S. HRG. 108–779

Senate Hearings

Before the Committee on Appropriations

Departments of Transportation, Treasury and General Government, and Related Agencies Appropriations

Fiscal Year 2005

108*th* CONGRESS, SECOND SESSION

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DEPARTMENT OF THE TREASURY
DEPARTMENT OF TRANSPORTATION
NONDEPARTMENTAL WITNESSES
UNITED STATES POSTAL SERVICE

Departments of Transportation, Treasury and General Government, and Related Agencies Appropriations, 2005 (H.R. 5025/S. 2806)

S. HRG. 108–779

DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2005

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 5025/S. 2806

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF TRANSPORTATION AND TREASURY, THE EXECUTIVE OFFICE OF THE PRESIDENT, AND CERTAIN INDEPENDENT AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2005, AND FOR OTHER PURPOSES

Department of the Treasury
Department of Transportation
Nondepartmental witnesses
United States Postal Service

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DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2005

TUESDAY, MARCH 9, 2004

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

The subcommittee met at 10:01 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Richard C. Shelby (chairman) presiding.

Present: Senators Shelby, Bennett, Stevens, and Murray.

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

STATEMENT OF HON. NORMAN Y. MINETA, SECRETARY

OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Good morning. The committee will come to order.

This is the first hearing of the Transportation, Treasury Subcommittee for the year, fiscal year 2005. Today we welcome a familiar face, Secretary Norman Mineta, back to this subcommittee. Mr. Secretary, welcome. We are pleased to have you with us today to discuss the Department's budget for the upcoming fiscal year and to hear your report on progress towards your goals for the Department of Transportation (DOT).

I believe it is only fitting that we begin our hearings with an overview of the budgetary and management challenges facing the Department of Transportation. Clearly the budget pressures faced by the administration and the Congress are reflected in this budget. Secretary Mineta, I looked through the budget submission for good news and I found myself at the end of the story with little to cheer about, as I am sure you have.

I want to applaud you though for not proposing any new user fees in this year's request that affect the budget. With our economy struggling to recover, I believe that now would be the worst time to increase the burden on transportation users or on the economy through the imposition of new transportation taxes. Our goal should be to do more with less and to relieve unnecessary impediments to efficiency in the transportation system. This budget provides the opportunity to explore how to do more with less.

I also want to commend you, Mr. Secretary, for the request for highway spending. While it is not as high as I hoped for, I am pleased that the budget abandons the RABA mechanism that would have generated a much lower amount of highway investment number for fiscal years 2004 and 2005. While the highway request is relatively flat, I want my colleagues to realize that it could have been much, much worse if the administration had blindly followed the previous authorization's flawed budget mechanism. Mr. Secretary, you are to be applauded for not embracing that folly.

As important as any of the shortcomings in this request, I am concerned with the National Highway Traffic Safety Administration's (NHTSA) request as it relates to anti-impaired driving efforts. I am saddened to note that alcohol-related deaths were up in 2002. NHTSA has made great strides over the last couple of years to improve seatbelt usage rates but this is something that I think we must do better.

I am also concerned about the lack of progress on the Amtrak fair bid concept for State-supported trains included in the fiscal year 2004 appropriations measure. I have been told that several States have contacted the Federal Railroad Administration for guidance on implementation of the language and nothing has been forthcoming.

Mr. Secretary, given the request for Amtrak for this coming year and its abysmal performance over the past 20 years, I would think this language would be an opportunity for the Department to take a positive step for people who want to ride trains and for the American taxpayer. I would also like to hear your thoughts on when the Department will move forward on this important initiative and would welcome your thoughts on what we should be doing to stop the financial bleeding at Amtrak.

As predictable as the request for Amtrak may have been, Mr. Secretary, no area of the Department's request was more unexpected than the Federal Aviation Administration (FAA) budget. Just a couple of months ago, shortly before the submission of your 2005 request to OMB, the administration made an all-out push for passage of the Vision 100 aviation reauthorization legislation. Now I look at this budget request and I am surprised to see that the FAA's capital account does not reflect the investment levels anticipated in that legislation. Your budget, Mr. Secretary, calls for a 13.6 percent reduction, roughly $400 million, to the Federal Aviation Administration's capital account to update air traffic control facilities and equipment.

I am concerned not only about the timing of the cut, but also about its effect. The administration's budget proposal puts this committee in the untenable position of having to find an additional $400 million or being subject to points of order in the Senate. It is difficult and unseemly to support budgetary protections and points of order protecting capital investment levels and, at the same time, to also support the kinds of cuts your budget proposes for the FAA capital account.

Within the reduced account, I am disappointed that the FAA has protected troubled acquisition programs and has shelved others that show real promise. Tighter budgets do not translate to greater discipline at the FAA. I do not know how the Department expects

to develop the Next Generation Air Traffic Control System if the FAA continues to spare from critical evaluation or from the budget axe the programs that have unbridled cost growth, schedule delays, and deferred capabilities.

Mr. Secretary, if the calculus in the F&E submission was to try to protect the most bloated of programs with the expectation that Congress would restore funding for the needed new technologies for efficiency and safety, there may be a few surprised faces at the FAA's procurement shop.

Before recognizing Senator Murray, I would like to raise one more issue. Although only briefly mentioned in budget documents, your staff has begun briefing the Hill on a major Department reorganization proposal affecting several modes. Clearly, the Department needs to improve the coordination of the enforcement of hazardous materials regulations and inspection of hazmat shipments. In fact, the Inspector General has identified this issue as one of the top 10 management challenges at the Department.

While improvement is warranted, I think we must be mindful that previous reorganization efforts have failed. And, I want to register my strong reservation about centralizing HAZMAT inspection and enforcement activities within the Office of the Secretary. The Office of the Secretary does some things well, such as policy development, but the modal administrations are better staffed and structured to execute operational functions like the HAZMAT program. It is highly unusual, and I would argue risky, to establish an operations function in the Secretary's office.

Senator Murray.

STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you, Mr. Chairman. Mr. Chairman, I am pleased that Secretary Mineta can be with our subcommittee this morning. I understand he testified before the House Transportation Appropriations Subcommittee just a few days ago and I understand during that hearing the Secretary explained this budget reflects the President's top priorities. If this is true, then it is true that the President places an extremely low priority on the needs of our Nation's transportation system. At a time when congestion on our Nation's highways is getting worse and when our road, rail, airport and air traffic control infrastructure is deteriorating, the President's budget for the Transportation Department is effectively frozen. While there are increases in some select programs, these increases are offset by deep cuts to our efforts to modernize our air traffic control system and to provide air service to rural America.

Once again the administration is proposing a cut to Amtrak's budget that is so deep it will throw the railroad into bankruptcy if it is enacted. I cannot and will not agree with these priorities and I hope that my colleagues on this subcommittee will also reject them. For me this is about our jobs, our economy and our productivity. If we make the right investments in transportation we will create millions of jobs here at home, we will make our businesses and workers more productive, and we will lay the foundation for our future economic growth.

The Senate has also recognized the importance of transportation for our economy. Less than a month ago more than three-quarters

of the United States Senate voted in favor of a surface transportation authorization bill that placed an appropriate priority on investment in America's mobility, America's productivity, and the creation of American jobs. That bill called for substantial growth in our Federal highway, transit, and safety programs. It financed those increases by closing tax loopholes. The bill not only addressed America's broader needs to relieve congestion and improve aging infrastructure, it also addressed the unique needs of different regions of the country.

For example, I was successful in including an amendment to triple the amount of funding available for our Nation's ferry systems. Ferries are not just a tourist attraction in my State. They are the way thousands of my constituents get to work each and every day. The Bush Administration greeted that entire surface transportation bill with a promise to veto it. Yet when an amendment was offered on the Senate floor to reduce the size of the bill to a level that the President said he could accept, that amendment received only 20 votes.

That vote was less than 4 weeks ago but, boy, things have changed. Today the Senate is debating a budget resolution that was reported by the Budget Committee just last week that actually cuts funding for highways and transit back to the level assumed in the President's budget. This budget resolution will allow for $45 billion less in funding over the next 6 years for highways and transit than the levels the Senate endorsed just last month. That $45 billion reduction translates into more than 2.1 million jobs that will not be created as a result of the President's budget policy and this budget resolution. To my home State of Washington that is a cut of roughly $807.8 million. That corresponds to a loss of more than 38,000 jobs in Washington State over 6 years.

The President's cut will have a significant impact on every State. I hope my colleagues will reflect on that fact before they vote to pass this budget resolution. This budget negates every statement that we made a month ago about the importance of highway construction, new transit systems, congestion mitigation, and job creation. Mr. Chairman, this is hardly the first time that an administration has threatened to veto a highway bill because it is too large. In fact veto threats have been issued against each of the last three highway bills over last 18 years. But this may be the first time that a Congress has started to show signs of giving in to objections from the executive branch.

We need to pass a 6-year surface transportation bill that invests in America and America's workers in a meaningful way. We should not succumb to the view that investment in a mission to Mars is more important than investments in our country and in our own people. No one made this point better than Norman Mineta when he implored his colleagues to ignore the veto threat of the administration of George Herbert Walker Bush and pass the Intermodal Surface Transportation Efficiency Act.

Mr. Mineta said, and I will quote you, "this legislation comes at the time when it is desperately needed, both in terms of our infrastructure and for Nation's economic health. At a time when the White House continues to deny the effects of the economic recession we have before us legislation that will create 2 million jobs over the

next 6 years. While the people of 1600 Pennsylvania Avenue have not seen or felt the effects of the recession, Mr. Speaker, you have only to ask the people of Bethlehem, Pennsylvania if there is a recession, or the people of Chicago, or the people of Lafayette, or the people of San Jose. They will tell you that our economy is hurting. They will tell you that America needs this legislation and we need it now."

"Mr. Speaker, this legislation will improve how Americans get from here to there as well as the air we breathe, our quality of life, and the future of our economy. Mr. Speaker, America's deserves nothing less."

Secretary Mineta, those words are as pertinent and on target today as they were when you delivered them on the floor of the House on November 26, 1991. America does deserve nothing less. We should send the highway and transit bill that the Senate passed last month to the President's desk, and I believe that if he listens to his Transportation Secretary he will sign it.

Thank you, Mr. Chairman.

Before I yield I do want to mention a couple of happy and surprising developments that have taken place within the past week on this subcommittee family. As you know, our majority clerk sitting to your left, Paul Doerrer, got engaged over the weekend to Leigha Shaw. We congratulate him. Leigha is a friend to all of us. She serves on the staff of the companion subcommittee in the House and I want to congratulate both of them and wish them well.

PREPARED STATEMENT

And to my right, Peter Rogoff, who has been with the Appropriations Committee for 17 years, I believe 15 years on transportation, is celebrating his birthday today. I will not share with you which one, but I do want to say happy birthday to him as well and we wish both of you the very best.

Thank you, Mr. Chairman.

[The statement follows:]

PREPARED STATEMENT OF SENATOR PATTY MURRAY

I'm pleased that Secretary Mineta can be with the subcommittee this morning. He testified before the House Transportation Appropriations Subcommittee just a few days ago. I understand that during that hearing, the Secretary explained this budget reflects the President's top priorities.

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in favor of a surface transportation authorization bill that placed an appropriate priority on investment in America's mobility, America's productivity, and the creation of American jobs. That bill called for substantial growth in our Federal highway, transit and safety programs. It financed these increases by closing tax loopholes.

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No one made this point better than Norman Y. Mineta when he implored his colleagues to ignore the veto threat of the administration of George Herbert Walker Bush and pass the Intermodal Surface Transportation Efficiency Act. Chairman Mineta said:

"[t]his legislation comes at a time when it is desperately needed—both in terms of our infrastructure, and for our Nation's economic health. At a time when the White House continues to deny the effects of the economic recession, we have before us legislation that will create two million jobs over the next 6 years. And while the people of 1600 Pennsylvania Avenue haven't seen or felt the effects of the recession, Mr. Speaker, you have only to ask the people of Bethlehem, PA, if there is a recession. Or the people of Chicago. Or the people of Lafayette, LA. Or the people of San Jose, CA. They will tell you that our economy is hurting. They will tell you that America needs this legislation, and we need it now. Mr. Speaker, this legislation will improve how Americans get from here to there, as well as the air we breathe, our quality of life, and the future of our economy. Mr. Speaker, America deserves nothing less."

Secretary Mineta, these words are as pertinent and on target today as they were when you delivered them on the Floor of the House on November 26, 1991.

America does deserve nothing less. We should send the highway and transit bill that the Senate passed last month to the President's desk. I believe that, if he listens to his Transportation Secretary, he will sign it. Thank you, Mr. Chairman.

Senator SHELBY. Thank you, Senator Murray.

Senator Bennett.

STATEMENT OF SENATOR ROBERT F. BENNETT

Senator BENNETT. Thank you very much, Mr. Chairman. With that announcement I think we can expect some late night conferences between the House and the Senate.

Mr. Secretary, let me welcome you here and publicly thank you for the continued support that has come from the Department of Transportation for transportation concerns in Utah. We are particularly pleased with the support and assistance we received from the Federal Transit Administration. Administrator Jenna Dorn and her staff have always been responsive and I would be remiss if I did not publicly acknowledge that here and in a forum directly with you. We think we have a model program going in the transit system along the Wasatch Front has proven to be very successful, exceeded all expectations and projections as to ridership and we are enormously proud of it. But we recognize that if we had not had the kind of support and responsive reaction that has come from Administrator Dorn we would not be where we are. So in a time when people are beating other people up on all kinds of issues, I want to have the record show how grateful we are for the work that you have done.

We do have an issue which I will deal with in some detail perhaps during the question period. In the wide open spaces of the West, particularly following 9/11, we have had a shift in air transportation away from what people call the main line carriers into the regional carriers, and a regional carrier that is very successful in Utah, SkyWest in particular, has added some new jets and some new routes. The economics of what happened after 9/11 has dictated this.

But it has created a problem in that DOT and FAA regulations regarding the transportation of medical specimens for diagnosis has hit us because the regional carrier is not designated to handle these specimens as much as the trunk carriers are, and with the University of Utah Medical Center serving the entire region, not just the State of Utah, we have to get some of those diagnostic specimens to the University of Utah. They would be transferred to regional carrier flights rather than the trunk line flights before. This is an issue that we have just found out about. I am not sure that you are aware of it either but I wanted to raise it here and we might get into it at some point.

With that, Mr. Chairman, I will be happy to hear the witness.

Senator SHELBY. Thank you.

Mr. Secretary, your written testimony will be made part of the record in its entirety. You may proceed as you wish. Welcome again to the committee.

STATEMENT OF NORMAN Y. MINETA

Secretary MINETA. Thank you very much, Mr. Chairman, and members of the subcommittee. Thank you for this opportunity to appear before you today to discuss the administration's fiscal year 2005 budget request for the Department of Transportation. I might say parenthetically in response to Senator Murray, then is then and now is now.

As we begin our discussion, I want to thank the members of the subcommittee for your support of the work of the Department of Transportation. I am confident that together we will continue to build a strong economy by providing a safer, simpler, and smarter transportation system for our great Nation. Let us turn now to the budget specifics.

President Bush is requesting $58.7 billion in total budgetary resources for the Department of Transportation. As you are very well aware, last year we sent the President's proposal for reauthorizing our surface transportation programs for the next year to the Congress. This legislation, the Safe, Accountable, Flexible and Efficient Transportation Equity Act, or SAFETEA, is a responsible plan. It supports the economy through record investments in our highway and transit and safety programs without raising gasoline taxes, without increasing the Federal deficit, and without taking money from other important programs. So I look forward to working with the Congress on enactment of the President's 2005 budget for highway, safety, and transit programs. While it does not fall under the jurisdiction of this committee, I do want to underscore the need for swift action on this pending SAFETEA proposal by the Congress.

FUNDING FOR SURFACE TRANSPORTATION

The 2005 budget reaffirms the President's commitment to SAFETEA by providing a total of $256 billion over the 6-year life of the bill up from the $247 billion in the original proposal. For highway and transit programs, the budget would continue the recently enacted 2004 funding level, and within this level we are increasing funding for transit new starts. These new start projects will carry over 243 million passengers annually and they will save over 121 million hours in travel time and significantly improve air quality and mobility in America.

The budget specifically designates more than $14 billion for transportation safety with increases in annual funding for safety initiatives in both the National Highway Traffic Safety Administration, NHTSA, and the Federal Motor Carrier Safety Administration, FMCSA. Today, travel on America's highway is safer than in recent memory. Statistics show that 75 percent of all Americans are using their safety belts, the highest level in our Nation's history. We are proud of this progress and will continue the Department's aggressive efforts to save lives and to reduce the more than $230 billion that the economy loses each year because of traffic crashes.

FUNDING FOR RAILROADS AND AMTRAK

For railroads, the President's 2005 budget includes $188 million for the Federal Railroad Administration to support enhanced track inspection and research activities. The President's Amtrak reform legislation, the Passenger Rail Investment Reform Act, is also pending before the Congress. The 2005 budget requests $900 million for Amtrak in 2005 with the potential for an increase to $1.4 billion in the years 2006 through 2009 if the Administration's management and financial reforms are enacted. Now these reforms are critical if we are to justify further spending of taxpayer dollars on Amtrak service.

FUNDING FOR THE FEDERAL AVIATION ADMINISTRATION

The President's 2005 budget for the Federal Aviation Administration provides $14 billion in overall funding. We recognize that air travel has become a cornerstone of our transportation system in the more than 100 years since the Wright brothers' first flight. While holding the line on Federal spending, the President's budget makes a modern and efficient air transportation system a key priority. Let me assure you that we are making the necessary investments to keep America flying safely and smoothly.

Our plans include continued near-term investments in aviation systems and technology to avoid gridlock in the skies and to improve air safety. At the same time we support the design of the next generation air transportation system to secure America's place as a global leader in aviation's second century. We are constantly considering new and better ways to make sure that transportation supports the Nation's growing economy. One option that we are exploring would enable the Maritime Administration and the Lawrence Seaway Development Corporation to expand capacity to use our ports and waterways to move commercial freight. Giving businesses reliable and affordable options for moving commercial goods has the potential to lessen truck traffic on our highways.

Transportation research plays a vital role in developing transportation solutions. That is why I have asked our staff to study reorganizing the research programs, hazardous materials oversight, and pipeline safety within the Department. I believe that there are ways to strengthen and improve our work in all of these important areas and you will be hearing more from us on these plans.

Finally, I want to close by underscoring my continued commitment to the President's management agenda initiative. The Department of Transportation has made significant improvements in all management areas. Consequently, we are delivering results for the American people, helping the President build a strong economy through a strong transportation system. There is still much to be done, but I am confident that we are on the right path.

PREPARED STATEMENT

I have touched on only a few key highlights and you will find additional details within my full written statement submitted to the committee as well in our Budget in Brief, which all of you have received. It is this multicolored pamphlet. At this time, Mr. Chairman, I would be more than happy to answer your questions.

[The statement follows:]

PREPARED STATEMENT OF NORMAN Y. MINETA

Mr. Chairman, Members of the subcommittee, thank you for the opportunity to appear before you today to discuss the administration's fiscal year 2005 budget request for the Department of Transportation. President Bush is requesting $58.7 billion in total budgetary resources for transportation programs—nearly the same as the fiscal year 2004 enacted level. I am particularly pleased that within this total funding level more than $14 billion will support transportation safety projects—my top priority.

Today, travel on America's highways is safer than in recent memory. Statistics show that 79 percent of all Americans are using their safety belts—the highest level in the Nation's history. We are proud of this progress and of the Department of Transportation's role in encouraging safety belt use. Yet sadly, more than 40,000 people still die in traffic crashes each year. Many die needlessly just because they

failed to "buckle-up". This is a tragic statistic that affects all of us and one that both the President and I have pledged to address. We are committed to reducing traffic fatalities. The President's fiscal year 2005 budget request acknowledges this priority and includes annual funding increases for our important safety programs.

Over the past year, the Department of Transportation provided to the Congress legislative proposals to reauthorize our Nation's surface, aviation, and intercity-passenger rail programs. As a result, the "Vision 100—Century of Aviation Reauthorization Act" was passed providing the Federal Aviation Administration with a blueprint from which to guide its work over the next 4 years.

The fiscal year 2005 President's budget reflects the administration's commitment to aviation and the key role it plays in keeping America moving. On December 17, 2003, we celebrated the 100-year anniversary of the Wright Brothers' first flight. Today, air travel has become a cornerstone of our transportation system. Continued investment in aviation systems and technology is critical to ensuring the reliability of air travel. The recent passage of the "Vision 100" which authorizes aviation programs for the next 4 years, includes more than $60 billion in Federal resources—a 31 percent increase above previous authorization levels for aviation.

The fiscal year 2005 President's budget request is $14 billion for the Federal Aviation Administration (FAA). The fiscal year 2005 request will enable the agency to continue to fund the level of service it provides today, while ensuring that critical capital investments stay on track. In addition, "Vision 100" will result in hundreds of thousands of additional jobs in the aviation industry over the 4-year life of the bill while at the same time providing a plan for guiding FAA's programs in the future.

Although we have new aviation reauthorization, work continues to provide reauthorization legislation for our surface programs, and long-term legislative solutions have not been completed to date. The recently enacted surface transportation extension bill is an interim step that falls short of addressing the long-term needs of these programs. We welcome the opportunity to work with the Congress to complete a 6-year reauthorization bill that meets the administration's principles recently outlined in a letter Treasury Secretary Snow and I sent to the Senate Majority Leader and that will provide the resources and planning horizon to keep our surface transportation programs moving forward.

Enactment of the administration's surface transportation reauthorization proposal—the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act", or "SAFETEA" would accomplish this goal. Last May, the President proposed "SAFETEA"—the largest investment in history for America's surface transportation programs. The President's fiscal year 2005 budget reaffirms the principles outlined in "SAFETEA" while amending our proposal to include a total of $256 billion over the 6-year life of the bill—an additional $8.6 billion more than the $247 billion in our original "SAFETEA" funding request—and a 21 percent increase over the funding included in the Transportation Equity Act for the 21st Century (TEA21). Much of this investment will be used to provide improvements on our roads and highways which will reduce traffic congestion.

Our revised proposal would continue the funding levels for the Federal Highway Administration and the Federal Transit Administration enacted in fiscal year 2004 for each year 2005 through 2009. Moreover, the fiscal year 2005 President's budget request includes annual increases beginning in 2005 through 2009 for both the National Highway Traffic Safety Administration (NHTSA) and the Federal Motor Carrier Safety Administration (FMCSA) to ensure that improvements in safety are enhanced.

Our fiscal year 2005 budget proposal accomplishes the administration's safety, mobility, and congestion relief goals by providing a historic level of surface transportation spending without raising taxes. Instead, the administration's request relies on spending resources available in the Highway Trust Fund while ensuring that a cash balance of approximately $5 billion is maintained throughout the authorization period. Further, the President's request would redirect the resources from the 2½ cents per gallon levied on gasohol, and currently deposited in the General Fund, to the Highway Trust fund. This redirection will increase annual receipts to the Highway Trust Fund by over $700 million per year—a change that, if enacted, will provide the resources needed to support the proposed annual funding increases for our safety programs.

"SAFETEA" provides a plan that will enable us to reach our goals, while providing the vision necessary to guide our surface transportation programs in a fiscally responsible manner. I urge the Congress to act quickly to pass "SAFETEA" and the fiscal year 2005 President's budget request for our surface transportation programs. Every day we delay is a missed opportunity to benefit America.

Although highway, transit and highway safety programs play a major role in surface transportation, we also rely on railroads to move people and goods across our country. Intercity passenger rail is an essential element of the Nation's multi-modal transportation system. Accordingly, last year, in addition to our SAFETEA proposal, the administration sent to Congress the President's Passenger Rail Investment Reform Act. This proposal would align passenger rail programs with other transportation modes, under which States work in partnership with the Federal Government, in owning, operating, and maintaining transportation facilities, infrastructure and services. Putting passenger rail on a solid foundation of planning and investment will give this important mode of transportation the support it needs to grow. The President's fiscal year 2005 budget requests $900 million for Amtrak and includes the potential for an increase to $1.4 billion in each of fiscal years 2006 through 2009—if the administration's management and financial reforms are enacted.

The fiscal year 2005 President's budget also includes a proposal for funding the Essential Air Service (EAS) program that would include a limited cost-sharing arrangement with selected communities participating in the program. Currently, the EAS program subsidizes scheduled air service to communities that received scheduled service at the time of deregulation in 1978. Although there have been tremendous changes in the industry since then, the program has remained static. The administration believes that requiring a modest contribution from communities benefiting from this program may energize civic officials and business leaders at the local and State levels to think more creatively about the potential of the program and about different means to meet the transportation needs of the community.

The President's fiscal year 2005 budget request will continue to guarantee air service to the most isolated communities by restructuring the program to require communities to contribute either 10 or 25 percent of the total subsidy, depending on their degree of isolation, and to expand service provided to include ground transportation, single-engine, single-pilot operations, air taxi, charter service or regional service. With these reforms, the Department would keep the most isolated communities connected to the national air transportation system with a $50 million budget funded entirely from overflight fees. We look forward to working with you on this plan.

Although transportation continues to improve, we still have many challenges before us. Highway congestion and expected increases in air travel are issues we must be prepared to address. At the Department of Transportation, we are looking for new ways to address growing commercial freight transportation needs, consistent with our freight action plan. The President's budget includes programs to reduce bottlenecks in and around seaports and land borders with Canada and Mexico and to introduce technological innovations for improved freight efficiency and security. In addition, the Maritime Administration and the Saint Lawrence Seaway Development Corporation are advancing programs to expand our capacity to use ports and waterways to move freight and transport goods efficiently, thereby reducing dependence on our highways to meet growing freight needs.

Over the past year, I have considered the important role that transportation research plays in developing transportation solutions. That is why I have asked our staff to study reorganizing the research programs, hazardous materials, and pipeline oversight within the Department. I believe there are ways to strengthen and improve our work in all of these important areas. As we continue to study alternative approaches, we will work closely with you and our colleagues within the administration to ensure that any potential reorganization will continue to serve the Nation's needs.

I also want to highlight the fiscal year 2005 President's budget request for the new Department of Transportation headquarters building project. In fiscal year 2004, the Congress included $42 million for our new headquarters building in the General Services Administration's budget. Our request of $160 million in fiscal year 2005 would fund the next construction phase and the information technology infrastructure in the building. This would keep the project on track making it possible for the Department to begin taking occupancy as planned. Your support for this endeavor will ensure that the Department of Transportation will have an alternative site available when our current lease expires in 2006.

In closing, I would like to share with you my continued commitment to the President's Management Agenda. President Bush has asked all Federal agencies to work towards improvements in the following five key areas:

—enhanced budget requests that focus on results and performance;
—improved financial management and strengthened financial controls;
—targeted human capital initiatives that ensure our human resources are used as effectively as possible;

—use of competitive sourcing as a resource solution; and

—government-wide use of electronic government tools to improve efficiency.

My team at the Department of Transportation is working hard to implement these initiatives and I am proud to note that we have already made significant progress towards these goals. I believe we are on the path to success and we are committed to continuing these improvements as stewards of the American public's resources.

Thank you again for the opportunity to testify today. I look forward to working closely with all of you, and with the entire Congress, as you consider the fiscal year 2005 President's budget request and I look forward to responding to any questions you may have.

FUNDING FOR AIR TRAFFIC CONTROLLERS

Senator SHELBY. Thank you, Mr. Secretary.

The budget proposes a $370 million increase for FAA operations, $141 million more than the authorized amount. FAA is taking modest steps to control costs, but it cannot afford continued increases in the operations account of 5 percent to 8 percent annually. FAA salaries continue to increase sharply. We raised this issue last year when the average controller's salary was more than $106,000, and I am told that in the calendar year 2003 some controllers made more than $200,000. Controllers' salaries will further increase when the full 2004 pay increase is implemented.

Mr. Secretary, what steps is the Department taking to get the FAA's payroll under control, or how can you do it?

Secretary MINETA. There are two ways that we are doing that. The first is through the contract negotiations that we have going on with the separate labor units. The one specifically for NATCA is one in which we have arrived at an impasse. We have submitted our letter of impasse to the Congress relating to the contract negotiations that we have going on. Much of that has to do with pay, because under the program that Congress passed for the FAA, we have pay and procurement practices that are different from the regular civil service. One of the things that are incorporated is pay-for-performance.

One of the things that is involved in the impasse is the whole issue of multi-units and whether or not—and NATCA's proposal is that they want the full pay increase that everyone is getting, plus 1 percent. What we are looking at is not only individual performance but also whether the units themselves are meeting their performance goals. So we were not able to come to an agreement on that issue, and that has now been submitted for impasse.

The other method of controlling costs, of course, is the typical budgetary restraint. After our initial submission to OMB and the passback, when we get our final amount, we then have to reprioritize and allocate those financial resources. So to the extent that we can look at what our pay will be, or what our financial resources will be, we can match those to what we anticipate in pay increases in the outyears.

FEDERAL TRANSIT ADMINISTRATION ADMINISTRATIVE EXPENSES

Senator SHELBY. Mr. Secretary, I would like to discuss the budget request for FTA administrative expenses. People have been concerned about the annual increases for FAA operations for some time. As we review your budget submission, I note that the Federal Transit Administration's administrative expenses are growing at a

faster rate than FAA's operations. This would catch anybody's attention. Why are FTA's administrative expenses growing so sharply?

Secretary MINETA. I think one of the areas in which the FTA program is growing is transit services, both in urban areas as well as the increasing amount that is going to rural areas. These services require thorough reviews, and with the growth of the urban, rural, and the new starts programs, we are just spending a lot more time on going through the applications that are submitted to us. Even though most of these are earmarked programs, we still have to make sure that the ridership and financial capability of the system support what they are asking for. It takes a great deal of effort to go through those applications.

STATE SUPPORT FOR PASSENGER RAIL SERVICE

Senator SHELBY. Mr. Secretary, I mentioned in my opening statement that FRA has not issued guidance to implement the fair bid procedure for State-supported rail service. The funds that were set aside in the 2004 appropriations act expire at the end of the year and I would be disappointed if we let this opportunity to infuse competition into passenger rail slip away, especially given the interest of several States. When can we expect FRA to move forward on this initiative?

Secretary MINETA. FRA has been moving forward, Mr. Chairman, with Missouri, St. Louis to Kansas City, and they got no outside bidders other than Amtrak on that route. There are other States that have submitted requests or inquiries about the fair bid, and I am not sure—I am not up to date on where we are on those States. But we will be utilizing the fair bid process because we think that that is the right approach.

MOTOR FUEL TAX EVASION

Senator SHELBY. Mr. Secretary, fuel tax evasion is a subject we get into from time to time. According to the Federal Highway Administration, the highway trust fund forgoes approximately $1 billion annually due to non-payment or fraudulent evasion of motor fuel taxes. Are you satisfied as the Secretary with the steps taken by the Internal Revenue Service to identify the scope of the diversion and stop this from happening in the future? In other words, that is a lot of money that we are missing.

Secretary MINETA. It is a lot of money, and I am not happy with the level of enforcement on this issue. That is why our SAFETEA proposal has specific amounts for the Department of Treasury to enforce the Federal fuel tax, including the coloring of the fuel and tracing where it is going.

Senator SHELBY. This might be a subject that we can bring up with the IRS. Senator Murray and I have worked in that area before and we will take this up with the Internal Revenue Service too. You would not mind, I am sure.

Secretary MINETA. Not at all. I would be pleased to join in the conversation.

IMPAIRED DRIVING

Senator SHELBY. Impaired driving. We are concerned about the increase in the number of alcohol-related traffic fatalities which have risen steadily since 1999. To what factors do you attribute this disturbing trend and how do you assess the Department's current efforts at curbing impaired driving? In other words, how are you going to reverse the trend?

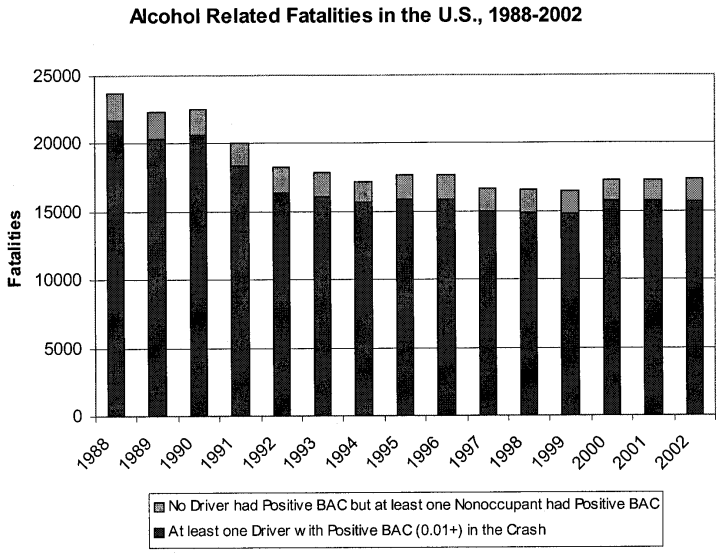
One last thing. I have a related point. I heard a report on a news program a couple days ago that said that if a drunk pedestrian walked in front of an automobile operated by a sober driver and was killed, the death would be treated as a drunk driving fatality. I do not understand the logic of that. Could you find out how the statistics are collected here and explain what has changed? In other words, how reliable are the statistics? If you are counting a drunk pedestrian that is killed by a sober driver, something is wrong. I do not know if that is right, but it would be worth looking into.

Secretary MINETA. Let me take a look at that and find out, but it just does not make common sense.

[The information follows:]

Crashes involving a sober driver and a drunk pedestrian are not considered by NHTSA as DWI (Driving while Intoxicated). Rather, NHTSA considers them "Alcohol-Related" crashes. NHTSA's definition of an Alcohol-Related Crash, in particular a fatal crash, is a motor vehicle traffic crash in which any of the actively involved persons (drivers, pedestrians or pedalcyclists) had a Blood Alcohol Concentration (BAC) of 0.01 g/dl or more (a positive BAC).

Most alcohol-related crashes involve at least one driver with a positive BAC. Some of these crashes also may involve a pedestrian or bicyclist with a positive BAC. However, there are also some crashes in each year in which no driver had a positive BAC but an involved pedestrian or bicyclist had a positive BAC. The data in NHTSA's Fatality Analysis Reporting System allows us to distinguish between these two categories, when analyzing alcohol-related crashes, as depicted in the following chart:



Source: National Center for Statistics and Analysis (NCSA) FARS 1998-2001 (Final) and 2002 (ARF) Files

SAFETY BELT LAWS

Secretary MINETA. In terms of the alcohol-related deaths, the 18-to-34 age group is the largest cause of fatal accidents. That combined with the issue of the seatbelt usage is why we are working very hard to get States to enact a primary safety belt law. In the SAFETEA legislation, there are incentives for States that have a primary safety belt law or a secondary safety belt law and attain 90 percent safety belt use.

There are, frankly, no States that get anywhere close to that level of safety belt use with a secondary safety belt law. But the two, alcohol-related deaths and safety belt usage, work hand-in-hand. Those are two programs that we work at very hard.

OVERSIGHT OF HIGHWAY CONSTRUCTION PROJECTS

Senator SHELBY. Mr. Secretary, ineffective management and oversight have led to significant cost increases, financing problems, schedule delays and technical or construction difficulties on highway construction projects. For example, the cost for the Springfield interchange in Virginia has increased more than 180 percent from $241 million to $677 million, in part because State officials initially excluded basic cost items such as construction management, inflation, preliminary engineering, and even the design.

What can you do or have you done to establish minimum standards for cost estimates so that basic cost items such as inflation, construction management, and design will not be excluded from estimates of what a highway project will cost? In other words, this

seems to be lowballing the original cost. How do you analyze this and project costs to ensure that they are close to what they claim they will be?

Secretary MINETA. Lowballing, of course, is always a problem and you try to catch this when you see change orders coming in. But what has happened more recently is the volatile steel prices. As I understand it, this has impacted on highway projects. But on large, what we call mega-projects, we have now assigned project managers to make sure that from a financial standpoint as well as scheduling and quality, if it is a 10-sack concrete job then we are in fact getting 10 sacks of concrete and not getting shortchanged in terms of the quality that goes into that work. Quality also impacts on the lifespan of that infrastructure. So we now have a specific project manager on those so-called megaprojects.

Senator SHELBY. Senator Murray, thanks for your indulgence.

FUNDING FOR AIR TRAFFIC CONTROL MODERNIZATION

Senator MURRAY. Mr. Secretary, the only proposed cut in your budget that is larger than your proposed cut in Amtrak is the $400 million you are proposing in the FAA to modernize our air traffic control equipment. In your formal opening statement, you take the time to point out that the President signed the Vision 100 bill which authorizes more than $60 billion in Federal resources, which is a 31 percent increase above previous authorizations for the FAA, yet your actual budget request, rather than honoring the increased authorizations in that Vision 100 bill, actually cuts investments for air traffic control modernization by 14 percent next year. When you look at the Bush Administration's multi-year budget it says that you want to cut modernization even lower in 2006. In total for the 4-year life of the Vision 100 bill the Administration plans to underfund the authorized level of air traffic control modernization by more than $2 billion.

What has changed since the date that the President signed the Vision 100 bill and today that has caused you to do such a sudden reversal when it comes to modernizing our air traffic control equipment?

Secretary MINETA. First of all, we are not doing anything to impact on the modernization. There are programs that we feel, as we reevaluated the program, needed to, frankly, be shelved and not move forward at this time. But in terms of the overall next generation air transportation system, we are not shortchanging improvements in capacity, safety, delays, or better information for air traffic controllers. Whether it be the STARS program or ASDX, the programs that will improve the system are funded by the 2005 budget and in the outyears as well.

What we are doing is reevaluating, from a priority perspective, what we have done in the past and asking ourselves whether we need to do those in the future. Many of those lower priority programs have been set aside. But important programs like WAAS and others are moving forward under the air traffic control modernization program, and we have funded it.

Senator MURRAY. A lot of the equipment out there is dozens of years old and was scheduled to be replaced many years ago. We have systems operating in our air traffic control system that are no

longer supported by their vendors and are still years away from being replaced. So how can we believe that a funding cut of this size will not have any impact on the pace at which we replace that aging equipment and the overall safety of our air traffic control system?

Secretary MINETA. I will submit that for the record. I do not have it with me right now. All of the equipment at the air traffic control towers and en route centers is still being shoehorned into the budget that we proposed.

Senator MURRAY. You will submit that to us for the record?

Secretary MINETA. I will submit that for the record.

Senator MURRAY. I will look at that.

[The information follows:]

The reductions in FAA's Facilities and Equipment (F&E) in the fiscal year 2005 budget were concentrated in new technologies that do not replace existing equipment, such as Data Link, the Local Area Augmentation System (LAAS), and Nexcom 1B (next generation communications). These new technologies were going to be expensive for both the agency and the industry. While there was support for these items by the users, it was not clear it made sense to move forward with them at this time given the economics of both the airline industry and Federal budget.

The FAA did not make any significant reductions to any programs that are currently necessary to modernize the airspace system. Funding levels for major modernization efforts like En Route Automation Modernization, the Standard Terminal Automation Replacement System (STARS), airport surveillance radars (ASR–9 and ASR–11), NEXCOM 1A, Advanced Technologies and Oceanic Procedures (ATOP), and the Voice Switching and Control System (VSCS) will continue to move forward in fiscal year 2005. The reduction in the size of the F&E budget will not affect the success of these modernization efforts.

SAFETEA FUNDING LEVELS

Senator MURRAY. Mr. Secretary, in my opening statement I voiced concern, as you heard, over the President's insistence that he will not support or sign a highway bill that exceeds $256 billion. One concern I have since we're talking about a 6-year authorization bill is that the President might support a bill authorizing funding at a certain level and then not live up to that commitment in his budgets.

For example, when the Bush Administration sent up its own aviation reauthorization bill it requested a total of $12 billion for air traffic control modernization over a 4-year period. Now when we look at the President's budget request for 2005 and beyond we see that he plans to request $2 billion less than the amount that he himself asked to be authorized. He only wants to fund 83 percent of the level he himself asked to be authorized.

Now when it comes to the surface transportation authorization bill, President Bush has said that he will not support a highway and transit bill that exceeds $256 billion over 6 years. Is the President committed to actually requesting that $256 billion in future budgets or is this merely a statement on what he will allow to be authorized?

Secretary MINETA. First of all, when we were putting SAFETEA together over a year ago, we talked to the President and he laid out certain principles such as no new taxes, no bonding mechanisms, and no increase in the deficit. So taking those directions, we then fashioned our SAFETEA proposal. The original proposal was

for $247 billion. Then within the last 3 or 4 months, it was raised to $256 billion.

But that action was based on the principles he laid out, principles that he still stands by. In fact, prior to the Senate consideration of the SAFETEA legislation, Treasury Secretary Snow and I submitted a letter reflecting the administration's position, saying that any bill that violated these principles and that went above $256 billion would be considered for veto.

Senator MURRAY. What I am actually asking is, when the President sent up his aviation reauthorization bill he requested $12 billion. We are now seeing his request come in much lower than that; in fact $2 billion less. What assures us that the President will actually fund the $256 billion if that is what we authorize? Even though I disagree with that, I am just asking you, what is the assurance that a year from now we are not going to see less requested than even that $256 billion?

Secretary MINETA. We took the enacted 2004 levels and have reflected those in the budget proposal and in SAFETEA as well.

Senator MURRAY. What I am asking is, will the President commit to asking for the budgets every year that meet that authorization, whatever it is, that he signs into law?

Secretary MINETA. Based on our submitted SAFETEA proposal, we do that.

HIGHWAY SAFETY

Senator MURRAY. Mr. Secretary, we have not always agreed on budget matters when it comes to your department. One area where we have always agreed has been the overarching importance of improving safety in all transportation modes. I want to really commend you, Mr. Secretary, for including funding in this year's budget for paid TV advertising to enhance seatbelt use and reduce drunk driving. The Committee has added funding for the last 2 years and the administration has finally requested funding in its 2005 budget request. This has been a very successful effort, as you know.

This year the administration gave its surface transportation authorization the title of SAFETEA, as you mentioned, to highlight the importance of safety provisions in the bill. Could you just take a minute to share with this committee what you consider to be the most critical safety enhancements that were included in the administration's bill?

Secretary MINETA. There is probably no single silver bullet that addresses the whole issue of safety. Safety can be engineering. Safety can be education. Safety can be a number of things. All of these are reflected in the SAFETEA proposal.

But also in the 2005 budget, we are putting a great deal of emphasis—in fact I am doing a lot of traveling on the issue of both safety belt use and driving while under the influence, DUI. I am traveling to different States right now to try to get primary safety belt laws, and have found this to be a responsive chord with many States. But we only have, I believe, 20 States with primary safety belt laws, so we have a long way to go. But we think that this is a good effort and we are enlisting a lot of new players into the program. I am going down to the NASCAR races in Richmond, in May

I believe, and they will be endorsing the whole safety belt program and initiating their program of promoting safety belt usage.

We are doing this with a number of different new constituent groups to increase safety belt use in our country.

Senator MURRAY. I commend you on that and want to keep working with you on that.

