and has an 800 number to answer questions. There is also an Inventors Resource page within the USPTO web site that has “plain language” content for the public.

The Department, through the USPTO, offers “IP Basics” conferences throughout the U.S., targeting SMEs where participants learn what intellectual property rights are, why they are important, and how to identify, protect and enforce these rights.

Separately, the Department, through the USPTO also offers China intellectual property-focused programs in various cities throughout the United States. These programs are directed to SMEs that either are in China or are thinking about going to China or, for that matter, any SME—because many are not aware of the threat of IP theft from other countries and how surreptitiously it can occur.

In 2009, the USPTO is expanding its China-related event to include intellectual property issues in India.

The U.S. Export Assistance Center (USEAC) programs, run by the Department’s U.S. & Foreign and Commercial Service (US&FCS), provide personalized assistance to small and medium-sized businesses in various cities throughout the United States.

In fiscal year 2008, the USPTO entered into a Memorandum of Understanding (MOU) with the U.S. Minority Business Development Agency to provide education to the minority businesses as well as the directors for the MBDA offices and business centers. The USPTO also works closely with the U.S. Department of Interior, specifically, the Indian Arts and Crafts Board (IACB) and the Bureau of Indian Affairs (BIA), to help educate Native American artists and craftspeople on intellectual property issues as well as intellectual property theft from other countries. Starting in fiscal year 2007, the USPTO began to operate its USPTO STOP Booth, an information booth, at the International Music Products Association (NAMM) bi-annual trade shows to wide acclaim by both the NAMM Board and music product manufacturers.

## ITA—PROMOTING U.S. EXPORTS

*Question.* Exports are an important part of Ohio’s manufacturing economy. As governor of Ohio, I led nine Ohio trade missions abroad, which were designed to open markets for Ohio products. I know that the U.S. Commercial Service serves as a resource to many small and medium-sized companies that want to export.

Can you describe the Department’s strategic plan on how the Commercial Service resources will be used to promote U.S. exports given the constraints on existing personnel?

*Answer.* The U.S. & Foreign Commercial Service (US&FCS) is a critical part of the International Trade Administration. US&FCS will continue to ensure that U.S. companies, particularly small and medium-sized businesses, benefit from global trade. Through US&FCS’s current global network of trade professionals in 109 U.S. locations and in 127 offices located in 77 countries, US&FCS staff will continue to work with U.S. companies, providing counseling and advocacy, market research, trade events, and identification of potential international buyers or partners.

US&FCS will maintain its program focus on three priorities: increasing the number of U.S. companies that export; helping smaller companies expand to new export markets; and helping exporters overcome hurdles in foreign markets.

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QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

NOAA

*Question.* Secretary Locke, the President's budget request eliminates the Pacific Coastal Salmon Recovery Fund, and proposes a new nationwide competitive grants program to recover all endangered and threatened marine species. But as you know from your time as Governor of the State of Washington, salmon recovery is a complex issue.

Can you tell me about NOAA's plans moving forward to ensure adequate funding for recovery of Pacific Coast salmon?

*Answer.* On May 21st, the Administration sent a budget amendment to the hill that contains language that allocates \$50 million to the Pacific Coastal Salmon Recovery Fund. In fiscal year 2010, program increases are provided to implement the Pacific Salmon Treaty (+\$16.5 million) and develop advanced tools for managing salmon (+\$7 million), amounting to a total of \$159 million in NOAA to support Pacific salmon. Also, nearly \$170 million was provided in the Recovery Act to restore coastal habitat, particularly in locations where there are listed species. Areas with Pacific salmon are competing for those grants.

*Question.* Mr. Secretary, the Mitchell Act hatchery program was created in 1938 and funds hatchery activities in the Lower Columbia River. As you may be aware, the Hatchery Scientific Review Group recently released a report calling for hatchery reform efforts in the Columbia Basin. A key part of these reforms would be centered around Mitchell Act hatcheries, which have been flat funded for several years.

What plans do you have to move forward on the much-needed modernization and reform of Mitchell Act hatcheries?

*Answer.* I am familiar with the important contribution made by the Mitchell Act to recreational, commercial, and tribal fisheries in the Northwest, as well as to fulfilling expectations under our Pacific Salmon Treaty with Canada. It is critical that the hatchery facilities supported by the Mitchell Act sustain fisheries in a manner that is consistent with the Endangered Species Act (ESA). The Hatchery Scientific Review Group recently called for measures that would accomplish our joint goals of maintaining fisheries while meeting ESA objectives.

NOAA Fisheries is working with the Washington Department of Fish and Wildlife, the Oregon Department of Fish and Wildlife, the Yakama Indian Nation and the Fish and Wildlife Service (the operators of the facilities) to manage funding opportunities in order to implement many of these recommendations. More implementation measures are planned for the future. The fiscal year 2010 funding request for Mitchell Act hatcheries is \$ 16.5 million, within which further hatchery reform measures will be implemented.

SUBCOMMITTEE RECESS

Senator MIKULSKI. This subcommittee stands in recess, subject to the call of the Chair.

[Whereupon, at 11:08 a.m., Thursday, April 23, the subcommittee was recessed, to reconvene subject to the call of the Chair.]