CONTRACTING OUT FAA FUNCTIONS

Mr. Secretary, as you know, the only reason that the FAA bill was allowed to pass the Senate was because FAA Administrator Blakey provided a letter to the Senate Commerce Committee promising that she would not contract out any additional FAA functions to the private sector during fiscal year 2004. I suspect this could become a very serious issue for the fiscal year 2005 appropriations bill because we do not have a commitment from you or Administrator Blakey for fiscal year 2005 or beyond.

As of now, are you aware of any areas where the FAA is considering contracting government work in fiscal year 2005 or beyond?

Secretary MINETA. Nothing additional that I anticipate. I think the letter that Administrator Blakely submitted for fiscal year 2004 still stands. There was consideration at one point about additional contract towers, but after the letter was sent——

Senator MURRAY. What areas are under consideration?

Secretary MINETA. The ones that we had under consideration prior to that letter relating to fiscal year 2004 were general aviation towers for VFR, visual flight rule towers. We do not have any further plans beyond the 2004 letter that she submitted.

Senator MURRAY. Can we get an identical letter for fiscal year 2005?

Secretary MINETA. Let me consult with Administrator Blakey on that and get back to you on that.

[The information follows:]

The Federal Aviation Administration is engaged in completing the public/private competition of the Flight Service Station (FSS) Services. The competition's results are expected in March 2005.

Senator MURRAY. Mr. Chairman, I will wait for the remainder of my questions. Thank you.

Senator SHELBY. Senator Bennett.

HIGHWAY FUNDING

Senator BENNETT. Thank you very much, Mr. Chairman.

Mr. Secretary, I have searched for things to question you about, areas to probe and prod, and things are going so well I do not have anything to complain about.

Secretary MINETA. You did such a great job as Assistant Secretary of Transportation that——

Senator BENNETT. It is the legacy of my service there.

Secretary MINETA. That is right.

Senator BENNETT. Last night we were alerted to this issue that I mentioned in my opening statement. I know that it catches you completely by surprise, as it did us. So I raise it now just so that we can be in correspondence with you on this issue and see if we cannot get it resolved.

For the record, I support the President's effort to get a SAFETEA program in place, but I think at some point we are going to have to spend more money. And if after he is safely reelected he were to come back to the Congress and suggest that for the first time since Ronald Reagan's presidency it is time to raise the gas tax, he would find a fairly sympathetic ear, at least with this Senator. I know I am taking my own political career in my hands when I say that because I am up for election this year too.

But the needs of our highway system, compound with the increasing population and the age of the interstate highway system—and one of the things that has happened that was not foreseen by any means when the interstate highway system was conceived is that interstates have now become the Main Streets of our major metropolitan areas. The interstate system was supposed to bypass downtowns so that people could go quickly across the whole country and never run into a traffic jam. Now the metropolitan centers have relocated themselves around the interstate and the interstate has become the main urban artery and therefore jam up now at rush hour. The whole purpose of getting the interstate system in place as conceived during the Eisenhower administration has been frustrated by that.

There is a solution to it, and it is financial. We are going to have to face up to that at some point in the future. So if you are back here next year and I am back here next year, and both of those depend on two separate elections, I will be happy to talk to you about increased funding through that particular source.

Secretary MINETA. Thank you, Senator. We will respond.

Senator BENNETT. Thank you.

Senator SHELBY. Mr. Secretary, we will get into another round, with your patience.

Secretary MINETA. Surely.

FULL FUNDING GRANT AGREEMENTS

Senator SHELBY. The Senate passed a 6-year reauthorization on the surface transportation legislation, as you well know. The House has not yet acted and the House Transportation and Infrastructure Committee chairman has floated a proposal to pass a 2-year authorization bill. If a 2-year extension of TEA21 is enacted into law, is enough additional commitment authority created to execute a full funding agreement for all of the projects listed as pending and proposed in your 2005 budget request?

Do you want to get back with us for the record on that?

Secretary MINETA. We will get back to you on that for the record.

[The information follows:]

The 6-year surface transportation bill, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, (SAFETEA) passed by the Senate on February 12, 2004, provides over $9.6 billion in budget authority over the fiscal year 2004–2009 period. Within this amount, $3.6 billion is needed to fully fund all approved or pending full funding grant agreements (FFGAs). This includes all projects with previous commitments or reserved authority under TEA21.

Under the Senate-passed bill, $2.1 billion will cover anticipated FFGAs for the following projects: the first increment of New York East Side Access; Central Phoenix East Valley Corridor; Charlotte-South Corridor LRT; Raleigh-Regional Rail; and, Pittsburgh-North Shore Corridor. An additional $3.9 billion would be available for future commitments and funding of projects anticipated after fiscal year 2005.

Senator SHELBY. If there is not enough commitment authority to cover all of the proposed funding agreements in the request, how would FTA choose the projects that it would enter into a full funding agreement? You would have to make some decisions. We would be very interested in that. What would your methodology be?

SHIP DISPOSAL

Ship disposal. MARAD has made progress in contracting for the disposal of obsolete ships from the National Defense Reserve Fleet. Recently, environmental concerns and legal proceedings have hindered these efforts. What steps are being taken to address the environmental issues, and what assurances is the Department providing to the countries receiving these ships that there is no environmental danger to them? Do you want to do that for the record?

Secretary MINETA. Let me do that for the record. We have 13 ships under contract to a United Kingdom firm, of which four have already been delivered and are sitting in the shipyard in Teaside, England. With our 2005 budget request we hope to increase that to 21 ships.

We have a very strict environmental process to go through in certifying those ships for movement to an overseas location. We used to sell the ships to Bangladesh or India just to get rid of them. But that is no longer possible. We have strict environmental requirements that have to be met. We do need the additional funding in fiscal year 2005 to dispose of these additional ships.

[The information follows:]

MARAD is pursuing all disposal alternatives in order to find the most cost-effective, environmentally sound disposal capacity available. Disposal alternatives include domestic recycling, foreign recycling, artificial reefing, deep sinking, vessel donation and vessel sales. The export of ships for recycling is a promising alternative that has provided an increase in competition and capacity, which allows more ships to be disposed of with available disposal funding. The ability to export ships for recycling will expedite the elimination of high-priority ships, significantly mitigate the environmental threat of oil discharge at the fleets and reduce the total number of obsolete vessels significantly. Although foreign facilities are not subject to the same worker and environmental laws as domestic facilities, MARAD's current process requires foreign companies to demonstrate to MARAD and the EPA that they can accomplish responsible vessel recycling in a manner that protects worker safety and health.

MARAD's actions to ensure that the ship disposal process does not harm the environment include activities while the vessels are at our fleet anchorages, during tow preparations and while at the contractor's facility. Programmatic ship disposal priorities and decisions are also made in order to mitigate any threat to the environment.

AT THE FLEET ANCHORAGE

MARAD has three reserve fleets sites where its non-retention, obsolete vessels are moored—the James River Reserve Fleet in Virginia, the Beaumont Reserve Fleet in Texas and the Suisun Bay Reserve Fleet in California. While the obsolete vessels are at the fleet anchorages awaiting disposal, four activities take place that are important to ensuring the environment is protected:

—Condition assessments—the material condition of each vessel is assessed, rated and ranked. Information from this assessment is factored into programmatic disposal decisions.

—Vessel condition monitoring—vessels are monitored for trim, stability, hull and fuel tank integrity, overall deterioration and adequate mooring.

—Vessel protective measures—cathodic hull protection systems are utilized to inhibit underwater hull deterioration and advanced mooring systems are used to secure the ships and protect them against damage from high winds and storms.

—Corrective repairs/maintenance—as required repairs and maintenance activities include pumping, patching, securing watertight closures, etc.

DURING TOW PREPARATIONS & TOW EVOLUTIONS

MARAD's contracts require the prime contractor to accomplish tow preparations and the safe towing of the vessel to the contractor's facility. Proper tow preparations are ensured through the requirement for a U.S. Coast Guard inspection and issuance of a loadline certificate prior to the commencement of the tow. The contractor is also required to have in place an approved Emergency Spill Management Plan and a Spill Management Company to be on call to respond if needed throughout the duration of the tow. The contractor and tow company are also required to carry the appropriate level of insurance to cover response and cleanup costs in the event of a discharge incident.

AT THE CONTRACTOR'S FACILITY

During the solicitation process prior to contract award, prospective contractors are assessed for their working knowledge of applicable environmental regulations. Technical Compliance Plans, required from the contractors, must provide comprehensive information related to environmental compliance measures to be followed during the course of the work. The contractor's documentation related to environmental activities is closely reviewed during the evaluation process, and a pre-award survey of the contractor's facility is accomplished if the contractor is new to MARAD.

MARAD's ship disposal contracts require the contractor and sub-contractors to comply with all municipal, State and Federal regulations related to the removal, handling, storage, transport and disposal of hazardous materials. This includes prime and subcontractor compliance with regulations associated with permits and licenses associated with hazardous material remediation activities. MARAD's Office of Environmental Activities provides on-site oversight over all project environmental activities either directly or through the use of third-party commercial environmental monitoring companies. MARAD's oversight at disposal facilities is in addition to on-site inspections and oversight provided by regional EPA and OSHA offices.

PROGRAMMATIC PRIORITIES

MARAD's ship disposal program priority remains focused on disposal of MARAD's worse condition, non-retention vessels. The material condition of the ship and the amount of residual fuels/oils contained onboard our vessels are factors that are considered in all vessel disposal decisions. Disposal of the "worse ships first" that contain the most residual oils/fuels mitigates the environmental threat at MARAD's fleet sites. MARAD's solicitations for disposal services include the higher priority vessels, and negotiations involving proposals that do not specify vessels will target the inclusion of higher priority vessels.

FUNDING FOR FAA CAPITAL PROGRAMS

Senator SHELBY. The FAA is requesting $2.5 billion for its capital account which is $400 million less than the authorized level and more than $300 million less than last year's enacted level. Hard decisions will have to be made there, Mr. Secretary. How will this impact the overall effort to modernize the air traffic control system? How are you going to do more with less? I would like to hear it. I would like to see you do it, but I do not know if you can.

Secretary MINETA. There are a lot of things that were once part of the capital program that we had to reevaluate with a smaller pool of resources. Some of the programs that were in prior facilities and equipment budgets are not as high priority today as they might have been when we had more money available. We are setting those aside and the more high-priority items where we get more value for the dollars expended are the ones we are moving foreword.

Safety, capacity and delay are our mantra. Those three criteria are what we use to look at what is in F&E and say, not as much is needed today as when we were more flush with funds. So we are

doing a lot of reprioritizing to make sure that we can get more with less. It is not that we are adding more on top of what is already there, but we are taking some of the lower priority items and setting those aside, admittedly.

AMTRAK

Senator SHELBY. Mr. Secretary, the administration has requested a subsidy of $900 million for Amtrak in 2005. Amtrak has once again asked Congress for $1.8 billion and continues to express a need for similar amounts over the next several years. Funding an increase above the current year level of $1.2 billion will be extremely difficult. What is your long-term plan for Amtrak if the current reauthorization proposal is not enacted?

Secretary MINETA. Mr. Chairman, the President's reform proposal that is before Congress is very important. We have requested $900 million for Amtrak, but we have also indicated that we would support $1.4 billion in the outyears, in fiscal years 2006 to 2009, conditional on Congress adopting the management and financial reforms that are in the President's reform proposal.

We have already expended over $35 billion on Amtrak since 1973, and we cannot continue down that path. The President is very supportive of intercity passenger rail, but not on the present path that we are on. We feel very strongly that there has to be reform of Amtrak. So if the Congress were to adopt the President's reform legislation, then we would support $1.4 billion in the outyears.

Another thing that has helped Amtrak is the action taken by the Appropriations Committees to direct that Federal grants for Amtrak be approved by DOT before going to Amtrak.

Amtrak has to submit an annual operating and capital financial plan. We reviewed Amtrak's plan in fiscal year 2003, and we are now doing that for fiscal year 2004. We have just approved the operating grant agreement with Amtrak, and FRA is now renewing the capital grant agreement. I think that has been a very effective tool in making sure that the financial management of Amtrak is kept under control.

COMMERCIAL DRIVER'S LICENSE PROGRAM

Senator SHELBY. In spite of the greater attention that it has drawn in recent years, the practice of fraudulently obtaining a commercial driver's license continues to pose a significant national risk, both in terms of highway safety and terrorism prevention. While the Department is to be commended, and I think we should do this, for the efforts it has taken thus far to curb commercial driver's license abuse, I think a lot of work needs to be completed in order to properly address the problem.

Mr. Secretary, what measures are being implemented and what do you plan to undertake during the next year in order to end, as much as you can, commercial driver's license fraud? How does the Department plan to oversee and coordinate with the States in order to assure that commercial driver's license fraud issuance is being conducted in accordance with Federal guidelines?

Secretary MINETA. Mr. Chairman, let me properly respond to you in writing, but one of the things that we are doing is to complete

17 Federal compliance reviews of State commercial driver's license programs. The end result is to increase oversight of the commercial driver's license program.

As you know, this has been the subject of some FBI fraud investigations, and we are making sure that we plug that hole. We are requesting $22 million for fiscal year 2005 for the State improvement of driver's license programs.

[The information follows:]

FMCSA has taken numerous actions to help prevent fraud in the Commercial Driver's License (CDL) Program. FMCSA's CDL State Compliance Review requirement is in the fourth year of implementation. These compliance reviews are a necessary part of the CDL program to ensure States have the statutes, administrative procedures, and equipment to administer their CDL programs in compliance with Federal requirements. Field personnel are receiving training on conducting compliance reviews and identifying testing and licensing procedures that may be susceptible to fraudulent activities. In continuation of supporting fraud prevention, FMCSA is funding the updating of the CDL Identification Manual. The manual contains color photographs of all U.S., Canadian, and Mexican commercial licenses for use by State licensing and enforcement officials to help identify fraudulent CDLs.

FMCSA is addressing the 22 recommendations made by the Office of the Inspector General (OIG) in the May 8, 2002, audit report on "Improving Testing and Licensing of Commercial Drivers," including ones related directly to fraud. Also in response to an OIG recommendation, FMCSA issued a policy memo on July 1, 2002, specifically recommending States use covert monitoring of CDL examiners as the preferred method of driver licensing oversight and control. Eighteen States have set up covert monitoring programs with CDL grant funds.

The CDL grant program has six priority areas. Two of them include detection and prevention of fraudulent activities including covert monitoring and implementation of the social security number (SSN) verification for CDL drivers. FMCSA received a $5.1 million fiscal year 2002 supplemental appropriation from Congress to verify all existing and new CDL driver's names, dates of birth and SSN with Social Security Administration (SSA) records to help prevent fraudulent identities from being created. To date, 40 States are verifying the CDL driver's identify through the SSA. The remaining States are being encouraged to establish SSN verification programs.

Finally, FMCSA, in cooperation with the American Association of Motor Vehicle Administrators (AAMVA), identified 14 tasks to detect and reduce fraudulent activities related to driver licensing. FMCSA received an $8 million fiscal year 2002 supplemental appropriation to help fund these tasks through a cooperative agreement. In addition, through the cooperative agreement FMCSA and AAMVA have funded revisions and upgrades to the CDL Knowledge Tests and software that can generate multiple versions of the tests. To further the fraud prevention initiative AAMVA has formed a Special Task Force on Identification Security to identify strategies to achieve intended outcomes. FMCSA is working closely with AAMVA through participation on the Task Force working groups and is providing funding for these efforts.

Senator SHELBY. Senator Murray.

MOTOR CARRIER SAFETY COMPLIANCE REVIEWS

Senator MURRAY. Thank you, Mr. Chairman.

Just following up on that, the number of compliance reviews, as I understand, have dropped significantly. Are you aware of that? In December 2002, FMCSA did 817 compliance reviews but only completed 472 as of December 2003. Since that is one of the most reliable ways to identify unsafe motor carriers why has there been such a precipitous drop in the number of reviews?

Secretary MINETA. I am not sure of those figures. I know that 17 compliance reviews are going on right now. Let me check on that State compliance number.

Senator MURRAY. Can you get the historical numbers for us?

Secretary MINETA. I will.

[The information follows:]

In fiscal year 2003, FMCSA began implementation of Section 210 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). MCSIA required FMCSA to establish regulations specifying minimum requirements for new entrant motor carriers seeking Federal interstate operating authority. There are approximately 40,000 to 50,000 new entrant carriers seeking operating authority each year.

During December 2002, 280 compliance reviews (CRs) were completed, which was significantly lower than the normal average of 800 compliance reviews per month. This was a result of an increased emphasis on conducting Security Sensitivity Visits (SSVs) in response to the events surrounding the terrorist attacks on September 11, 2001. In December 2003, 817 compliance reviews were completed, an increase of 537 (192 percent) from the previous December. This shows that FMCSA returned to its normal CR production level. Overall, 7,584 compliance reviews were completed in fiscal year 2002 and 9,060 were completed in fiscal year 2003, an increase of 1,476 (19 percent) for the year.

During the first 5 months of fiscal year 2004, FMCSA completed 3,348 compliance reviews, which is on target to meet FMCSA's projected goal of completing 8,000 compliance reviews for fiscal year 2004. While the fiscal year 2004 target is lower than the actual number of compliance reviews that were completed in fiscal year 2003, this is attributed to an increased emphasis on conducting New Entrant Safety Audits, as mandated by Congress.

AMTRAK

Senator MURRAY. Thank you. Also following up on the Chairman's comments on Amtrak—I know he is surprised that I am—as you know, the reforms that you are requiring have to be considered by the Commerce Committee. This committee has to set the number for fiscal year 2005. So I know that you are asking for the Commerce Committee to follow up on that, and then if they do it then you will go to the $1.4 billion in 2006 and beyond. But we are looking at 2005.

A 26 percent reduction in the dollars to Amtrak is said by Amtrak's president to take it into bankruptcy. Your own Department of Transportation Inspector General has testified in the past that a precipitous cut of size would mean bankruptcy for Amtrak. So that does not get us to 2006, if the Commerce Committee even moves forward on this. I know you are a member of Amtrak's board of directors. Do you know something that we do not know that will allow them to somehow manage to make it on a huge cut like this until reforms are enacted, if they are enacted?

Secretary MINETA. The operating financial management reviews that are going on right now, separate from the capital reviews, provide for some modicum of operational support. We cannot fund the full amount because that would require—I think you folks appropriated $1.3 billion in——

Senator MURRAY. One-point-two billion dollars.

Secretary MINETA [continuing]. And that was on a request of $1.8 billion from Amtrak. They are able to survive on $1.2 billion. Again they're requesting $1.8 billion and again we are taking a very hard look at——

Senator MURRAY. But your budget request is for $900 million.

Secretary MINETA. Nine hundred million dollars.

Senator MURRAY. That is significantly below this year's level, and both the Amtrak president and your own IG have said that Amtrak cannot survive at that level.

Secretary MINETA. Again, unless management and financial reforms are adopted——

Senator MURRAY. So you are basically saying that if your reforms are not adopted that go into effect by 2006, Amtrak is not going to survive?

Secretary MINETA. We are still holding by the need for reform.

Senator MURRAY. I hope the President takes a really active approach with the Commerce Committee.

Secretary MINETA. As I understand it, Senator McCain is about to introduce an Amtrak reform bill.

Senator MURRAY. We have been down this road before. I would just warn all of us that if this is the bar that we have to be held to, we are going to be again looking at a shutdown in Amtrak I do not think any of us wants to see.

CONTRACTING OUT FEDERAL JOBS

Mr. Secretary, earlier today you talked about your efforts in advancing the President's management agenda. Last year this subcommittee, as you will remember, was very involved in the issue of establishing standards for contracting out Federal jobs. One of the provisions that was included in last year's bill was a prohibition against using fiscal year 2004 funds to contract out any Federal job overseas. I was really surprised to see that the President's budget specifically requests that that provision be deleted for 2005.

Could you cite for us some of the instances the Department of Transportation might look at to take work that is currently being conducted by Federal employees and send that work overseas?

Secretary MINETA. I do not have any knowledge of that. I will have to take a look at that.

Senator MURRAY. I can see all of your staff shaking their heads. Then can you tell us why the President wants flexibility if you have no place that you actually want to send jobs overseas why he is asking to eliminate that provision?

Secretary MINETA. The President's request is a generic, government-wide request. But I am not familiar with any plan within our Department right now. Generally, we do not like to see these types of prohibitions in legislative language. In any event, I am not aware of any plans right now to send any jobs——

Senator MURRAY. I assume you would not object to that language staying in for fiscal year 2005?

Secretary MINETA. On behalf of the administration, of course. But in terms of any plans for, other than normal FAA employees that are in foreign positions, I have got people in Iraq, Afghanistan—not Afghanistan, but Iraq right now. We have got air traffic controllers in overseas spots. We have other positions. But we are not—I do not see, other than——

Senator MURRAY. But you do not see any problem with putting the provision in again that does not allow any contracting out of new jobs?

Secretary MINETA. Again, I do not like to see those kinds of prohibitions placed in legislative language.

Senator MURRAY. But you have no plans to contract anything out?

Secretary MINETA. I do not believe so.

[The information follows:]

The general provision in the President's budget to delete the restriction on contracting out Federal jobs overseas would apply government-wide, not just to the Department of Transportation. The administration believes the restriction against contracting out Federal jobs overseas is generally unnecessary because the government wins a vast majority of the work and many activities that are the subject of competitive sourcing must be performed domestically, for example facilities maintenance, repair, and construction. In addition, the restriction could violate international agreements that accord our trading partners non-discriminatory treatment in government procurement. These agreements generally provide for non-discriminatory treatment to suppliers of foreign entities—i.e., they provide flexibility for both foreign and domestic contractors to perform work where performance will make the contractor most competitive.

AIR TRAFFIC CONTROL MAINTENANCE STAFFING LEVELS

Senator MURRAY. Mr. Secretary, last Monday a Federal arbitrator ruled that the FAA has not met the minimum staffing levels needed for the agency's air traffic control maintenance functions based on the agreement that was reached in fiscal year 2000 between the FAA and the union that represents the maintenance technicians. The arbitrator ruled that the FAA must immediately take action to raise the total number of technical employees to a minimum staffing of 6,100. How was the FAA allowed to drop below the agreed upon minimum staffing level?

Secretary MINETA. I will have to get back to you for the record on that.

[The information follows:]

The Federal Aviation Administration believes that employees in operational control centers should be included in the air traffic control maintenance staffing level of 6,100.

NEED FOR FULL COMPLEMENT OF TECHNICIANS

Senator MURRAY. Given the funding cuts you are requesting for modernizing air traffic control equipment, would you not agree that it would be prudent to have a full complement of technicians on board to maintain and repair the FAA's aging air traffic control system?

Secretary MINETA. I will have to check on the labor negotiation with the technicians group, the Professional Airway System Specialist (PASS) union, and the budgetary amount.

[The information follows:]

The Professional Airways Systems Specialists (PASS) union disagrees with the Federal Aviation Administration's (FAA) position that employees in operational control centers should be included in the air traffic control maintenance staffing level. A Federal arbitrator ruled in favor of PASS, and the FAA has appealed the decision to the Federal Labor Relations Authority.

DECISION OF THE FEDERAL ARBITRATOR

Senator MURRAY. If you could do that, and if you could let us know how quickly you expect the FAA to comply with the decision of the Federal arbitrator as well.

Secretary MINETA. Right. I am not sure whether they are binding agreements or if there are any appeal provisions to that arbitrator. I will have to check on that as well.

[The information follows:]

The Federal Aviation Administration (FAA) had 30 days from the date of the Federal arbitrator's award (March 1, 2004) to file exceptions with the Federal Labor Relations Authority (FLRA). After reviewing the award, the FAA felt that the arbi-

trator exceeded his authority and abrogated management of its right to determine where employees would be assigned, a right that management chose not to waive according to the managers who were present in negotiations. The FAA's exceptions were filed on March 25, 2004, and we do not know how long the FLRA will take before rendering a decision. The FLRA will allow the Professional Airways Systems Specialists (PASS) union time to submit a response to the Agency exceptions and will then issue a decision. There is no statutory time frame in which the FLRA must issue a decision.

THIRD RUNWAY AT SEATAC INTERNATIONAL AIRPORT

Senator MURRAY. One last question. Mr. Secretary, a lot has been said about the need to streamline the environmental review process for highways, runways, and rail systems. Unfortunately, the poster child project for long delays that impact many projects is the third runway project at Seattle Tacoma International Airport.

As you know, we have been trying to complete construction of that third runway for more than 16 years. The added costs for complying with the environmental rules for the construction of that runway as well as the associated cost for delays have grown by over $200 million just in the last 4 years. As you can imagine, this has put an incredible amount of pressure on the ability of the airport authority to finance the completion of that project. Are you aware of that situation at Seattle Tacoma International Airport?

Secretary MINETA. I was just made aware of this $198.1 million request that SeaTac is making of FAA 2 days ago. This is the third request on the part of SeaTac. The original agreement for a letter of intent was in 1997 for, I believe, $198 million, or $190 million or so then. Then that was revised several years ago by an additional $55 million, $57 million. This is the third request for an increase in the letter of intent for the SeaTac Airport. We will have to take a look at what we are doing with that whole program.

[The information follows:]

In 1997, the FAA issued a Letter of Intent (LOI) to Seattle Tacoma International Airport (SeaTac) for construction of a third runway, committing $161.5 million in AIP funds over the period of fiscal year 1998–2010 towards the then estimated $587 million total project cost. This represented a 28 percent Federal share of the total cost; higher than recent projects of a similar scope (e.g., Atlanta and St. Louis were around 18–20 percent). The LOI was amended in 2000 to add $55 million in funds over the period fiscal year 2001–2010 to help offset unanticipated increases to the project cost, then estimated at $773 million. This raised the total LOI amount to $216.5 million, but kept the Federal share around 28 percent.

SeaTac has recently submitted an application for a second amendment to the LOI, this time for an additional $198.1 million over the period fiscal year 2005–2014. This would raise the LOI total to $414.6 million and the Federal share to 37 percent of the total project cost, now estimated at $1.1 billion.

The Federal Aviation Administration is still reviewing SeaTac's application. There is some concern about the high level of Federal funding—the precedent-setting Federal share of 37 percent that would result from this amendment, which is significantly higher than similar recent projects. While we support the SeaTac third runway project, and are sensitive to the environmental burdens which have caused some of the cost increase, we need to examine the application in detail before committing to a funding decision. As part of that examination the FAA is retaining the services of an outside financial consultant to review SeaTac's financial condition.

Senator MURRAY. I appreciate that. I am currently pursuing an amendment to the airport's existing Federal commitment to ensure that there is adequate financing to meet all of those new environmental costs. As you know, a lot of it has been because of Federal

environmental laws and I want to pursue that with you, and I would like to ask——

Secretary MINETA. I think that it is not only Federal environmental laws, but also local lawsuits that have been brought against——

Senator MURRAY. Under Federal environmental laws. That is why the lawsuits have been brought.

I just want to know from you, is DOT still committed to the completion of the third runway project and the economic benefits that it will bring to the Northwest region?

Secretary MINETA. I assume so. I assume that it still is.

Senator MURRAY. Would you be willing to sit down with myself, Marion Blakey and the appropriate airport officials to talk about this issue?

Secretary MINETA. Absolutely.

Senator MURRAY. I would appreciate that very much.

Secretary MINETA. Absolutely.

Senator MURRAY. Thank you.

Thank you, Mr. Chairman, and thank you for your indulgence.

ENVIRONMENTAL REVIEWS FOR ALASKAN HIGHWAY PROJECTS

Senator SHELBY. Senator Stevens, thank you for joining us.

STATEMENT OF SENATOR TED STEVENS

Senator STEVENS. Thank you very much. I am pleased to be here to be with young men who have brand new ideas. That is an in-house story up here, Mr. Secretary. I am pleased to have a chance to come before you because there are some significant transportation problems in Alaska in which the process seems to be changed, and it becomes significant because the increased reviews are burdensome and sometimes unwarranted as far as our State is concerned. I am sure you know, we have a fairly small allowance for highway construction in Alaska, and to take more of it for the environmental review is becoming burdensome.

Let me just state this to you. The Federal Highway Administrator brought a training team to Alaska to assist in management and planning of environmental steps required in Title 23 of the Federal aid program. In addition, it relocated a third environmental review person in Juneau to help review the environmental documents prepared under the National Environmental Protection Act.

Apparently, this work has become rather than an assistance to get the job done quicker, it has added additional thresholds for the transportation projects. We previously used some categorical exclusions versus an environmental assessment (EA) and now we are getting into the environmental impact statement (EIS) on very small items.

For instance, an erosion control project on the Dalton Highway, that is the highway that goes north from Fairbanks to the North Slope, was slated for an EA. Last year it was processed as a categorical exclusion. It is a dirt highway. It has been there for years and it was an erosion control item that should have been handled just as routine maintenance as a matter of fact.

A bridge replacement of an existing bridge on the Alaska Highway—that is our only highway that goes out to the south 48—now requires a full EIS. This is a bridge that is critical to the gas pipeline that we are planning now, and I understand that the EIS on this bridge replacement will delay the project by 1 to 2 years. It could well add another year to two to the building of the pipeline.

There is a brush cutting project that was performed by Saga, that is an AmeriCorps nonprofit, who was told to seek an EA. That is the environmental assessment. These always have been the categorical exclusion type things, just brush cutting. We are entirely in favor of strict environmental protection, but when it comes to have an increase in the level of requirements that have to be achieved, the heightened review is causing delays, increasing costs, moving projects from one year to another because of the short construction season that we have in Alaska.

This is not associated only with the interior of Alaska. The Knik Arm Bridge project, the Juneau Access Road, the Gravina Road, all priority projects that are in the TEA21 reauthorization have now been indicated to have the highest level of environmental review to proceed.

I would like to see if you could explain why at this time we have—by the way, I think we have the highest level of unemployment per capita in the country. We have a declining economy because of the loss of our oil industry, our mining industry, our timber industry, the basic industries associated with the harvesting of timber. I cannot tell you—we have now got a series of projects that would have provided employment during this coming work season, hopefully, provide a slight bridge for many people over into the next year when some of these other things might be started up again.

But why can we not go back to the simple processes that were used for years in connection with these highway projects and not go up the ladder in terms of environmental protection unless there is a significant new perspective involved. All the things I am talking about are facilities in place that require improvement or maintenance.

Secretary MINETA. Mr. Chairman, I am not familiar enough with these projects to be able to respond, but let me get back to you in writing after talking to our Federal highway folks. I would think that if a new person has been dispatched to Juneau to deal with environmental reviews, it was done in the hope of speeding up the process. Let me find out why categorical exclusion for a maintenance project now requires an environmental assessment. I just do not know these projects or the process well enough to be able to respond.

[The information follows:]

The U.S. Department of Transportation is actively working to facilitate the environmental review processes in Alaska. For example, the Federal Highway Administration (FHWA) entered into an agreement with the Alaska Department of Transportation and Public Facilities (DOTPF) that allows many projects with minor environmental impacts to be processed as categorical exclusions without project-specific review by FHWA. Other projects do involve a FHWA review, but are determined to qualify as categorical exclusions. The net result is that the vast majority of Alaska DOTPF's projects are advanced as categorical exclusions. In a small number of cases, where the project facts do not support a categorical exclusion, FHWA will work with the Alaska DOTPF to prepare an environmental assessment (EA). In

those situations where environmental impacts are found to be significant, a full environmental impact statement is required by law.

With respect to the specific projects mentioned, the FHWA has reached an understanding with Alaska DOTPF that allows the projects to advance with the appropriate level of environmental review. For example, the brush cutting projects mentioned all qualify for a categorical exclusion under FHWA's agreement with the Alaska DOTPF. The Tanana River Bridge is being advanced with an environmental assessment because of potential impacts involving historic resources, native lands, hazardous wastes, and recreational lands. The Dalton Highway erosion control project was done with an environmental assessment, because the project involved extensive channelization of an environmentally important stream. The Alaska Division approved the EA for the Dalton project on April 7, 2004, and the Division expects to issue a Finding of No Significant Impact (FONSI) in the near future.

FHWA is fully committed to efficient environmental review processes in Alaska. To position itself for success, FHWA has recently worked with Alaska DOTPF to host a number of training and process improvement efforts. FHWA is confident that these efforts will lead to timely project approvals and environmental outcomes that fully respect Alaska's unique environmental resources.

Senator STEVENS. I would hope personally you would take the time to come up this summer and go see some of these.

Secretary MINETA. I will, yes, sir.

Senator STEVENS. In the last decade we have only had one court review of any environmental matter related to highways. We have been perfectly operating with total cooperation. Now it seems that because of the elevated requirement in each instance, we are building towards more and more court review. Since these are routine projects, brush cutting, bridge replacement, erosion control, I just do not quite understand it. So I would hope that you would take the time this summer sometime and come up and we will get a small plane and go out and look at some of these.

Secretary MINETA. I would be more than happy to accept that invitation.

Senator STEVENS. Thank you. I shall give you some appropriate dates.

Secretary MINETA. Great.

SHORT SEA SHIPPING

Senator SHELBY. Thank you, Chairman Stevens.

Mr. Secretary, the Maritime Administration is considering exploring the potential for short sea freight shipping to assist in reducing highway congestion. Can you tell us more about this proposal?

Secretary MINETA. The goal of short sea shipping is to utilize our ports and inland waterways. There are two factors that are driving this. One is that ships are getting larger with more containers onboard, and our own ports are unable to handle these larger container ships. When the larger ships come in, you can take the containers, put them on barges and lighters and then move the containers from Boston to New York to Baltimore to Savannah, or wherever their transshipment points might be. This can provide some relief to the traffic that is already on the highways, especially along the Eastern I–95 seaboard.

Senator SHELBY. What about the Tennessee-Tombigbee down in the southeast?

Secretary MINETA. That is an inland waterway. We would look at inland waterways as part of this whole effort.

FEDERAL TRANSIT ADMINISTRATION REORGANIZATION

Senator SHELBY. Although FTA's senior management contends that its reorganization proposal is preliminary, the subcommittee has evidence that could lead a reasonable person to conclude that the plans have been finalized, Mr. Secretary, without your approval or Congressional approval. For example, we have information regarding staffing decisions, implementation schedules, and even office farewell parties. Not for you, of course.

I would like to work with you, I think the committee would, to ensure that FTA follows internal Departmental guidelines and the requirements expressed in the appropriations act. Are you willing to do that?

Secretary MINETA. Absolutely. There are situations where we have to ask what comes first? We have to abide by OPM regulations and by OMB regulations. The first body we have to look at related to reorganization is OPM.

There are a lot of things that need to be started in a preliminary way. None of these are set in concrete because we have to come to you for reprogramming requests. The requests have to clear our own internal channels within the Department and with OMB as well. In terms of my own reorganization of the Department, there are a number of things going on related to hazmat and to other parts of our Department.

So, yes, word gets out about intended organizational changes, but they are not carved in stone yet. We have to make sure that we are in compliance with what OPM says and OMB says. But we will definitely work with you, and we know that we have to do that. It is not a question of having to do it, we want to do it.

ADDITIONAL COMMITTEE QUESTIONS

Senator SHELBY. Thank you.

Senator Murray, do you have any other questions?

Senator MURRAY. No.

[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 RICHARD C. SHELBY

NATCA: PAY FOR PERFORMANCE

Question. Secretary Mineta, you stated earlier in testimony before the subcommittee that there are problems with NATCA units in delivering pay for performance. Please provide the Department's assessment of the problems that you alluded to in your testimony.

Answer. As we stated, the impasse was submitted to Congress. The statutory 60-day timeframe for Congress to act on the impasse has passed, so the FAA is now proceeding to implement its pay plan in the remaining NATCA bargaining units. The FAA is currently considering what its next steps are in this regard.

FTA ADMINISTRATIVE EXPENSES

Question. Please break out in detail the reasons for the administrative cost increases at the FTA.

Answer. The $4.8 million dollar increase in FTA's administrative expenses is necessary to carry out its mission. Funds will be used to strategically manage human resources, competitively outsource commercial functions, expand electronic government, improve financial management, and integrate budget and performance, as outlined in the President's Management Agenda. In doing so, FTA will enable the

long-term management of its workforce and fosters a citizen-centered, results-based government that is well organized, flexible, and will improve in performance.

Additional administrative expenses are needed as follows:

—An increase of $1.5 million is necessary to cover the annualized fiscal year 2004 pay raise and the annualized January 2005 pay raise, health benefits increase, and mandatory within grade increases.

—An increase of $1.02 million is needed to support ten additional FTEs. These resources are needed to comply with the expanded technical assistance requirements of projects in the planning process, implement statutory requirements for New Starts projects, meet the requirements of major program initiatives, and coordinate projects and reviews with other agencies, States and local project sponsors.

—An increase of $0.2 million is required due to the inability of the General Services Administration and the owner of the Headquarters' Nassif building to negotiate a new lease agreement at fair market value.

—An increase of $0.5 million is needed to cover inflation and increased service costs, which increases are in line with the OMB deflator for non-pay activities. Failure to fund inflation results in the agency's inability to pay the full cost of essential non-pay activities.

—An increase of $1.1 million is needed to continue improving our information technology infrastructure, which includes: application security and accreditation of information technology systems; an increase in the Transportation Award and Management System to facilitate grant processing and contract approval; and ensuring that the Information Technology infrastructure works with emerging technologies to support cost accounting and core accountabilities.

—An additional $0.5 million is needed to support workforce planning and training to ensure that there is available staff of the appropriate skill mix to carryout program development and oversight responsibilities.

MOTOR FUEL TAX EVASION

Question. Mr. Secretary, what suggestions do you have for getting the IRS to improve its efforts to reduce the estimated $1 billion in fuel tax evasion that occurs each year? Please provide for the record any correspondence from DOT to the Department of the Treasury about the importance of this issue.

Answer. The Department has proposed the authorization of $54.5 million for fiscal year 2005 to address motor fuel tax evasion. Of this amount, State enforcement agencies would share $4.5 million to enhance programs at the State level including but not limited to motor fuel tax audits and examinations, dyed fuel sampling, and training. Two million dollars would be set aside for intergovernmental enforcement efforts including specific projects coordinated with Federal and State agencies that are not traditionally involved in motor fuel tax enforcement as well as those that have been involved in the past, but currently may not be working on the issue.

The Internal Revenue Service (IRS) would receive the remaining $48 million. Of that amount, $4.5 million would be provided for the operation and maintenance of the automated fuel tracking system mandated by the Transportation Equity Act for the 21st Century. Forty-four million dollars would be used by the IRS to begin development, operation, and maintenance of a registration system for pipelines, vessels, and barges and their operators, that make bulk transfers of taxable fuels, including developing a decal/transponder to be used to display proof of payment. It would also be used to establish, operate and maintain an electronic database of heavy vehicle highway use tax payments; and for additional enforcement efforts including audits, examinations and criminal investigations.

The automated fuel tracking system provides an important tool to the IRS and the States for monitoring fuel tax compliance. The additional requirement of electronic reporting will allow the IRS to have more complete information on the movement of fuel into and out of terminals thus assisting IRS and State enforcement efforts.

The proposal to give the IRS significantly more funding than in the past comes with additional accountability. The IRS would be required to submit reports on progress made in the development of any new automated systems, criminal investigations, audits and examinations. Also, the Federal Highway Administration (FHWA) will be more involved in the development of any work plans related to new program requirements and in the oversight of such projects.

The expanded resources that will be available to the IRS for improved database systems and greater enforcement efforts will allow the agency more flexibility in its role as enforcer. The combined efforts of the IRS and the States resulting from the

significant increase in funding will provide an opportunity to reduce motor fuel tax evasion.

Interaction between the FHWA and the IRS most often takes place over the telephone or through face-to-face meetings. A memorandum of understanding between the FHWA and the IRS was signed to provide for the development of the automated fuel tracking system mandated in the TEA21. A scanned copy is provided.

REVISED MEMORANDUM OF UNDERSTANDING
BETWEEN THE
U.S. DEPARTMENT OF TRANSPORTATION (DOT) AND
THE INTERNAL REVENUE SERVICE (IRS)

OBJECTIVE: The objective of this revised Memorandum of Understanding (MOU) is to show changes to Section II, Item C as agreed upon by the U.S. Department of Transportation (DOT) and the Internal Revenue Service (IRS) for State funding under the provisions of Public Law 105-178, the Transportation Equity Act for the 21st Century (TEA-21), as amended, as they relate to highway use tax evasion projects.

GENERAL: On June 9, 1998, the President signed Public Law 105-178, authorizing highway, highway safety, transit, and other surface transportation programs for the next 6 years. TEA-21, as amended, builds on the initiatives established in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and combines the continuation and improvement of current programs with new initiatives to meet America's needs through efficient and flexible transportation. A key part of funding these highway improvements is the collection of Federal and State revenues used for this purpose.

Recognizing the need to ensure compliance for revenue collection, TEA-21 provides that the Secretary of Transportation, here and after referred to as the Secretary, shall carry out highway use tax evasion projects in accordance with the provisions of Section 1114 of TEA-21 which amends section 143 of title 23 of the United States Code (U.S.C.). Further, that the funds made available to carry out Section 1114, may be allocated to the IRS and the States, and that the Secretary shall not impose any condition on the use of funds allocated to the IRS under this subsection.

However, Title 23, U.S.C. Section 143 (b)(4), as amended, limits the use of funds, provides for the establishment and operation of an automated fuel reporting system, provides for a funding priority and a memorandum of understanding between the Secretary and IRS for the purposes of the development and maintenance by the IRS of an excise fuel reporting system.

The DOT and the IRS agree that:

I. LIMITATION ON USE OF FUNDS

Funds made available to carry out highway use tax evasion projects shall be used only:

(A) to expand efforts to enhance motor fuel tax enforcement;
(B) to fund additional IRS staff, but only to carry out functions described in this paragraph;

(C) to supplement motor fuel tax examinations and criminal investigations;
(D) to develop automated data processing tools to monitor motor fuel production and sales;
(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;
(F) to reimburse State expenses that supplement existing fuel tax compliance efforts; and
(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes.

II. AUTOMATED EXCISE FUEL REPORTING SYSTEM, (the system) a.k.a. Excise Fuel Information Reporting System (ExFIRS)

(A) The IRS shall develop and maintain the system through contracts;

(1) The IRS believes that a participative process with all stakeholders is the best method to use in the design and development of ExFIRS. By October 10, 1998, the IRS will form a workgroup with participants representing industry, States, the Federal Highway Administration (FHWA), and the IRS. The workgroup will be headed by the IRS Director, Excise Taxes and will develop an implementation plan to provide for a basic automated excise fuel reporting system, and for enhancements that will best serve the stakeholders, including industry, the States, the FHWA, other government agencies, the IRS, etc.
(2) Workgroup members will determine the system needs and assist the IRS in assembling an implementation plan for use in contracting;
(3) The IRS will use the most expeditious method to obtain qualified contractors to complete the project.
(4) The implementation plan will be a living document. The plan will be monitored by the workgroup on an ongoing basis with revisions to the content, scope, and timing, as needed.

(B) The system shall be under the control of the IRS;

(C) to allow for a transition of funding for the States, the IRS projects that the following funding can be made available to the States for motor fuel compliance projects.

FY99 -	$2,175,000.
FY00 -	$ 652,000.
FY01 -	$ 521,000.
FY02 -	$ 391,000.
FY03 -	$ 261,000.
Total -	$ 4,000,000.

(D) The system shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

III. FUNDING AVAILABILITY AND PRIORITY

(A) The Secretary shall, by Reimbursable Agreement, provide available funding to the IRS for the automated fuel reporting and for highway use tax evasion projects as described in TEA-21, as amended.

(B) The Secretary shall make available sufficient funds for each of Fiscal Years 1998 through 2003 to the IRS to establish and operate an automated fuel reporting system as its first priority.

IV. OVERSIGHT

The FHWA Director, Office of Transportation Policy Studies and the IRS Director, Specialty Taxes will review the development and implementation of highway use tax evasion project activity.

Kenneth R. Wykle 1-7-00		Charles O. Rossotti 1/21/99	
Kenneth R. Wykle	Date	Charles O. Rossotti	Date
Administrator		Commissioner	
Federal Highway Administration		Internal Revenue Service	

OVERSIGHT OF MEGA-PROJECTS

Question. In your earlier testimony you indicated that project managers will provide improved oversight of mega-projects. What estimated cost savings can the committee expect to see in these types of projects? What type of review occurs prior to awarding a contract to determine if the contractor has actually underbid the true costs? Should more oversight occur in this area? What results could we expect to see?

Answer. The Federal Highway Administration (FHWA) is assigning a designated Project Oversight Manager to each active major project, dedicated full-time to that specific major project. The Oversight Manager may draw upon resources from within his/her Division Office in order to form an integrated project team that is responsible for providing proper Federal stewardship and oversight of the major project. The Project Oversight Manager is responsible for the overall administration and operation of the Project from a Federal stewardship/oversight perspective. He/she maintains an ongoing review process to ensure that proper oversight and controls are in place and functioning including cost containment and financial management. While the cost savings are difficult to quantify, having an FHWA official on-site has resulted in efficiencies in project management. In addition, the FHWA's independent review of the costs and schedules via finance plans and annual updates have contributed to efficiencies in cost and schedule control.

Title 23, Code of Federal Regulations (CFR), part 635, section 114(a) requires design-bid-build Federal-aid contracts to be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting the criteria of responsibility. This requirement applies to all Federal-aid projects, including major projects. For Federal-aid projects that are determined to be "State-approved projects", the State Transportation Agency (STA) may act for the FHWA in the bid analysis and award process, but must follow the justification and documentation procedures of 23 CFR 635.114(b–j) by documenting the project files. STAs may follow their own justification and documentation procedures for non-NHS projects.

Bid analysis is the basis for justifying contract award or rejection of the bids. The bid analysis process, pursuant to 23 CFR 635.114(c), is an examination of the unit bid prices for reasonable conformance with the engineer's estimated prices and other factors beyond the comparison of prices. A proper bid analysis helps to ensure that funds are being used in the most effective manner. The FHWA's review of the bids should parallel the STA's review. Together, both agencies should be assured that good competition and the lowest possible price were received. The FHWA's concurrence in award is a step in the obligation and expenditure of Federal funds and is the authorization to proceed with construction.

The current oversight of the bidding process is adequate. Division Offices are actively involved with the processes of the State DOTs to assure that 23 CFR requirements are met. In addition, the concurrence in award process serves as an additional check and is only provided after receipt and review of the tabulation of bids. This applies to all Federal-aid oversight projects, including major projects. Division Offices also conduct process reviews of the bidding process when appropriate.

The oversight provided by the Major Project Oversight Manager model has been successful and has provided for adequate oversight. However, the Agency is constantly striving to provide the employees in these positions the tools to enhance their abilities to improve their oversight. For instance, in the upcoming year, the Agency will be providing multidisciplinary training in several core competency areas: project management, financial management, cost estimating, communications, and leadership. In addition, the FHWA Contract Administration Course contains modules which address the bidding process.

By continuing to improve the core competencies of the Major Project Oversight Managers, the Agency can expect to see a cadre of FHWA managers who are able to provide more of a collaborative leadership role to major projects. In this role, the Managers will work together with the entire project delivery team to deliver major projects that maintain the public's trust and confidence in our ability to deliver the Federal-aid Highway Program. The additional training provided about the bidding process to both Federal and State employees via the Contract Administration Course results in an awareness of the bidding process requirements and sound procedures that optimize process efficiencies and limits opportunities for legal challenges and fraud.

For the Federal Transit Administration (FTA) and the oversight of mega-projects, future projects will be tightly managed to ensure the project cost will not exceed 5 percent of the baseline project cost. A project recovery plan will be required when the projected baseline cost is going to exceed more than 5 percent. To determine whether a contractor may have underbid the cost, a bid analysis will continue to

be performed prior to awarding the contract. FTA will continue to review the grantee's bid analysis to ensure project cost control. Increased oversight reviews will result in more successful projects such as the New Orleans Canal Streetcar Line, Dallas North Central LRT and Interstate Max LRT in Portland.

As for the Federal Aviation Administration (FAA), they too have a process to review the costs of major airport improvement projects and continue to perform significant oversight functions. All Airport Improvement Program grantees must perform an analysis of cost or price for all procurement actions, including contract modifications.

FULL FUNDING GRANT AGREEMENT COMMITMENT AUTHORITY

Question. Earlier in the hearing, Mr. Secretary, you were asked how FTA would chose from among projects that it has proposed to enter into full funding contracts during fiscal year 2005 without sufficient commitment authority to cover all of the projects. Please explain this for the record. What methodology would be used?

Answer. There is sufficient commitment authority to cover all of the projects recommended for Section 5309 New Starts funding in the President's Budget for fiscal year 2005 and the Annual Report on New Starts: Proposed Allocations of Funds for fiscal year 2005 (the current "Annual New Starts Report"). Year by year, in each Presidential Budget and Annual New Starts Report for the coming fiscal year, the Department and FTA make recommendations for New Starts funding only insofar as there is sufficient commitment authority available to cover those recommendations—the Department and FTA never exceed the amount of available commitment authority.

In any given year, the selection of projects for proposed Full Funding Grant Agreements is based on: (1) the relative merits of the projects under consideration, and (2) the "readiness" of each project under consideration to begin construction. Specifically, the relative merits of each project are determined through FTA's application of both the project justification and local financial commitment criteria established by 49 U.S.C. § 5309(e) and fleshed out by the regulations at 49 C.F.R. Part 611. The "readiness" of each project is a judgment of the reliability of the cost, budget, and schedule for that project, in light of a number of factors, including the grantee's demonstration of its technical capacity to build and operate the project, its execution of all principal third-party agreements relevant to the project, an assessment of the risks inherent in the project that could affect cost and schedule, and the level of engineering and final design that has been completed.

MOTOR CARRIER SAFETY AUDITS

Question. Given the high passage rate of FMCSA safety audits, some critics charge that the FMCSA safety audit procedure has become more of an outreach and education campaign than a safety assurance mechanism. Please explain why the administration of the Safety Audit process of the New Entrant program by FMCSA is an optimal use of the resources allocated to ensuring that unqualified carriers are kept off the roads.

Answer. Data shows that new entrants are identified as at-risk carriers. The program was originally designed as an outreach and education effort. FMCSA is retooling the program to give it a greater enforcement focus. The concept is to engage carriers at the beginning of operations so there is not as a great a need to perform compliance reviews, a more optimal use of Agency resources. FMCSA will work to tie new entrant audits and compliance reviews together as the programs advance.

FMCSA is developing a rulemaking proposal that would strengthen the pass/fail criteria for the new entrant program. The rulemaking enhancements will identify carriers without basic safety management controls. As a result of our proposed changes, FMCSA anticipates a significant increase in the number of enforcement actions taken against new entrant carriers.

MOTOR CARRIER COMPLIANCE REVIEWS

Question. As FMCSA has increased the number of new entrant safety audits, the number of compliance reviews it undertakes has dropped significantly. Why has the number of compliance reviews dropped so sharply in recent months? Is the level of funding that is requested in fiscal year 2005 sufficient to meet the goals of the agency? Do you believe that a safety audit can substitute for a compliance review? Do you intend to increase the number of compliance reviews in the remainder of fiscal year 2004 and fiscal year 2005?

Answer. The number of compliance reviews has dropped significantly due primarily to the focus on Safety Security Visits as a result of September 11, 2001, and the implementation of the new entrant program. Prior to the program's implementa-

tion, FMCSA conducted approximately 12,000 compliance reviews per year. Currently, the Agency conducts approximately 8,000 per calendar year. In fiscal year 2004, more States will begin to conduct safety audits. However, FMCSA does not expect to realize fully the benefit of State participation until fiscal year 2005.

The new entrant audit was originally designed as an educational tool for carriers beginning interstate operations rather than a substitute for the compliance review program. A compliance review may be conducted on new entrants during the safety monitoring period if their performance warrants such a review. To meet the Motor Carrier Safety Improvement Act's statutory requirement to conduct these new entrant safety audits, FMCSA diverted resources from the conduct of compliance reviews to the conduct of 40,000–50,000 new entrant audits annually. As a result, FMCSA expects to conduct approximately 7,500 compliance reviews in fiscal year 2004, which is 500 lower than FMCSA's goal of completing 8,000 compliance reviews in fiscal year 2004. However, FMCSA expects to meet its target of 8,000 compliance reviews in fiscal year 2005.

INTELLIGENT TRANSPORTATION SYSTEMS ADVISORY COMMITTEE

Question. The Department disbanded the Intelligent Transportation Systems (ITS) Advisory Committee more than a year ago. Do you plan to appoint new members to the ITS Advisory Board or is this body no longer necessary?

Answer. Two years ago, the Department of Transportation's (DOT) leadership undertook an internal review of the future direction of the ITS program. A key decision resulting from that examination was to establish a Federal Advisory Committee to the DOT for ITS. From the ITS program's inception a dozen years ago until June 2003, ITS America had served in this advisory capacity and was well positioned to bring government and industry together in development of the ITS program. As the ITS industry and the DOT's ITS program matured, DOT leadership concluded that the time was right to consider a new Advisory Committee. This tested method of consultation with the public serves the Department well across other modes of transportation, and the ITS Advisory Committee would give the Department a new and valuable consultative asset. A new DOT Advisory Committee is being considered under the Federal Advisory Committee Act. Organizations and individuals with resources and expertise to offer meaningful advice would be invited to serve.

SHIP DISPOSAL

Question. How many obsolete vessels from the National Defense Reserve Fleet will be disposed of with the funds provided in fiscal year 2004?

Answer. The Maritime Administration (MARAD) has removed 13 ships so far in fiscal year 2004, resulting from contracts awarded with fiscal year 2003 funding. MARAD anticipates awards, utilizing funds provided in fiscal year 2004, to result in the disposal of an additional 12 obsolete ships from the NDRF.

Question. How many ships does MARAD plan to dispose of in fiscal year 2005 if the requested amount is provided?

Answer. MARAD plans to dispose of approximately 15 vessels from the National Defense Reserve Fleet.

Question. What is MARAD's plan for meeting the 2006 deadline to dispose of all of the obsolete fleet?

Answer. While the Congressionally mandated September 30, 2006 deadline was for the removal of all vessels, a more achievable goal is to remove all vessels that have a high or moderate risk by 2006. To reach that goal, MARAD plans to eliminate the backlog of vessels that accumulated in the 1990's; remove all "high" and "moderate" priority ships (approximately 65 ships) at a rate of 20–24 ships per year; and maintain only "low" priority ships at the fleet sites. MARAD's annual target is to maintain no more than 40–60 low priority vessels at all three fleet sites. With the projected designation of 45 ships as obsolete over the next 3–5 years, an annual disposal rate of 20–24 ships will have to be maintained for 3–4 years beyond 2006, to achieve and maintain an obsolete vessel fleet size at a maximum range of 40–60 ships.

In addition to maintaining only "low" priority obsolete ships at the fleets, further mitigation of environmental risks will be achieved by continuing to use the established protocol for the acceptance of vessels into the National Defense Reserve Fleet and the practices used when downgrading vessels to non-retention status. This includes accomplishment of material condition and liquid load surveys, removal of readily removable hazardous materials, preliminary residual hazardous material characterization, and defueling of vessels to the maximum extent. In addition, as newer vessels (built after 1980) are downgraded to non-retention status and enter the fleets, a decline in the quantities of hazmats, such as, PCBs will be evident.

While MARAD will continue to pursue all disposal options to ensure the best value disposal decisions, having foreign recycling as a viable disposal option in 2004–2006 and beyond will help MARAD achieve the annual goal of reducing the inventory by 20–24 vessels.

MARITIME GUARANTEED LOANS (TITLE XI)

Question. Public Law 108–11 prohibited the obligation of funds under the Title XI program until the Inspector General (IG) certifies that MARAD has adopted and implemented the recommendations of No. CR–2003–031 to his satisfaction. What is the status of the implementation of these recommendations?

Answer. MARAD and the Office of the Inspector General have been working closely to adopt and implement the recommendations contained in the report. A formal IG report providing the certification is expected in June 2004.

PRESIDENTIAL AND POLITICAL APPOINTEES

Question. Please provide the number of presidential and political appointees currently on board at the Department and break out by operating administration and office of the Office of the Secretary as well as by title and grade.

Answer. The information follows.

PRESIDENTIAL, SENIOR EXECUTIVE SERVICE NON-CAREER, AND SCHEDULE C APPOINTEES AS OF MAY 4, 2004

Title	Grade
OFFICE OF THE SECRETARY	
Presidential Appointee—Immediate Office of the Secretary:	
Secretary	EX–I
Non-career SES—Immediate Office of the Secretary:	
Chief of Staff	ES–00
Assistant to the Secretary for Policy	ES–00
Assistant to the Secretary for Policy	ES–00
Deputy Chief of Staff	ES–00
Schedule C—Immediate Office of the Secretary:	
White House Liaison	GS–15
Assistant to the Secretary for Policy	GS–15
Assistant to the Secretary for Policy	GS–14
Special Assistant to the Secretary and Deputy Director for Scheduling and Advance	GS–14
Director for Scheduling and Advance	GS–15
Special Assistant for Scheduling and Advance	GS–13
Scheduling and Advance Assistant	GS–7
Limited Term SES—Office of the Deputy Secretary:	
Acting Deputy Secretary/Counselor to the Secretary	ES–00
Schedule C—Office of the Deputy Secretary:	
Counselor to the Deputy Secretary	GS–15
Presidential Appointee—Office of the Under Secretary of Transportation for Policy:	
Under Secretary	EX–II
Non-career SES—Office of the Under Secretary of Transportation for Policy:	
Counselor to the Under Secretary	ES–00
Schedule C—Office of the Under Secretary of Transportation for Policy:	
Executive Assistant to the Under Secretary	GS–12
Non-career SES—Executive Secretariat:	
Director	ES–00
Non-career SES—Office of Civil Rights:	
Director	ES–00
Non-career SES—Office of Small & Disadvantaged Business Utilization:	
Director	ES–00
Non-career SES—Office of the Chief Information Officer:	
Chief Information Officer	ES–00
Non-career SES—Office of Public Affairs:	
Assistant to the Secretary and Director of Public Affairs	ES–00
Schedule C—Office of Public Affairs:	
Deputy Director of Public Affairs	GS–15
Deputy Director of Communications	GS–15
Associate Director for Speechwriting	GS–15
Speechwriter	GS–15

PRESIDENTIAL, SENIOR EXECUTIVE SERVICE NON-CAREER, AND SCHEDULE C APPOINTEES AS OF MAY 4, 2004—Continued

Title	Grade
Speechwriter	GS–14
Special Assistant to the Director	GS–14
Special Assistant for Public Affairs	GS–10
Presidential Appointee—Assistant Secretary for Budget and Programs:	
Assistant Secretary & CFO	EX–IV
Non-career SES—Office of the Assistant Secretary for Budget and Programs:	
Deputy Assistant Secretary for Management and Budget	ES–00
Presidential Appointee—Office of the General Counsel:	
General Counsel	EX–IV
Presidential Appointee—Office of the Assistant Secretary for Transportation Policy:	
Assistant Secretary	EX–IV
Non-career SES—Office of the Assistant Secretary for Transportation Policy:	
Deputy Assistant Secretary	ES–00
Schedule C—Office of the Assistant Secretary for Transportation Policy:	
Special Assistant to the Assistant Secretary	GS–12
Presidential Appointee—Office of the Assistant Secretary for Aviation and International Affairs:	
Assistant Secretary	EX–IV
Non-career SES—Office of the Assistant Secretary for Aviation and International Affairs:	
Deputy Assistant Secretary	ES–00
Schedule C—Office of the Assistant Secretary for Aviation and International Affairs:	
Special Assistant	GS–15
Presidential Appointee—Office of the Assistant Secretary for Governmental Affairs:	
Assistant Secretary	EX–IV
Non-career SES—Office of the Assistant Secretary for Governmental Affairs:	
Deputy Assistant Secretary	ES–00
Schedule C—Office of the Assistant Secretary for Governmental Affairs:	
Special Assistant to the Assistant Secretary	GS–15
Associate Director for Governmental Affairs	GS–14
Associate Director for Governmental Affairs	GS–13
Associate Director for Governmental Affairs	GS–13
Associate Director for Governmental Affairs	GS–13
Associate Director for Intergovernmental Affairs	GS–14
OFFICE OF INSPECTOR GENERAL	
Presidential Appointee:	
Inspector General	EX–IV
FEDERAL AVIATION ADMINISTRATION	
Presidential Appointee:	
Administrator	EX–II
Deputy Administrator	EX–IV
Non-career SES:	
Chief Counsel	FJ–4
Associate Administrator for Airports	FJ–4
Assistant Administrator for International Aviation	FJ–4
Assistant Administrator for Aviation Policy, Planning & Environment	FJ–4
Assistant Administrator for Government & Industry Affairs	FJ–4
Assistant Administrator for Public Affairs	FJ–4
Schedule C:	
Special Assistant to the Deputy Administrator	GG–15
FEDERAL HIGHWAY ADMINISTRATION	
Presidential Appointee:	
Administrator	EX–II
Non-career SES:	
Deputy Administrator	ES–00
Chief Counsel	ES–00
Associate Administrator for Public Affairs	ES–00
Associate Administrator for Policy	ES–00
Schedule C:	
Special Assistant to the Administrator	GS–15
Special Assistant	GS–14
Special Assistant to the Policy Director	GS–14

PRESIDENTIAL, SENIOR EXECUTIVE SERVICE NON-CAREER, AND SCHEDULE C APPOINTEES AS OF MAY 4, 2004—Continued

Title	Grade
Special Assistant to the Chief Counsel	GS–13
FEDERAL RAILROAD ADMINISTRATION	
Presidential Appointee:	
Administrator	EX–III
Non-career SES:	
Deputy Administrator	ES–00
Schedule C:	
Director of Public Affairs	GS–13
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION	
Presidential Appointee:	
Administrator	EX–III
Non-career SES:	
Deputy Administrator	ES–00
Chief Counsel	ES–00
Associate Administrator for External Affairs	ES–00
Schedule C:	
Special Assistant	GS–15
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION	
Presidential Appointee:	
Administrator	EX–III
Non-career SES:	
Deputy Administrator	ES–00
Chief Counsel	ES–00
Schedule C:	
Director, Office of Communications & Senior Policy Advisor	GS–15
Special Assistant to the Administrator for Intergovernmental Affairs	GS–14
FEDERAL TRANSIT ADMINISTRATION	
Presidential Appointee:	
Administrator	EX–III
Non-career SES:	
Deputy Administrator	ES–00
Chief Counsel	ES–00
Schedule C:	
Staff Assistant	GS–10
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION	
Non-career SES:	
Deputy Administrator	ES–00
Schedule C:	
Director of Policy and Program Support	GS–15
SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION	
Presidential Appointee:	
Administrator	EX–IV
SURFACE TRANSPORTATION BOARD	
Presidential Appointee:	
Chairman	EX–III
MARITIME ADMINISTRATION	
Presidential Appointee:	
Administrator	EX–III
Non-career SES:	
Deputy Administrator	ES–00
Chief Counsel	ES–00
Schedule C:	
Director, Office of Congressional and Public Affairs	GS–15
Special Assistant to the Administrator	GS–14

Question. Please provide by operating administration or office of the Office of the Secretary the number of vacant presidential and political positions and the grade and 2005 salary for each position.

Answer. The information follows.

VACANT PRESIDENTIAL AND POLITICAL POSITIONS—AS OF MAY 04, 2004

Title	Grade	Salary
Office of the Secretary:		
Deputy Secretary	EX–II	$158,100
Special Assistant for Scheduling and Advance	GS–7	34,184
Director of Drug Enforcement and Program Compliance	GS–15	100,231
Deputy Assistant Secretary for Governmental Affairs	ES–0	125,264
Associate Director for Governmental Affairs	GS–14	96,572
Federal Aviation Administration:		
Deputy Assistant Administrator for Government and Industry Affairs	GS–15	110,256
Maritime Administration:		
Senior Policy Advisor	GS–15	113,597
National Highway Traffic Safety Administration:		
Director, Office of Public and Consumer Affairs	GS–15	113,597
Director of Intergovernmental and Congressional Affairs	GS–15	113,597
Federal Transit Administration:		
Associate Administrator for Communications and Legislative Affairs	ES–0	137,000
Research and Special Programs Administration:		
Administrator	EX–III	145,600
Special Assistant	GS–12	68,722
Director of Public Affairs	GS–15	113,597
Bureau of Transportation Statistics:		
Director	EX–V	128,200
Surface Transportation Board:		
Board Member	EX–IV	136,900
Board Member	EX–IV	136,900

NOTES.—The PAS salaries are based on the statutory pay level. The SES salaries are based on the middle of the new senior executive pay range, or a salary determined for the proposed incumbent. The GS salaries are based on the middle of the range (step 5) for each grade (as previously encumbered), or as proposed.

Question. How many new political positions are requested for fiscal year 2005?

Answer. There are 10 new political positions being requested for fiscal year 2005.

Question. Please display by office of the Office of the Secretary or operating administration, each new political position and its grade and salary.

Answer. The information follows.

Title	Grade	Salary
Office of the Secretary:		
Special Counsel	GS–15	$113,597
Special Assistant (to the A/S for Trans. Policy)	GS–15	113,597
Special Assistant (to the A/S for Aviation & International Affairs	GS–14	96,572
Security Liaison	GS–15	113,597
Special Assistant for Information Technology Security	GS–15	113,597
Federal Railroad Administration:		
Deputy Administrator	ES–0	125,264
Special Assistant	GS–15	113,597
Federal Transit Administration:		
Special Assistant for Intergovernmental Affairs	GS–15	113,597
Federal Motor Carrier Safety Administration		
Special Assistant	GS–12	68,722
Research and Special Programs Administration:		
Special Assistant	GS–12	68,722

The SES position salaries are estimated at the middle of the new senior executive pay range, or based on a salary determined for the proposed incumbent.

The GS salaries are estimated at the middle of the range (step 5) for each grade proposed.

Question. Please provide a timetable for filling vacant political positions up to the statutory cap.

Answer. The information follows.

VACANT POLITICAL POSITIONS—AS OF MAY 04, 2004

Title	Grade	Salary	Incumbent Status
Office of the Secretary:			
Deputy Secretary	EX–II	$158,100	Pending Senate Confirmation Candidate to come aboard—6/13/04
Special Assistant for Scheduling and Advance	GS–15	100,231	Candidate to come aboard—6/13/04
Director of Drug Enforcement and Program Compliance	ES–00	125,264	Interviewing—candidate to come aboard
Associate Director for Governmental Affairs	GS–14	96,572	Interviewing
Federal Aviation Administration:			
Deputy Assistant Administrator for Government and Industry Affairs.	GS–15	110,256	Candidate to come on Board—6/13/04
Maritime Administration:			
Senior Policy Advisor	GS–15	113,597	Interviewing
National Highway Traffic Safety Administration:			
Director, Office of Public and Consumer Affairs	GS–15	113,597	Interviewing
Director of Intergovernmental and Congressional Affairs	.....	.....	
Federal Transit Administration:			
Associate Administrator for Communications and Legislative Affairs.	ES–0	137,000	Candidate to come aboard—6/1/04
Research and Special Programs Administration:			
Administration	EX–III	145,600	Interviewing
Special Assistant	GS–12	68,722	Interviewing
Director of Public Affairs	GS–15	113,597	Interviewing
Bureau of Transportation Statistics:			
Director	EX–V	128,200	Interviewing
Surface Transportation Board:			
Board Member	EX–IV	136,900	Pending Senate Confirmation
Board Member	EX–IV	136,900	Pending Senate Confirmation

Question. Please provide a table that compares the number of political appointees by agency or by office of the Office of the Secretary over the last 5 years.

Answer. The information follows.

Operating Administration	Fiscal Year				
	2000	2001	2002	2003	2004 As of 5/4/04
Secretarial Offices	25	20	29	25	25
Budget and Programs	3	1	1	0	2
General Counsel	0	1	1	1	1
Governmental Affairs	9	7	9	8	8
Administration	1	0	0	0	0
Transportation Policy	6	1	3	3	3
Federal Aviation Administration	5	4	7	9	9
Federal Highway Administration	5	1	9	7	9
National Highway Traffic Safety Administration	7	2	7	5	5
Federal Railroad Administration	4	2	3	2	3
Federal Transit Administration	3	2	5	5	4
Saint Lawrence Seaway Development Corp	1	1	1	1	1
Research and Special Programs Administration	4	2	3	3	2
Office of the Inspector General	1	1	1	1	1
Bureau of Transportation Statistics	1	1	1	0	0
Surface Transportation Board	3	3	2	1	1
Maritime Administration	5	1	5	5	5
TOTAL	85	51	90	82	87

OST STAFFING

Question. Please provide a table that compares the estimated average grade for each office of the Office of the Secretary for fiscal year 2005 with the past 5 fiscal years.

Answer. The information follows.

FISCAL YEAR 2001–2005 AVERAGE GRADES

Office	Fiscal Year 2001	Fiscal Year 2002	Fiscal Year 2003	Fiscal Year 2004 (Est.)
Secretarial Offices	10.9	10.9	11.1	11.1
Budget & Programs	11.6	11.8	11.8	11.3
General Counsel	11.8	11.7	11.9	12.0
Governmental Affairs	10.1	11.0	11.6	11.2
Administration	11.8	11.4	11.1	11.2
Aviation & Int'l Affairs	11.0	11.1	11.1	11.1
Transportation Policy	10.6	10.0	10.0	10.3

NOTE.—Fiscal year 2005 data not available.

Question. Please provide a table listing by office of the Office of the Secretary, on-board staffing and FTE for fiscal year 2000, through 2004 and the fiscal year 2005 requested full-time positions and FTE.

Answer. The information follows.

OST STAFFING SALARIES AND EXPENSES—POSITIONS AND FTE

Office	Fiscal Year 2000 Actual		Fiscal Year 2001 Actual		Fiscal Year 2002 Actual		Fiscal Year 2003 Request		Fiscal Year 2004 Request		Fiscal Year 2005 Request	
	FTP	FTE	FTP	FTE	FTP	FTE	FTP	FTE	FTP	FTE	FTP	FTE
General Counsel	87	81	92	81	112	92	112	106	106	100	106	100
Under Sec Transportation Policy	34	30	33	29	33	29	133	129	132	128	132	128
Aviation/International Affairs [1]	94	94	92	87	92	92	.....	.....	.....	.....	.....	.....
Budget and Programs	56	56	56	51	56	44	56	56	55	55	55	55
Governmental Affairs	24	24	24	18	24	21	24	24	24	24	24	24
Administration [2]	81	61	81	67	82	99	83	79	86	84	86	84
Public Affairs	21	20	21	18	21	19	21	21	21	21	21	21
Office of the Secretary	23	22	22	22	22	21	22	22	22	22	22	22
Office of the Deputy Secretary	7	6	7	4	7	6	7	7	7	7	7	7
Office of Intermodalism [3]	10	10	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Office of the Executive Secretariat	15	15	15	14	15	15	15	15	15	15	15	15
Board of Contract Appeals	6	5	6	5	5	5	6	6	6	6	6	6
Small and Disadvantaged Business	12	12	12	9	12	10	12	12	11	11	11	11
Intelligence and Security [4]	12	11	12	11	12	8	[15]	[14]	15	15	15	15
Ofc of the Chief Information Officer	21	21	21	21	21	22	25	23	25	25	25	25
Total staffing, Salaries & Expenses	503	468	494	437	514	483	516	500	525	513	525	513

[1] Beginning in fiscal year 2003, the Office of Aviation/International Affairs is consolidated in the Office of the Under Secretary of Transportation for Policy.
[2] For fiscal year 2002, the Office of Administration includes FTE associated with the standup of the Transportation Security Administration.
[3] For fiscal years 2001 and 2002, the Office of Intermodalism is funded within FHWA. The fiscal year 2003 budget transfers the Office of Intermodalism from FHWA to OST Under Secretary of Transportation for Policy.
[4] For fiscal year 2003, the Office of Intelligence and Security is funded under reimbursable agreement.

FUNDING LEVELS FOR OST OFFICES

Question. Please provide a table displaying the enacted level for fiscal years 2002, 2003, 2004 for each office of the Office of the Secretary and the amount of any transfers of funds between offices (or to date for fiscal year 2004).

Answer. The table below provides the enacted level for fiscal years 2002, 2003, 2004 for each office of the Office of the Secretary. There were no enacted transfers of funds between OST offices for fiscal years 2002, 2003, or 2004 (as of May 31, 2004).

OFFICE OF THE SECRETARY ENACTED LEVELS FOR FISCAL YEAR 2002 THRU FISCAL YEAR 2004

[In thousands of dollars]

Accounts	Fiscal Year 2002 Enacted	Fiscal Year 2003 Enacted	Fiscal Year 2004 Enacted
SALARIES & EXPENSES:			
Office of the Secretary	1,929	2,197	2,179
Office of the Deputy Secretary	619	804	690
Office of the Under Secretary of Transportation for Policy		12,300	12,141
Aviation/International Affairs [1]	10,479		
Office of Intermodalism [2]			
Board of Contract Appeals	507	607	690
Office of Small & Disadvantaged Business Utilization	540	1,259	1,251
Office of Intelligence & Security [3]	1,321	[1,631]	1,972
Office of the Chief Information Officer	6,141	13,026	7,396
Office of General Counsel	13,355	15,466	14,985
Office of Governmental Affairs	2,282	2,423	2,267.6
Office of the Assistant Secretary for Budget	7,728	8,273	8,418
Office of the Assistant Secretary of Administration	19,250	28,717	22,984
Office of Public Affairs	1,723	1,903	1,889
TOTAL: SALARIES & EXPENSES	67,078	88,357	78,290
TRANSPORTATION PLANNING RESEARCH & DEVELOPMENT (TPR&D)	11,580	23,463	20,426
OFFICE OF CIVIL RIGHTS	8,362	8,514	8,365
MINORITY BUSINESS OUTREACH	3,000	2,949	2,958
MINORITY BUSINESS RESOURCE CENTER PROGRAM (MBRC)	900	894	895
ESSENTIAL AIR SERVICE/PAYMENTS TO AIR CARRIERS	62,952	51,761	51,662
NEW HEADQUARTERS BUILDING	0	0	0
TOTALS	153,872	175,938	162,596

[1] Beginning in fiscal year 2003, the Office of Aviation/International Affairs is consolidated in the Office of the Under Secretary of Transportation for Policy.

[2] For fiscal year 2002, the Office of Intermodalism was funded within FHWA. Beginning in fiscal year 2003 the Office of Intermodalism transfers from FHWA to OST Office of the Under Secretary of Transportation for Policy.

[3] In fiscal year 2003, the Office of Intelligence and Security was funded through a reimbursable agreement.

DETAILS TO THE OFFICE OF THE SECRETARY

Question. Are any staff of the operating administrations detailed to the Office of the Secretary?

Answer. Three employees from the Federal Highway Administration are detailed to the Office of the Secretary.

OST TRAVEL COSTS

Question. Are any travel costs for the Office of the Secretary expected to be paid by the modes?

Answer. In certain circumstances, travel costs for the Secretary are paid for by the operating administrations. For example, if the Secretary attends an event related to airports, the Federal Aviation Administration may pay for the Secretary's travel expenses. The Secretary's attendance at these events helps to enhance the missions of the operating administrations.

Question. Please provide a table indicating the amount of travel costs for the Office of the Secretary that operating administrations paid for in part or in total. Please breakdown by operating administrations for the past 5 years.

Answer. The information follows.

IMMEDIATE OFFICE OF THE SECRETARY

Direct	Fiscal Year 2000	Fiscal Year 2001	Fiscal Year 2002	Fiscal Year 2003	Fiscal Year 2004
MARAD	.....	.....	.....	$1,400	.....
FAA	.....	.....	.....	.....	$2,826
NHTSA	.....	.....	.....	.....	12,633
FTA	$1,638	.....	$3,804	541	122
FRA	156	$703	.....	.....	.....
FHWA	1,865	1,891	1,339	730	988
FMCSA	.....	.....	.....	724	584
RSPA	.....	.....	.....	.....	654
USCG	462	.....	.....	.....	.....
Total	4,121	2,594	5,143	3,395	17,807

Question. Are there guidelines from the Office of the Secretary to the operating administrations that define the circumstances under which the Secretarial travel is paid by the modes? If so, please provide for the record.

Answer. There are no formal written guidelines, but in practice, the modes may be asked to cover the cost of the Secretary's advance staff if an administrator requests the Secretary's presence at an event or conference that deals specifically with the mission of that particular mode. The Secretary's own travel and per diem costs are paid by his immediate office.

Question. Has the DOT General Counsel ever looked at the practice of operating administrations paying for OST travel costs to be in compliance with the general provision carried annually in appropriations Acts prohibiting assessments? Please provide the legal opinion, if there is one, for the record.

Answer. Staff attorneys in the Office of the General Counsel have periodically provided oral advice to agency officials and staff concerning applicable restrictions on making assessments to help fund OST travel costs that are contained in our annual appropriations acts. The General Counsel and his staff have not issued any legal opinions that address this subject.

CHARGES TO THE MODES BY OST

Question. Please provide a list of all accounts that are financed by charges to the modes from OST.

Answer. There are no OST accounts that are financed by charges to the modes. However, for services provided by OST to the modes, charges are collected through reimbursable agreements. For fiscal year 2004, Salaries and Expense and Office of Civil Rights accounts have reimbursable agreements with the modes.

PROPOSALS TO REORGANIZE OST OFFICES

Question. Is there any proposal to consolidate or reorganize any office of the Office of the Secretary assumed in the fiscal year 2005 budget request?

Answer. No, there was no proposal to consolidate or reorganize any office of the Office of the Secretary assumed in the fiscal year 2005 request; however, on June 25, 2004, President Bush transmitted a fiscal year 2005 budget amendment to Congress that would place the operational responsibility for the Office of Emergency Transportation and Crisis Management Center from the Research and Special Programs Administration to the Office of the Secretary.

PROPOSALS TO CONSOLIDATE OST BUDGET ACTIVITIES

Question. Does the fiscal year 2005 budget request reflect any proposals to consolidate budget activities of the Office of the Secretary?

Answer. The fiscal year 2005 request reflects a consolidated budget activity for the Office of the Secretary, the Office of the Deputy Secretary and the Executive Secretariat. This will provide greater flexibility in the day-to-day management of the Offices.

PROPOSALS TO REORGANIZE MODAL OFFICES

Question. Are there any proposals or plans to consolidate, reorganize, or restructure any offices of the operating administrations in fiscal year 2005?

Answer. In fiscal year 2005, the Department plans to consolidate, reorganize, or restructure the following offices:

Federal Aviation Administration (FAA)

The FAA continues to reorganize lines of business and services within the newly created Air Traffic Organization. Also, the Flight Service Stations are currently undergoing an A–76 study which will result in the contracting out or a restructuring of this operation within FAA. Results of this will not be finalized until March 2005.

Research and Special Programs Administration (RSPA)/Office of the Secretary of Transportation (OST)

On June 25, 2004, President Bush transmitted a fiscal year 2005 budget amendment to Congress that would place the operational responsibility for the Office of Emergency Transportation and Crisis Management Center from RSPA to OST.

IMMEDIATE OFFICE OF THE SECRETARY

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Immediate Office of the Secretary by object class.

Answer. The information follows.

[In thousands of dollars]

Object Class	Amount
Full-time permanent	1,522
Other than full-time permanent	364
Other personnel compensation	29
Total personnel compensation	1,915
Civilian personnel benefits	507
Travel & transportation of things	209
Other services	14
Supplies and materials	12
Total	2,738

Question. Please explain in detail the assumptions used to develop the fiscal year 2005 budget request for personnel compensation and benefits of the Immediate Office of the Secretary.

Answer. The assumptions used to develop the Immediate Office of the Secretary's budget request for personnel compensation and benefits are computed as follows: (1) Salary and related benefits from the previous year (fiscal year 2004) are computed based on enacted levels; (2) The fiscal year 2004 enacted level is annualized to fund the full year cost of the fiscal year 2004 pay raise (4.1 percent for an additional one-fourth of a year) and to fully fund the cost of any other personnel actions that occurred in fiscal year 2004; (3) The fiscal year 2005 base is inflated by the proposed fiscal year 2005 pay raise estimated at 1.5 percent (for three-fourths of a year). No new staff increases are proposed for fiscal year 2005.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Immediate Office of the Secretary.

Answer. The information follows.

	Positions	FTE
Direct	15	15
Reimbursable	7	7

Question. Please provide a table listing current staffing for the Immediate Office of the Secretary compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The 5-year FTE history is as follows:

FISCAL YEAR 2001 ACTUAL	22
FISCAL YEAR 2002 ACTUAL	21
FISCAL YEAR 2003 ACTUAL	20
FISCAL YEAR 2004 ENACTED	22
FISCAL YEAR 2004 ON-BOARD	[1] 23
FISCAL YEAR 2005 REQUEST	22

[1] As of March 30, 2004.

Question. Please provide details on anticipated contract expenses in the Immediate Office of the Secretary.

Answer. Anticipated contract expenses in the Immediate Office of the Secretary consist of:

Description of Services	Amount
Subscriptions	$10,300
Other small contracts	4,000

IMMEDIATE OFFICE OF THE DEPUTY SECRETARY

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Office of the Deputy Secretary by object class.

Answer. The information follows.

[In thousands of dollars]

Object Class	Amount
Full-time permanent	534
Other than full-time permanent	214
Other personnel compensation	40
Total personnel compensation	788
Civilian personnel benefits	200
Travel & transportation of things	67
Other services	11
Supplies and materials	4
Total	1,070

Question. Please explain in detail the assumptions used to develop the fiscal year 2005 budget request for personnel compensation and benefits of the Office of the Deputy Secretary.

Answer. The assumptions used to develop the Office of the Deputy Secretary's budget request for personnel compensation and benefits are computed as follows: (1) Salary and related benefits from the previous year (fiscal year 2004) are computed based on enacted levels; (2) The fiscal year 2004 enacted level is annualized to fund the full year cost of the fiscal year 2004 pay raise (4.1 percent for an additional one-fourth of a year) and to fully fund the cost of any other personnel actions that occurred in fiscal year 2004; (3) The fiscal year 2005 base is inflated by the proposed fiscal year 2005 pay raise estimated at 1.5 percent (for three-fourths of a year). No new staff increases are proposed for fiscal year 2005.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Office of the Deputy Secretary.

Answer. The information follows.

	Positions	FTE
Direct	7	7
Reimbursable	0	0

Question. Please provide a table listing current staffing for the Office of the Deputy Secretary compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The 5-year FTE history is as follows:

FISCAL YEAR 2001 ACTUAL	4
FISCAL YEAR 2002 ACTUAL	6
FISCAL YEAR 2003 ACTUAL	5
FISCAL YEAR 2004 ENACTED	7
FISCAL YEAR 2004 ON-BOARD	[1] 6
FISCAL YEAR 2005 REQUEST	7

[1] As of March 30, 2004.

Question. Please provide details on anticipated contract expenses in the Office of the Deputy Secretary.

Answer. Anticipated contract expenses in the Office of the Deputy Secretary consist of:

Description of Services	Amount
Subscriptions	$7,000

OFFICE OF THE EXECUTIVE SECRETARIAT

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Office of the Executive Secretariat by object class.

Answer. The information follows.

[In thousands of dollars]

Object Class	Amount
Full-time permanent	1,159
Other than full-time permanent	35
Other personnel compensation	10
Total personnel compensation	1,204
Civilian personnel benefits	255
Other services	39
Supplies and materials	2
Total	1,500

Question. Please explain in detail the assumptions used to develop the fiscal year 2005 budget request for personnel compensation and benefits of the Office of the Executive Secretariat.

Answer. The assumptions used to develop the Office of the Executive Secretariat's budget request for personnel compensation and benefits are computed as follows: (1) Salary and related benefits from the previous year (fiscal year 2004) are computed based on enacted levels; (2) The fiscal year 2004 enacted level is annualized to fund the full year cost of the fiscal year 2004 pay raise (4.1 percent for an additional one-fourth of a year) and to fully fund the cost of any other personnel actions that occurred in fiscal year 2004; (3) The fiscal year 2005 base is inflated by the proposed fiscal year 2005 pay raise estimated at 1.5 percent (for three-fourths of a year). No new staff increases are proposed for fiscal year 2005.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Office of the Executive Secretariat.

Answer. The information follows.

	Positions	FTE
Direct	15	15
Reimbursable	0	0

Question. Please provide a table listing current staffing for the Office of the Executive Secretariat compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The 5-year FTE history is as follows:

FISCAL YEAR 2001 ACTUAL	14
FISCAL YEAR 2002 ACTUAL	15
FISCAL YEAR 2003 ACTUAL	14
FISCAL YEAR 2004 ENACTED	15
FISCAL YEAR 2004 ON-BOARD	[1] 12
FISCAL YEAR 2005 REQUEST	15

[1] As of March 30, 2004.

Question. Please provide details on anticipated contract expenses in the Office of the Executive Secretariat.

Answer. Anticipated contract expenses in the Office of the Executive Secretariat consist of:

Description of Services	Amount
Enhancements & maintenance of scheduling system	$38,600

OFFICE OF THE UNDER SECRETARY FOR TRANSPORTATION POLICY

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Office of the Under Secretary for Transportation Policy by object class.

Answer. The information follows.

[In thousands of dollars]

Object Class	Amount
Full-time permanent	9,779
Other than full-time permanent	666
Other personnel compensation	56
Total personnel compensation	10,501
Civilian personnel benefits	2,102
Travel & transportation of things	207
Other services	101
Supplies and materials	7
Total	12,918

Question. Please explain in detail the assumptions used to develop the fiscal year 2005 budget request for personnel compensation and benefits of the Office of the Under Secretary for Transportation Policy.

Answer. The assumptions used to develop the Office of the Under Secretary for Transportation Policy's budget request for personnel compensation and benefits are computed as follows: (1) Salary and related benefits from the previous year (fiscal year 2004) are computed based on enacted levels; (2) The fiscal year 2004 enacted level is annualized to fund the full year cost of the fiscal year 2004 pay raise (4.1 percent for an additional one-fourth of a year) and to fully fund the cost of any other personnel actions that occurred in fiscal year 2004; (3) The fiscal year 2005 base is inflated by the proposed fiscal year 2005 pay raise estimated at 1.5 percent (for three-fourths of a year). No new staff increases are proposed for fiscal year 2005.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Office of the Under Secretary for Transportation Policy.

Answer. The information follows.

	Positions	FTE
Direct	128	124
Reimbursable	4	4

Question. Please provide a table listing current staffing for the Office of the Under Secretary for Transportation Policy compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The 5-year FTE history is as follows:

FISCAL YEAR 2001 ACTUAL	116
FISCAL YEAR 2002 ACTUAL	121
FISCAL YEAR 2003 ACTUAL	105
FISCAL YEAR 2004 ENACTED	128
FISCAL YEAR 2004 ON-BOARD	[1] 115
FISCAL YEAR 2005 REQUEST	128

[1] As of March 30, 2004.

Question. Please provide details on anticipated contract expenses in the Office of the Under Secretary for Transportation Policy.

Answer. Anticipated contract expenses in the Office of the Under Secretary for Transportation Policy consist of:

Description of Services	Amount
Translation services	$19,200
Interpreters	41,000
Embassy charges	41,000

BOARD OF CONTRACT APPEALS

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Board of Contract Appeals by object class.

Answer. The information follows.

[In thousands of dollars]

Object Class	Amount
Full-time permanent	660
Other personnel compensation	1
Total personnel compensation	661
Civilian personnel benefits	112
Travel & transportation of things	6
Other services	22
Total	801

Question. Please explain in detail the assumptions used to develop the fiscal year 2005 budget request for personnel compensation and benefits of the Board of Contract Appeals.

Answer. The assumptions used to develop the Board of Contract Appeals' budget request for personnel compensation and benefits are computed as follows: (1) Salary and related benefits from the previous year (fiscal year 2004) are computed based on enacted levels; (2) The fiscal year 2004 enacted level is annualized to fund the full year cost of the fiscal year 2004 pay raise (4.1 percent for an additional one-fourth of a year) and to fully fund the cost of any other personnel actions that occurred in fiscal year 2004; (3) The fiscal year 2005 base is inflated by the proposed fiscal year 2005 pay raise estimated at 1.5 percent (for three-fourths of a year). No new staff increases are proposed for fiscal year 2005.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Board of Contract Appeals.

Answer. The information follows.

	Positions	FTE
Direct	6	6
Reimbursable	0	0

Question. Please provide a table listing current staffing for the Board of Contract Appeals compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The 5-year FTE history is as follows:

FISCAL YEAR 2001 ACTUAL	5
FISCAL YEAR 2002 ACTUAL	5
FISCAL YEAR 2003 ACTUAL	4
FISCAL YEAR 2004 ENACTED	6
FISCAL YEAR 2004 ON-BOARD	[1] 5
FISCAL YEAR 2005 REQUEST	6

[1] As of March 30, 2004.

Question. Please provide details on anticipated contract expenses in the Board of Contract Appeals.

Answer. Anticipated contract expenses in the Board of Contract Appeals consist of:

Description of Services	Amount
Court reporting services for trials	$8,000
Subscriptions to publications	13,000
Other small contracts	1,000

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Office of Small & Disadvantaged Business Utilization by object class.

Answer. The information follows.

[In thousands of dollars]

Object Class	Amount
Full-time permanent	1,087
Civilian personnel benefits	199
Other services	4
Supplies and materials	5
Total	1,295

Question. Please explain in detail the assumptions used to develop the fiscal year 2005 budget request for personnel compensation and benefits of the Office of Small & Disadvantaged Business Utilization.

Answer. The assumptions used to develop the Office of Small & Disadvantaged Business Utilization's budget request for personnel compensation and benefits are computed as follows: (1) Salary and related benefits from the previous year (fiscal year 2004) are computed based on enacted levels; (2) The fiscal year 2004 enacted level is annualized to fund the full year cost of the fiscal year 2004 pay raise (4.1 percent for an additional one-fourth of a year) and to fully fund the cost of any other personnel actions that occurred in fiscal year 2004; (3) The fiscal year 2005 base is inflated by the proposed fiscal year 2005 pay raise estimated at 1.5 percent (for three-fourths of a year). No new staff increases are proposed for fiscal year 2005.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Office of Small & Disadvantaged Business Utilization.

Answer. The information follows.

	Positions	FTE
Direct	11	11
Reimbursable	0	0

Question. Please provide a table listing current staffing for the Office of Small & Disadvantaged Business Utilization compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The 5-year FTE history is as follows:

FISCAL YEAR 2001 ACTUAL	9
FISCAL YEAR 2002 ACTUAL	10
FISCAL YEAR 2003 ACTUAL	10
FISCAL YEAR 2004 ENACTED	11
FISCAL YEAR 2004 ON-BOARD	[1] 9
FISCAL YEAR 2005 REQUEST	11

[1] As of March 30, 2004.

Question. Please provide details on anticipated contract expenses in the Office of Small & Disadvantaged Business Utilization.

Answer. Anticipated contract expenses in the Office of Small & Disadvantaged Business Utilization are as follows:

Description of Services	Amount
Working Capital Fund Service Agreements	$3,000

OFFICE OF INTELLIGENCE AND SECURITY

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Office of Intelligence and Security by object class.

Answer. The information follows.

[In thousands of dollars]

Object Class	Amount
Full-time permanent	1,402
Other than full-time permanent	5
Total personnel compensation	1,407
Civilian personnel benefits	394

[In thousands of dollars]

Object Class	Amount
Travel & transportation of things	72
Other services	367
Supplies and materials	10
Equipment	10
Total	2,260

Question. Please explain in detail the assumptions used to develop the fiscal year 2005 budget request for personnel compensation and benefits of the Office of Intelligence and Security.

Answer. The assumptions used to develop the Office of Intelligence and Security's budget request for personnel compensation and benefits are computed as follows: (1) Salary and related benefits from the previous year (fiscal year 2004) are computed based on enacted levels; (2) The fiscal year 2004 enacted level is annualized to fund the full year cost of the fiscal year 2004 pay raise (4.1 percent for an additional one-fourth of a year) and to fully fund the cost of any other personnel actions that occurred in fiscal year 2004; (3) The fiscal year 2005 base is inflated by the proposed fiscal year 2005 pay raise estimated at 1.5 percent (for three-fourths of a year). No new staff increases are proposed for fiscal year 2005.

Question. How many officials besides the Secretary does the Office of Intelligence and Security serve?

Answer. S–60 provides day-to-day support to the Office of the Secretary and to the Operating Administrations by providing intelligence, security policy guidance and information. The office assures that security issues are identified and properly coordinated between the modes and the DHS, TSA and the HSC. The following individuals and their senior staffs are served by S–60:

—Under Secretary of Transportation for Policy
—General Counsel
—Assistant Secretary for Transportation Policy
—Assistant Secretary for Aviation and International Affairs
—Assistant Secretary for Budget and Programs
—Assistant Secretary for Administration
—Assistant Secretary for Governmental Affairs
—Assistant Secretary for Public Affairs
—Inspector General
—Federal Highway Administrator
—Federal Railroad Administrator
—Federal Transit Administrator
—National Highway Traffic Safety Administrator
—St. Lawrence Seaway Development Corporation Administrator
—Maritime Administrator
—Research and Special Programs Administrator
—Federal Motor Carrier Safety Administrator.

Question. Please provide a list of all performance measures related to the Office of Intelligence and Security.

Answer. Department's Performance Goals:

—Ensure the security of people and goods and advance our national security interests in support of the National Security Strategy; and
—Rapid Recovery of Transportation in all modes from intentional harm and natural disasters.

In support of these goals, S–60 provides timely intelligence briefings and products to senior DOT officials, prepares the Secretary and Deputy Secretary for Principals and Deputies meetings on Homeland Security, is responsible for all aspects of the Transportation Security Policy and is the DOT liaison to the Department of Homeland Security, as well as law enforcement and intelligence agencies.

Question. Does DOT produce intelligence or is the Department only a consumer of intelligence?

Answer. DOT is predominately an Intelligence consumer. However, our Intelligence Analysts have produced limited intelligence analytical produces directly related to transportation and hazardous materials issues. They also work with the Intelligence Community to assure that intelligence concerning threats to transportation are identified and communicated to those in DOT with a need to know.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Office of Intelligence and Security.

Answer. The information follows.

	Positions	FTE
Direct	15	15
Reimbursable	0	0

Question. Please provide a table listing current staffing for the Office of Intelligence and Security compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The 5-year FTE history is as follows:

FISCAL YEAR 2001 ACTUAL	11
FISCAL YEAR 2002 ACTUAL	8
FISCAL YEAR 2003 ACTUAL	7
FISCAL YEAR 2004 ENACTED	15
FISCAL YEAR 2004 ON-BOARD	[1] 11
FISCAL YEAR 2005 REQUEST	15

[1] As of March 30, 2004.

Question. Please provide details on anticipated contract expenses in the Office of Intelligence and Security.

Answer. Anticipated contract expenses in the Office of Intelligence and Security consist of:

Description of Services	Amount
Security Liaison	$140,000
Renovation of Secure Information Facility	200,000
Secure communication at DOT alternate COOP site	26,600

OFFICE OF THE CHIEF INFORMATION OFFICER

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Office of the Chief Information Officer by object class.

Answer. The information follows.

[In thousands of dollars]

Object Class	Amount
Full-time permanent	2,691
Other than full-time permanent	146
Other personnel compensation	22
Total personnel compensation	2,859
Civilian personnel benefits	551
Travel & transportation of things	34
Other services	13,278
Supplies and materials	10
Equipment	10
Total	16,742

Question. Please explain in detail the assumptions used to develop the fiscal year 2005 budget request for personnel compensation and benefits of the Office of the Chief Information Officer.

Answer. The assumptions used to develop the Office of the Chief Information Officer's budget request for personnel compensation and benefits are computed as follows: (1) Salary and related benefits from the previous year (fiscal year 2004) are computed based on enacted levels; (2) The fiscal year 2004 enacted level is annualized to fund the full year cost of the fiscal year 2004 pay raise (4.1 percent for an additional one-fourth of a year) and to fully fund the cost of any other personnel actions that occurred in fiscal year 2004; (3) The fiscal year 2005 base is inflated by the proposed fiscal year 2005 pay raise estimated at 1.5 percent (for three-fourths of a year). No new staff increases are proposed for fiscal year 2005.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Office of the Chief Information Officer.

Answer. The information follows.

	Positions	FTE
Direct	25	25
Reimbursable	0	0

Question. Please provide a table listing current staffing for the Office of the Chief Information Officer compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The 5-year FTE history is as follows:

FISCAL YEAR 2001 ACTUAL	21
FISCAL YEAR 2002 ACTUAL	22
FISCAL YEAR 2003 ACTUAL	21
FISCAL YEAR 2004 ENACTED	25
FISCAL YEAR 2004 ON-BOARD	[1] 20
FISCAL YEAR 2005 REQUEST	25

[1] As of March 30, 2004.

Question. Please provide details on anticipated contract expenses in the Office of the Chief Information Officer.

Answer. Anticipated contract expenses in the Office of the Chief Information Officer consist of:

Description of Services	Amount
Capital Planning Investment Control (CPIC) and Enterprise Architecture (EA)	$1,900,000
Local Area Network (LAN) support for the Office of the Secretary (OST)	1,700,000
IT services and user support designed to meet the IT requirements of the DOT	4,500,000
Working Capital Fund service agreements	3,300,000
E-gov Initiatives	1,500,000
Other small contracts	378,000

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Office of the Assistant Secretary for Governmental Affairs by object class.

Answer. The information follows.

[In thousands of dollars]

Object Class	Amount
Full-time permanent	1,156
Other than full-time permanent	860
Other personnel compensation	7
Total personnel compensation	2,023
Civilian personnel benefits	502
Travel & transportation of things	36
Other services	22
Supplies and materials	2
Equipment	2
Total	2,587

Question. Please explain in detail the assumptions used to develop the fiscal year 2005 budget request for personnel compensation and benefits of the Office of the Assistant Secretary for Governmental Affairs.

Answer. The assumptions used to develop the Office of the Assistant Secretary for Governmental Affairs' budget request for personnel compensation and benefits are computed as follows: (1) Salary and related benefits from the previous year (fiscal year 2004) are computed based on enacted levels; (2) The fiscal year 2004 enacted level is annualized to fund the full year cost of the fiscal year 2004 pay raise (4.1 percent for an additional one-fourth of a year) and to fully fund the cost of any other personnel actions that occurred in fiscal year 2004; (3) The fiscal year 2005 base is inflated by the proposed fiscal year 2005 pay raise estimated at 1.5 percent (for three-fourths of a year). No new staff increases are proposed for fiscal year 2005.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Office of the Assistant Secretary for Governmental Affairs.

Answer. The information follows.

	Positions	FTE
Direct	24	24
Reimbursable	0	0

Question. Please provide a table listing current staffing for the Office of the Assistant Secretary for Governmental Affairs compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The 5-year FTE history is as follows:

FISCAL YEAR 2001 ACTUAL	18
FISCAL YEAR 2002 ACTUAL	21
FISCAL YEAR 2003 ACTUAL	21
FISCAL YEAR 2004 ENACTED	24
FISCAL YEAR 2004 ON-BOARD	[1] 16
FISCAL YEAR 2005 REQUEST	24

[1] As of March 30, 2004.

Question. Please provide details on anticipated contract expenses in the Office of the Assistant Secretary for Governmental Affairs.

Answer. Anticipated contract expenses in the Office of the Assistant Secretary for Governmental Affairs consist of:

Description of Services	Amount
Gallery Watch Legislative Monitoring	$11,000
Subscriptions	5,000
Other small contracts	6,000

OFFICE OF THE GENERAL COUNSEL

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Office of the General Counsel by object class.

Answer. The information follows.

[In thousands of dollars]

Object Class	Amount
Full-time permanent	9,417
Other than full-time permanent	596
Other personnel compensation	105
Total personnel compensation	10,118
Civilian personnel benefits	2,123
Travel & transportation of things	246
Printing and reproduction	269
Other services	4,143
Supplies and materials	21
Total	16,920

Question. Please explain in detail the assumptions used to develop the fiscal year 2005 budget request for personnel compensation and benefits of the Office of the General Counsel.

Answer. The assumptions used to develop the Office of the General Counsel's budget request for personnel compensation and benefits are computed as follows: (1) Salary and related benefits from the previous year (fiscal year 2004) are computed based on enacted levels; (2) The fiscal year 2004 enacted level is annualized to fund the full year cost of the fiscal year 2004 pay raise (4.1 percent for an additional one-fourth of a year) and to fully fund the cost of any other personnel actions that occurred in fiscal year 2004; (3) The fiscal year 2005 base is inflated by the proposed fiscal year 2005 pay raise estimated at 1.5 percent (for three-fourths of a year). No new staff increases are proposed for fiscal year 2005.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Office of the General Counsel.

Answer. The information follows.

	Positions	FTE
Direct	106	100
Reimbursable	0	0

Question. Please provide a table listing current staffing for the Office of the General Counsel compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The 5-year FTE history is as follows:

FISCAL YEAR 2001 ACTUAL	81
FISCAL YEAR 2002 ACTUAL	92
FISCAL YEAR 2003 ACTUAL	100
FISCAL YEAR 2004 ENACTED	100
FISCAL YEAR 2004 ON-BOARD	[1] 102
FISCAL YEAR 2005 REQUEST	100

[1] As of March 30, 2004.

Question. Please provide details on anticipated contract expenses in the Office of the General Counsel.

Answer. Anticipated contract expenses in the Office of the General Counsel consist of:

Description of Services	Amount
Dockets Management System	$1,035,000
Integrated Disabilities Hotline Maintenance and Operations	1,235,000
Technical Assistance Manual and Modal Training Program & Public & Industry Outreach to Assist in Ensuring the Air Travel Environment is Free of Discrimination	655,000
Administrative Litigation Costs for Enforcement Aviation Economic and Civil Rights Matters	50,000
Rulemaking Management System Support	97,000
Regulatory Management System, List Serve & Automated Coordination Maintenance	115,000
E-gov Rulemaking Assessment	800,000
Other small contracts	156,000

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Office of the Assistant Secretary for Budget and Programs by object class.

Answer. The information follows.

[In thousands of dollars]

Object Class	Amount
Full-time permanent	5,039
Other than full-time permanent	285
Other personnel compensation	44
Total personnel compensation	5,368
Civilian personnel benefits	1,539
Travel & transportation of things	14
Other services	1,952
Supplies and materials	6
Equipment	10
Total	8,889

Question. Please explain in detail the assumptions used to develop the fiscal year 2005 budget request for personnel compensation and benefits of the Office of the Assistant Secretary for Budget and Programs.

Answer. The assumptions used to develop the Office of the Assistant Secretary for Budget and Programs' budget request for personnel compensation and benefits are computed as follows: (1) Salary and related benefits from the previous year (fiscal year 2004) are computed based on enacted levels; (2) The fiscal year 2004 enacted

level is annualized to fund the full year cost of the fiscal year 2004 pay raise (4.1 percent for an additional one-fourth of a year) and to fully fund the cost of any other personnel actions that occurred in fiscal year 2004; (3) The fiscal year 2005 base is inflated by the proposed fiscal year 2005 pay raise estimated at 1.5 percent (for three-fourths of a year). No new staff increases are proposed for fiscal year 2005.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Office of the Assistant Secretary for Budget and Programs.

Answer. The information follows.

	Positions	FTE
Direct	54	54
Reimbursable	1	1

Question. Please provide a table listing current staffing for the Office of the Assistant Secretary for Budget and Programs compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The 5-year FTE history is as follows:

FISCAL YEAR 2001 ACTUAL	51
FISCAL YEAR 2002 ACTUAL	44
FISCAL YEAR 2003 ACTUAL	46
FISCAL YEAR 2004 ENACTED	55
FISCAL YEAR 2004 ON-BOARD	[1] 51
FISCAL YEAR 2005 REQUEST	55

[1] As of March 30, 2004.

Question. Please provide details on anticipated contract costs in the Office of the Assistant Secretary for Budget and Programs.

Answer. Anticipated contract expenses in the Office of the Assistant Secretary for Budget and Programs consist of:

Description of Services	Amount
Departmental Accounting and Financial Information System	$145,000
Travel Management System	20,000
Accounting Services	818,000
CIO IT Support	365,000
Payroll Reimbursement to FAA	147,000
FTA Web Support for OST Payroll Reports	50,000
CFO Web Support	50,000
CRTS Database Support	20,000
Bearing Point	321,000
Other small contracts	16,000

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Office of the Assistant Secretary for Administration by object class.

Answer. The information follows.

[In thousands of dollars]

Object Class	Amount
Full-time permanent	5,825
Other than full-time permanent	102
Other personnel compensation	67
Total personnel compensation	5,994
Civilian personnel benefits	1,438
Travel & transportation of things	35
Rental payments to GSA	9,147
Other services	16,291
Supplies and materials	30
Total	32,935

Question. Please explain in detail the assumptions used to develop the fiscal year 2005 budget request for personnel compensation and benefits of the Office of the Assistant Secretary for Administration.

Answer. The assumptions used to develop the Office of the Assistant Secretary for Administration's budget request for personnel compensation and benefits are computed as follows: (1) Salary and related benefits from the previous year (fiscal year 2004) are computed based on enacted levels; (2) The fiscal year 2004 enacted level is annualized to fund the full year cost of the fiscal year 2004 pay raise (4.1 percent for an additional one-fourth of a year) and to fully fund the cost of any other personnel actions that occurred in fiscal year 2004; (3) The fiscal year 2005 base is inflated by the proposed fiscal year 2005 pay raise estimated at 1.5 percent (for three-fourths of a year). No new staff increases are proposed for fiscal year 2005.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Office of the Assistant Secretary for Administration.

Answer. The information follows.

	Positions	FTE
Direct	66	65
Reimbursable	20	19

Question. Please provide a table listing current staffing for the Office of the Assistant Secretary for Administration compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The 5-year FTE history is as follows:

FISCAL YEAR 2001 ACTUAL	67
FISCAL YEAR 2002 ACTUAL	99
FISCAL YEAR 2003 ACTUAL	77
FISCAL YEAR 2004 ENACTED	84
FISCAL YEAR 2004 ON-BOARD	[1] 69
FISCAL YEAR 2005 REQUEST	84

[1] As of March 30, 2004.

Question. Please provide details on anticipated contract costs in the Office of the Assistant Secretary for Administration.

Answer. Anticipated contract expenses in the Office of the Assistant Secretary for Administration consist of:

Description of Services	Amount
MSI Program	$130,000
E-Grants	350,000
Electronic Business Process	943,000
Online Internet Research	110,000
Security Investigations	85,000
New Headquarters Building Security	130,000
Training	183,000
Corporate Recruitment	500,000
Consolidated Benefits Assistance	400,000
Federal Personnel & Payroll System	846,800
OST Cost to WCF	10,030,000
Reimbursements to USCG Clinic	37,000
Workforce Improvements Initiative	208,000
DOT-wide Admin and Management Services	143,000
Subscriptions	28,300
Procurement Strategy Council	45,000
Electronic Official Personnel Folders	1,000,000
Centralized Workers' Compensation	250,000
E-training Initiative	750,000
CPMIS Charges	85,000
Federal Employments Information Services	36,700

OFFICE OF PUBLIC AFFAIRS

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Office of Public Affairs by object class.

Answer. The information follows.

[In thousands of dollars]

Object Class	Amount
Full-time permanent	1,120
Other than full-time permanent	385
Other personnel compensation	9
Total personnel compensation	1,514
Civilian personnel benefits	387
Travel & transportation of things	51
Other services	69
Supplies and materials	11
Equipment	2
Total	2,034

Question. Please explain in detail the assumptions used to develop the request for personnel compensation and benefits of the Office of Public Affairs.

Answer. The assumptions used to develop the Office of Public Affairs' budget request for personnel compensation and benefits are computed as follows: (1) Salary and related benefits from the previous year (fiscal year 2004) are computed based on enacted levels; (2) The fiscal year 2004 enacted level is annualized to fund the full year cost of the fiscal year 2004 pay raise (4.1 percent for an additional one-fourth of a year) and to fully fund the cost of any other personnel actions that occurred in fiscal year 2004; (3) The fiscal year 2005 base is inflated by the proposed fiscal year 2005 pay raise estimated at 1.5 percent (for three-fourths of a year). No new staff increases are proposed for fiscal year 2005.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Office of Public Affairs.

Answer. The information follows.

	Positions	FTE
Direct	19	19
Reimbursable	2	2

Question. Please provide a table listing current staffing for the Office of Public Affairs compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The 5-year FTE history is as follows:

FISCAL YEAR 2001 ACTUAL	18
FISCAL YEAR 2002 ACTUAL	19
FISCAL YEAR 2003 ACTUAL	16
FISCAL YEAR 2004 ENACTED	21
FISCAL YEAR 2004 ON-BOARD	[1] 16
FISCAL YEAR 2005 REQUEST	21

[1] As of March 30, 2004.

Question. Please provide details on anticipated contract costs in the Office of Public Affairs.

Answer. Anticipated contract expenses in the Office of the Public Affairs consist of:

Description of Services	Amount
Associated Press Service	$16,000
News Wire Service	12,500
Subscriptions	10,000
Transcription Service	5,000
Bacon's Media Service and Publications	6,000
Video Monitoring Service	8,000
Other small contracts	11,200

OST SAFETY PERFORMANCE GOALS

Question. Why is reducing train accidents and highway-rail incidents the only safety area that OST is requesting funds under the safety performance goal?

Answer. The Office of the Secretary addresses all aspects of transportation safety through its management of the DOT Operating Administrations. The funds requested in the OST budget are for cross-cutting programs or specific issues led by OST program offices. DOT's ten Operating Administrations address mode-specific safety issues in their individual budgets.

The programs attributed to this objective support the Department's overall goal to "enhance public health and safety by working toward the elimination of transportation-related deaths and injuries." The programs planned for fiscal year 2006 and included in OST's submission address two areas of concern. The first is the issue of safe pedestrian right-of-way access at rail crossings and the second is improved GPS performance for improved transportation safety across all modes, including rail. Breaking down this second study across all safety performance measures may have diminished its importance and provided a presentation that was difficult to follow; therefore, these two areas were both attributed to rail safety targets.

TRANSPORTATION PLANNING, RESEARCH AND DEVELOPMENT

Question. How much is the Department requesting for PC&B and other administrative costs of the Transportation Planning, Research, and Development appropriation? Please explain in detail. How does this compare to fiscal years 2002, 2003, and 2004?

Answer. The information follows.

[In thousands of dollars]

Object Class	Fiscal Year 2002 Actual	Fiscal Year 2003 Actual	Fiscal Year 2004 Enacted	Fiscal Year 2005 Request
Full-time permanent	1,640	1,814	3,202	3,267
Other than full-time permanent	497	593	147	150
Other personnel compensation	29	27	9	9
Total personnel compensation	2,167	2,434	3,358	3,426
Civilian personnel benefits	388	498	456	499
Travel & transportation of things	219	234	53	54
Other services	8,704	13,158	16,824	6,802
Supplies and materials/Equipment	191	164	19	20
Total	11,669	16,489	20,709	10,800

Question. Administrative costs for studies funded with the Transportation Planning, Research, and Development appropriation generally account for 35 to 39 percent of the requested amount. Why is this much necessary for administration? How does this compare to the past 3 fiscal years?

Answer. The administrative costs in the TPR&D budget consist of Personnel Costs and Benefits for 31 FTE. These individuals monitor the contract studies and actually do the studies as in-house expertise allows. In addition, it provides for payment to the Working Capital Fund for TPR&D support services such as the printing and distribution of reports and studies and other research related activities. Lastly, it provides for other administrative such as travel, office supplies, subscriptions, and equipment.

Question. Please indicate which office of the Office of the Secretary will be charged with administration and development of each study that is funded by the Transportation Planning, Research, and Development (TPR&D) appropriation.

Answer. The information follows.

Office of the Assistant Secretary for Transportation Policy

—Safe and Accessible Transportation for Older and Disabled Americans
—Safety and Human Factors
—Navigation Systems (GPS) Protection, Coordination and Policy Development
—Spectrum Protection, Coordination and Policy Development
—Examination of Policy Instruments to Encourage Sustainability
—DOT National Freight Action Plan
—Non-Work Trips and Congestion
—DOT–HUD Joint Research on Transportation and Regional Development

—Alternatives for Financing Surface Transportation Improvements
—Passenger Rail Demand
—Value Pricing
—Implementing Successful Intermodal Passenger Terminal Projects
—Energy, Environment and Climate
—DOT Long Range Policy Analysis—Phase III

Assistant Secretary for Aviation and International Affairs

—Modernization of Aviation Data Systems
—Study to Determine the Demand for Scheduled Air Transportation Carrier Impact of the North American Free Trade Agreement
—Aviation Economic Model
—Analysis of Changes in Airline Cost Structures
—Comprehensive Study on the Role of International Airline Alliance in a Potential U.S.-European Union Aviation Area
—Longer-term Implications of Large-scale Implementation of Regional Jet Service
—Analysis of Small Community Air Service
—Impact of Taxes and Fees on Demand for Air Services and the Financial Condition of the Airline Industry

Question. Please provide administrative costs of TPR&D in detail.

Answer. The information follows.

[In thousands of dollars]

Object Class	Fiscal Year 2002 Actual	Fiscal Year 2003 Actual	Fiscal Year 2004 Enacted	Fiscal Year 2005 Request
Full-time permanent	1,640	1,814	3,202	3,267
Other than full-time permanent	497	593	147	150
Other personnel compensation	29	27	9	9
Total personnel compensation	2,167	2,434	3,358	3,426
Civilian personnel benefits	388	498	456	499
Travel & transportation of things	219	234	53	54
Other services	8,704	13,158	16,824	6,802
Supplies and materials/Equipment	191	164	19	20
Total	11,669	16,489	20,709	10,800

Question. Please indicate which TPR&D studies are new initiatives for fiscal year 2005 and which have received previous funding. Also, please provide a schedule and cost profile for each study that is proposed to be conducted and funded for more than 1 year.

Answer. The information follows.

TPR&D Studies	New	Previous
Safe and Accessible Transportation for Older and Disabled Americans	X	
Safety and Human Factors		X
Navigation Systems (GPS) Protection, Coordination and Policy Development		X
Spectrum Protection, Coordination and Policy Development	X	
Examination of Policy Instruments to Encourage Sustainability	X	
DOT National Freight Action Plan		X
Non-Work Trips and Congestion	X	
DOT–HUD Joint Research on Transportation and Regional Development	X	
Alternatives for Financing Surface Transportation Improvements		X
Passenger Rail Demand	X	
Value Pricing	X	
Implementing Successful Intermodal Passenger Terminal Projects	X	
Energy, Environment and Climate		X
DOT Long Range Policy Analysis—Phase III	X	
Modernization of Aviation Data Systems		X
Study to Determine the Demand for Scheduled Air Transportation	X	
Carrier Impact of the North American Free Trade Agreement	X	
Aviation Economic Model		X
Analysis of Changes In Airline Cost Structures		X
Comprehensive Study on the Role of International Airline Alliance in a Potential U.S.-European Union Aviation Area.	X	
Longer-term Implications of Large-scale Implementation of Regional Jet Service	X	

TPR&D Studies	New	Previous
Analysis of Small Community Air Service	X	
Impact of Taxes and Fees on Demand for Air Services and the Financial Condition of the Airline Industry.		X

Each proposed study is to be conducted and funded in 1 year. Only factors beyond our control would force a multiyear contract. However, as is the nature of research, unexpected or unusual result may suggest a follow up contract.

Question. Please list all TPR&D studies that are included in the fiscal year 2005 congressional justification in order of priority or importance to OST.

Answer. This account includes funding for a variety of program areas and strategic goals, each of which is a priority for the Department. Studies and activities funded by this account provide the basis for policy and program decisions that are vital to the mobility and security of our Nation.

OVERFLIGHT FEES

Question. Please provide a history of administrative or regulatory actions and litigation involving overflight fees since authorized by Congress in 1996.

Answer. The Federal Aviation Reauthorization Act of 1996 directed the FAA to establish a fee schedule to recover the costs it incurs in providing air traffic control and related services to overflights, that is, flights that pass through United States-controlled airspace without taking off or landing. See 49 U.S.C. § 45301(b)(1). Overflight fees are imposed by other countries and are generally collected at higher rates than those rates imposed under the FAA's rule, that is, $33.72 per 100 nautical miles for flights conducted within the Enroute air traffic environment and $15.94 per 100 nautical miles for flights conducted within the Oceanic air traffic environment. At the direction of Congress, revenue secured from overflight fees is to be used to fund the Department's Essential Air Service program which, pursuant to statutory provisions set forth at 49 U.S.C. § 41734(a), subsidizes commercial air service to communities in the United States in circumstances where without such subsidies no commercial air service would exist.

The FAA's Final Rule, and each of its previous Interim Final Rules, has been challenged in judicial proceedings brought by a number of foreign air carriers. The D.C. Circuit's April 8, 2003 decision was the third time that the Court has reviewed FAA's attempt to implement Congress' direction to establish an overflight rule and the third time that the Court has found FAA's efforts wanting. See Asiana Airlines v. FAA, 134 F.3d 393 (D.C. Cir. 1998) (vacating FAA's original rule because it depended, in part, on the use of a Ramsey Pricing model); Air Transport Ass'n of Canada v. FAA, 254 F.3d 271 (D.C. Cir.), rehearing granted and amended 276 F.3d 599 (D.C. Cir. 2001) (remanding FAA's second interim rule for further analysis of whether the FAA's costs of providing air traffic control and related services in Enroute and Oceanic airspace were the same for overflights and for aircraft that take off and land within the United States).

In response to these judicial decisions, Congress amended section 45301(b)(1) in 2001 to provide that overflight fees had only to be "reasonably related," not "directly related," to the FAA's cost of providing air traffic control and related services, that the determination of actual costs was committed to the discretion of the FAA Administrator, and that the Administrator's cost determination could not be subject to judicial review. See Aviation and Transportation Security Act, Public Law 107–71, 115 Stat. 597 (November 19, 2001) ("ATSA").

While we believe that Congress intended these provisions to apply to the then-current rule, it nevertheless also adopted a general savings provision in the ATSA, section 141(d), which provides as follows:

"This Act shall not affect suits commenced before the date of the enactment of this Act . . . In all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted."

The focus of the savings provision was intended to be ongoing suits involving activities that were transferred from the FAA to the Transportation Security Administration, and the provision was never intended to "save" ongoing overflight challenges from application of the new standards. But having said this, the plain language of the section had, in the Court's view, precisely that effect, and the most recent challenge to the overflight rule was "commenced before the date of the enactment" of ATSA. On that basis the Court found the amendment to section 45301 and ATSA, section 141(d) to be inapplicable to the current litigation.

Finding that the more lenient provisions of section 45301(b)(1) as amended by ATSA were inapplicable as a result of the savings provision, the D.C. Circuit applied the stricter "directly related" standard of the prior version of the statute and determined that under that standard the FAA had not fully supported certain of its conclusions concerning the labor costs it incurred in providing air traffic control services to overflights. Noting that this was "the third time . . . we find that the FAA disregarded its statutory mandate," Slip op. at 2, the Court vacated the rule and remanded the matter to the FAA.

FAA sought panel rehearing in order to clarify the scope of the Court's mandate that had set aside the entire rule. After that request was summarily rejected, FAA later obtained a 30-day extension of the time within which to file a certiorari request. A second 30-day request was denied by Chief Justice Rehnquist, thereby rendering the Court of Appeals' April 8, 2003 decision final for all purposes, including the application of Plaut v. Spendthrift Farms, Inc., 514 U.S. 211 (1995), which in certain circumstances bars retroactive application of statutes affecting prior judicial decisions.

In November, 2003 Congress passed the Vision 100—Century of Aviation Reauthorization Act, Public Law 108–176, Section 229 of which directly addresses the issue of Overflight Fees. The Act was signed into law by the President on December 12, 2003. Section 229 accomplished a number of things.

First, it provides in subparagraph (a)(1) that Congress specifically intended that the more flexible "reasonably related" standard imposed by the Aviation and Transportation Security Act, 49 U.S.C. § 44901, did apply to pending litigation and that that test should have been used by the D.C. Circuit in evaluating whether the Overflight Fees imposed under the Interim Rule and the Final Rule were properly based upon the FAA's costs in providing air traffic control services to overflights. Subparagraph (a)(1) also clarifies that Congress intended that even in pending litigation the Administrator's determination of the FAA's costs for purposes of computing Overflight Fees is conclusive and not subject to judicial review. The D.C. Circuit's April 8 decision had held these standards to be inapplicable to the Interim Final Rule and the Final Rule, which were pending when the new standards were enacted.

Second, subsection (a)(2) specifically provides that "[t]he interim and final rule [adopted by the FAA], including the fees issued pursuant to those rules, are adopted, legalized, and confirmed as fully to all intents and purposes as if the same had, by prior Act of Congress, been specifically adopted, authorized, and directed as of the date those rules were originally issued." Thus, section 229 establishes legislatively imposed Overflight Rules and fees that, in effect, retroactively and prospectively mirror the rules and fees vacated by the D.C. Circuit in its April 8 decision. However, notwithstanding the fact that subsection (a)(2) adopts the FAA's Interim Rule and Final Rule "as of the date those rules were originally issued, [i.e., May 30, 2000 and August 13, 2001, respectively]" subsection (a)(3) states that all of subsection (a) "applies to fees assessed after November 19, 2001 [i.e. the date on which the Aviation and Transportation Security Act was enacted] and before April 8, 2003 [i.e. the date of the D.C. Circuit's most recent decision on this matter] . . .".

The United States is still evaluating the effect of section 229 of Vision 100 on the D.C. Circuit's April 8, 2003 decision. Section 229 also requires that FAA hold consultations with overflight operators concerning international aspects of the overflight rule and report to Congress on issues raised by the D.C. Circuit's April 8, 2003 decision. FAA is pursuing these matters.

Question. What is the current status of litigation related to overflight fees?

Answer. Section 45301 of title 49, United States Code (as amended by section 273 of the Federal Aviation Reauthorization Act of 1996 (Public Law 104–264)) authorizes the collection of user fees for services provided by the FAA to aircraft that neither take off nor land in the United States, known as overflight fees. The FAA's regulations implementing 49 U.S.C. 45301 have been in litigation since 1997.

Following the court's decision in Air Transport Association of Canada v. Federal Aviation Administration, 323 F.3d 1093, (April 8, 2003), Congress, in Section 229 of the Vision 100—Century of Aviation Reauthorization Act, (Public Law 108–176), legislatively adopted the FAA's final rule relating to overflight fees as of the date on which each rule was initially issued. Congress directed the FAA's Administrator to defer collecting new overflight fees until the Administrator has reported to Congress responding to the issues raised by the court in Air Transport Association of Canada v. Federal Aviation Administration, and consults with users and other interested parties regarding the consistency of the overflight fees with the international obligations of the United States. Vision 100 was signed into law by the President on December 12, 2003.

While negotiations and consultations concerning the FAA's overflight fees regulations are ongoing, it is reasonable for the Department to rely on such funds for the

Essential Air Service program in fiscal year 2005 because the Department will have addressed the requirements in Sec. 229(b) before the start of fiscal year 2005. With such requirements met, the Department will be authorized to collect overflight fees, and funding for the EAS program will be available.

Question. Have the overflight fees that were collected but were tied up in litigation been spent?

Answer. No. Because of the litigation these fees have been held in a special account by the FAA in case they need to be refunded.

Question. Are there any legal or other restrictions to prevent the funds that were collected previously from overflight fees from being spent?

Answer. Yes. Although at present there is no legal prohibition precluding the use of these funds, the Administrator's Order, which releases these funds, will not be final until October 4, 2004, assuming no appeal is filed.

Question. Are there any legal or other restrictions to prevent the funds that were collected previously from overflight fees from being spent?

Answer. Yes. There is a significant degree of uncertainty at the present time as to how much of the currently collected overflight fees will ultimately remain available for spending.

ESSENTIAL AIR SERVICE

Question. How much funding in the EAS program was carried over at the end of fiscal years 2002 and 2003?

Answer. The total funds carried over for fiscal year 2002 and fiscal year 2003 were $12.4 million and $7.5 million, respectively.

Question. Based on current obligation rate for the Essential Air Service program, what will the unobligated balance of funds be at the end of fiscal year 2004?

Answer. We anticipate that we will have obligated all funding available by the end of fiscal year 2004, leaving no unobligated balance.

Question. Please explain in detail the proposal to restructure the Essential Air Service program.

Answer. We are proposing a fundamental change in the way that the government supports transportation services to rural America. As you may know, the EAS program subsidizes scheduled air services to communities that received scheduled service at the time of deregulation—25 years ago. Although there have been tremendous changes in the industry since then, the program has remained static. For too long, many communities—there are a few exceptions—have taken air service for granted as an entitlement and done little or nothing to help make the service successful. Requiring a modest contribution should energize civic officials and business leaders at the local and State levels to encourage use of the service, and, as stakeholders in their service, the communities will become key architects in designing their specific transportation package.

Accordingly, the President's Budget proposes some reforms. For the most isolated communities, we would continue to subsidize air service to the extent of 90 percent of the total subsidy required. Communities that are within a close drive of major airports would qualify for subsidies constituting 50 percent of the total costs for providing surface transportation. Specifically, communities within: (a) 100 driving miles of a large or medium hub airport, (b) 75 miles of a small hub, or (c) 50 miles of a non-hub with jet service would not qualify for subsidy for air service. (Some EAS communities are very close to small hubs but maintain their standing in the program because the nearby airport does not meet the medium-hub threshold.)

At all other subsidized EAS communities, we would offer an array of options, including paying for 75 percent of the cost of the traditional EAS-type scheduled service. In addition, we would work with the communities and State DOT's to procure charter service, single-engine, single-pilot service, regionalized service or ground transportation in cases where they seem to be more responsive to communities' needs.

All service would be subject to budget limitations ($50 million).

Question. If any communities would no longer be eligible for Essential Air Service funding if the Department's proposal is enacted into law, please identify those communities for the record.

Answer. There is no way of knowing if, and if so how many, communities would not be eligible for EAS funding. The reason is that we do not know how many communities will be unwilling to contribute to the costs of providing their air service. While we believe that $50 million would be sufficient to provide air service to all communities that are willing to contribute, in the highly unlikely event that all communities were willing to contribute, some of the lesser-isolated communities would not receive funding. Table I attached shows all of the communities and their re-

quired contribution levels assuming that every community contributes its required share.

Question. The Congressional Justification indicates that $1,300,000 will be used to pay salaries and administrative costs for staff to administer the Essential Air Service program. Please breakdown in greater detail and compare to the past 3 fiscal years.

Answer. The information follows.

[In thousands of dollars]

Object Class	Fiscal Year 2002 Actual	Fiscal Year 2003 Actual	Fiscal Year 2004 Enacted	Fiscal Year 2005 Request
Full-time permanent	871	920	947	958
Other personnel compensation	4	5	0	0
Total personnel compensation	876	925	947	958
Civilian personnel benefits	169	173	180	183
Travel & transportation of things	1	0	15	16
Other services	240	121	121	124
Supplies and materials/Equipment	10	4	20	21
Grants, subsidies, & contributions	99,470	105,726	100,717	48,699
Total	100,765	106,949	102,000	50,000

Question. Please provide the number of on-board staff and FTE requested, indicating direct and reimbursable, for staff who administer the EAS program compared to fiscal years 2003 and 2004.

Answer. The information follows.

	Fiscal Year 2005 Requested	Fiscal Year 2004 Enacted	Fiscal Year 2003 Actual
Direct	10	.....	.....
Reimbursable	.....	10	10

Question. What office or operating administration is responsible for writing and implementing and collecting the overflight fees?

Answer. The Federal Aviation Administration.

Question. Are any of the legislative changes proposed to the EAS program in the budget request authorized by Public Law 108–176?

Answer. The legislative changes proposed in the fiscal year 2005 Budget Request for the Essential Air Service (EAS) program do not rely on the EAS amendments made to chapter 417 of title 49, United States Code (Transportation), by Public Law 108–176 (December 12, 2003).

Question. If Congress does not enact the legislative changes to the EAS program, what is the full cost to continue the program to all current communities in fiscal year 2005?

Answer. The EAS budget is driven by a number of exogenous factors, such as fuel prices, the health and structure of the major carriers, and aircraft fleet decisions made by regional carriers generally to upsize to larger aircraft. The single biggest uncertainty is how many last carriers serving an EAS community will file a notice to suspend service, thus triggering a hold-in and first-time subsidy. Our best estimate is that $120 million would be required for fiscal year 2005 if no changes are made.

AVIATION DATA SYSTEMS

Question. Does the request for $800,000 complete the third phase of the modernization of Aviation Data Systems?

Answer. The $800,000 will be used to begin the process of designing and building the new data system which will collect, validate, and disseminate the re-designed airline traffic data to reduce the reporting burden on the airlines and increase the timeliness, accuracy, and utility of the data which is mission-critical for government agencies, airlines, airports, and other commercial aviation stakeholders. The construction and implementation of this system will complete the modernization of the airline traffic data.

Question. What specific aviation data is being updated? What new data will be collected? Will any data that had been collected no longer be collected?

Answer. The traffic data modernization changes the reporting carrier, reporting frequency, and a number of reported data elements for the Origin-Destination Survey of Airline Passenger Traffic (14 CFR Part 241 Section 19–7). It also changes some reported data elements for the Schedule T–100 Air Carrier Traffic and Capacity Data by Nonstop Segment and On-Flight Market Segment (14 CFR Part 217 and 14 CFR Part 241) to ensure greater statistical correlation between the revised Origin-Destination Survey and the revised Schedule T–100. Current traffic statistics no longer adequately measure the size, scope, and operating and competitive structures of the scheduled passenger airline industry. The changes will eliminate ambiguity, reduce manual data collection by reporting carriers, minimize reporting exemptions, expand the breadth and scope of information collected, and modernize the methods of data submission and dissemination to capture fundamental industry changes.

Question. Who will have access to the Aviation Data Systems?

Answer. All aviation stakeholders inside and outside the government will have access to the data. These data are particularly important to airlines who use it in planning their businesses and to all government agencies responsible for making policy decisions which affect this critical industry.

Question. Do any non-governmental entities have to pay for access to the aviation data systems?

Answer. Currently, some data is made available free over the Internet, while more granular data is sold on tapes for a very nominal fee to cover the costs of production. The new system will make the data much more accessible to a broad range of non-governmental users using web-based technologies. In its Notice of Proposed Rulemaking, the Department will solicit comments from all stakeholders on the data products they would like to see produced from the raw data collected under the new system.

Question. What are the benefits of the new system?

Answer. The traffic data modernization will support the Secretary's obligation to be responsive to the needs of the public and disseminate information to make it easier to adapt the air transportation system to the present and future needs of the commerce of the United States. These data are fundamentally important for both public policy and airline business planning. The proposed changes to the Origin-Destination Survey will eliminate ambiguity, reduce manual data collection by reporting carriers, minimize reporting exemptions, expand the breadth and scope of information collected, and modernize the methods of data submission and dissemination to capture fundamental industry changes. Data enhancements will enable the Department and other stakeholders to better assess changes in traffic flows due to seasonality, carrier route changes, and carrier preference as well as aid the Department in international negotiations. Flight-stage data assists carriers in business planning, demand forecasting, and new service impact analyses.

OFFICE OF THE ASSISTANT GENERAL COUNSEL FOR AVIATION ENFORCEMENT AND PROCEEDINGS

Question. Please breakdown the request for the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings in greater detail.

Answer. Our fiscal year 2005 request can be found in Organizational Excellence and Global Connectivity goals. See page 1 of Organizational Excellence and pp. 12 and 21 of Global Connectivity goals of the submission.

In addition to personnel cost and benefits needed, funding in fiscal year 2005 is requested to operate and maintain the Congressionally-mandated disabilities hotline ($1,235,000), to continue a cell phone contract to ensure the appropriate individuals can be reached to assist hotline operators address time-sensitive disability related air travel complaints ($15,000), to complete the technical assistance manual and model training program and to conduct outreach to assist in ensuring the air travel environment is free of discrimination ($655,000), and to protect air travelers through enforcement of aviation economic and civil rights matters in administrative hearings ($50,000).

Question. Please describe any new initiatives and the corresponding costs that are requested for the Office of the Assistant General Counsel for Aviation Enforcement.

Answer. The Office of the Assistant General Counsel for Aviation Enforcement (Aviation Enforcement Office) is not requesting any funds for new initiatives. All of the funds being requested for fiscal year 2005 will be used to continue work that began in prior years.

EMPLOYEE TRAINING AND DEVELOPMENT

Question. Please compare the request for employee training and development for OST and each operating administration to the past 4 fiscal years.

Answer. The information follows.

EMPLOYEE TRAINING AND DEVELOPMENT

[In thousands of dollars]

	Fiscal Year 2002 Actual	Fiscal Year 2003 Actual	Fiscal Year 2004 Estimate	Fiscal Year 2005 Estimate
Office of the Secretary	.....	1,892	256	198
Federal Aviation Administration	144,806	157,477	153,929	158,398
Federal Highway Administration	3,898	3,985	4,579	4,579
Federal Motor Carrier Safety Administration	5,518	3,903	5,486	4,223
National Highway Traffic Safety Admininistration	223	227	227	275
Federal Railroad Administration	909	1,086	1,513	2,216
Federal Transit Administration	460	475	485	505
St. Lawrence Seaway Development Corp	51	55	56	90
Research and Special Programs Admin	173	190	190	237
Office of the Inspector General	425	389	447	447
Surface Transportation Board	41	41	28	28
Bureau of Transportation Statistics	237	148	341	200
Maritime Administration	373	238	350	350
Total	157,114	170,106	167,887	171,746

NOTE.—Excludes Working Capital Fund.

ATTORNEYS IN DOT

Question. Please provide a table displaying the number of attorneys in the Office of General Counsel and in each modal administration compared to the last 3 fiscal years.

Answer. The information follows.

	Fiscal Year 2004	Fiscal Year 2003	Fiscal Year 2002
Federal Aviation Administration	184	195	188
General Counsel, Office of the Secretary	64	68	69
Federal Highway Administration	45	47	46
Federal Railroad Administration	31	30	30
Federal Transit Administration	25	25	27
Maritime Administration	25	23	22
National Highway Traffic Safety Admin.	22	26	24
Federal Motor Carrier Safety Admin.	33	25	29
Research & Special Programs Admin.	19	17	18
Inspector General	5	4	4
St. Lawrence Seaway Development Corp.	1	1	1
Bureau of Transportation Statistics	1	1	1

Question. How many attorneys in the Office of General Counsel work primarily on aviation-related issues?

Answer. There are 34 attorneys who work primarily on aviation-related issues.

Question. Do the all the attorneys in the operating administrations report to the modal administrator or to the Department's General Counsel?

Answer. The attorneys in the operating administrations do not report to the Department's General Counsel. However, the General Counsel exercises professional supervision, including coordination and review, over the legal work of the legal offices of the Department.

Question. Who approves the performance appraisals for attorneys paid by the operating administrations?

Answer. The performance appraisals are approved by each operating administration.

Question. Please provide the number of attorneys on staff for each operating administration and Office of the Secretary.

Answer. The information follows.

Federal Aviation Administration	184
Federal Highway Administration	45
Federal Railroad Administration	31

Federal Transit Administration	25
Maritime Administration	25
National Highway Traffic Safety Admin.	22
Federal Motor Carrier Safety Admin.	33
Research & Special Programs Admin.	19
Inspector General	5
St. Lawrence Seaway Development Corp.	1
Bureau of Transportation Statistics	1
General Counsel, Office of the Secretary	64

Question. For the attorneys involved in aviation issues, how is their workload related to the Office of the Assistant Secretary for Aviation and International Affairs?

Answer. Attorneys in the Office of the Assistant General Counsel for Environmental, Civil Rights, and General Law ("General Law") provide services on aviation-related issues generally do so for clients in the Office of the Assistant Secretary for Aviation and International Affairs. Primary clients are those in the immediate Office of the Assistant Secretary, and the Offices of Aviation Analysis and Planning and Special Projects. The advice and services provided by these attorneys related most routinely to the Essential Air Service Program; to Small Community air Service grants; on competition plans, congestion management, and other aviation policy matters; and on slot exemption and air carrier compensation issues. However, there can be a myriad of other circumstances on which an "aviation-related" issue may arise in the Office of the Assistant Secretary for Aviation and International Affairs on which assistance is sought from the attorneys in General Law. These include matters involving appropriations, finance, national security, Freedom on Information matters, statutory interpretation, bankruptcy, intellectual property, and environmental law.

Under a long-standing understanding with the Department of Justice, litigation attorneys defend, with little or no DOJ assistance, aviation decisions of the Department when they are challenged in judicial proceedings. We also work with the Office of the Assistant Secretary for Aviation and International Affairs by providing policy guidance on legal matters and drafting assistance, particularly in areas of antitrust issues and computer reservation system and travel agent matters.

The attorneys in the Office of the Assistant General Counsel for Regulation and Enforcement coordinate the Office of the Secretary's review of modal proposed and final regulations, including aviation regulations. Accordingly, they work closely with the Office of the Assistant Secretary for Aviation and International Affairs to ensure full review of aviation regulatory documents. Frequently, the attorneys in this office will meet with personnel from Aviation and International Affairs about any regulatory questions or issues that arise, and it is their job to try to resolve outstanding issues before a document is submitted for Secretarial review. In addition, the Office of the Assistant Secretary for Aviation and International Affairs generates its own rules, on matters such as computer reservations systems and access for disabled travelers. When it does so, our office provides drafting assistance as well as coordination and review. More broadly, the attorneys in this office provide legal advice as necessary on regulatory matters to the Office of the Assistant Secretary for Aviation and International Affairs.

The Legislative Office provides support for the Assistant Secretary for Aviation and International Affairs through the preparation and clearance through DOT and OMB of all Departmental legislative proposals intended to carry out the Department's initiatives and programs related to aviation activities. It also administers DOT/OMB clearance of the Assistant Secretary's testimony before Congress on aviation issues. Finally, they provide DOT/OMB clearance of comments or revisions originating with the Assistant Secretary's office on all draft legislation, draft testimony and draft reports to Congress that may originate within other Departments but are related to aviation issues.

Attorneys in the Aviation Enforcement Office work in close consultation with staff in the Office of the Assistant Secretary for Aviation and International Affairs to develop policies to improve air service and/or access to the commercial aviation system as well as policies on anticompetitive practices in the airline industry. The Aviation Enforcement Office also assists the Office of the Assistant Secretary for Aviation and International Affairs in its review of U.S. air carrier requests for economic authority, and provides assistance on public charter and fitness issues.

Attorneys provide legal support and facilitation of the Department's international aviation program goals implemented by the Assistant Secretary for Aviation and International Affairs, including transportation negotiations with foreign countries, international aviation trade matters, international transportation safety and security, international trade, international aviation pricing, Alaska and international

mail rates, aviation licensing and regulatory matters involving international transportation, aviation war risk insurance issues, international aviation sanctions, and interdiction of illegal drugs and other contraband. At international transportation negotiations, the Office provides legal support as a member of the U.S. Delegation, legal advisor and chief drafter of all documents.

ACCESSIBILITY FOR ALL AMERICA PROGRAM

Question. Please compare the request for the Accessibility for All America program to the past 3 fiscal years.

Answer. The Department's request for Accessibility for All America the past 3 fiscal years is as follows:

	Fiscal Year 2002	Fiscal Year 2003	Fiscal Year 2004
Accessibility for All America	$2,494,000	$2,101,000	$2,533,000

Question. Please breakdown the request for the Accessibility for All America program in greater detail.

Answer. The information follows.

	Fiscal Year 2005 Request
Disabilities Hotline including cell phone contract	$1,250,000
Tech Assist. Manual, Outreach & Translations	655,000
TOTAL	1,905,000

In fiscal year 2005, the office is requesting funding to continue operating and maintaining the congressionally mandated toll-free hotline to educate and assist individuals in resolving disability-related air travel problems. Funding is also requested to complete work on the statutorily-required ACAA technical assistance manual (including a model training program), to continue ensuring that a wider audience can use the materials DOT's Aviation Enforcement Office issues (e.g., translating documents into Braille and Spanish) and to encourage collaborative policymaking and enhanced cooperation between carriers, airport, and civil rights organizations by convening air travel civil rights forums.

Question. Please identify which initiatives under the accessibility program are new, which continue efforts started in previous years, and what the base funding is for each on-going effort.

Answer. The Office of the General Counsel is not requesting any funds for new initiatives related to the accessibility program. All of the funds being requested for fiscal year 2005 are necessary to continue the ongoing work set out below.

	Fiscal Year 2002	Fiscal Year 2003	Fiscal Year 2004	Fiscal Year 2005 (Request)
Integrated Disabilities Hotline	$870,000	$870,015	$1,239,807	$1,250,000
Technical Assistance Outreach and Translations	.....	669,366	.....	655,000

Base funding of $870,000 was provided in fiscal year 2002 to develop and implement a congressionally-mandated toll-free hotline, staffed 7 days per week from 7 a.m. until 11 p.m. to answer questions from disabled air travelers and assist such persons in resolving disability-related air travel problems in "real time." Implementation occurred in December 2003 which allowed the program to remain funded at the same level through the remaining three quarters of fiscal year 2003. The $1,239,807 enacted for fiscal year 2004 and the $1,235,000 requested for fiscal year 2005 are necessary to maintain the hotline for each full fiscal year.

Base funding of $669,366 was provided in fiscal year 2003 to: (1) begin work on a comprehensive technical assistance manual as well as a model training program to guide airlines in assisting air travelers with disabilities and to educate airlines about the proscription against discrimination based on race, national origin, ethnicity, or religion in air travel; (2) translate civil rights-related publications into different languages; and (3) encourage collaborative policymaking between carriers and civil rights organizations by convening air travel civil rights forums. These developmental efforts continued in fiscal year 2004 but a reduced funding level for the office forced a redirection of base funds elsewhere. Now implemented, the program needs

base funding of $655,000 in fiscal year 2005 to maintain these essential elements of the program.

BOARD OF CONTRACT APPEALS

Question. In fiscal year 2004, the Board of Contract Appeals continued to hear Coast Guard appeals pursuant to a Memorandum of Understanding between DOT and the Department of Homeland Security. Will the board continue to hear Coast Guard appeals in fiscal year 2005?

Answer. Yes, the Board of Contract Appeals will continue to hear Coast Guard appeals in fiscal year 2005 pursuant to a Memorandum of Understanding between DOT and the Department of Homeland Security, in addition to other new appeals from the Department of Homeland Security.

Question. Has DHS established its own board of contract appeals?

Answer. No, the Department of Homeland Security has not established its own board of contract appeals. The Memorandum of Understanding between the Department of Transportation and the Department of Homeland Security provides for the DOT Board of Contract Appeals to hear and decide all appeals arising out of DHS contracts.

Question. Does DHS reimburse DOT for hearing DHS appeals?

Answer. Yes, DHS reimburses DOT for hearing DHS appeals.

Question. Please breakdown in greater detail the Board's workload that is projected for fiscal year 2005 compared to the past 4 fiscal years.

Answer. The information follows.

STATISTICAL BREAKDOWN OF BOARD'S WORKLOAD—FISCAL YEAR 2001-FISCAL YEAR 2004

Fiscal Year	Appeals Received	Appeals Closed	On Docket End of Fiscal Year
2001	29	50	66
2002	21	32	55
2003	29	36	48
2004	[1] 277	[2] 120	.....

[1] Total appeals received in fiscal year 2004 to 6/18/04.
[2] Total appeals closed in fiscal year 2004 to 6/18/04.

The Board anticipates approximately 25 percent more appeals in fiscal year 2005 as a result of hearing and deciding Department of Homeland Security appeals.

OFFICE OF INTELLIGENCE AND SECURITY

Question. Please compare the budget request for the Office of Intelligence and Security with the past 5 fiscal years.

Answer. The information follows.

[In thousands of dollars]

	Amount
Fiscal Year 2000	$1,574
Fiscal Year 2001	3,494
Fiscal Year 2002	1,321
Fiscal Year 2003	[1] [2,100]
Fiscal Year 2004	2,225
Fiscal Year 2005	2,260

[1] The Office was funded through a reimbursable agreement with DHS/TSA.

Question. Are any of the funds requested for the Office of Intelligence and Security to provide for the physical security of the Secretary or DOT building?

Answer. No, both the physical security of the Secretary and the security of the DOT buildings are budgeted under the Office of the Assistant Secretary for Administration.

Question. Please list the positions that are vacant in the Office of Intelligence and Security and provide the grade, title, and PC&B cost for each position.

Answer. The SES position of Director of the Office and Intelligence and Security has been filled with a temporary assignment of a Senior Executive within the department.

There are currently two specialist vacancies in the Office (see below). The duties of these positions are currently being discharged by details of employees from the Operating Administrations while recruitment actions are underway.

Position Title	Grade	PC&B Cost
National Security Specialist	GS–14	$132,000
Border Security Specialist	GS–14	132,000

Question. The Congressional Justification states that DOT was the lead Federal agency for 7 of 17 transportation security tasks outlined by DHS and HSC for Operation Liberty Shield. What tasks did DOT lead? What were the other tasks and what agency was directed to lead them? Did DOT have a role on the tasks that it did not lead?

Answer. Operation Liberty Shield and the specific agency tasks were classified at the Secret level. The seven transportation security tasks that DOT was the lead Federal agency on related to rail security, hazardous materials (3 tasks), pipeline security, trucking and highway security and aviation.

DOT's support role in the other tasks was limited primarily to information dissemination and communications. However, the Homeland Security Advisory System (HSAS) was raised to "Orange" in conjunction with Liberty Shield. This required DOT to complete dozens of additional tasks to implement the heightened posture.

Question. The report to the Committee regarding the Office of Intelligence and Security states that DOT has explicit statutory security responsibilities in the areas of HAZMAT, national airspace, and rail transportation. What specific statutory security responsibilities in aviation were not transferred to the Transportation Security Administration?

Answer. FAA has responsibility under 49 U.S.C., Transportation, Subtitle VII, Aviation Programs, for the security of its own operations, including the National Airspace System; briefly, FAA is responsible for ensuring that its personnel, its air navigation facilities, and other parts of its integrated system of air traffic control are protected from unlawful interference.

Question. Does DOT have any explicit statutory security responsibilities in the area of transit?

Answer. No.

Question. What was the Department's role in the TOPOFF exercises?

Answer. Since transportation has been identified as a key target for terrorists, DOT has played a key role in the TOPOFF exercises, all of which had transportation events as part of their transportation scenarios. The Department's authority to restrict or close airspace, redirect rail, vehicle and motor carrier traffic and coordinate with mass transit authorities, have been exercised in all TOPOFF scenarios.

In addition, the DOT is a permanent member of the Homeland Security Interagency Incident Management Group (IIMG). The IIMG is the body which is responsible for providing recommendations to the Secretary of DHS for: the threat countermeasure needed, response to an attack, and recovery measures in the event of an attack or natural disaster.

FEDERAL PERSONNEL PAYROLL SYSTEM

Question. Has the Department completed the migration to the Federal Personnel Payroll System (FPPS)?

Answer. No. The non-FAA components of DOT are scheduled to migrate to FPPS in April 2005 and the FAA is scheduled to migrate in October 2005.

Question. Are any funds requested in the fiscal year 2005 budget request for development, implementation, integration, or other costs associated with FPPS?

Answer. No funds are currently in the fiscal year 2005 budget request because the migration to FPPS was originally scheduled to be completed in fiscal year 2004. Due to greater than anticipated FPPS system changes to meet DOT requirements, the schedule, with OMB approval, was adjusted to implement the non-FAA components of DOT in April 2005 and the FAA in October 2005. The system changes and schedule shift resulted in an unfunded requirement of $9.4 million for fiscal year 2005.

Question. Can any savings be identified with the deployment of FPPS?

Answer. No specific savings have been identified at this time.

OFFICE OF THE ASSISTANT SECRETARY FOR AVIATION AND INTERNATIONAL AFFAIRS

Question. What percentage of the workforce and budget request for the Assistant Secretary for Aviation and International Affairs is related to international aviation activities? How much of the workload is related to aviation economic issues and regulations? What work in each area is expected in fiscal year 2005? How does this compare to fiscal year 2003 and fiscal year 2004?

Answer. Approximately 15 percent of the work of the Office of Aviation Analysis is devoted to international aviation activities, with all of the work performed in the Economic and Policy Analysis Division. The international aviation activities performed by this Division are all related to aviation economic issues and regulations. Work expected in fiscal year 2005 depends largely on changes and developments in the airline industry which is undergoing its most fundamental restructuring since airline deregulation. Similar to work completed in fiscal year 2003 and fiscal year 2004, it will likely include a variety of in-depth analysis of emerging industry issues to ensure that DOT policy remains consistent with commercial developments in such areas as congestion, competition policy, airport access and business practices, mergers, international alliances, and applications for antitrust immunity for joint ventures between United States and foreign carriers. As the United States moves toward a multilateral approach to air service agreements, an understanding of long-term trends in the airline industry's operating and competitive structures will be required to formulate effective negotiating strategies to ensure pro-competitive liberalization. The Office of Aviation Analysis within the Office of Aviation and International Affairs performs all domestic and international aviation analysis for the Department's aviation economic policies.

Under the Emergency Support Function No. 1 (ESF–1) of the National Response Plan, the Department is the lead agency in mobilizing transportation in order to respond to and/or assist in recovery from a terrorist attack or natural disaster.

OFFICE OF THE CHIEF INFORMATION OFFICER

Question. Please provide a table to breakout projects funded under the object class "other costs" in the Office of the CIO and compare to the fiscal year 2004 enacted level after the across the board rescission. Also, please include the amount that was rescinded pursuant to Division H, sec. 168(b) of Public Law 108–199.

Answer. The information follows.

Other	Fiscal Year 2004	Fiscal Year 2005
Office of the Chief Information Officer (OCIO) pay, benefits, unfilled positions	$500,728	$1,000,360
Gartner Group memberships	56,525	200,000
Information Technology (IT) Services Assessment	400,000	50,000
Travel/Training/Supplies	90,000	90,000

The OCIO Fiscal Year 2004 rescission was 0.59 percent=$44,250.

Question. Please provide a table of all charge backs to the modes to supplement the CIO budget.

Answer. The Chief Information Officer's (CIO's) budget is not supplemented through charge backs to the modes. In fiscal year 2004, reprogramming authority was requested to cover a funding shortfall in the enterprise IT security program area that affected security coverage across DOT Operating Administrations. The table below reflects that reprogramming allocation.

IT SECURITY FISCAL YEAR 2004 CHARGES FOR TCI RESPONSE CENTER AND C&A

	Email Count	Percent	TCI Response Center	No. of Systems	Percent	C&A	OA TOTAL
Reprogram Summary:							
BTS	286	0.49	$6,281	.....	0.00	.....	$6,281
FAA	45,046	77.47	$989,247	69	55.65	$556,452	$1,545,699
FHWA	4,826	8.30	$105,983	3	2.42	$24,194	$130,176
FMCSA	1,465	2.52	$32,173	1	0.81	$8,065	$40,237
FRA	1,041	1.79	$22,861	.....	0.00	.....	$22,861
FTA	691	1.19	$15,175	18	14.52	$145,161	$160,336
MARAD	648	1.11	$14,231	7	5.65	$56,452	$70,682
NHTSA	1,524	2.62	$33,468	3	2.42	$24,194	$57,662
OIG	471	0.81	$10,344	.....	0.00	.....	$10,344
RSPA	654	1.12	$14,362	1	0.81	$8,065	$22,427
SLSDC	88	0.15	$1,933	.....	0.00	.....	$1,933
VOLPE	1,409	2.42	$30,943	22	17.74	$177,419	$208,362
Reprogram Subtotal	58,149	100.00	$1,277,000	124	100.00	$1,000,000	$2,277,000
OST Additional Contribution	.....	.....	.....	.....	.....	.....	$200,000
Total Reprogramming and OST Contribution	.....	.....	.....	.....	.....	.....	$2,477,000

IT SECURITY

Question. The Office of the Chief Information Officer is requesting funds to implement a proactive cyber threat intelligence capability. Will this be accomplished by contracting for such services?

Answer. The Transportation Cyber Incident Response Center (TCIRC), which serves as DOT's proactive cyber threat intelligence capability, is staffed by contractor personnel and managed by a Federal security specialist. The TCIRC is a 24/7/365 capability required by OMB Circular A–130, Appendix III and is designed to detect, react and respond to cyber security incidents that may occur throughout the Department's critical IT infrastructure and systems.

Question. How much of the $5,227,000 that has been requested for information technology security is for program administration?

Answer. For fiscal year 2005, $428,556 has been budgeted for IT Security program administration.

Question. Please provide a detailed breakdown of the scope of work and budget for each program that the CIO has planned or executed for fiscal year 2003, 2004, and 2005 in the area of IT security.

Answer. The following table presents the fiscal year 2003, fiscal year 2004, and fiscal year 2005 IT Security Budget by program, scope and funding.

FISCAL YEAR 2003-FISCAL YEAR 2005 IT SECURITY BUDGET & FUNDING REQUEST

Program	Scope	Fiscal Year 2003 Budget	Fiscal Year 2004 Budget	Fiscal Year 2005 Request
Federal Information Management Security Act (FISMA).	Information Technology (IT) security reviews, reporting and remediation planning as required by the 2002 Electronic Government Act, Title III.	$1,131,266	.....	.....
Transportation Cyber Incident Response Center (TCIRC).	Provides 24-7-365 cyber security incident response to prevent, detect, and respond to incident within the DOT IT infrastructure as required by OMB Circular A–130, Appendix III.	$793,360	$1,630,675	$3,727,000
Certification and Accreditation (C&A).	C&A provides an acceptable level of assurance that security controls are implemented and functioning properly to ensure that IT systems and infrastructure operate appropriately. The authorization (accreditation is required by OMB Circular A–130,.	$1,213,905	$1,391,325	.....
Common Access Architecture (CAA).	To define DOT requirements for an enterprise-wide CAA that includes physical and logical access, smart cards, public key infrastructure (PKI)—digital signature and e-Authentication in order to meet Federal standards and to ensure a more secure DOT.	$549,832	$25,000	$1,000,000
Enterprise Security Project (ESP).	Contractor support for security compliance reviews, training and awareness, security assessments.	.....	.....	$500,000
Total	.....	$3,688,363	$3,047,000	$5,227,000

Question. What is the projected out-year funding requirement by fiscal year for IT security?

Answer. Out-year security funding requirements are: fiscal year 2006—$5,354,000; fiscal year 2007—$17,344,000; fiscal year 2008—$9,942,000; and fiscal year 2009—$12,348,000.

The spike in fiscal year 2007 funding requirements is due to the full implementation of the Common Access Architecture in the new DOT headquarters building.

Question. Please provide a list of major contractors supporting the CIO's IT security program, including consulting services, the project they are supporting, and the value of each contract.

Answer. The following is a list of the current major contractors supporting the CIO's IT security program.

MAJOR CONTRACTOR SUPPORTING OCIO IT SECURITY

Contractor	Program	Value
SAIC	Certification & Accreditation (C&A)	$958,322
Mainstay	C&A	$347,000
Breakwater	Transportation Cyber Incident Response Center (TCIRC)	$190,000
Indus	TCIRC	$164,000
Foundstone	TCIRC	$85,000
Working Capital Fund	TCIRC	$1,302,678
Total		$3,047,000

Question. The Congressional Justifications state that the IT security program will result in savings of more than $5 million per year. When will the savings materialize and are the savings recurring? Will the savings occur at the Departmental level or will they be spread among the operating administrations? If these cost-avoidance measures are realized by the modes, how much will each one save?

Answer. DOT will recognize savings through cost avoidance in several areas, through: (1) centralized purchasing and implementation of enterprise-wide hardware/software; and (2) the provision of scaleable security services. In terms of hardware/software, the DOT OCIO has already made a one-time purchase of a security tool that has resulted in a savings of $140,768 in software licensing costs for the Department's modes. These types of cost avoidance are expected to continue and grow as more enterprise-wide license agreements are initiated for security software and tools. The DOT OCIO is also implementing DOT-wide TCIRC operations. If these TCIRC functions were to be performed centrally, it is estimated that each mode would avoid approximately $774,076 per year in recurring software and contract labor costs beginning with full implementation of a centralized IT security program.

Question. What is the CIO doing to protect critical IT systems from attack and what contingency planning is occurring to ensure business continuity in an emergency?

Answer. The CIO protects critical systems through a multi-faceted security program. DOT OCIO has implemented an enterprise wide vulnerability remediation program to ensure that all critical systems are protected from cyber attack. Weekly vulnerability scans are performed using an automated vulnerability scanner. The results of these scans are reviewed monthly by the Chief Information Security Officer. Currently, staff provides follow-up on patch installation as well as other remediation efforts. Follow-up consists of assisting modal IT staff with the patch installations and remediation steps. The OCIO has established a compliance review program to ensure that implementation of security controls, including business continuity plans, for mission critical systems is in accordance with Federal and departmental regulations. The OCIO has established a disaster recovery site to support communications capabilities for all modes in the event of emergency situations.

COMMON ACCESS ARCHITECTURE

Question. Is the $1,000,000 that the CIO is requesting for the Common Access Architecture being augmented by funding requests in the operating administrations for fiscal year 2005? If so, please provide a table indicating how much each operating administration is requesting?

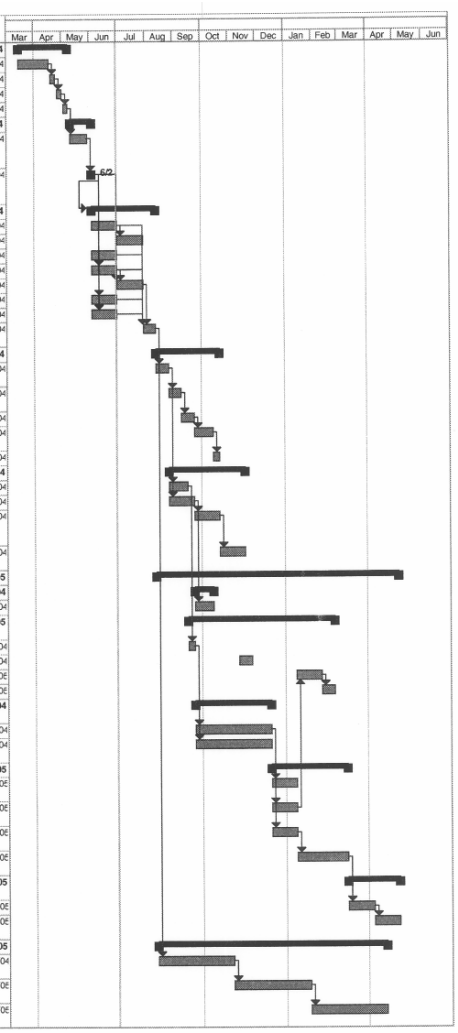
Answer. The CIO is not requesting augmentation of funding for the Common Access Architecture from the Operating Administrations.

Question. Please provide a detailed profile, including past and current efforts, of the scope of work, milestone schedule, and anticipated costs for the Common Access Architecture project.

Answer. The scope of the Common Access Architecture (CAA) project is to define Department of Transportation (DOT) requirements for an enterprise-wide CAA that includes physical and logical access, smart cards, public key infrastructure (PKI)-digital signature and e-Authentication in order to meet Federal standards and to ensure a more secure DOT environment. With $574,832 funding to date, DOT has completed a CAA requirements analysis, a detailed business case, a communication plan, architecture, an implementation approach document, and is implementing two proof of concept projects for the CAA. The fiscal year 2005 budget request of $1 million will integrate several applications into CAA authentication in order to provide proof of concept for application authentication and to refine integration support procedures so that other DOT applications encounter as smooth a transition as possible as the application owners begin to migrate their applications to CAA authentication.

Once the proof of concept is established from the controlled pilots, the project will result in a common access architecture that: (1) improves physical access control; (2) improves logical access control; and (3) interoperates with the federated identify authentication services. DOT's strategy for this program is to fund the program from the DOT OCIO budget through fiscal year 2009, and then to collaborate with operating administrations to establish fiscal year 2010 and beyond requirements. The following project plan highlights CAA milestones and schedule.

Task Name	Start	Finish
Establish CAA Project Management Office (PMO)	**Mon 3/15/04**	**Fri 5/7/04**
Develop SOW/RFP for PMO support	Mon 3/15/04	Fri 4/16/04
Prospective PMO support vendors respond	Mon 4/19/04	Fri 4/23/04
Select vendor & sign task order	Mon 4/26/04	Fri 4/30/04
Kickoff meeting with PMO support vendor	Mon 5/3/04	Fri 5/7/04
Establish CAA Project Working Groups	**Mon 5/10/04**	**Wed 6/2/04**
Establish working group meetings every 2 weeks - including representatives from OCIO, FAA, M-40, MARAD and other OAs	Mon 5/10/04	Fri 5/28/04
CAA Project Working Group Kickoff Meeting - Define fu pilot scope and assign responsibilities to develop implementation plans for each phase of the pilot	Wed 6/2/04	Wed 6/2/04
Develop individual pilot implementation plans	**Thu 6/3/04**	**Wed 8/11/04**
OST Directory Services	Thu 6/3/04	Wed 6/30/04
GSA ACES Certificates	Thu 7/1/04	Wed 7/28/04
OCIO Archer ESP	Thu 6/3/04	Wed 6/30/04
M-40 Physical Access Controls	Thu 6/3/04	Wed 6/30/04
OST ID Vetting & Credentials Issuance	Thu 7/1/04	Wed 7/28/04
FAA Directory Services (Observer)	Thu 6/3/04	Wed 6/30/04
FAA ID Vetting & Credentials Issuance (Observer)	Thu 6/3/04	Wed 6/30/04
Review individual implementation plans	Thu 7/29/04	Wed 8/11/04
Initiate Pilot Implementation Plan & SOW/RFP	**Thu 8/12/04**	**Wed 10/20/04**
Merge individual pilot implementation plans into a single coherent pilot implementation plan	Thu 8/12/04	Wed 8/25/04
Revise/create a CAA pilot SOW for tasks that require integration support, as per the pilot implementation plan	Thu 8/26/04	Wed 9/8/04
Revise, Finalize and Release CAA Pilot SOW/RFP	Thu 9/9/04	Wed 9/22/04
Vendors respond to CAA Pilot SOW/RFP (Look at Sole Source to save time)	Thu 9/23/04	Wed 10/13/04
Select Vendor for CAA Pilot	Thu 10/14/04	Wed 10/20/04
Development Phase	**Thu 8/26/04**	**Wed 11/17/04**
Develop DOT ACES Policy	Thu 8/26/04	Wed 9/15/04
Develop DOT CAA Certificate Policy (CP)	Thu 8/26/04	Wed 9/22/04
Develop DOT registration authority procedures to include existing ID vetting and background investigation procedures and new smart card/certificate enrollment	Thu 9/23/04	Wed 10/20/04
Develop revised DOT Physical and Logical Access Policy	Thu 10/21/04	Wed 11/17/04
Implementation Phase	**Thu 8/12/04**	**Wed 5/4/05**
Configuration of PKI Repository Servers	**Thu 9/23/04**	**Wed 10/13/04**
Configuration of DOT Active Directory services	Thu 9/23/04	Wed 10/13/04
Implement Managed PKI Certificate Authority Services, to include:	**Thu 9/16/04**	**Wed 2/23/05**
Procurement of digital certificates for pilot	Thu 9/16/04	Wed 9/22/04
Provide Certification Practice Statement (CPS)	Thu 11/11/04	Wed 11/24/04
Begin publishing certificates to Active Dir	Thu 1/13/05	Wed 2/9/05
Establish management of Active Dir CRL	Thu 2/10/05	Wed 2/23/05
Provision Infrastructure for DOT to be the Registration Authority (RA)	**Thu 9/23/04**	**Wed 12/15/04**
Procure and implement enrollment workstations	Thu 9/23/04	Wed 12/15/04
Procure install card printers (for badge portion of Smart Cards)	Thu 9/23/04	Wed 12/15/04
Training Tasks	**Thu 12/16/04**	**Wed 3/9/05**
Develop and conduct technical training for DOT administrators and technical staff	Thu 12/16/04	Wed 1/12/05
Develop and conduct procedural training for DOT registration staff	Thu 12/16/04	Wed 1/12/05
Develop and conduct user training for DOT pilot project users	Thu 12/16/04	Wed 1/12/05
Develop application development guidance for integrating the CAA into current and future DOT	Thu 1/13/05	Wed 3/9/05
Implement Pilot Support for Remote Access & Example Applications	**Thu 3/10/05**	**Wed 5/4/05**
Implement Support for Archer ESP	Thu 3/10/05	Wed 4/6/05
Implement authentication for OST O&M'd remote access	Thu 4/7/05	Wed 5/4/05
Security Management Tasks	**Thu 8/12/04**	**Wed 4/20/05**
Certification and Accreditation of Physical Access Control System	Thu 8/12/04	Wed 11/3/04
Certification and Accreditation of Active Directory (due to major change)	Thu 11/4/04	Wed 1/26/05
Certification and Accreditation of OST remote access services (due to major change)	Thu 1/27/05	Wed 4/20/05



Question. What is the projected out-year funding requirement by fiscal year for the Common Access Architecture project?

Answer. The information follows.

Fiscal year 2006	$2,530,000
Fiscal year 2007	11,590,000
Fiscal year 2008	2,980,000
Fiscal year 2009	4,690,000

Fiscal year 2007 includes costs for full implementation of CAA infrastructure within the Department.

Question. How much of the requested amount will be allocated to studies of biometrics and other technologies?

Answer. In fiscal year 2005, $25,000 is allocated for studies of biometrics and other technologies. DOT expects to minimize the cost of studies based on the previous work that has been accomplished in these areas by government and industry and to adopt existing Federal standards where practical.

Question. How much of the request for Common Access Architecture is for program administration?

Answer. The fiscal year 2005 Common Access Architecture request for program administration is $400,000.

ENTERPRISE ARCHITECTURE

Question. Please provide a list of major contractors and consulting services supporting the CIO's Enterprise Architecture Implementation project and the value of each contract.

Answer. The information follows:

—*Contractor*.—Bowhead Transportation Company, Inc.

—*Services*.—Enterprise Architecture Sustainment and Expert Support.

—*Contract Value (Fiscal Year 2004 Funds)*.—$544,552.

DOT's current EA support task order with Bowhead Transportation Company concludes on September 30, 2004. A new contract has not been awarded. The fiscal year 2004 contract value was $544,552 for Enterprise Architecture sustainment and expert support. And while fiscal year 2005 work will be similar, the proposed contract dollar value will be for full effort funding at $1,933,918, rather than the significantly reduced amount required by the fiscal year 2004 funding level.

Question. How much of the request for Enterprise Architecture Implementation is for program administration?

Answer. In fiscal year 2004, $306,082 has been requested for Enterprise Architecture (EA) Implementation program administration.

Question. Please provide a schedule and funding profile for each project identified under Enterprise Architecture Implementation.

Answer. The Enterprise Architecture implementation activities are all interrelated and do not lend themselves to being broken out as discrete projects. The DOT Enterprise Architecture Program Management Office (EAPMO), supported by contracted expert consultants, will be evaluating numerous business needs/requirements of the Department in support of the IT infrastructure consolidation efforts for the move to the new DOT Headquarters Building, as well as the attainment of the goals set forth in our EA Modernization Blueprint. These project activities are scheduled to run throughout fiscal year 2005. Estimated funding to provide support for these activities in fiscal year 2005 is $2,515,000. For individual project and scheduling details for the Enterprise Architecture Implementation for fiscal year 2005, please see the proposed DOT fiscal year 2004 IT Roadmap v.8 below.

Activity	Start	Finish
IT GOVERNANCE	10/1/04	9/1/05
Develop Fiscal Year 2006 Implementation Plan	10/1/04	11/11/04
Departmental IRB—Investments	10/15/04	10/15/04
Conduct Fiscal Year 2004 Implementation Plan Outreach Mtgs with OA's	10/20/04	11/26/04
Departmental IRB—Control	11/12/04	11/12/04
Departmental IRB—Investments	1/14/05	1/14/05
ARB	1/11/05	1/11/05
Departmental IRB—Control Review	2/11/05	2/11/05
ARB	2/8/05	2/8/05
CIO Council	2/3/05	2/3/05
Initial Fiscal Year 2006 IT Budget Guidance	3/1/05	3/31/05
ARB	3/8/05	3/8/05
CIO Council	3/10/05	3/10/05
ARB	4/12/05	4/12/05
CIO Council	4/7/05	4/7/05
Departmental IRB—Investments	4/15/05	4/15/05
Revised Fiscal Year 2006 IT Budget Guidance	5/3/05	5/3/05
ARB	5/10/05	5/10/05
CIO Council	5/5/05	5/5/05
Departmental IRB—Control	5/13/05	5/13/05
ARB	6/14/05	6/14/05
CIO Council	6/2/05	6/2/05
Departmental IRB—Control	7/15/05	7/15/05

Activity	Start	Finish
ARB	7/12/05	7/12/05
CIO Council	7/7/05	7/7/05
ARB	8/9/05	8/9/05
CIO Council	8/4/05	8/4/05
Departmental IRB—Investments	8/26/05	8/26/05
CIO Council	9/1/05	9/1/05
IT CPIC—SELECT	10/27/04	9/6/05
Update Screening and Scoring Criteria	10/27/04	11/30/04
Update Prioritization Process	11/3/04	12/3/04
Update IT Portfolio Management Process and Analysis	11/3/04	12/31/04
Conduct Fiscal Year 2006 Passback and Revised Exhibit 53 Support	11/26/04	2/1/05
Provide Preliminary Fiscal Year 2007 Portfolio Support	4/5/05	5/30/05
Present Proposed Fiscal Year 2007 Portfolio to OA IRB	5/16/05	5/20/05
OA's Submit Exhibit 300s to OST/OCIO	6/1/05	6/1/05
Present Proposed Fiscal Year 2006 Portfolio Development & Prioritization to ARB/CIO Council.	6/13/05	6/17/05
Conduct Capital Planning Working Group (CPWG) Internal Reviews of Fiscal Year 2007 Exhibit 300s.	6/1/05	6/30/05
OA's Submit Exhibit 53's to OST/OCIO	7/29/05	7/29/05
Submit Final Exhibit 300's to OST/OCIO	8/12/05	8/12/05
Present Final Fiscal Year 2007 Portfolio to Departmental IRB for Approval Prior to OMB Submission.	8/26/05	8/26/05
Submit Final Exhibit 300's and 53's to OMB	9/6/05	9/6/05
IT CPIC—CONTROL	10/18/04	7/15/05
OA Initiative Owners Submit Control Data	10/18/04	10/22/04
Departmental IRB/Control Review	11/12/04	11/12/04
Quarterly Portfolio Assessment	12/31/04	1/13/05
OA Initiative Owners Submit Control Data	1/24/05	1/28/05
Departmental IRB/Control Review	2/11/05	2/11/05
Quarterly Portfolio Assessment	3/31/05	4/13/05
OA Initiative Owners Submit Control Data	4/25/05	4/29/05
Departmental IRB/Control Review	5/13/05	5/13/05
Quarterly Portfolio Assessment	7/1/05	7/7/05
OA Initiative Owners Submit Control Data	7/1/05	7/7/05
Departmental IRB/Control Review	7/15/05	7/15/05
IT CPIC—EVALUATE	2/1/05	7/6/05
Revise PIR Methodology Based on Pilot Results	2/1/05	2/28/05
Conduct PIR for Major System	4/4/05	5/17/05
Conduct PIR for Major System	6/2/05	7/6/05
eCPIC	4/4/05	4/15/05
Conduct Refresher User Training	4/4/05	4/15/05
OST/OCIO TRAINING	11/26/04	7/11/05
Supplemental OA Budget Support for OMB Passback Issues, as needed	11/26/04	1/31/05
Enterprise Architecture (BRM, PRM, TRM, DRM, SRM)	2/25/05	2/25/05
Earned Value Analysis	2/21/05	2/23/05
Risk Management	4/4/05	4/4/05
IT Security, Cost Estimating Tool, Privacy Impact Assessments	4/18/05	4/18/05
Lifecycle Costs/Alternative Analysis	2/14/05	2/14/05
Performance Measurement	3/7/05	3/11/05
OMB Update Training—Revisions to A–11	7/11/05	7/11/05
ENTERPRISE ARCHITECTURE (EA)	10/1/04	9/30/05
Update 2005 Communications Plan	10/1/04	11/1/04
Update Technical Reference Model	10/1/04	11/18/04
Update DOT EA Methodology	10/1/04	11/16/04
Provide Guidance to OA's on EA Baseline, Target, and Implementation Plan Development.	12/2/04	2/1/05
Update EA Repository	1/3/05	1/31/05
Identify Fiscal Year 2007 Enterprise Initiatives	1/3/05	1/31/05
Provide Input for OMB Exhibit 300s	2/1/05	6/16/05
Develop Baseline/Target for all Cross Cutting LOB Identified as Priority	3/1/05	6/29/05
Provide Guidance to OA's to Develop Their Baseline/All Mission LOBs	3/1/05	6/29/05
OA's Deliver Mission Baselines & Targets	6/30/05	6/30/05
Develop High Level Implementation Timelines for Cross-Cutting LOBs	4/4/05	9/2/05
OA's Deliver High Level Implementation Timelines	6/1/05	9/2/05
Executive Briefing Highlighting EA Plans Developed	8/1/05	9/30/05

DOT INVESTMENT REVIEW BOARD

Question. How does the Department Investment Review Board (IRB) decide which topics or issues to focus on?

Answer. The DOT Office of the CIO (OCIO) maintains a system inventory database containing current performance, schedule, cost, measurement, risk and other information for all major IT projects. Also, basic information on non-major IT projects for which the Operating Administrations (OA) have primary responsibility is maintained in the database. The investment system information is the same as required by Federal Information Security Management Act (FISMA). The Departmental IRB conducts control reviews on at risk IT projects at least on a quarterly basis throughout the year. Projects are selected for review based upon one or more of the following factors:

—Criticality to achieving Presidential Management Agenda goals.
—Criticality to achieving DOT strategic goals and objectives.
—High dollar value.
—High risks.
—Significant performance variances, and schedule or cost variances exceeding 10 percent.
—Overall need for executive level management attention to ensure project success.
—Need for information to support planned project funding requests.

On an annual basis, the Departmental IRB and its staff performs a comprehensive select review of all IT projects in support of the budget process. This ensures that the DOT-wide portfolio of IT projects meet modernization goals and contains an appropriate and affordable mix of projects that will assure accomplishment of DOT missions. The DOT CIO makes recommendations to the IRB to consolidate redundant IT spending amongst the Operating Administrations and to establish cross-cutting initiatives that will benefit multiple agencies.

Question. Please provide a list of projects that the IRB reviewed during fiscal year 2003 and to date in fiscal year 2004.

Answer. The DOT IRB reviewed the following projects in fiscal year 2003:

—Artemis (Tread Act Implementation)—NHTSA
—Delphi (Departmental Financial System)—OST
—Federal Personnel and Payroll System (FPPS)—OST
—Geospatial—BTS
—Safety Monitoring and Reporting Tool (SMART)—RSPA
—Intermodal Transportation Data Base (ITD)—BTS
—National Transit Database (NTD)—FTA

The DOT IRB reviewed the following projects as of the second quarter of fiscal year 2004:

—Artemis (Tread Act Implementation)—NHTSA
—Financial Management Information System (FMIS)—FHWA
—Motor Carrier Management Information System (MCMIS)—FMCSA
—ASDE–X (Surface Surveillance)—FAA
—Operational and Supportability Implementation System (OASIS)—FAA
—Wide Area Augmentation System (WAAS)—FAA

Question. In the last fiscal year, what percentage of the overall IT projects did the IRB actively review?

Answer. In fiscal year 2003, the Departmental IRB reviewed 2 percent ($34.2 million) of the Department's Major IT Projects ($1,715.5 million). In fiscal year 2004 to date, the Departmental IRB reviewed 6.4 percent ($105.2 million) of the Department's Major IT Projects ($1,642.1 million).

Question. What are the costs of the IT projects that the IRB reviewed? What are the total costs by operating administration of all IT modernization occurring in the department?

Answer. In fiscal year 2003, the Departmental IRB reviewed 2 percent ($34.2 million) of the Department's Major IT Projects ($1,715.5 million). In fiscal year 2004 to date, the Departmental IRB reviewed 6.4 percent ($105.2 million) of the Department's Major IT Projects ($1,642.1 million). The following table identifies the total cost by Operating Administration (OA) for all IT modernization occurring in the Department for fiscal year 2004 and fiscal year 2005 as reported by the OAs in their OMB exhibit 53 submissions.

DEVELOPMENT/MODERNIZATION/ENHANCEMENT (DME) BY OA FROM EXHIBIT 53 IT PORTFOLIO

[In thousands of dollars]

Organization	Fiscal Year 2004 IT	DME 2004	Fiscal Year 2005 IT	DME 2005
BTS	5.6	0.8	7.1	2
FAA	2,459.70	1,512.20	2,298.70	1,315.50
FHWA	42.3	3.7	63.5	2.2
FMCSA	24.3	15	25.9	13.3
FRA	19.1	3.5	12.3	1.9
FTA	12.9	.....	15.6	.....
MARAD	9.8	6.5	11.3	7.5
NHTSA	23	3.3	20.4	3
OIG	1	.....	0.9	.....
OST	216.8	80.5	300.8	136.7
RSPA	19.1	1.7	18.8	1.2
SLSDC	0.1	.....	0.1	.....
STB	1.5	.....	1.6	.....
WCF	2	.....	2	.....
TOTAL	2,837.2	1,627.2	2,779	1,483.3

Question. How many IT investment projects did the IRB terminate or seriously modify through a corrective action plan?

Answer. To date, the Departmental IRB has not terminated any projects. However, in fiscal year 2003 seven investments (total value $37.5 million) were required to take corrective actions based on the IRB review. In fiscal year 2004 five (total value $96.8 million) were required to take corrective actions. All of these projects have accomplished, or are on schedule, with regard to required corrective actions.

Question. In the past, operating administrations have contracted with the Volpe Center to develop and define requirements for IT systems. What is the assessment of the CIO of Volpe's capability in this regard?

Answer. Volpe performance has been varied. Volpe has had both successful and marginal engagements and is changing its contracting and management practices to achieve better consistency.

Question. What guidance, support, or oversight does the CIO provide to FAA for facility and equipment acquisition?

Answer. The CIO performs Exhibit 300 (business Case) review and training.

Question. Do the CIO or the IRB review all of the IT requests throughout the Department before the budget is submitted to OMB?

Answer. Yes. The CIO office conducts reviews of IT requests delineated in the budget process. The IRB reviews the final DOT IT portfolio and the recommendations made by the CIO each August prior to budget submission.

Question. Does the CIO oversee the IT acquisitions made in the Office of Intelligence and Security?

Answer. No. The CIO's office does not oversee the IT acquisitions made in the Office of Intelligence and Security.

IT CAPITAL PLANNING

Question. Are contractors or consulting services used to support the CIO's capital planning and investment control (CPIC) process? If they are, please provide a list of major contractors, the services provided, and the value of each contract.

Answer. The CIO employs one contractor performing two tasks in support of the Departmental CPIC process.

—*Contractor*.—Booz-Allen & Hamilton
—*Services Provided*.—IT CPIC Process Development and Implementation
—*Contract Value (Fiscal year 2004 funds)*.—$358,000
—*Contract Value (Fiscal year 2005 planned)*.—$539,689 (Contract Face Amount)
—*Contractor*.—Booz-Allen & Hamilton
—*Services Provided*.—e-CPIC Software and Database Support
—*Contract Value (Fiscal year 2004 funds)*.—$63,938
—*Contract Value (Fiscal year 2005 planned)*.—$75,000 (Planned Contract Amount)

SECTION 508 COMPLIANCE

Question. What percentage of DOT websites comply with section 508 of the Rehabilitation Act?

Answer. DOT has more than a thousand websites hosting over 2 million web pages. In 2004, DOT conducted an evaluation on whether its most frequently accessed web pages were accessible to people with disabilities. Across the Department, the OCIO evaluated the 259 web pages most visited by DOT stakeholders. Of the pages tested, 79 percent were in compliance. The remaining 21 percent are being remediated by webmasters/page owners. DOT plans to expand its Section 508 website evaluation program over the next 2 years to determine DOT-wide 508 compliance as part of the CIO's fiscal year 2005 budget request.

IT SECURITY

Question. Is the DOT computer system a secure system?

Answer. DOT has a complex array of integrated and independent computer systems in its inventory, many shared within individual agencies, and some shared across Operating Administrations. DOT also has a complex IT infrastructure supporting the communications requirements of its headquarters campus and support for remote locations. The DOT computer system and infrastructure environment is secure.

Question. If it is secure, who certifies that it is secure?

Answer. DOT computer systems go through a formal certification and accreditation (C&A) process. Numerous qualified C&A vendors conduct C&A review and documentation processes using recognized and approved criteria, standards and processes. C&A results are reviewed and signed off on by the Government's system owners. The DOT CIO, in compliance with Clinger-Cohen, reviews and signs off on the systems' security for FISMA.

Question. What is the annual cost to maintain the system?

Answer. DOT computer systems maintenance costs vary by system, type of maintenance, service provider, software and other attributes, including discounts. The fiscal year 2005 budget proposes $1,298.4 million for the maintenance of all DOT computer systems, with $166.1 million of that for maintenance of IT Infrastructure. A key benefit of the OCIO driven consolidation is to reduce the number of systems, components, and thus their maintenance overhead, as well as reduce the annual cost to maintain the Departments vast inventory of computer systems.

Question. How many users have access to the system?

Answer. Nearly 60,000 users have access to DOT systems. Users have access based on need and privilege, and include Government and contract employees. Some portions of the DOT network are accessed by several tens of thousands of users daily, typically for email and data entry and retrieval. OCIO security and common access architecture initiatives are key components in maintaining the integrity of DOT systems through standardized user access and security requirements and access monitoring.

Question. Please describe in detail any contract or consulting expenses anticipated under the CIO's strategic management effort.

Answer. The following table describes detail concerning the CIO's fiscal year 2005 strategic management effort spend plan estimates regarding contractor support:

DEVELOPMENT/MODERNIZATION/ENHANCEMENT (DME) BY OA FROM EXHIBIT 53 IT PORTFOLIO

[In thousands of dollars]

Organization	Fiscal Year 2004 IT	DME 2004	Fiscal Year 2005 IT	DME 2005
BTS	5.6	0.8	7.1	2
FAA	2,459.70	1,512.20	2,298.70	1,315.50
FHWA	42.3	3.7	63.5	2.2
FMCSA	24.3	15	25.9	13.3
FRA	19.1	3.5	12.3	1.9
FTA	12.9	.....	15.6	.....
MARAD	9.8	6.5	11.3	7.5
NHTSA	23	3.3	20.4	3
OIG	1	.....	0.9	.....
OST	216.8	80.5	300.8	136.7
RSPA	19.1	1.7	18.8	1.2
SLSDC	0.1	.....	0.1	.....
STB	1.5	.....	1.6	.....

DEVELOPMENT/MODERNIZATION/ENHANCEMENT (DME) BY OA FROM EXHIBIT 53 IT PORTFOLIO—Continued

[In thousands of dollars]

Organization	Fiscal Year 2004 IT	DME 2004	Fiscal Year 2005 IT	DME 2005
WCF	2		2	
TOTAL	2,837.2	1,627.2	2,779	1,483.3

In fiscal year 2003, the Departmental IRB reviewed 2 percent ($34.2 million) of the Department's Major IT Projects ($1,715.5 million). In fiscal year 2004 to date, the Departmental IRB reviewed 6.4 percent ($105.2 million) of the Department's Major IT Projects ($1,642.1 million). The following table identifies the total cost by Operating Administration (OA) for all IT modernization occurring in the Department for fiscal year 2004 and fiscal year 2005 as reported by the OAs in their OMB exhibit 53 submissions.

IT CONSOLIDATION

Question. Please breakdown in greater detail the request for the CIO's IT consolidation and operations support.

Answer. The following provides a work breakdown structure (WBS) for the $4,200,000 budget request.

WBS Item	Funds Requested
Network/Server Co-Location	$1,500,000
Storage Consolidation	1,000,000
Digital Document Management	500,000
Contract/Support Consolidation	300,000
Centralized Call Center/Full Remedy Implementation	300,000
Standard Desktop Image Implementation	300,000
Centralized Help Desk	300,000

Question. There appears to be a considerable amount of duplication in the justifications for IT consolidation and operations support with other projects in the CIO's request—for example, "updated and new IT Security Policies," "user identification and password administration," and IT improvements related to the planned move to the new DOT headquarters building. Are these examples and others in the justification distinct from similar projects in IT security, Enterprise Architecture Implementation, and other activities?

Answer. The Office of the CIO (OCIO) performs two distinct missions. One is policy and compliance and the other is operational. The specific missions are: (1) providing department-wide IT program strategy, policy, direction and compliance/oversight; and (2) delivering IT services to DOT customers that conform to departmental policies (i.e. IT security policies). Both missions are complementary but have different scopes and investment requirements. Both require funding as included in our fiscal year 2005 request.

In the OCIO fiscal year 2005 justification, any apparent duplication of efforts between these two missions results when performance outputs are defined for: (1) the development of strategies and policies for a particular activity (e.g., update IT security policies, IT consolidation), and (2) for the operational implementation of the same activity. Each phase of the activity is categorized and managed separately within the OCIO's office depending on if it is in the development stage or the implementation/operational stage. None of these activities are duplicative; rather, they are distinct phases of the same activity. The OCIO's office recognizes the importance of managing these phases separately to ensure the most efficient use of its resources.

In providing IT program leadership, the OCIO oversees the development of an enterprise architecture or blueprint for future IT investments and ensures compliance department-wide. It also provides departmental policies and guidance for securing IT systems, monitors departmental and operating administration compliance and leads strategic projects to improve enterprise security (e.g. the Common Access Architecture). Specifically, to ensure compliance with statutory requirements for the security of critical networks and systems across DOT, the OCIO manages the Transportation Cyber Incident Response Center (TCIRC) and department-wide testing of

systems. In this enterprise security role, the DOT OCIO monitors approximately 500 operational networks and systems throughout DOT, to include those within the FAA and the CIO-operated infrastructure. Funding has been requested for this policy/compliance mission in areas of Enterprise Architecture and Enterprise Security.

In its role as an IT service provider to customers within DOT, the OCIO is directly responsible for running approximately 50 systems and one backbone network, and makes investments that improve service delivery and comply with the enterprise architecture. It also ensures that specific OST infrastructure and operational systems are secure based on departmental guidelines. Day-to-day operations include such diverse activities as implementing network controls, implementing software patches, the administration of passwords, installing virus software on servers and maintaining disaster recovery capabilities.

The operational role of the CIO is expanding through the consolidation of multiple infrastructures within the DOT headquarters building. This effort offers a significant opportunity to improve infrastructure security, reduce service costs and facilitate the move to a new headquarters building. The Department's Enterprise Architecture is providing a basis for building a common operating environment (COE) of desktops, servers, and telecommunications. The COE will become a one of over 25 components of the Department's enterprise architecture. Additionally, the common operating environment will improve security through investments in hardware and software to centralized security management of the entire infrastructure. Funding has be requested for IT operations and consolidation that includes investments to improve security of the infrastructure and to align with the DOT enterprise architecture.

E-GOVERNMENT

Question. How much of the funding requested for e-government will be transferred to the President's Management Council, Federal CIO, CFO and Procurement Executive Councils? How does this compare to fiscal year 2002 and fiscal year 2003?

Answer. In fiscal year 2004, DOT transferred $492,020 to the GSA Interagency Council "Pass-the-Hat" initiative which supports Government-wide financial, information technology, procurement and other management innovations, initiatives, and activities as approved by the Director of OMB. The councils covered under this initiative for fiscal year 2004 are: the CFO Council, the CIO Council, the Federal Acquisition Council (FAC) and the Chief Human Capital Officers Council.

In 2003, DOT paid $690,265 to GSA for this Pass-the-Hat initiative.

In 2002, DOT also paid $690,265 to GSA for this initiative.

STRATEGIC MANAGEMENT FISCAL YEAR 2005 CONTRACT SUPPORT ESTIMATES

GPEA/Forms/Digital Signatures/Records Management	$115,000
Privacy Program Contract Services	100,000
Section 508 Software maintenance/program implementation	82,000
Information Collection Burden program support	80,000
Performance Measurement/IT Workforce Planning	60,000
Total	437,000

Question. Please breakdown the request for e-government by planned activity.

Answer. DOT continues to use technology to save taxpayer dollars and to improve how the Department provides services and information to citizens, business and other government agencies. The fiscal year 2005 funding request is for FTE and contractor staff to improve project management skills within DOT and to lead e-government initiatives to improve service delivery, manage risks and keep projects on schedule and within budget.

The specific planned activities include:

—Creating processes, standards, guidelines and a project life cycle framework to guide all DOT project managers;

—Ensuring that 100 percent of all major new IT investments are managed by a qualified project manager;

—Improving access to and quality of information internally and to citizens and business through enterprise content management capabilities;

—Migrating DOT to a governmental personnel and payroll system;

—Improving mission performance through web portals like Geospatial One-Stop, Grants.gov and Business Gateway; and

—Improving the quality and consistency of human resource data by integrating multiple data bases and sharing information among multiple systems and processes.

Question. Is funding requested for development of the Department's internet home page?

Answer. Yes. In fiscal year 2005 the CIO will invest $175,000 in improvements to the Department's internet home page, including content management.

Question. What is the funding request for development of an intranet? Would the modes have access to the intranet? Have any of the modes already developed intranets? If they do, how does the CIO plan to make them interoperable or compatible with a department-wide intranet? What capability does an intranet provided that does not exist currently?

Answer. The CIO's fiscal year 2005 funding request includes $50,000 for the DOT intranet. Modes have access to the current DOT intranet, and will have access to future DOT sponsored intranet services. The Federal Highway Administration, the Federal Aviation Administration, Federal Motor Carrier Safety Administration, National Highway Traffic Safety Administration, and the Federal Transit Administration have developed certain intranet capabilities accessible internally by their employees. Through the commonality of format and best practices content management and portal implementations, the CIO will drive intranet consistency across a department-wide intranet environment, improving such aspects as ease of use, information availability, and remote access.

Question. What is your plan to get from "red" to "green" in the President's management agenda? What progress does the Department expect to make in fiscal year 2004? Since the fiscal year 2005 budget request was transmitted in February, what specific steps has CIO taken to work with OMB to get to "green"?

Answer. Through the Office of the Chief Information Officer, DOT has instituted three department-wide processes to get from red to green in the President's Management Agenda. First, DOT has established a Department Wide Capital Planning and Investment Control Process, led by a Departmental Investment Review Board (IRB). This group, chaired by the DOT Deputy Secretary and comprised of the DOT Assistant Secretary for Budget and Programs, the Assistant Secretary for Administration, the General Counsel, four Operating Administrations executives; and the Chief Information Officer, meet quarterly, with reviews and approval oversight for all initiatives and business cases in DOT's IT Portfolio. The IRB also provides control reviews of DOT IT programs to ensure they stay within 10 percent of cost, schedule, and performance goals.

Second, the DOT has established an enterprise architecture and modernization blueprint that identifies DOT's cross-cutting business processes, the IT initiatives supporting these processes, and outlines an implementation plan to eliminate redundant systems while strategically investing in programs that better support safety, mobility, and organizational excellence goals.

Third, the DOT has implemented an Enterprise IT Security Program which has completed certification/accreditation of more than 90 percent of all DOT systems, and has implemented an Inspector General-verified Plan of Action and Milestone (POA&M) Remediation Process to resolve any remaining system weaknesses identified in the certification/accreditation process.

Fourth, the DOT is currently supporting e-government initiatives that improve how DOT provides information and services to American citizens, businesses, other government entities and internally, and a Program Management Office to oversee these initiatives.

In fiscal year 2004, DOT instituted the processes outlined above, resulting in the following accomplishments as of June 30, 2004:

—All business cases have received a passing score from OMB;

—All major IT initiatives programs are within 10 percent cost, schedule, performance variance or have a corrective action plan that will be tracked by the Departmental IRB on a quarterly basis;

—A Modernization Blueprint that outlines DOT's IT investment priorities and strategies has been completed;

—Over 90 percent of all DOT systems have had certification/accreditation or have implemented an IG-verified POA&M process; and,

—Active participation in e-government initiatives has been positive.

IT MODERNIZATION

Question. What are the Department's goals for modernization in fiscal year 2005?

Answer. The DOT CIO's mission is to support the Secretary's vision of a safer, simpler, smarter transportation system. DOT has published the DOT Modernization

Blueprint V.2. that outlines DOT's specific modernization goals to accomplish this vision. DOT began implementing this modernization strategy in fiscal year 2004 and will continue implementing the strategy in fiscal year 2005 and beyond through the accomplishment of three primary goals: modernize cross-cutting systems as a means of eliminating redundant IT systems and services and reinvest those savings into mission support initiatives; consolidate redundant infrastructure operations into a common operating environment; and improve the security of critical DOT networks and systems.

In terms of cross-cutting systems, as a first goal the DOT Investment Review Board (IRB) has established ten system modernization priorities:

—Financial Management;
—Grants Management;
—Recruitment;
—Personal/Payroll Systems;
—Internal Rulemaking Tracking;
—Procurement Management;
—Enterprise Document Management;
—Training;
—Intermodal Transportation Data System (ITDS); and
—Hazmat Data Sharing.

Inter-modal teams have been established to create business cases and associated timeframes and to execute agreed upon strategies. In several cases, planning is being done with Federal e-government programs, such as the ITDS and Personal/Payroll initiatives. In conjunction with this goal, the DOT is establishing a Program Management Office (PMO) to oversee these initiatives, and to ensure that Project Managers are qualified.

The second modernization goal is to consolidate redundant IT infrastructure operations. DOT's consolidation strategy consists of three major phases:

Phase 1 (fiscal year 2004-fiscal year 2005).—Establish common network, server, and desktop standards and consolidate redundant infrastructures for all organizations (OST staff offices and Operating Administrations) moving to the new DOT Headquarters building into a Common Operating Environment (COE) based on these standards.

Phase 2 (fiscal year 2006-fiscal year 2008).—Expand the COE to include DOT field offices and components of FAA where practical.

Phase 3 (fiscal year 2008 and beyond).—Continue to modernize the DOT infrastructure to improve service and provide enhanced services to DOT stakeholders through the use of technology.

The third modernization goal is to improve the security of DOT's networks and systems. This goal will be accomplished through the CIO's requested funding for the Enterprise IT Security Program, and will include: contractor staffing to operate a 24/7 monitoring and incident detection/response center; improved and updated enterprise-wide policies, procedures, hardware and software to monitor and protect all systems within the Common Operating Environment; and through the execution of the Common Access Architecture Project, described later in this document.

IT PROCUREMENT

Question. Does all centralized IT purchasing come through the CIO's office? For all modes or just OST? What centralized purchases are made now that were not made in fiscal year 2003?

Answer. The DOT does not have centralized IT purchasing. Each mode and OST has its own acquisition office to make IT purchases. However, to ensure that the department is making the right investments, the department uses its Enterprise Architecture processes to establish standards and establish enterprise licenses and the Capital Planning and Investment Control process to review proposed IT investments as a part of the budget process. Starting in fiscal year 2005, the department's efforts to reduce redundant IT investments through the consolidation of IT infrastructures will lead to more centralized purchasing as the Department moves to a shared infrastructure among the modes. Also in fiscal year 2005 the DOT CIO will concur with all significant DOT IT procurement requests to ensure consistency with IT budget plans.

Question. Breakout the FTEs by function in the CIO's office.

Answer. The following table shows the FTEs in the CIO's office by function.

OFFICE OF THE CHIEF INFORMATION OFFICER—STAFFING BY FUNCTION

Function	Title
Executive Management	CIO
Executive Management	Deputy CIO
Executive Administration	Prog Anal
Executive Administration	Staff Asst
Staff Administrative Support	Admin Asst
Budget and Administration	Sup Prog Anal
S&E Budget	Prog Anal
S&E Projects	Prog Anal
Internet/DOT Web	Prog Anal
Enterprise Architecture/Capital Planning; Strategic Integration; IT Security	Assoc CIO IT Prog
IT Security	Comp Spec.
IT Security	Prog Anal
Personnel/Systems Security	Prog Anal
Enterprise Architecture/Capital Planning	Comp Spec.
Enterprise Architecture/Capital Planning	Comp Spec.
Enterprise Architecture/Capital Planning	Comp Spec.
Enterprise Architecture/Capital Planning	Prog Anal
Enterprise Architecture/Capital Planning	Sup Prog Anal
Strategic Integration	Prog Anal
Strategic Integration	Prog Anal
Strategic Integration	Prog Anal
IT Consolidation Program Office	Doc Sys Prog Mgr
IT Implementations	Comp Spec.
Enterprise Projects	Sup Prog Anal
Enterprise Projects	Comp Spec.

DELPHI

Question. Please provide the cost and justification data for Delphi. Is this system complete? If not, what is the estimated cost to complete? If it is complete, what is the cost to maintain the system?

Answer. Delphi, DOT's new financial management system, is a state-of-the-art, single-instance, non-customized, commercial off-the-shelf (COTS) accounting and financial management system. Delphi offers flexibility and maintainability at the functional user level; modular, tight integration of functional components; single source data capture; electronic routing and approval; web-enabled processes and report accessibility; electronic commerce capabilities; and, FFMIA compliance.

Delphi uses release 11.5.9 of Oracle Federal Financials, which is COTS software from Oracle Corporation that has been certified by the Joint Financial Management Improvement Program as meeting all Federal accounting requirements. Delphi has replaced DOT's outdated, non-compliant legacy accounting system, which was sunset in March 2004 and is no longer in production.

Benefits of Delphi include:

—Complies with Standard General Ledger.
—Provides a single Accounting Classification Structure throughout DOT.
—Provides Financial Statements from its core system, not external spreadsheets.
—Enables DOT to meet OMB's accelerated schedule for year-end closing and Financial Statements.
—Provides the basis for Managerial Cost Accounting through the Project Accounting module.
—Incorporates best business accounting practices.
—Provides advanced security through audit trails and Roles and Responsibilities.
—Offers simplified upgrading to take advantage of evolving capabilities.
—Eliminates paper, makes documents immediately available to all, and provides sophisticated tracking through the integrated Invoice Imaging & Workflow System.

Delphi is considered fully implemented and is a steady-state system. No funds are needed to complete Delphi. Delphi implementation costs from fiscal year 1998 through fiscal year 2003 totaled $125 million. The cost to maintain Delphi in fiscal year 2004 is $22.05 million.

TCI RESPONSE CENTER

Question. Please breakout the response center costs.

Answer. The following table breaks out the "TCI Response Center Budget—Fiscal Year 2005."

TCI RESPONSE CENTER BUDGET—FISCAL YEAR 2005

Cost Category	Enterprise TCIRC/ IT Security Advice & Assistance
Personnel & Benefits:	
Manager	$114,505
Vacant assistant position	114,505
Subtotal	229,010
Travel	0
Contract Services:	
Senior Analyst	163,637
Senior Analyst	195,000
Mid-level analyst	120,000
Mid-level analyst	115,000
Senior level analyst	190,000
TCIRC Staff Training	100,000
Subtotal Labor	883,637
Supplies	15,000
Equipment, Non-Capital (software, scanning, patch mgmt, Security portal development, etc.)	1,632,144
Subtotal Other Costs	1,647,144
WCF Intrafund:	
Rent Intrafund	77,427
Other (computers, supplies)	215,055
Contract costs	61,136
Subtotal	353,618
Overhead:	
IT Admin & Special Projects	36,902
Financial Mgt Group	44,302
WCF Overhead	10,388
Enterprise Network Operations Center (7/24 monitoring)	522,000
Subtotal	613,591
Grand Total TCIRC	3,727,000

CRITICAL IT SYSTEMS

Question. What progress has the Department made in protecting critical IT systems at OST and the modes?

Answer. In fiscal year 2003, the DOT OCIO initiated two major programs to protect OST and Operating Administration critical IT systems: (1) a program to certify and accredit all of the Department's IT systems; and (2) implementation of the Transportation Cyber Incident Response Center (TCIRC).

In terms of certification/accreditation, the DOT OCIO established a specialized team and standard methodology, worked with OST and the OAs to establish a schedule, and executed a plan completing certification/accreditation for over 90 percent of the DOT computer systems by June 2004. As of September 30, 2003, approximately 40 percent of DOT's IT systems were certified and accredited in accordance with statutory, OMB, and NIST guidance. As of June 15, 2004, DOT has certified and accredited 95.6 percent of all IT systems. Efforts to now correct weaknesses identified through this process, and to test contingency planning efforts, will continue under this program in fiscal year 2005 and the DOT OCIO will also perform compliance reviews of modal IT systems to ensure that the certification and accreditations remain valid and all security controls are being implemented properly.

In terms of the TCIRC, DOT implemented this capability in fiscal year 2003. Today, the TCIRC monitors all DOT network access points, web sites, and other critical systems on a 24/7 basis, operates a vulnerability remediation management program that includes weekly vulnerability scanning and analysis, installs and configures intrusion detection at key network entry points, and provides critical system patch installation assistance to protect DOT IT systems from hackers and other threats. Based on the successful performance of the TCIRC, DOT has had no downtime of mission critical system networks or systems over the past year.

Additionally, the TCIRC monitors all DOT IT systems across the country to determine if illegal software is installed on DOT computer systems, such as peer-to-peer software, which places networks at risk to intrusions or other illegal file sharing activities (such as sharing illegal music). Based on the successful efforts of the TCIRC to identify and eliminate the use of this software, DOT has decreased instances of this software from an average of 25 a month to 1 a month. By providing the TCIRC at the Department-level, DOT is able to capitalize on economies of scale in terms of contracting for specialized contract support, and purchasing hardware and software once to service the entire Department, and is also able to quarantine any potential problems found in one OA immediately so other OAs are not impacted.

CIO CHARGES TO THE MODES

Question. Please provide a detailed break out of all CIO costs charged to the operating administrations, including what these costs are and how the cost was determined for fiscal years 2002, 2003, and 2004 to date.

Answer. There are no CIO costs charged to the Operating Administrations in fiscal years 2002 or 2003. In fiscal year 2004, reprogramming authority was requested to cover a funding shortfall in the enterprise IT security program area that affected security coverage across DOT Operating Administrations. The table below reflects that reprogramming allocation.

IT SECURITY FISCAL YEAR 2004 CHARGES FOR TCI RESPONSE CENTER AND C&A

	Email Count	Percent	TCI Response Center	No. of Systems	Percent	C&A	OA TOTAL
Reprogram Summary:							
BTS	286	0.49	$6,281	.....	0.00	.....	$6,281
FAA	45,046	77.47	$989,247	69	55.65	$556,452	$1,545,699
FHWA	4,826	8.30	$105,983	3	2.42	$24,194	$130,176
FMCSA	1,465	2.52	$32,173	1	0.81	$8,065	$40,237
FRA	1,041	1.79	$22,861	.....	0.00	.....	$22,861
FTA	691	1.19	$15,175	18	14.52	$145,161	$160,336
MARAD	648	1.11	$14,231	7	5.65	$56,452	$70,682
NHTSA	1,524	2.62	$33,468	3	2.42	$24,194	$57,662
OIG	471	0.81	$10,344	.....	0.00	.....	$10,344
RSPA	654	1.12	$14,362	1	0.81	$8,065	$22,427
SLSDC	88	0.15	$1,933	.....	0.00	.....	$1,933
VOLPE	1,409	2.42	$30,943	22	17.74	$177,419	$208,362
Reprogram Subtotal	58,149	100.00	$1,277,000	124	100.00	$1,000,000	$2,277,000
OST Additional Contribution	.....	.....	.....	.....	.....	.....	$200,000
Total Reprogramming and OST Contribution	.....	.....	.....	.....	.....	.....	$2,477,000

DISADVANTAGED BUSINESS ENTERPRISE

Question. Please provide an update on the work of the Secretary's senior level task force on Disadvantaged Business Enterprise fraud. How often has this task force met? What recommendations, if any, have the task force produced? Have they met with the staff of the DOT IG to build on that office's recommendations?

Answer. The Task Force was established to examine the DBE Program and to develop recommendations on improving the ability of the program to meet its objectives. The Task Force was charged with reviewing the findings of the OIG on a number of fraud incidents as well as reviewing the findings of the report initiated at the request of the House Appropriations Committee. The DBE Task Force meets once bi-monthly and has regular meetings with the Department's IG Office to discuss that office's ongoing DBE recommendations.

We expect to be able to implement a series of reforms which will have the effect of improving the management of the program, clarify its purpose, simplify its procedures and insure those who would misuse the DBE program are held to account. The Secretary charged the Task Force with developing recommendations on ways that the DOT can most efficiently and cost effectively increase oversight of the DBE Program, in order to reduce incidents of fraud.

Additionally, the administration's SAFETEA proposal contained a provision in Section 1802(d) which would mandate debarment of contractors who have been convicted of fraud related to Federal-aid highway or transit programs, and mandate the suspension of contractors who have been indicted for offenses relating to fraud. This would codify the debarment of convicted contractors, which under current DOT regulations is a discretionary measure. Under this provision, the Secretary would have the authority to waive suspension and debarment actions to address circumstances relating to non-affiliated subsidiaries of an indicted contractor, and national security concerns.

WORKFORCE RECRUITMENT

Question. Please provide an update on what the Department is doing to recruit and retain the best talent available. The IG has identified that the Department of Homeland Security and the Department of Defense have personnel rules and pay flexibility to assist with retention and recruitment. What is the Department doing to ensure the same benefits for its workforce?

Answer. In our quest to recruit and retain the best talent, DOT has obtained a synergy of effort through intermodal cooperation in implementing a corporate recruitment approach. In particular, during the last year, DOT convened an intermodal Corporate Recruitment Workgroup, consisting of 16 representatives from the different components and offices within DOT. It meets on a bi-monthly basis to collaboratively address ongoing DOT recruitment initiatives in support of closing the DOT skills gaps identified by our ONE DOT Workforce Plan; to identify those strategies that can assist Departmental efforts to develop the next generation of DOT employees; and to look for ways to present a corporate DOT image to the applicants we are trying to attract.

One key activity of the Corporate Recruitment Workgroup is to identify redundancies in recruitment efforts across the Department. As a result, the modes saved money by sharing costs, and DOT jobs have greater visibility by reaching and attracting a wider diverse audience. We outreach to specific groups to recruit a high quality, diverse applicant pool, in cooperation with Selective Placement Coordinators. We continue to evaluate and refine our efforts through quarterly hiring reports (fiscal year 2004 will be our baseline for future outyear comparisons).

We strongly encourage our components to use all of the flexibilities available to them whenever possible, including pay and bonus-related flexibilities (e.g., superior qualifications appointments and recruitment, retention, and relocation bonuses), scheduling flexibilities (e.g., telework and alternative work schedules), and the various special appointing authorities (e.g., the Federal Career Intern Program). Our largest component, the Federal Aviation Administration (FAA), has a number of unique statutory flexibilities that FAA uses to attract and retain a quality workforce. Once the results of the implementation of the Departments of Homeland Security and Defense flexibilities are apparent, we will be in a better position to know how we compete with them for a high quality, diverse workforce and whether similar statutory changes for DOT will be necessary to ensure successful recruitment and retention of the best talent available.

DELPHI

Question. What is the status of the implementation of Delphi by the modal administrations?

Answer. All DOT modal operating administrations (OAs) have implemented Delphi and are using it for accounting operations and financial management. The first OA to covert was the Federal Railroad Administration in April 2000 and the last was the Federal Aviation Administration on November 10, 2003.

DOT is the first cabinet level agency to completely convert all its operating units to a single instance, state-of-the-art, fully compliant COTS financial software package.

The Transportation Security Administration (TSA) was also set up on Delphi when TSA was created in DOT in February 2002. TSA has continued to use Delphi as its accounting system since being transferred to the new Department of Homeland Security (DHS) in March 2003.

Question. Are any of the development costs or operating costs of Delphi expected to be paid by the modal administrations?

Answer. Through fiscal year 2004, all of the development and operating costs for Delphi and for the legacy accounting system that it replaced have been shared by the DOT modal administrations and TSA under an annual reimbursable agreement with the Federal Aviation Administration's Mike Monroney Aeronautical Center in Oklahoma City, where Delphi is hosted, operated and maintained.

The distribution of Delphi development and operating costs is reviewed annually and agreed to by the Delphi Management Committee (DMC). The DMC is composed of representatives from all Delphi customers, currently all DOT modal administrations and the Transportation Security Administration (TSA). TSA has informed DOT that they plan to convert from Delphi to the U.S. Coast Guard's Oracle Federal Financials system in fiscal year 2005.

COMPETITIVE SOURCING

Question. Please describe in greater detail the training proposal related to competitive sourcing. How many employees are expected to receive such training?

Answer. OMB Circular A–76 requires the use of the Win.COMPARE software tool to accomplish competitions. The $15,000 training estimate was based on a contractor providing two Win.COMPARE courses that will allow us up to 20 students per class on site. The training is required to provide instruction for multiple study participants across the Department in the use of this mandated tool to accomplish both Standard and Streamlined competitions during the execution of the Department's Competitive Sourcing "Green" Plan for the upcoming year and beyond. The Department will identify the exact number of employees that will benefit from this training once OMB has approved DOT's "Green" Plan.

ELECTRONIC GRANTS

Question. Which DOT grant making agencies are currently capable of processing grant applications and grant awards through electronic means?

Answer. DOT's E-Grant Task Group is currently in the process of conducting a comprehensive inventory of all electronic methods used in each one of the Department's 59 grant programs. In conjunction with the inventory, they are also performing an analysis of the various system functionalities and the technologies used. This effort is expected to be completed within the next 90 days (September 2004) in concert with the Department's initial e-grant plan.

For purposes of clarification, the Department generally associates the terminology, ". . . grant applications and grant awards . . .", with competitive discretionary type programs. Approximately 99 percent of DOT programs are Mandatory type programs where funds are congressionally apportioned for each State, or based on Formula. DOT Mandatory/Formula programs require States to submit comprehensive State plans versus an "application", inasmuch as recipients are already determined along with funding apportionments, unlike discretionary programs that must undergo a "competitive" application process. However, for both mandatory and discretionary programs within the Department we expect the results of our inventory to show that several programs, use electronic methods to perform some function of their grants life cycle process.

Question. What are the out-year cost estimates for the DOT contribution to the e-grant portal/system?

Answer. The out-year cost estimates are as follows: fiscal year 2005—$754,467; fiscal year 2006—$754,467 to maintain, support and enhance the Grants.gov "find" and "apply" functionality that currently exists. In addition, OMB is sponsoring the Grants Line of Business initiative which is attempting to identify common internal grant processes. This initiative, for which a business case has not yet been developed (and for which agency contributions have not yet been determined), will be the follow-on to the Grants.gov initiative, enabling certain internal functions to be performed using shared technology services/tools.

Question. How much has DOT obligated to date, by year, in support of this effort?

Answer. DOT has obligated a total of $2,735,410 (fiscal year 2002—$88,590; fiscal year 2003—$1,411,410; fiscal year 2004—$1,235,410). There is also one DOT employee detailed for a period of 6 months to work in the Grants.gov Program Management Office.

Question. Are the other partnering agencies making the same contribution?

Answer. There are 26 grant making agencies in total. Currently 11 Partner agencies, including DOT, serve as part of the Grants.gov Executive Board and contribute both fiscal and personnel resources. In August 2002, a funding algorithm and payment schedule was approved by the Executive Board to allocate the funding require-

ments across the 11 Partner agencies. The specific amount of the contribution is determined by the agency's designation as a "large", "medium" or "small" agency, based on the total grant dollars awarded. DOT is categorized as a "large" grant making agency; and is contributing the same amount as HHS, HUD and others in the same category. OMB has directed the Grants.gov PMO to move to a usage-based model in fiscal year 2005 that will require contributions by all grant making agencies.

ELECTRONIC RULEMAKING

Question. What is the schedule and funding profile for the DOT contribution to the E-Rulemaking initiative?

Answer. As the managing partner for this initiative, EPA established the following plan for implementing the Federal Dockets Management System (FDMS), the second phase of the E-Rulemaking initiative:

—*Develop agency implementation plans and dates*.—July–August 2004;

—*Test the FDMS*.—October–December 2004;

—*Migrate agencies to the FDMS*.—January–October 2005.

The DOT funding profile for this effort is: fiscal year 2004—$775,000; fiscal year 2005—$885,000; fiscal year 2006—$955,000 (estimated).

All rulemaking documents published in the Federal Register by any DOT agency since the site was established are/were accessible via Regulations.gov, an internet portal (the first phase of the initiative). To date DOT has received 74 comments submitted from the site. Sixty-five were docketed and nine were rejected because they were either test entries, irrelevant, or blank.

Question. How much has DOT obligated to date, by year in support of this effort?

Answer. To date, DOT has obligated the following:

—*Fiscal year 2003*.—$4,547,500;

—*Fiscal year 2004*.—$544,208; [1]

Question. Please list the other partnering agencies in the E-Rulemaking initiative and provide the contribution each is expected to make.

Answer. EPA is the managing partner for this initiative and led the effort to define required contribution levels. Expected contributions for fiscal year 2005 for their partner agencies are:

Department of Transportation	$885,000
Department of Labor	885,000
Department of Agriculture	885,000
Health and Human Services	885,000
Federal Communications Commission	355,000
Department of Justice	355,000
Housing and Urban Development	355,000
General Services Administration	180,000
National Archives and Records Administration	100,000

Question. Are any other funds requested for E-Rulemaking besides the $800,000 in the Office of General Counsel?

Answer. No, this is the only amount being requested in the Department's budget.

ELECTRONIC BUSINESS PRACTICES

Question. Please compare the fiscal year 2005 budget request for electronic business practices with fiscal years 2003 and 2004.

Answer. DOT's funding requests for "Electronic Business Practices" for fiscal year 2003 through fiscal year 2005 include different initiatives. In fiscal year 2003 ($125,000) and fiscal year 2004 ($176,000), for example, this request was primarily to cover the cost of DOT's contribution to participate in government-wide electronic acquisition initiatives. In fiscal year 2005 ($875,000), however, the request significantly increased to reflect the estimated cost of procuring software licenses for a department-wide acquisition business system (i.e., a contract writing and management system), as mandated by the DOT Investment Review Board.

Question. Please breakdown the request for consolidated HR benefits assistance by specific efforts and also provide a projection of the future developmental requirements under this program.

Answer. The information follows.

[1] Funding for the remaining $230,792 to meet the fiscal year 2004 DOT commitment of $775,000 has been requested from the U.S. Coast Guard and the Transportation Security Administration, who are users of the DOT dockets system.

ESI integrated solution procurement	$250,000
ESI payroll data download	$25,000
Estimated DOI/FPPS programming start-up costs	$30,000–$50,000
Retirement and related benefits training (10–12 sessions including contractor time & travel) [1]	$75,000

[1] With the increasing number of employees who are becoming eligible for retirement, the demand for retirement and benefit counseling and information is increasing substantially. Contractor resources are necessary in order to deliver this service nationwide to DOT employees.

The future developmental requirement under this program is the development and implementation of an electronic record keeping system that will replace the current official personnel file (OPF).

HUMAN RESOURCES INFORMATION SYSTEM

Question. Please provide a schedule and funding history and plan of the Enterprise Human Resources Information System (EHRIS). Please include a breakdown of each modal administration's anticipated share of the costs of development.

Answer. The Enterprise Human Resources Information System (EHRIS) project was intended to implement an ORACLE enterprise application to meet the human resources, training administration, and time collection requirements of the Department of Transportation (DOT), excluding the Federal Aviation Administration (FAA). A companion project, the Corporate Human Resource Information System (CHRIS) was underway in the FAA, with the same goal. The projects were merged with the ORACLE Financial Management implementation within DOT in July, 2002, but never got beyond the planning stage when the project was superseded by the e-Payroll initiative in December of 2002. EHRIS was projected to have been implemented by the end of fiscal year 2004. Approximately $10 million was included in the budget requests between fiscal year 2003 and 2004, of the total projected cost of $14.175 million. The cost distribution to the modal administrations is reflected below:

Administration	As of 9/30/01	Percent	Dollar Amount
OST	539	3.59	$509,253
USCG	6,121	40.80	$5,783,188
FHWA	2,934	19.56	$2,772,076
FMCSA	787	5.25	$743,566
FRA	776	5.17	$733,173
SLSDC	152	1.01	$143,611
FTA	500	3.33	$472,406
NHTSA	660	4.40	$623,575
RSPA	964	6.43	$910,798
OIG	455	3.03	$429,889
MARAD	869	5.79	$821,041
STB	142	0.95	$134,163
BTS	104	0.69	$98,260
Total	15,003	100.00	$14,175,000

The funds requested for EHRIS for fiscal year 2003 and fiscal year 2004 were redirected to fund the Departmental migration to the e-Payroll initiative and no funds were requested in fiscal year 2005.

Question. What is the status of the EHRIS contracts?

Answer. The EHRIS contracts were for program management and systems integration support; the work orders issued on behalf of EHRIS have expired.

Question. Please compare the projected requirements or capabilities of the Enterprise Human Resources Information System (EHRIS) to the Federal Personnel and Payroll System (FPPS).

Answer. At a high level, EHRIS was projected to use Commercial Off the Shelf (COTS) software in an enterprise model to support human resources, training administration, and time collection requirements. EHRIS was not slated to replace the legacy DOT payroll system. The Federal Personnel and Payroll System, implemented in 1997, is an integrated human resources and payroll system. It does not support training administration or meet DOT requirements for time collection.

Question. The justification states FPPS does not address training. Would EHRIS have addressed this? If this is a necessary requirement primarily because of FAA's needs, then should FAA cover those costs?

Answer. EHRIS was slated to address the DOT requirements for training administration, through the use of the ORACLE application software.

With the discontinuation of the EHRIS project in fiscal year 2002, the eLMS system, implemented under the auspices of the e-Training initiative as part of—and funded by—the DOT FPPS migration project, is intended to meet the training administration requirements of all of DOT. Although the training needs of the FAA are highly visible, other modal administrations, such as the Federal Highways Administration, have vigorous training programs which require automated support. The operating costs of the training system will be shared proportionately, in relation to the size of workforce, among DOT's Operating Administrations.

Question. What are the out-year funding requirements for converting to FPPS?

Answer. The funding for FPPS was based on the EHRIS budget which did not include the FAA requirements. There were no funds requested in the fiscal year 2005 budget for EHRIS, subsequently there are none identified for FPPS. There currently is an estimated shortfall of $9.4 million in fiscal year 2005. It is currently anticipated that approximately $858,000 will be requested in fiscal year 2006 to support costs incurred in that year.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

Question. Please provide a table to breakdown the object class "other costs" in the Office of Administration and compare the request to the fiscal year 2004 enacted level after the across the board rescission. Also, please include the amount that was rescinded pursuant to Division H, sec. 168(b) of Public Law 108–199.

Answer. The information follows.

Object Class		Fiscal Year 2004 Enacted	Fiscal Year 2005 Estimate
	Recission pursuant to Division H, Sec 168(b) Public Law 108–199	$145.0	.....
	Across the board reduction per Title 5, Sec 517 of Public Law 108–199	1,482.0	.....
1XXX	PC&B	6,265.0	$7,535.2
21	Travel	53.0	70.0
23	Rental payments to GSA	7,836.0	9,014.0
25	OTHER COSTS		
	MSI Program	0.0	130.0
	E-Grants	4.0	350.0
	Electronic Business Process	126.0	943.0
	Online Internet Research Svcs	68.0	110.0
	Security Investigations	80.0	85.0
	New Hqs Building Security	0.0	130.0
	Training	25.0	183.0
	Corporate Recruitment	0.0	500.0
	Consolidated Benefits Assistance	0.0	400.0
	Federal Personnel and Payroll System	153.0	846.8
	OST Cost to WCF	7,856.0	10,030.0
	Reimbursement to USCG Clinic	42.0	37.0
	Workforce Improvements Initiative	66.0	208.0
	DOT-wide Admin and Mgmt Services	277.0	143.2
	Subscriptions	19.0	28.3
	Procurement Strategy Council	0.0	45.0
	Electronic Official Personnel Folders	0.0	1,000.0
	Centralized Workers' Compensation	0.0	250.0
	E-Training Initiative	0.0	750.0
	CPMIS Charges	65.0	85.0
	Federal Employment Information Svcs	23.0	36.7
26	Supplies & Materials	27.0	24.8
	Total	24,612.0	32,935.0

OFFICE OF CIVIL RIGHTS

Question. Please provide detailed justification for the fiscal year 2005 budget request for the Office of Civil Rights by object class.

Answer. *11 and 12.1 PC&B (Includes Transit Benefits and Workmen's Comp).*—DOCR's PC&B request in fiscal year 2005, $9,382, is based on the assumption that DOCR will maintain current fiscal year 2004 staffing levels. This relatively small increase is due to mandatory increases such as pay raises, within-grade-raises and inflation.

21.1 Travel and Transportation of Things ($210).—DOCR staff travels to conduct EEO compliance reviews, participate in panels at conferences and workshops giving

presentations and speeches, and to obtain training associated with carrying out the organization's mission. DOCR's IT Division provides IT infrastructure, telecommunication, application and database services to Departmental Office of Civil Rights (DOCR) employees located in Cambridge, MA, Atlanta, GA, Chicago, IL, Dallas, TX, and San Francisco, CA. Periodic inspections and routine modifications must be performed at each location to ensure adequacy, accuracy and timeliness of the delivery of many of the Departmental Office of Civil Rights (DOCR) mission products and services.

25.2 Other Services ($2,686).—Other Services include:

—*Alternative Dispute Resolution*.—DOCR has administrative responsibility for providing mediation services to DOT's 10 operating administrations (OAs). DOCR ensures the program has skilled mediators and coordinates annual training to meet programmatic and EEOC requirements. DOCR also coordinates assignment of mediators and schedules mediation sessions, ensures that evaluations are completed, and tracks data relating to mediated cases. Finally, DOCR is available to assist OAs with training of EEO Counselors relative to the ADR program. While each OA has responsibility for training its managers and overall workforce, DOCR has increased its assistance for ADR training in order to promote and market the ADR program.

—*EEO Training and Other Training*.—DOCR will conduct program reviews; and direct, administer, and manage DOT's EEO and affirmative employment programs for managers, employees and applicants for employment.

—*Automated Case Tracking Systems (COS)*.—DOCR's automated tracking systems—Web Case Management System (WebCMS), Disadvantage Business Enterprise (DBE) Appeals System, and the External Case Tracking System (XTRAK)—serve as the official Departmental repository for maintaining accurate complaint and appeals information. These critical systems ensure that DOCR meets Secretarial, statutory, regulatory and other reporting requirements.

—*Section 504 Studies & Evaluations*.—Funding will be used to implement recommendations derived from the Department's ongoing Section 504 Self Evaluation and Transition Plan for the accessibility of its facilities and programs to people with disabilities.

—*Final Agency Decision (FADs) Writing*.—Funds will be used to fund preparation of FADs associated with equal employment opportunity (EEO) complaints filed against DOT, including decisions on the merits, compensatory damages assessments, sexual orientation complaint requests for reconsideration, and attorney's fees.

—*Contractual Support*.—DOCR utilizes contractual services to augment in-house EEO investigations. In addition, contractual EEO services are required for situations where a regional office may temporarily be short-staffed, or an urgent timeframe is ordered by EEOC or a Court Judge. DOCR also requires funding for contractual administrative and clerical support functions in order for organizational components to meet its critical mission needs in the most efficient manner possible.

—*Working Capital Fund*.—Pays for administrative support services. These services include building security, copy centers, Departmental programs, the Disability Resource Center, DOT's Worklife initiatives, and other proportional charges that are expended for common services.

—*Reimbursable Service Agreements (Regional Offices)*.—Provide for telecommunication resources, information technology support, administrative support, including mail service and employee transit benefits.

—*Relocation Expenses (San Francisco Regional Office)*.—DOCR prepared an Occupancy Agreement managed by General Services Administration (GSA) to relocate from San Francisco to Los Angeles, CA. DOCR expects to occupy new office space by December 2004.

—*Continuity of Operations*.—The Federal Preparedness Circular, Number 65, dated July 6, 1999, issued by the Federal Emergency Management Agency, requires all agencies to have a facility from which continued essential agency functions remain operational should the primary facility be rendered unusable during an emergency. DOCR has met this requirement and must provide oversight, which requires site visits, for organizations contracted to provide these services on its behalf.

—*Program Evaluation*.—Funds will be used to assess the manner and extent to which DOT civil rights programs achieve intended objectives. In addition, the President's Management Agenda (2002) further identifies the need for devising aggressive strategies for improving the management of the Federal Government.

—*Telecommuting/Telework Program*.—Funds are required to provide technological support for DOCR's participation in DOT's telecommuting/telework program. Information resources include hardware, software, data and records, and telecommunications connectivity.

—*Information Technology Services*.—Funding will support one of the strategic goals outlined in the President's Management Agenda—reducing the barriers of information and communication within DOT by implementing a new Civil Rights Case Management System.

26.0 Supplies and Materials.—Supplies and materials are required to support daily operations, i.e. paper, writing utensils, ink cartridges, research manuals, periodicals, and subscription services. Supplies and materials are also needed to support staff participation at conferences and workshops. Funds are also used to support Presidential interagency efforts and other efforts such as the interagency Holocaust Remembrance event.

31.0 Equipment.—The funding will be used to replace obsolete equipment and computers in DOCR. The Office of Information Technology (IT) and Program Evaluation division integrates equipment that can enhance DOT's Civil Right's business processes. The equipment supports testing and implementation of telecommuting, backup and recovery, presentations, document production and other functions. DOCR's IT Division is responsible for procuring and maintaining all information technology equipment and hardware purchased with Federal funding in support of DOCR's mission. Within the infrastructure, approximately 70 workstations, desktop and network printers, fax machines, digital senders, and scanners are used to provide an effective and efficient business environment to employees. This hardware requires periodic maintenance, upgrades or replacement. During fiscal year 2004 and fiscal year 2005, DOCR's infrastructure must be prepared to support DOT security, telecommuting, human capital, and electronic initiatives.

Question. Please explain in detail the assumptions used to develop the request for personnel compensation and benefits of the Office of Civil Rights.

Answer. DOCR's PC&B request in fiscal year 2005, $9,382, is based on the assumption that DOCR will maintain current fiscal year 2004 staffing levels. This relatively small increase is due to mandatory increases such as pay raises, within-grade-raises and inflation.

Question. Please provide the number of staffing positions and FTE requested, indicating direct and reimbursable, for the Office of Civil Rights.

Answer. In its fiscal year 2005 budget, DOCR requested 64 direct staffing positions and FTE. There are no reimbursable FTE.

Question. Please provide a table listing current staffing for the Office of Civil Rights compared to levels at the end of each quarter of past 5 fiscal years.

Answer. The information follows.

DEPARTMENT OF TRANSPORTATION DEPARTMENTAL OFFICE OF CIVIL RIGHTS STAFFING

	12/31/ 2003	3/31/ 2004	6/18/ 2004	12/31/ 2002	3/31/ 2003	6/30/ 2003	9/30/ 2003	12/31/ 2001	3/31/ 2002	6/30/ 2002	9/30/ 2002	12/31/ 2000	3/31/ 2001	6/30/ 2001	9/30/ 2001	12/31/ 1999	3/31/ 2000	6/30/ 2000	9/30/ 2000
Fiscal Year 2004:																			
1st Quarter	55																		
2nd Quarter		58																	
3rd Quarter			57																
Fiscal Year 2003:																			
1st Quarter				52															
2nd Quarter					52														
3rd Quarter						52													
4th Quarter							53												
Fiscal Year 2002:																			
1st Quarter								47											
2nd Quarter									48										
3rd Quarter										51									
4th Quarter											52								
Fiscal Year 2001:																			
1st Quarter												44							
2nd Quarter													45						
3rd Quarter														44					
4th Quarter															44				
Fiscal Year 2000:																			
1st Quarter																38			
2nd Quarter																	39		
3rd Quarter																		43	
4th Quarter																			43

Question. Please provide details on anticipated contract expenses in the Office of Civil Rights.

Answer. *Final Agency Decisions (FADs).*—Transfer of U.S. Coast Guard to the Department of Homeland Security on September 30, 2003, decreased the workload, but the projected increase in cost per FAD estimated at 5 percent resulted in no change in the total contract amount requested, $250,000.

Administrative and Clerical Support.—DOCR provides administrative and clerical support functions to organizational components to meet critical mission needs in the most efficient and effective manner possible. Clerical support is critical to accomplishing the workload in several of DOCR's divisional offices, $225,000.

EEO Investigations.—DOCR utilizes contractual services to augment in-house EEO investigations. During fiscal year 2004, many internal complaints of employment discrimination were outsourced for investigation to eliminate DOCR's backlog of overage cases. While the goal of a zero-backlog was realized by September 30, 2000, it is necessary to maintain funding for contractual services to prevent future backlogs. In addition, contractual EEO services are required for situations where a regional office may temporarily be short-staffed, or an urgent timeframe is ordered by EEOC or a district court judge, $250,000.

Reimbursable Services.—In addition, DOCR obtains contractual support from DOT's OAs for its regional offices that are located in DOT-owned facilities. The services provided include telecommunication resources, information technology, email, and lease charges, $220,000.

Information Technology Support and Tracking Systems.—DOCR employs the services of IMSG Inc., Actionet, Inc., and Micropact, Inc., to support the products and services required by DOT's internal and external customers. The services supplied by these contractors support the DOCR mission through software development, website and database hosting, software upgrades, and commercial off the shelf license renewal. In addition, DOCR utilizes IT contracts to support requirements outlined in the President's Management Agenda, which include enterprise architecture administration, capital planning support, and security requirements. Finally, DOCR utilizes IT contract support to supply information to complex civil rights queries supporting the Equal Employment Opportunity Commission (EEOC), the Department of Justice, and many freedom of information requests, $300,000.

Question. What is the current backlog of complaints at the Office of Civil Rights? Please compare to last 5 years.

Answer. Currently, and over the past 5 years, DOCR has experienced no backlog of complaints.

Question. What is the status of the relocation of the San Francisco Regional Office?

Answer. DOCR conducted a site search in the Los Angeles area, identified a location, and prepared an occupancy agreement. The new leased site will be managed by the General Services Administration (GSA). DOCR expects to occupy the new location by December 2004. Thus, DOCR plans to close the San Francisco office and relocate to the new site in the Los Angeles area. GSA will assist in all aspects of the move. All employees in the San Francisco office have been notified of the pending move to the new location. DOT's Human Resources office will issue a final letter to all employees. Following receipt of the letter, each employee will designate his or her intention to relocate to the new location or separate from Federal service.

Question. Are the costs requested for the San Francisco Regional Office relocation one-time expenses?

Answer. In fiscal year 2004, the cost of the initial relocation of SFRO employees to Los Angeles, CA, is estimated to cost $370,000. In order to obtain new office space (2,000 sq. ft.) and effect a reimbursable agreement with the Federal Aviation Administration's Western Region located in Los Angeles, CA, DOCR requested start-up funds of approximately $100,000. Other costs associated with the relocation include shipping furniture and equipment and the cost of relocating current employees. Miscellaneous costs, i.e., printing of stationery, is an example of a one-time expense. DOCR's fiscal year 2005 budget request reflects an additional $250,000. This estimate is based on the more generous relocation allowance for real estate costs authorized in 2005 by the General Services Administration. As actual moves occur, some of these funds may be reallocated to personal services to support relocation costs properly reflected as benefits. It also reflects a small budget for shipping charges for supplies, subscriptions and equipment.

MINORITY BUSINESS OUTREACH

Question. How much of the $3,000,000 fiscal year 2005 budget request for Minority Business Outreach funds PC&B?

Answer. The $3,000,000 request for the Minority Business Outreach fund does not include PC&B cost. The Office of the Secretary's Office of Small and Disadvantaged Business Utilization (OSDBU) provides oversight for this program; PC&B are included in the S&E fund.

The Minority Business Outreach fund is used to support partnership agreements with chambers of commerce and trade associations which offer a comprehensive delivery system that targets services towards small Disadvantaged Business Enterprises (DBEs) by: (1) Increasing the number of disadvantaged businesses that enter into transportation-related contracts; (2) Increasing the number of DBE firms that receive surety bonds and working capital through DOT's financial assistance Short Term Lending program and the Bonding Assistance Program; (3) Increasing the number of DBE businesses participating in hands-on-training that is related to specific disciplines required for obtaining transportation related contracts; and, (4) Operating the National Information Clearinghouse (NIC) which provides outreach and contract information to DBE firms.

The Minority Business Outreach fund also supports the Entrepreneurial Training and Technical Assistance Program (ETTAP) through Partnership Agreements with Minority Educational Institutions (MEIs) including Historically Black Colleges and Universities, Hispanic Serving Institutions and Tribal Colleges. This program combines the efforts of MEIs, government, and the private sector to focus on providing transportation-related assistance and procurement information to women-owned and disadvantaged business enterprises (DBEs).

Question. Please provide the number of requested staffing positions and FTE, indicating direct and reimbursable, under the Minority Business Outreach appropriation.

Answer. FTE were not requested under the Minority Business Outreach appropriation.

Question. Please provide a table listing current staffing under Minority Business Outreach compared to levels at the end of each quarter of past 5 fiscal years.

Answer. There are no current or past staffing levels under the Minority Business Outreach fund.

Question. Please describe efforts of the Minority Business Outreach program to encourage and assist Alaska Native Corporations to participate in DOT contracts and grants.

Answer. The U.S. Department of Transportation (DOT) Short Term Lending Program (STLP) provides revolving lines of credit to finance accounts receivable arising from transportation-related contracts. The primary collateral consists of the proceeds of the contracts. One of our Bank Lenders is the Native American Bank, National Association ("NAB") which is a federally-chartered bank that is owned by Native American Bank Corporation, a bank holding company that has been organized by a group of Tribal Nations and Alaska Native Corporations.

Through this resource partner, we have established a significant Indian presence for our outreach efforts. We will continue to seek out opportunities to increase DOT contracting with Native Corporations and to increase the number of DBE Alaska Native Corporations who participate in transportation related contracts. Most of our DOT funds are administered by our contract and grant recipients, through the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA). All recipients are required to have a DBE program. Under the provisions of 49 CFR parts 23 and 26, Alaska Native Corporations are presumed to be qualified eligible for DBE program participation.

Additionally, we assist Alaska Native Corporations in participating in DOT contracts. Bowhead, a Native Alaskan Corporation currently provides Information Technology services to the DOT Chief Information office under contract.

During fiscal year 2004, the USDOT Northwest TEAM and the DOT Bond Agent from Seattle, Washington traveled to Anchorage, Alaska to participate in an outreach event, hosted by the Port of Anchorage to support the efforts of the Port of Anchorage International Expansion Project. The event was entitled "Industry Day". The Maritime Administration (MARAD) made a request of the OSDBU Minority Resource Center to send representatives to seek out Alaska firms who could bid on contracts with the Intermodal Expansion Project. This is a $260 million project funded through the Maritime Administration. Our TEAM service provider, accompanied by a staff member from HCDI, the Minority Resource Center/OSDBU's contractor for the Marketplace Conferences project participated in this outreach event.

The purpose of the "Industry Day" outreach event was to help inform local ANC and DBE firms about potential opportunities from the Port Expansion Project. Topics ranged from the specifics of the project, the project schedule and contract and subcontracting upcoming opportunities.

Koniag Services, Inc. (KSI) a Native American 8(a) firm, was awarded the contract for project management for the "Industry Day" event and was responsible for hosting the meeting.

NEW DOT HEADQUARTERS BUILDING

Question. What is the unobligated balance of funds made available for the DOT headquarters building?

Answer. The $42 million was apportioned by March 2004, and we are working with GSA to ensure obligation of the full amount by the end of the fiscal year. One-third of the funds are being obligated by the end of June with the balance by the end of September 2004.

Question. Please compare the projected lease rates of the new headquarters building with the terms of the lease of the Nassif building?

Answer. The following chart compares the projected lease rates of the new headquarters building with the lease terms of Nassif building for the period of fiscal year 2004 through fiscal year 2007. The current Nassif lease expires March 2006, and DOT's projected move to the new facility will be completed in November 2006. It is anticipated DOT and GSA will request authority to exercise a short-term lease extension for approximately 10 months.

Rent	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007
New HQ Bldg.			$32,928,750	$40,435,470
Nassif Building	$37,000,000	$37,740,000	43,500,000	48,500,000

Question. Please provide a comprehensive list of projects and associated funding amounts for improvements to the Nassif building?

Answer. The Nassif building has been occupied for almost 30 years. There are no comprehensive records going back that far to draw upon to provide the requested information. However, through anecdotal information, the following projects and funding for the Nassif building capital improvements was compiled.

Project	Dates	Cost
Replacement of auxiliary cooling equipment	1995–1996	$452,335
Conversion of below ground space from parking space to office space	1995–1996	700,000
Fitness Center Renovation	1997	482,000
500 KW Emergency Generator (This item will be relocated to new headquarters building.).	1999	500,000
Emergency Command Center Expansion/Renovation	2001–2002	804,938
Installation of Loading Dock Doors	2001–2002	34,464

Question. Please breakdown in greater detail the fiscal year 2005 request for the new headquarters building.

Answer. The information follows.

Description Soft Costs	Fiscal Year 2005 Funds
GSA Managed Contracts:	
Ai:	
Acoustical/Audio Visual Engineer	
Engineering (MEP) DIDs	
Structural Engineering	
Architectural/Construction Admin.	
Disaster Planning	$101,115
Fitness Center Consultant	
Food Service Consultant	
Health Unit Consultant	
Signage Consultant	
Commissioning	200,000
LEEDS Certification	450,000
Building Automation System	40,000
Financial Consultant	
GSA advanced funds	
ARA: Security DIDs	50,000

Description Soft Costs	Fiscal Year 2005 Funds
CQM Awardee:	
Project Administration for Estimating, Scheduling & Inspections for Customization Components)	400,000
Other	19,847
IT/Telecom Design	.....
Guard Service (Site Access/Dock/Floor)	1,300,000
Move Consultant	.....
Moves (Box, Telecommunications, Furn.)	1,350,000
Occupant Emergency Plan (OEP) Consultant	135,000
Systems Furniture Consultant	125,000
Interior Design Consultant	100,000
MEP Consultant	.....
Document Repository	100,000
Employee Handbook	325,000
JBG: CDs—Developer's A/E (26 Design Action Item)	.....
Subtotal	4,895,962
GSA (WCF): Telecommunications Design	0
DOT Contracts: Security Consultant	100,000
TOTAL	4,995,962
Hard Costs:	
GSA:	
Furniture	21,100,000
Security Equipment	8,265,000
JBG:	
Base Building Enhancements	7,973,000
Interior Fitout	30,000,000
Building Automation System	2,500,000
Subtotal	69,838,000
GSA (WCF): Telecommunications Hardware	81,639,600
DOT	.....
TOTAL	151,477,600
Other Costs:	
GSA FEE (PBS PM Fee)	526,438
GSA FEE (FSS Fee)	3,000,000
TOTAL	3,526,438
TOTAL	160,000,000

Question. How much is the new building expected to cost?

Answer. As identified in the lease agreement negotiated by the General Services Administration, the new facility direct base building construction cost is estimated to be $206 million. In addition, the land and tenant improvement allowance costs are $40.5 million and $23.8 million respectively. DOT's estimated multi-year appropriated funding request for personal property, tenant fit-out and relocation expenses is estimated at $314.2 million.

Question. Please define in detail what customization will be necessary and what the costs of each project are projected to be.

Answer. Customization (tenant fit-out) costs are estimated at $40 million and are comprised of the following specific items:

Interior Tenant Fit Out.—$40,000,000.00:

—Carpet (150,000 SF@$35/SF=$5.25 million)

—Raised Flooring (49,000 SF@$20/SF=$0.980 million)

—Millwork (40,000 SF@$5/SF=$0.2 million)

—Window Treatment (75,000 SF@$1.50/SF=$0.075 million)

—Signage (1.35 million SF@$1/SF=$1.35 million)

—Finishes (1.35 million SF@$35/SF=$5.25 million)

—Pantries (1,280 SF@$30/SF=$.0384 million)
—Upgrade to Building Standard: Lighting, HVAC (General office), Plumbing, Electrical, Telephone Infrastructure, Acoustical Ceiling Tiles and Grid, Hardware (Doors, hardware) (1.35 million SF@$19.90/SF=$26.865 million).

DOT RENT

Question. Please compare what has been appropriated for rental of leased space to actual expenses over the past 5 years.

Answer. Over the past 5 years, the Government's annual appropriated rent payment has been approximately $37 million per year to cover actual rent expenditures for the DOT Nassif building.

WORKING CAPITAL FUND

Question. Please provide a break out of what is included in the request of each modal administration for the Working Capital Fund and identify which account includes such funding.

Answer. The information follows.

OPERATING ADMINISTRATIONS WORKING CAPITAL FUND REQUEST BY ACCOUNT

[In thousands of dollars]

	Fiscal Year 2005 Request
Federal Aviation Administration: Operations	24,626
Federal Highway Administration: LAE	8,299
Federal Motor Carrier Safety Administration: Motor Carrier Safety Operations & Programs	3,586
National Highway Traffic Safety Administration:	
General Fund	7,660
Trust Fund	7,660
Federal Railroad Administration: Safety and Operations	2,928
Federal Transit Administration: Administrative Expense	3,152
St. Lawrence Seaway Development Corp: Saint Lawrence Seaway Development Corp	376
Research and Special Programs Admin:	
Research and Special Programs	2,518
Pipeline Safety	847
Office of the Inspector General: Salaries and Expenses	2,218
Surface Transportation Board: Salaries and Expenses	90
Bureau of Transportation Statistics: Federal aid to Highways allocation	4,093
Maritime Administration: Operations and Training	5,926
Office of the Secretary: Salaries & Expenses, Office of Civil Rights	19,062
Total	93,040

Estimates are provided to the operating administrations to assist them in their budget formulation process. These estimates are used as a building block for the WCF budget request but do not represent the total WCF budget estimate. The WCF obligation request is built upon the customer estimates and additional obligation authority that is used to cover the potential to compete for business which results in higher demand levels for WCF services. For example, increases to demand come about during times of heightened security levels. The WCF budget estimate is developed based on the potential for the WCF to provide business services. Additionally, obligations for capital assets are required in 1 year but are provided to the operating administrations over multiple years based on the depreciation schedule.

Question. Please breakout according to the fiscal year 2005 budget request, the obligations in the Working Capital Fund by line of business and compare to obligations over the past 3 fiscal years.

Answer. The information follows.

WORKING CAPITAL FUND

[In thousands of dollars]

	Fiscal Year 2002 Actual	Fiscal Year 2003 Actual	Fiscal Year 2004 Enacted	Fiscal Year 2005 Estimate
Office of the Deputy Assistant Secretary for Administration	374	96	323	394

WORKING CAPITAL FUND—Continued

[In thousands of dollars]

	Fiscal Year 2002 Actual	Fiscal Year 2003 Actual	Fiscal Year 2004 Enacted	Fiscal Year 2005 Estimate
Office of Strategic Initiatives	426	512	722	717
Office of Financial Management	5,935	5,749	16,095	13,980
Office of Human Resource Management	10,254	10,686	9,923	11,481
Office of Transportation and Facilities Services	135,237	184,793	212,793	225,222
Office of Information Services	24,087	18,421	20,007	21,966
Office of Headquarters Building and Space Management	5,585	5,372	5,112	6,050
Office of Security	10,689	9,993	14,767	17,271
Office of the Senior Procurement Executive	152,465	225,236	126,269	118,439
Total Office of the Assistant Secretary for Administration	345,052	460,858	406,011	415,520
Total Office of the Chief Information Officer	26,199	28,990	53,216	73,378
Total Working Capital Fund	371,251	489,848	459,227	488,898

AUTHORIZATION OF DOT PROGRAMS AND FEES

Question. Please list by agency of the Department of Transportation all appropriations or obligation limitations that are currently unauthorized. Also please provide the year in which the authorization expired.

Answer. The information follows.

The DOT accounts which require authorization/reauthorization in fiscal year 2005 include the following:

APPROPRIATIONS NOT AUTHORIZED BY LAW

[Dollars in thousands]

Agency and Account	Amount of Program or New Fees	Last Year of Authorization	Authorization Level	Appropriations in Last Year of Authorization
Federal Transit Administration:				
Administrative Expenses	$79,931	2004	[2] $56,290	
Formula Grants		2004	[2] 2,862,262	
University Transportation Research		2004	[2] 4,473	
Transit Planning and Research		2004	[2] 93,942	
Job Access and Reverse Commute		2004	[2] 93,196	
Capital Investment Grants		2004	[2] 2,339,241	
Major Capital Investment Grants	[1] 1,563,198			
Formula Grants and Research	[1] 5,622,871			
Research and Special Programs:				
Research and Special Programs (Hazardous Materials Safety)	25,486	1997	19,670	$15,268
Emergency Preparedness Grants	14,300	1998	21,250	7,970
Federal Motor Carrier Safety Administration: [3]				
Motor Carrier Safety Operations and Programs	228,000	N/A	N/A	N/A
Motor Carrier Safety Grants	227,000	N/A	N/A	N/A
National Highway Traffic Safety Administration:				
Operations & Research—General Fund	139,300			
Operations & Research—Trust Fund	90,000	2003	72,000	[4] 71,532
National Driver Register	4,000	2003	2,000	[4] 1,987
Highway Traffic Safety Grants	456,000	2003	225,000	[4] 223,537
Federal Railroad Administration:				
Safety and Operations [5]	142,396	1998		
Railroad Safety	N/A	1998	90,739	57,050
Grants to the National Passenger Railroad Corp.	900,000	2002	955,000	826,476
Surface Transportation Board	20,621	1998	12,000	13,850

APPROPRIATIONS NOT AUTHORIZED BY LAW—Continued

[Dollars in thousands]

Agency and Account	Amount of Program or New Fees	Last Year of Authorization	Authorization Level	Appropriations in Last Year of Authorization
Federal Highway Administration: Federal-aid Highway Program	[6] 34,282,000	2004	[7] 26,433,750	[8] 33,643,326

[1] Major Capital Investment Grants and Formula Grants and Research reflect a proposed restructuring of accounts.
[2] Reflects amounts authorized in Public Law 108–224 for the period October 1, 2003, to June 30, 2004.
[3] New Account Structure Proposed in Fiscal Year 2004 and Submitted Again in Fiscal Year 2005—Pending Enactment of SAFETEA.
[4] Fiscal year 2003 Appropriation reflects 0.65 percent across-the-board reduction pursuant to Public Law 108–7.
[5] Was formerly the Office of the Administrator and Railroad Safety Accounts. The Office of the Administrator had general authority under 49 U.S.C. Section 103, however, no specific amount was authorized.
[6] Includes all elements except the Emergency Relief program.
[7] Reflects amounts authorized in Public Law 108–224 for the period October 1, 2003, to June 30, 2004.
[8] Represents the limitation on obligations enacted for fiscal year 2004 in Public Law 108–199, net of 0.59 percent rescission. Does not includes exempt obligations for Minimum Guarantee.

Question. Please provide a list of all new programs or fees that require authorization.

Answer. The information follows.

APPROPRIATIONS NOT AUTHORIZED BY LAW

[Dollars in thousands]

Agency and Account	Amount of Program or New Fees	Last Year of Authorization	Authorization Level	Appropriations in Last Year of Authorization
Federal Transit Administration:				
Major Capital Investment Grants	[1] $1,563,198			
Formula Grants and Research	[1] 5,622,871			
Federal Motor Carrier Safety Administration: [2]				
Motor Carrier Safety Operations and Programs	228,000	N/A	N/A	N/A
Motor Carrier Safety Grants	227,000	N/A	N/A	N/A
National Highway Traffic Safety Administration:				
Operations & Research—General Fund	139,300			
Operations & Research—Trust Fund	90,000	2004	[3] $53,681	[4] $71,575
National Driver Register	4,000	2004	[3] 2,684	[4] 3,579
Highway Traffic Safety Grants	456,000	2004	[3] 167,754	[4] 223,673
Federal Highway Administration: Federal-aid Highway Program	[5] 34,282,000	2004	[6] 26,433,750	[7] 33,643,326

[1] Major Capital Investment Grants and Formula Grants and Research reflect a proposed restructuring of accounts.
[2] New Account Structure Proposed in Fiscal Year 2004 and Submitted Again in Fiscal Year 2005—Pending Enactment of SAFETEA.
[3] Reflects amounts authorized in Public Law 108–224 for the period October 1, 2003, to June 30, 2004.
[4] Represents the limitation on obligations enacted for fiscal year 2004 in Public Law 108–199, net of 0.59 percent rescission.
[5] Includes all elements except the Emergency Relief program.
[6] Reflects amounts authorized in Public Law 108–224 for the period October 1, 2003, to June 30, 2004.
[7] Represents the limitation on obligations enacted for fiscal year 2004 in Public Law 108–199, net of 0.59 percent rescission. Does not include exempt obligations for Minimum Guarantee.

AIRLINE STABILIZATION ACT

Question. What is the unobligated balance of funds made available by the Airline Stabilization Act?

Answer. As of June 1, 2004, the program maintained a balance of approximately $270 million for remaining obligations, including the litigation reserve.

Question. What is the amount of funds made available by the Airline Stabilization Act that is under consideration for payment or still being disputed or litigated?

Answer. Two hundred seventy million dollars, including a "litigation reserve." Were the Department not to prevail in its litigation with Federal Express and two other smaller carriers, it is possible that the Court of Appeals, in framing its decision, could be sufficiently broad in its language so as to permit some other carriers to attempt to revise their applications and seek supplemental payments. Thus, the full balance has been maintained so as to include this litigation reserve. We expect the Court to act very soon in issuing its decision, and are hopeful that this figure can be revised downward thereafter to reflect a favorable outcome in the case.

QUESTIONS SUBMITTED BY SENATOR ROBERT F. BENNETT

TRANSPORTATION OF DIAGNOSTIC AND INFECTIOUS MEDICAL SPECIMENS

Question. The following Medical Specimen Transport White Paper was sent to me by ARUP Laboratories, a medical laboratory affiliated with the University of Utah's Medical Center. I am submitting it for the record so that Secretary Mineta can comment on the concerns raised and the questions I will supply at the end of this document.

"Introduction

"As a result of recent interpretations provided to ARUP Laboratories by the Department of Transportation (DOT) and the Federal Aviation Administration (FAA), an atmosphere of uncertainty now exists within the air transportation system. Medical specimen shipments from hospitals and laboratories in a number of locations within the United States are being rejected for air transport, creating the potential to cause patient harm through delayed testing and result availability.

"Background

"Prior to February 14, 2003, the United States Department of Transportation (DOT) did not regulate the transportation of medical specimens sent for diagnostic purposes within the United States. Prior to January 1, 2003, the International Air Transport Association (IATA), a trade association of the airlines, instructed that medical specimens transported by air were to be divided into two categories: Diagnostic Specimens and Infectious Substances. This requirement was based on regulations put forth by the United Nations International Civil Aviation Organization (UN (ICAO)). Under UN (ICAO) and IATA, Infectious Substances were, and still are, regulated as hazardous materials. The Federal Aviation Administration (FAA), the enforcement agent for DOT, recognizes ICAO regulations, but does not reference IATA rules in their enforcement actions.

"Prior to January 1, 2003, medical specimens that were identified as Diagnostic Specimens could not contain any known or suspected infectious agent. Any specimen that was identified as having an infectious agent required shipment as an Infectious Substance. Infectious Substance shipments could only be transported by airlines that were considered as 'Will Carry' airlines, meaning that they provide formal training and handling information to cargo personnel on Hazardous Materials. Diagnostic Specimens could be shipped by any airline at that time.

"On February 14, 2003, revised DOT regulations went into effect that incorporated a definition for Diagnostic Specimens into the hazardous materials regulations. As a result of this revision, the DOT and FAA are now instructing any airline that is considered a 'Will Not Carry' airline to avoid carrying ALL Diagnostic Specimens.

"Airline routing changes and service discontinuation, partly due to the terrorist attacks of September 11, 2001, have resulted in an increasing number of areas now served almost exclusively by 'Will Not Carry' regional airlines. Under the new regulations, these airlines can no longer carry shipments they had previously been allowed to carry. Delays in diagnostic testing for patients in those areas have the potential to prolong patient management and hospital stays. This will increase medical costs, and could affect as many as 6,000 patients per day receiving results from ARUP Laboratories alone. Other laboratories may have similar issues.

"The DOT offers an exemption for specimens that are not considered infectious in DOT 49 CFR 173.134(b)(2). This exemption is not clearly defined, nor are there any specific instructions for the shipping of these specimens. If we assume, as we have been told, that this exemption creates a new unregulated category, i.e. medical specimen, there is no assurance airlines will recognize such an unregulated term. Because personnel training is a requirement of the regulations, it is, at present, unclear what terminology will be recognized for this category of unregulated specimens. Efforts to quickly and effectively revise existing medical specimen training programs will be further impeded until these concerns are resolved.

"In excess of 80 percent of clinical data is represented by laboratory results. The specimens from which 5 to 10 percent of this clinical data is derived are shipped between requesting and testing locations within the United States that may be affected by these regulatory changes. Lack of consistency between regulatory agencies, the transportation industry, and health care entities (as shippers) potentially create unnecessary liability and may compromise patient care.

"In conclusion, it is noteworthy that the laboratory industry for many years has been a leader in developing safe handling practices to deal with the fact that every single medical specimen is a potentially hazardous material. The industry as a

whole has a remarkable and enviable safety record in the transportation of medical specimens."

Is it the intent of DOT regulations to limit the transport of diagnostic specimens by "will-not-carry" airlines?

Answer. No, the Department of Transportation's (DOT) Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) establish safety and security requirements for the commercial transportation of hazardous materials by all modes. The regulations are not intended to limit the transportation of hazardous materials by certain types of carriers; rather the regulations set forth the safety and security requirements that must be met by shippers and carriers who choose to transport hazardous materials.

The decision not to carry one or more types of hazardous materials rests with individual carriers, not DOT. Since economic deregulation, air carriers have been able to accept or reject hazardous materials. Air carriers making a business decision to accept hazardous materials are called "will-carry" air carriers and those deciding not to accept hazardous materials are called "will-not-carry" air carriers. These business decisions are influenced by factors such as insurance rates and anticipated hazmat package volumes. Once an air carrier makes this decision, the Federal Aviation Administration (FAA) reviews its hazmat training program. Employees of will-carry air carriers are trained to recognize and accept hazardous materials while employees of will-not-carry air carriers are trained to recognize and reject hazmat. Although air carriers can change their will/will-not-carry status, the initial acceptance procedures applied by their employees is crucial and affects subsequent operational decisions.

Under the Hazardous Materials Regulations (HMR), infectious substances are classed as Division 6.2 materials. An infectious substance is a material known to contain or suspected of containing a pathogen, which is a virus or microorganism that has the potential to cause disease in humans or animals. Infectious substances must be packaged, marked, and labeled in accordance with applicable regulatory requirements; further, shipments of infectious substances must be accompanied by a shipping paper and by appropriate emergency response information. Employees of shippers or carriers who handle infectious substances must be trained in the regulatory requirements that apply to these materials.

Under the HMR, a diagnostic specimen is defined as human or animal material that is being transported for diagnostic or investigational purposes. A diagnostic specimen that, in the judgment of a medical professional, is known to contain or suspected to contain an infectious substance is regulated as a hazardous material under the HMR. However, the requirements applicable to the transportation of diagnostic specimens are less stringent than those for other types of infectious substances. For example, shipments of diagnostic specimens need not be accompanied by shipping papers or emergency response information, and the required training for hazmat employees is less rigorous than for other types of infectious substances.

Under the HMR, a diagnostic specimen that, in the judgment of a medical professional, is not likely to contain an infectious substance is not regulated as a hazardous material and may be transported by a "will-not-carry" air carrier without limitation. Thus, no packaging, shipping documentation, marking or labeling, or training requirements would apply.

Because the HMR exempts diagnostic specimens that do not contain infectious substances from all regulatory requirements, many packages identified as containing diagnostic specimens may not actually contain infectious substances and, thus, could be transported by will-not-carry air carriers. DOT is working with the Centers for Disease Control and Prevention and the International Civil Aviation Organization to consider whether a unique shipping name is necessary to distinguish infectious diagnostic specimens from non-infectious diagnostic specimens.

Question. Has DOT done any analysis with regard to the impact of this regulation on States such as Utah and the Intermountain West that rely on regional air carriers to transport diagnostic specimens?

Answer. No, DOT has not analyzed the impact of the regulations on States that rely on regional air carriers to transport diagnostic specimens. The decision to provide or not provide hazardous materials transportation service on a particular air route is a business decision of the air carrier. The regulations governing the transportation of infectious substances, including diagnostic specimens, were most recently revised and updated in a final rule that became effective on February 14, 2003. The regulatory evaluation developed in support of that rulemaking examined the costs of several regulatory alternatives on shippers and carriers of diagnostic specimens and the benefits that would be expected to accrue from each regulatory alternative on the Nation as a whole.

Representatives from the FAA have met with the Regional Airline Association and the Air Transport Association of America concerning the transport of diagnostic specimens to discuss various alternatives. One alternative would be for the will-not-carry air carrier to contact their diagnostic specimen shipping firms to determine if the packages being offered actually contain infectious substance. If the packages do not contain infectious substances, will-not-carry airlines would be able to accept and transport them.

Question. What is the typical cost for a regional airline to provide training to its employees to qualify to handle "infectious substances"?

Answer. DOT does not collect nor require regional airlines to provide data on costs to qualify employees to handle infectious substances.

The training requirements in the Hazardous Materials Regulations (HMR) are flexible performance standards that permit employers that assign employees to perform functions regulated by the HMR to meet the training requirements using a variety of methods, such as by utilizing classroom training, computer- or web-based training, on-the-job training, or some combination of these and other training methods. The training must include general awareness training that provides familiarity with the requirements of the HMR; function-specific training that provides an understanding of the requirements of the HMR applicable to the specific job each employee performs; safety training that provides information on responding to emergency, personal protection, and methods for avoiding accidents; and security awareness training that familiarizes the employee with the security risks associated with hazardous materials transportation. Training costs for an individual carrier will vary based on the number of people it employs whose job responsibilities directly affect the safety of hazardous materials in transportation and the training methods it elects to utilize.

In addition, in accordance with FAA airworthiness requirements, all air carriers must provide hazmat training. Will-not-carry air carriers must provide some hazmat training to their employees on such topics as labeling, marking and general awareness so they can recognize hazmat. A rough estimate for a will-not-carry air carrier to provide initial training would be $320 per applicable employee. In addition, annual recurrent hazmat training for will-not-carry air carriers would be approximately $160 per applicable employee. These estimates include the cost of the employee's salary while in training. A rough estimate for will-carry air carrier initial training would be an additional $880 (for a total of $1,200) per applicable employee. Annual recurrent hazmat training for will-carry air carriers would be an additional $160 (for a total of $320) per applicable employee.

Question. What can DOT do to provide these regional/national clinical laboratories with regulatory relief so that they can move their specimens more efficiently?

Answer. The Hazardous Materials Regulations (HMR) provide significant regulatory exceptions applicable to the transportation of diagnostic specimens. A diagnostic specimen that, in the judgment of a medical professional, is not likely to contain an infectious substance is not regulated as a hazardous material and, therefore, is not subject to any regulatory requirements. A diagnostic specimen that, in the judgment of a medical professional, contains or is suspected to contain an infectious substance is subject to minimal packaging and hazard communication requirements, but is not regulated as stringently as other types of infectious substances.

For example, an infectious substance generally must be transported in a packaging that has been tested and certified to meet specific performance standards. A diagnostic specimen may be transported in a less stringent, and therefore less expensive, type of packaging. A package containing an infectious substance generally must be marked with the United Nations identification number and proper shipping name of the material and must be labeled with a Division 6.2 label and must be accompanied by a shipping paper and emergency response information. A package containing a diagnostic specimen must be marked only with the words "Diagnostic Specimen" and need not be accompanied by a shipping paper or emergency response information. Further, persons who ship or transport diagnostic specimen are exempt from the training requirements of the HMR; instead employees of such shippers and carriers must be informed about the requirements applicable to the transportation of diagnostic specimens.

In addition, in December, 2003, the FAA corresponded with the Air Transport Association and the Regional Airline Association suggesting that will-not carriers may wish to contact shippers individually. As a result, one regional will-not-carry air carrier serving Utah and the Intermountain West, SkyWest, has developed a "shipper's confirmation of non-infectious substance form" that is acceptable to the FAA. The form is available on the SkyWest website. In addition, it would be acceptable for those offering non-infectious diagnostic specimens to simply mark their packages as NOT containing hazardous material. In fact the ARUP Laboratories, a large shipper

of medical specimens in Utah, indicates on their website that it will mark its packages "Medical Specimens, non HMR." This would also be sufficient to allow will-not-carry air carriers to transport the ARUP non-infectious packages and is acceptable to the FAA.

Question. What was the impetus for DOT's revision of the regulations on February 14, 2003, incorporating a definition for Diagnostic Specimens into hazardous material regulations?

Answer. DOT's adoption of the regulations for transporting infectious substances, including diagnostic specimens, that became effective February 14, 2003, was primarily intended to harmonize the Hazardous Materials Regulations (HMR) with international standards applicable to such transportation.

Generally, to facilitate the safe and efficient transportation of infectious substances, the HMR permit shipments to be transported under provisions of the Technical Instructions for the Safe Transportation of Dangerous Goods by Air (Technical Instructions) issued by the International Civil Aviation Organization (ICAO), the International Maritime Dangerous Goods Code (IMDG Code) issued by the International Maritime Organization (IMO), and the Transportation of Dangerous Goods Regulations (TDG) issued by Transport Canada, as appropriate. Prior to our adoption of the new requirements, however, the HMR did not provide for the level of safety achieved by the ICAO Technical Instructions or the IMDG Code. Moreover, the HMR at that time included a complete exception from all requirements for shipments of diagnostic specimens, even those that contained extremely hazardous infectious substances.

Harmonization of the HMR with the international standards has several important benefits. Carriers are able to train their hazmat employees in a single set of requirements for the classification, packaging, communication of hazards, handling, stowage, and the like, thereby minimizing the possibility for improperly transporting a shipment of infectious substances because of differences in national regulations. Similarly, many shippers find that consistency in regulations for the transportation of infectious substances aids their understanding of what is required, thereby permitting them to more easily comply with these safety regulations when shipping hazardous materials to many different countries. Uniformity of national and international hazardous materials transportation regulations is critical to safety and trade facilitation of hazardous materials transportation. Consistency between United States and international regulations enhances the safety of international hazardous materials transportation through better understanding of the regulations, an increased level of industry compliance, the smooth flow of hazardous materials from their points of origin to their points of destination, and consistent emergency response in the event of a hazardous materials incident.

Question. How would DOT respond to the suggestion of a moratorium on the enforcement of the regulations regarding the classification of Diagnostic Specimens until such time as a study can be made to assess the impact of the regulations on patients, health care, and medical practice within the United States and the risks of allowing "Will-Not-Carry" airlines to carry Diagnostic Specimens?

Answer. DOT strongly opposes an enforcement moratorium applicable to the transportation of diagnostic specimens. Surveillance and enforcement must reflect the underlying safety requirements.

A diagnostic specimen known or suspected to contain an infectious substance poses a safety, health, and security risk in transportation that must be addressed. Diagnostic specimens that contain infectious agents such as the HIV or SARS viruses are routinely transported by air both domestically and internationally. The regulations governing such transportation in the HMR and in international standards protect transport workers and the general public from possible exposure to such infectious agents. The regulations applicable to the transportation of diagnostic specimens were developed through a process that balances their potential costs and other impacts with their benefits. The packaging and hazard communication requirements minimize the possibility that a transport worker or other individual will be exposed to an infectious agent and enhance the ability of carriers and emergency response personnel to effectively respond to an accident involving an infectious agent.

Question. Would DOT consider the addition of laboratory health care professionals to groups studying and promulgating new regulations affecting the transport of laboratory specimens?

Answer. DOT welcomes the participation of laboratory health care or other medical professionals as we consider proposals for revising the current regulatory requirements applicable to the transportation of diagnostic specimens and other types of infectious substances.

Prior to the adoption of the February 14, 2003 regulations, the Federal Aviation Administration (FAA) met with laboratory professionals and carefully considered their comments and concerns as we developed the final regulations. In addition, the American Clinical Laboratory Association, the American Society of Clinical Pathologists, and the American Biological Safety Association were among dozens of organizations and individuals who offered comments to the rulemaking docket on this issue. The international standards applicable to the transportation of infectious substances were recently revised. DOT is currently considering revisions to the HMR to harmonize our domestic requirements with the most recent international revisions. FAA is working with the Centers for Disease Control and Prevention, the Food and Drug Administration, the U.S. Department of Agriculture, and other national agencies responsible for public health issues.

In October 2003, FAA hosted a public meeting specifically to discuss issues related to the air transportation of diagnostic specimens and other infectious substances. In June 2004, the FAA is hosting a second meeting to discuss revisions to the international transportation standards, including revisions that should help make it easier for air carriers to distinguish between diagnostic specimens that are regulated for purposes of transportation and diagnostic specimens that are exempt from such regulation.

QUESTIONS SUBMITTED BY SENATOR RICHARD J. DURBIN

AMTRAK

Question. Why did the administration only include $900 million for Amtrak in the fiscal year 2005 budget when this level of funding will send the company into insolvency?

Answer. The administration believes that the Federal role in intercity passenger rail service needs significant change. While the administration supports intercity passenger rail service as a component of this Nation's system of passenger mobility, we are not willing to commit increasing amounts of limited discretionary funds available for transportation investment on a business model that does not work. However, the administration is prepared to support higher levels of funding for a reformed system of intercity passenger rail service. The administration expects that if Amtrak were to receive $900 million, the corporation could remain solvent through fiscal year 2005 while Congress enacted intercity passenger rail reform legislation, through deferral of capital investments, reductions in overhead and, perhaps, some cuts in services.

Question. Does the administration support reauthorization of Amtrak? Or would the administration rather break the intercity passenger railroad up and privatize operations?

Answer. The administration's legislative proposal, the Passenger Rail Investment Reform Act, outlines a third course of action. The administration believes that intercity passenger rail service should exist where the States, as the driving force behind surface transportation planning, determine that service is an important component of an intermodal plan for passenger mobility and thus worthy of investment. The States would competitively select operators for those services the States deem are important enough to warrant public support from among qualified firms, perhaps including a restructured Amtrak. While these operators would be private sector companies, they would receive operating support from the State(s) and capital investment from the States and Federal Government.

AVIATION DELAYS

Question. How do you expect to proceed on addressing aviation congestion and flight delays at Chicago O'Hare International Airport in addition to the temporary, voluntary flight reductions during peak hours? When will data on the flight reductions be available?

Answer. This administration is committed to addressing aviation congestion in both the short- and long-term by working with the carriers and local authorities. In Vision 100 (Public Law 108–176), Congress gave the Federal Aviation Administration (FAA) a number of new tools to use when demand exceeds capacity at an airport. Under Section 422, the FAA can schedule Delay Reduction Meetings; under Section 423, the FAA can engage in Collaborative Decision Making. In addition, the Administrator retains her authority to issue orders that concern the safety or efficiency of the airspace. While these are all short-term methods, FAA's long-term goal to address congestion nationwide will be accomplished by gaining additional capacity at the Nation's airports. FAA will continue to monitor delays and will adjust ap-

proaches to air traffic delays as needed during the busy summer flying season. Complete data on the effectiveness of the actions taken so far at O'Hare and possible future actions to reduce delays will not be available until after the busy summer flying season.

LEVERAGED LEASE TRANSACTIONS

Question. As you know Mr. Secretary, at the request of the U.S. Treasury Department, the Federal Transportation Administration (FTA) formally suspended its practice of reviewing and approving proposals for leveraged lease transactions involving public transit assets. FTA's decision to immediately comply with Treasury's request and suspend consideration of the 15 pending transactions could have sizable budget implications for the entities that submitted those transactions and who, up until that time, had every reason to believe that FTA would proceed to review and approve those transactions in the same manner it has done for years. Each of these entities likely incurred significant costs in negotiating the leases, and had a reasonable expectation of realizing substantial revenue from them following FTA approval. What is the FTA's plan to reconsider its decision to suspend pending leveraged lease transactions absent further action by Congress on this issue?

Answer. The Department was informed by the Chairman of the Senate Finance Committee in November 2003, that his committee was conducting an investigation of abusive tax shelters involving subway systems and other assets funded with taxpayer dollars and asked for our cooperation in the investigation. Also in November 2003, the Department received a direct request from the Treasury Department that the Federal Transit Administration suspend its review and approval of tax-advantaged lease transactions because of concerns about whether the asserted tax benefits are allowable.

FTA notified the transit agencies whose assets would be involved in the leasing transactions that reviews would be suspended until the Department of Treasury completed its review of these and similar transactions. Should the Treasury Department complete its review and any rulemaking regarding these leasing transactions, FTA would then act in accordance with the resulting instructions from the Treasury Department.

QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

ESSENTIAL AIR SERVICE FUNDING

Question. I am very upset that the administration continually tries to cut back this program which is so important for rural America. Last year, for fiscal year 2004, President Bush proposed only $50 million for EAS, but we in Congress fought hard to maintain funding, and funded EAS at $102 million. This year, even though the FAA reauthorization bill allows up to $115 million for the basic program, plus another $12 million for pilot projects, the administration once again only funds EAS at $50 million. Could you tell me why the administration is not following Congress' mandate in the FAA reauthorization bill?

Answer. The administration believes that the EAS program must be reformed or the costs will escalate out of control. As more and more regional carriers upsize their fleets to larger turboprops or even regional jets, it will leave more communities reliant upon subsidized EAS. In addition, as the spread of low-fare carriers continues, more local communities will be unable to support their local airport's service as passengers are willing to drive for a larger part of their journeys in order to take advantage of nearby, low-fare jet service. EAS service of two or three round trips a day cannot compete with low-fare jet service, and more and more communities are falling into this situation. For example, just a few years ago, Utica, New York generated about 24,000 passengers a year, and was served profitably without EAS subsidy. Shortly after Southwest inaugurated service at Albany and JetBlue at Syracuse (less than 50 miles away), annual, passenger levels fell to 3,500 and we were paying well over $1,000,000 in EAS subsidy in an attempt to compete with the low-fare, jet service nearby. This example illustrates why we need EAS reforms.

ESSENTIAL AIR SERVICE COST-SHARING

Question. I was also disappointed that the President seeks to require all communities receiving EAS funds to provide non-Federal matching funds. Communities fewer than 100 highway miles from a large or medium hub airport, 75 miles from a small hub airport, or 50 highway miles from a non-hub airport with jet service would have to contribute not less than 50 percent and would only be eligible for surface transportation subsidies. Communities in North Dakota that participate in

EAS, such as Devils Lake, Jamestown and Dickinson-Williston, are more than 210 highway miles from a medium or large hub airport, and will have to provide 10 percent, and all others will have to provide not less than 25 percent. This is patently unfair and goes against the purpose of the EAS program to promote and protect air service to rural areas, and I will fight hard to prevent the President's plan from taking effect. Given that Congress explicitly rejected such a harsh cost-sharing requirement in the FAA reauthorization process last year, why would the administration propose it now after the reauthorization bill has passed? Isn't this patently unfair to rural America?

Answer. Requiring a modest contribution would encourage civic officials and business leaders at the local and State levels to evaluate the need for the EAS program, given other local funding priorities, and, as stakeholders in their service, the communities will become key architects in designing their specific transportation package based on their need and requirements.

AIR TRAFFIC CONTROL TRAINING

Question. According to the GAO, the FAA will likely need to hire thousands of air traffic controllers in the next decade to meet increasing traffic demands and to address the anticipated attrition of experienced controllers, predominately because of retirement. The GAO raised the point that "the FAA's process of hiring replacements only after a current controller leaves does not adequately take into consideration the time it takes to train a replacement to become a fully certified controller—up to 5 years, which might result in gaps of coverage or increased overtime." To address this problem, I attached an amendment to expressly authorize the FAA to spend such sums as may be necessary to carry out and expand the Collegiate Training Initiative. As you may know, one of those schools participating is the John D. Odegard School of Aerospace Sciences at UND. Knowing this, what efforts are being taken at the FAA to address this problem? Would you support efforts to add funding for this initiative?

Answer. Currently, the FAA has no plans to expand the Air Traffic Collegiate Training Initiative (AT–CTI) beyond the 13 colleges and universities. The AT–CTI candidate pool is fairly large and growing (about 361 waiting to be hired). The number of controllers to be hired in fiscal year 2004 and beyond is being evaluated. There has been no controller hiring since October 2003. We are reluctant to add additional colleges until the hiring picture is clearer and the need for additional training resources is better quantified.

If the AT–CTI pool grows too large, FAA runs the risk of not being able to hire a significant enough percentage of graduates to make the program worthwhile to the colleges. Colleges market this program to their students and we maintain a balance between having enough candidates and not overstating our ability to hire them. Colleges can withdraw at any time; they are not obligated to the FAA.

The FAA reauthorization bill Vision 100—Century of Aviation Reauthorization Act, Public Law 108–176, allows for AT–CTI expansion if necessary. However, the Departments of Transportation and Treasury and Independent Agencies fiscal year 2004 House Appropriations Report 108–243 specifically directs FAA not to expand the AT–CTI program. It states, "While the Committee does not oppose continuation of the Air Traffic Control Collegiate Training Initiative, the Committee does not believe it should be expanded, and directs the FAA not to expand these programs."

AMTRAK

Question. I was disappointed that the administration has again proposed only $900 million for Amtrak this year. I am particularly concerned about the impact of any cuts to Amtrak on long distance trains, such as the Empire Builder. If enacted, what impact do you think your budget request would have on long distance train service?

Answer. The administration believes that the Federal role in intercity passenger rail service needs significant change. While the administration supports intercity passenger rail service as a component of this Nation's system of passenger mobility, we are not willing to commit increasing amounts of limited discretionary funds available for transportation investment on a business model that does not work. However, the administration is prepared to support higher levels of funding for a reformed system of intercity passenger rail service. The administration expects that if Amtrak were to receive $900 million, the corporation could remain solvent through fiscal year 2005 while Congress enacted intercity passenger rail reform legislation, through deferral of capital investments, reductions in overhead and, perhaps, some cuts in services. Amtrak would determine how to best operate with available resources. Therefore, I would prefer not to speculate which, if any, route

or service type would be impacted in the short-term by the administration's budget request of $900 million for Amtrak.

SUBCOMMITTEE RECESS

Senator SHELBY. Mr. Secretary, I thank you for your appearance. As usual, you bring a lot to the table and a past friendship too.

Secretary MINETA. Thank you very much.

Senator SHELBY. This concludes our hearing.

[Whereupon, at 11:30 a.m., Tuesday, March 9, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2005

THURSDAY, APRIL 1, 2004

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

The subcommittee met at 10:03 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Richard C. Shelby (chairman) presiding.

Present: Senators Shelby, Stevens, and Murray.

UNITED STATES POSTAL SERVICE

STATEMENT OF JOHN POTTER, POSTMASTER GENERAL AND CEO

OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Good morning. The committee will come to order.

Today the subcommittee will hear from the United States Postmaster General, John Potter. Mr. Potter has testified at a number of hearings in the last few months on postal reform, terror attacks using mail, and other issues facing the Postal Service. It has been several years, however, since the subcommittee has had the privilege of receiving testimony from the Postmaster General. We are pleased to welcome you here today.

As a vital component of our Nation's economy, it is absolutely crucial that the Postal Service maintain its role as a Federal Post and maintain the solemn obligation of universal service. In doing so, it is undeniable that the Postal Service must change and adapt in order to provide an affordable service that continues to tie our Nation together.

Without question, the United States Postal Service has confronted some significant changes over the last few years. The current business model of the Postal Service is outdated and is not economically viable in the 21st century. The financial problems have been further complicated since the terrorist attacks that used the mail system to deliver biological weapons.

Even as the number of customers and addresses that the Postal Service serves has increased, the volume of first class mail has dropped steadily since 2001. The Postal Service now faces stiff competition from a variety of electronic communications options that

did not widely exist a few years ago, as well as from private sector delivery services. Furthermore, postage rate hikes have only caused consumers to further rely on alternative means of communications. All of these factors have become a self-fulfilling prophecy of future postage rate increases to offset the decline in volumes of first class mail.

And as one who believes that a comprehensive Postal Service for all Americans, rural and urban, is one of the central elements of keeping the country connected, the first class revenue and volume dilemma is one we have to address and solve.

As difficult as these challenges are, the Postal Service is also charged with ensuring the safety of the mail. The anthrax attacks in 2001 and the more recent attacks using the deadly toxin ricin create a daunting overlay on every aspect and element of the Postal Service's operation.

I need not elaborate today any further on the challenge this presents to the Postal Service and look forward to hearing what steps are being taken to prevent these attacks from happening in the future.

I would also appreciate learning about your plan for screening the mail to provide for the safety of Postal customers and Postal employees while also ensuring timely delivery.

In the wake of anthrax attacks, Congress provided the Postal Service with emergency funding to decontaminate sorting facilities and to procure biohazard detection equipment. The Postal Service has used this funding to install sensors that detect anthrax at several facilities. I have been told, however, by the General Accounting Office and others, that the system cannot adequately detect other agents.

I am concerned that the prior investment may be too focused on reacting to the last threat and not focused enough on detecting other threats.

The Postal Service submitted a budget request to Congress that includes $779 million for emergency preparedness activities. This funding, however, was not included in the President's budget. I hope you will discuss the next steps for the Postal Service and what sort of investment we can expect in future years.

Today, I would also like to discuss the reform plans that you have put in place and those legislative reforms that the Postal Service is pursuing in order to properly transform itself into a self-sustaining enterprise.

The Postal Service has several advantages that are relevant in the 21st century. It is the only delivery service capable of reaching every household in America, by providing direct access to each and every mailbox. It connects communities, particularly those in rural areas. It also presents tremendous potential for those mailers who desire to reach 100 percent of the population in a given community or area.

I look forward to hearing your thoughts, Mr. Potter, on how best to leverage these and other of the Postal Service's unique attributes into increase revenues and market growth.

The Postal Service has been granted significant relief from its retirement obligations through the recently enacted Postal Service Retirement System Funding Reform Act. I would appreciate hear-

ing your perspective on how the Postal Service expects to utilize these newly available resources.

As part of any serious reform effort, the Postal Service must improve its focus on its core services. It has not been an effective competitor in commercial activities that are unrelated to its traditional responsibilities, and these forays have diverted funds from other necessary expenses.

In addition, the post office must not lose sight of its efforts to control its costs. I commend the Postmaster General for streamlining the workforce by 10 percent over the last 5 years without layoffs. This is a good start, but more cost-cutting measures will be needed to reshape the Postal Service into a self-sustaining, commercially viable enterprise.

We have basically two tracks that we can take. We can either do things better or do things differently. We hear time and again about processes that private businesses have put in place to become more competitive. Perhaps now we should find ways to challenge the Postal Service to bring their costs in line with what is offered in the domestic marketplace.

And, perhaps now is the time to pursue reforms and performance measures that focus the Postal Service on those things that no one else can do and encourage American businesses to provide those services that they can do better.

The Revenue Foregone Reform Act of 1993 retains free postage for visually impaired customers and for overseas absentee balloting materials. To pay for these services, the Act provides for an annual $29 million appropriation to continue through 2035. Since 1994, the Postal Service has used this annual appropriation to pay off debt accumulated in the early 1990s. In reviewing the administration's budget request, I found that no funds were provided.

In recent years, some have suggested that the Postal Service should reduce its days of operation, as well as the scope of its service to rural areas of the country, in order to cut costs. I am heartened that you and the Service have steadfastly resisted such shortsighted so-called reforms. In the course of your testimony today, I hope that you will renew your commitment to maintaining universal 6-day-a-week service.

Mr. Postmaster General, as encouraged as I am by your defense of affordable universal service, I am concerned that the current moratorium on new construction has left many communities without adequate facilities for the dispatch and delivery of U.S. mail. For universal service to be meaningful, it must be reasonably accessible and convenient for customers.

PREPARED STATEMENT

It is my express hope that you will, today, outline the Postal Service's plan for again investing in the communities to which its service and presence are so vital and for innovative arrangements to keep the rural communities connected to the post office.

Again, I want to welcome you to the subcommittee and look forward to discussing the important matters during the question and answer period.

Senator Murray.

[The statement follows:]

PREPARED STATEMENT OF SENATOR RICHARD C. SHELBY

Good morning. Today the subcommittee will hear from the United States Postmaster General John Potter.

Mr. Potter has testified at a number of hearings in the last few months on postal reform, terror attacks using mail, and other issues facing the Postal Service. It has been several years, however, since the subcommittee has had the privilege of receiving testimony from the Postmaster General, and we are pleased to welcome you.

As a vital component of our Nation's economy, it is absolutely crucial that the Postal Service maintain its role as the Federal Post and maintain the solemn obligation of universal service. In doing so, it is undeniable that the Postal Service must change and adapt in order to provide an affordable service that continues to tie our Nation together.

Without question, the United States Postal Service has confronted some significant challenges over the last few years. The current business model of the postal service is outdated and is not economically viable in the 21st century. The financial problems have been further complicated since the terrorist attacks that used the mail system to deliver biological weapons.

Even as the number of customers and addresses that the Postal Service serves has increased, the volume of first class mail has dropped steadily since 2001.

The Postal Service now faces stiff competition from a variety of electronic communications options that did not widely exist a few years ago as well as from private sector delivery services.

Furthermore, postage rate hikes have only caused consumers to further rely on alternative means of communications.

All of these factors have become a self-fulfilling prophecy of future postage rate increases to offset the declining volume of first class mail. And, as one who believes that a comprehensive postal service for all Americans—rural and urban—is one of the central elements of keeping the country connected, this first class revenue and volume dilemma is one we have to address and solve.

As difficult as these challenges are, the Postal Service is also charged with ensuring the safety of the mail. The anthrax attacks in 2001 and the more recent attacks using the deadly toxin ricin create a daunting overlay on every aspect and element of the Postal Service's operation.

I need not elaborate any further on the challenge this presents to the Postal Service and look forward to hearing what steps are being taken to try to prevent these attacks from happening in the future. I would also appreciate learning about your plan for screening the mail to provide for the safety of Postal customers and Postal employees while also ensuring timely delivery.

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I have been told, however, by the General Accounting Office and others that the system cannot adequately detect for other agents. I am concerned that the prior investment may be too focused on reacting to the last threat and not focused enough on detecting other threats.

The Postal Service submitted a budget request to Congress that includes $779 million for emergency preparedness activities. This funding, however, was not included in the President's budget. I hope you will discuss the next steps for the Postal Service and what sort of investment we can expect in future years.

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I look forward to hearing your thoughts, Mr. Potter, on how best to leverage these and other of the Postal Services' unique attributes into increased revenues and market growth.

The Postal Service has been granted significant relief from its retirement obligations through the recently-enacted Postal Civil Service Retirement System Funding Reform Act. I would appreciate hearing your perspective on how the Postal Service expects to utilize these newly available resources.

As part of any serious reform effort, the Postal Service must improve its focus on its core services. It has not been an effective competitor in commercial activities that are unrelated to its traditional responsibilities, and these forays have diverted funds from other necessary expenses.

In addition, the post office must not lose sight of its efforts to control its costs. I commend the Postmaster General for streamlining the workforce by 10 percent over the last 5 years, without layoffs. This is a good start, but more cost-cutting measures will be needed to reshape the Postal Service into a self-sustaining, commercially viable enterprise.

We have basically two tacts we can take. We can either do things better or do things differently. We hear time and time again about processes that private businesses have put in place to become more competitive.

Perhaps now we should find ways to challenge the postal service to bring their costs into line with what is offered in the domestic marketplace. And, perhaps now is the time to pursue reforms and performance measures that focus the Postal Service on those things that no one else can do and encourage American businesses to provide those services that they can do better.

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In the course of your testimony today, I hope that you will renew your commitment to maintaining universal, 6-day-a-week service.

Mr. Postmaster General, as encouraged as I am by your defense of affordable universal service, I am concerned that the current moratorium on new construction has left many communities without adequate facilities for the dispatch and delivery of U.S. mail. For universal service to be meaningful, it must be reasonably accessible and convenient for customers.

It is my express hope that you will, today, outline the Postal Service's plan for again investing in the communities to which its service and presence are so vital and for innovative arrangements to keep the rural communities connected through the Post Office.

Again, I welcome you before the subcommittee today and look forward to discussing these important matters during the question-and-answer period.

With that, I yield to Senator Murray for her opening statement.

STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you, Mr. Chairman.

This is our subcommittee's first hearing with the Postal Service since we took over appropriations jurisdiction for this critical Federal agency.

I want to welcome the Postmaster General, John Potter, to the subcommittee. Mr. Potter is a true American hero. He worked his way up from the most junior ranks at the Postal Service to become the Postmaster General.

Today the Postal Service faces unprecedented challenges as it seeks to cover its expenses through the postal revenues paid by the public. The same technologies that helped make our country more productive have undermined the financial foundation of the United States Postal Service.

Today first class mail represents less than half of the volume of mail delivered by the post office. At the same time, mail service revenues continue to decline year after year.

Many of the technological advances that have allowed our citizens to avoid first class mail were developed in my home State of Washington. Even so, I am concerned that we be attentive to the

critical role that the Postal Service plays in all of our communities. The Postal Service's existing business model is now viewed as unsustainable.

Some of the alternatives being considered are ending mail service to all rural addresses and ending mail delivery on Saturdays. For high tech households in urban areas like Seattle that may be fine. They can pay their bills online and communicate through PDA's, e-mails and cell phones. But that alternative is certainly not acceptable to retirees living on fixed incomes in Pend Orielle County or Klickitat County in Washington. They may be waiting on their Saturday mail delivery to get their Social Security check or their prescription drugs.

We have got to be attentive to the ways that these proposed changes would affect all of our citizens in all of our communities.

In his formal opening statement, Postmaster Potter will discuss the fact that the Department of Homeland Security and the Department of Health and Human Services are developing a plan through which our Nation's letter carriers can be called on to deliver antibiotics to Americans in the event of a catastrophic incident involving a biological agent.

This plan highlights the fact that our Postal Service is a critical standing army that touches all American households in all Congressional districts 6 days a week, no matter how rural, how isolated or how poor those households may be. We should take great care before we sacrifice this ready and able Federal force. We cannot envision today every reason why we may need them in the future. After all, before September 11th, 2001 we never envisioned the need for our Postal Service to perhaps deliver emergency vaccines in the event of a biological emergency.

PREPARED STATEMENT

So I hope our subcommittee will be attentive to the very real appropriations needs that will be articulated by the Postmaster this morning. In many cases, the needs of the Postal Service have been ignored by the Bush Administration's fiscal year 2005 budget request. For the first time ever, the Bush Administration is not even requesting funds to honor the Federal commitment to the Revenue Foregone Act of 1993. In 11 years no president has zeroed out funding for this activity. So here, as in many areas, the subcommittee may need to chart its own path to ensure that all Americans in all regions of the country are joined together through a vibrant and effective postal system.

Thank you, Mr. Chairman.

[The statement follows:]

PREPARED STATEMENT OF SENATOR PATTY MURRAY

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We should take great care before we sacrifice this ready and able Federal force. Today, we can't envision every reason why we may need them in the future.

After all, before September 11, 2001, we never envisioned the need for our Postal Service to perhaps deliver emergency vaccines in the event of a biological emergency.

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Indeed for the first time ever, the Bush Administration is not even requesting funds to honor the Federal commitment to the Revenue Foregone Act of 1993. In 11 years, no president, including the current president's father, has zeroed out funding for this activity.

So, here as in so many areas, the subcommittee may need to chart its own path to ensure that all Americans in all regions of the country are joined together through a vibrant and effective postal system.

Thank you, Mr. Chairman.

Senator SHELBY. Mr. Postmaster General, your written statement will be made part of the record in its entirety. We have reviewed that. You proceed as you wish. Welcome again to the committee.

STATEMENT OF JOHN E. POTTER

Mr. POTTER. Thank you, Mr. Chairman.

Good morning to you and to Senator Murray.

I appreciate this opportunity to speak with you today about the Postal Service, its accomplishments over the past years and our appropriations request for the next fiscal year. You have my detailed testimony, as the Chairman said, so I will keep my remarks brief.

My thanks to the subcommittee for its support of the Civil Service Retirement System legislation that was enacted last year. We continue to work with the Congress on two open issues: the escrow account and military retirement provisions. We hope they will both be resolved as soon as possible.

The legislation has helped our customers by providing for stable rates until 2006. Stable rates and strong service performance are key elements to enable the mailing industry to stabilize and grow

again. I remain committed to a strong customer focus. I remain committed to a Postal Service that is financially strong. We continue to aggressively manage the business. We are doing more and doing it better with less.

Last year we added more than 1.7 million new addresses to our delivery network. Service performance and customer satisfaction reached their highest levels ever. Total factor productivity grew for an unprecedented fourth straight year. We remain on schedule to remove at least $5 billion from our annual operating costs over the 5-year period ending in 2006. Internally, key indicators point to an improving work place environment.

Yet these successes mask a marketplace that continues to show signs of long-term erosions. In 2003 First Class volume fell by more than 3 billion pieces of mail. We have seen First Class continue its decline this year as well.

It is clear that the Postal Service can no longer rely on a limited monopoly that assumed rising mail volumes would offset the costs of an ever-expanding delivery network. At the end of the day that means the level of universal service that America enjoys is in jeopardy unless we all act now.

I encourage the Congress to continue to explore new models that will lead to modern day management flexibility in how we operate.

As the reform process continues to unfold we are here today to address more immediate needs and to submit our appropriation request for fiscal year 2005.

Our first request is for $29 million for revenue foregone reimbursements to cover the cost of services we provided from 1991 through 1998. This will be the 12th of 42 interest-free payments. The administration's budget submission for 2005 does not include provision for this statutory reimbursement. Failure to receive these funds may require us to treat the remaining payments of nearly $900 million as bad debt. That would put upward pressure on our rate structure.

The second part of our request is for $75.9 million. This request provides funding for the free mailing of materials used by the blind and other handicapped persons. It also includes funding for absentee balloting materials that can be mailed free by members of the armed forces and other U.S. citizens residing outside the United States.

The administration proposes $61.7 million and continues the practice where reimbursement is not made until the fiscal year after the mailings have been handled and delivered.

The third part of our appropriation request is for homeland security preparedness costs of $779 million. We gratefully acknowledge the funding previously given to us for this purpose. Those funds enabled us to accelerate implementation of our emergency preparedness plan which was submitted to Congress in 2002, and which we updated last spring.

The previous appropriation of $587 million enabled us to provide personal protective equipment for our employees, to provide equipment and facilities to treat mail for the legislative, executive and judicial branches of government to neutralize any biohazards that may exist in that mail, to undertake decontamination of major mail processing facilities in Washington, DC and Trenton, New Jersey,

and the development, testing and purchase of state-of-the-art biohazard detection and ventilation and filtration systems for deployment to 282 mail processing facilities in every State in the union.

The task ahead of us is both costly and critical to the safety of our employees and the millions of Americans who rely on the mail day in and day out to build their businesses and stay connected with families and loved ones. I believe it is imperative that we continue the work we have already begun on homeland security.

The funds we request will enable us to complete that work. Specifically, the funding will support the full deployment of the biohazard detection system, the ventilation and filtration system and the construction of a Washington-based mail irradiation facility.

Our request covers only the capital expenses of obtaining this equipment. After initial deployment, operation and maintenance will become part of the Postal Service's normal operating expenses.

At the same time, we recognize that the threat of bioterrorism is pervasive, that the threats we face today may be far different than in the future. With that knowledge, we continue to evaluate technologies that offer protection from other hazards.

I wish these funds were not necessary. But as we learned from the anthrax attacks and the recent ricin incidents, the threats remain real.

In a democratic society marked by free and open communications, there will always be the possibility that some person or group will use the mail's unequaled tradition of privacy to mask an agenda of hate and destruction. As a Nation, we must be prepared to do what is necessary to neutralize the threat to the extent possible.

We are more than willing to do our part on this war on terrorism. We are working with first responders as we deploy bioterrorism systems. In community after community we are acting as a catalyst to create dialogue and establish protocols consistent with standardized Federal response procedures. This is an important role that can save lives in the event of any future real attacks.

In addition, the Postal Service's efforts to contribute to homeland security were advanced by a joint agreement with the Department of Health and Human Services and the Department of Homeland Security. In the event of a catastrophic biological incident, our letter carriers would voluntarily deliver antibiotics to affected Americans. The procedures we develop will augment and not replace those of local communities.

PREPARED STATEMENT

Finally Mr. Chairman, I want to add that although we are authorized by statute to request an annual public service appropriation of up to $460 million, we have not made that request since 1982 and I am pleased to say we are not requesting that appropriation for fiscal year 2005.

Thank you, Mr. Chairman. I will be pleased to respond to any questions you may have.

[The statement follows:]

PREPARED STATEMENT OF JOHN E. POTTER

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I appreciate this opportunity to speak with you today about the Postal Service, its accomplishments over the past years and our appropriations request for the next fiscal year. You have my detailed testimony, so I will keep these remarks brief.

My thanks to the subcommittee for its support of the Civil Service Retirement System legislation that was enacted last year. We continue to work with Congress on two open issues—the escrow account and military retirement provisions. We hope they will both be resolved as soon as possible.

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Total factor productivity grew for an unprecedented fourth straight year. We remain on schedule to remove at least $5 billion from our annual operating costs over the 5-year period ending in 2006.

Internally, key indicators point to an improving workplace environment.

Yet these successes mask a marketplace that continues to show signs of long-term erosion. In 2003, First-Class volume fell by more than 3 billion pieces. We've seen First-Class continue its decline this year as well.

It is clear that the Postal Service can no longer rely on a limited monopoly that assumed rising mail volumes would offset the costs of an ever-expanding delivery network. At the end of the day, that means the level of universal service that America enjoys is in jeopardy unless we all act now.

I encourage the Congress to continue to explore new models that will lead to modern-day management flexibility in how we operate.

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—Provide personal protective equipment for our employees;
—To provide equipment and facilities to treat mail for the legislative, executive and judicial branches of government to neutralize any biohazards that may exist;
—To undertake decontamination of major mail processing facilities in Washington DC, and Trenton, New Jersey and,
—The development, testing, and purchase of state-of-the-art biohazard detection and ventilation, filtration equipment for deployment to 282 mail processing facilities in every State of the union.

The task ahead of us is both costly and critical to the safety of our employees and the millions of Americans who rely on the mail day in and day out to build their businesses and to stay connected with families and loved ones.

I believe it is imperative that we continue the work we've already begun to support homeland security. The funds we request will enable us to complete that work.

Specifically, the funding will support the full deployment of the Biohazard Detection System, the Ventilation and Filtration System, and the construction of a Washington-based mail-irradiation facility.

Our request covers only the capital expense of obtaining this equipment. After initial deployment, operation and maintenance would become part of the Postal Service's normal operating expenses.

At the same time, we recognize that the threat of bioterrorism is pervasive—that the threats we face today may be far different in the future. With that knowledge, we continue to evaluate technologies that offer protection from other hazards.

I wish these funds were not necessary, but as we learned from the anthrax attacks and the three recent ricin incidents, the threats remain real.

In a democratic society marked by free and open communications, there will always be the possibility that some person or group will use the mail's unequalled tradition of privacy to mask an agenda of hate and destruction. As a Nation, we must be prepared to do what is necessary to neutralize the threat to the extent possible.

We are more than willing to do our part on this war on terrorism. We are working with first responders as we deploy bioterrorism systems. In community after community, we are acting as a catalyst to create dialogue and establish protocols consistent with standardized Federal response procedures.

This is an important role that can save lives in the event of any future real attacks.

In addition, the Postal Service's efforts to contribute to homeland security were advanced by a joint agreement with the Department of Health and Human Services and the Department of Homeland Security.

In the event of a catastrophic biological incident, our letter carriers would voluntarily deliver antibiotics to affected Americans. The procedures we develop will augment—not replace—those of local communities.

Finally, Mr. Chairman, I want to add that although we are authorized by statute to request an annual public service appropriation of up to $460 million, we have not made that request since fiscal year 1982. And I am pleased to say that we are not requesting that appropriation for fiscal year 2005.

Thank you, Mr. Chairman. I will be pleased to respond to any questions.

EMERGENCY PREPAREDNESS

Senator SHELBY. I want to discuss emergency preparedness expenses if I could.

Since 2002, Congress has provided emergency appropriations to support the Postal Service's anthrax emergency preparedness activities. After the attacks, the Congress appropriated $762 million to decontaminate postal buildings and to buy and install biohazard detection equipment. The Postal Service reportedly has spent a total of $971 million on emergency preparation, which includes $209 million from its revenue.

Provide us an overview, briefly, of what this funding has been spent on to date. In other words, give us an accounting.

Mr. POTTER. The funding has been spent on—$268 million of it has been spent for building restoration; $402 million has been spent for biodetection systems; $271 million has been spent on ventilation and filtration systems; $9 million will be spent on a D.C. area irradiation facility. We have not committed to that. We are doing some environmental assessments but our intent is to spend it on that.

Senator SHELBY. How much will that cost, roughly?

Mr. POTTER. It will cost roughly $16 million. But we have bought the equipment to irradiate the mail and that is the $9 million of expense that we have. Our intent is to do it on the campus of the Brentwood facility, on the grounds of the Brentwood facility.

Senator SHELBY. Since your emergency preparedness plan was submitted last spring, what additional steps have you taken to pre-

pare for another attack if there is one? We hope there is never another one.

Mr. POTTER. One of the things that we are constantly doing, Mr. Chairman, is looking at other technologies that might be out there. Today we have a test underway for chemi-luminescence. That is a test that will not only detect biohazards as the polymer rays——

Senator SHELBY. Will that detect chemicals?

Mr. POTTER. It will detect chemical. It will be able to detect ricin, biological and chemical, as well.

And we have designed our system——

Senator SHELBY. How is the technology coming along? Are you testing it?

Mr. POTTER. We are testing that as we speak. We are using the Department of Defense to help us with those tests. We have designed our biodetection system to be flexible enough to add new technologies to that system.

So our base system is there. We are excited about the new technologies that are coming down, that appear to be on the horizon, and we are actively testing those that show promise. And we are doing that with the appropriate Federal agencies.

Senator SHELBY. You submitted a request for $779 million to install biodetection equipment and to improve ventilation and filtration systems at postal facilities. Why is the Postal Service having difficulty with OMB getting that approved?

Mr. POTTER. I believe that they understand the need for it. Obviously there are—given the fact that the country is at war, there are a number of priorities. And I believe that, in terms of their priorities and their immediate needs, they have made a decision about where that stands for fiscal year 2005.

We wrote a letter of appeal to OMB when we heard about their decision because we believe that there is a need to provide these systems throughout the country to protect all communities.

Senator SHELBY. You have been quoted as saying that funding for biohazard detection equipment is either going to come through an appropriation or rate increase. Is that the only choice you have? Or do you have money that you could get out of your escrow fund?

Mr. POTTER. The only ways that the Postal Service can obtain money is through appropriations or through the rates process. So any cost, whatever it is, for the Postal Service, if it is not appropriated by Congress—and there are very limited amounts of funds that are appropriated by Congress, $29 million and the monies for the blind—the only way we have to raise money is through rates.

Now I am not saying that this would mean that we have to raise rates tomorrow, but the funds would have to come through the rates process at some point in time in the future.

Senator SHELBY. Detecting biohazards in the mail is the next subject I want to raise. We have been told by the GAO and others that the detecting systems that the Postal Service has acquired may not have the capability to detect other hazardous agents such as chemical or a radiological weapon. Would you explain the capabilities of these systems that you are getting?

Mr. POTTER. The current system that we are——

Senator SHELBY. But you want to spend money wisely, and I know you do.

Mr. POTTER. We are spending it wisely. But we also recognize there is an immediate need to move.

Senator SHELBY. You have got to be thinking of the future. What else is out there, right?

Mr. POTTER. Exactly. So we believe our system can be augmented. And we have designed a system that is flexible enough to add new technologies to it.

So today we can detect DNA. Our systems are designed to detect DNA or measure DNA or look at DNA. Our system today can do that.

We are working with the appropriate authorities to determine what other threats are out there that might be of a bio-nature. And we can add up to 10 agents being detected with the current system.

In addition to that, we are looking at electro-chemiluminescence as an opportunity down the road to be able to now detect chemical or toxins. And it appears to be promising but we have to await the tests before we move on it.

PERFORMANCE GOALS

Senator SHELBY. Performance measures. The European Union has agreed to a standard of 85 percent of cross-border letter mail must be delivered in 3 days and 97 percent must be delivered in 5 days. Has the Postal Service established similar performance goals? And if you have not, do you contemplate it? And what are the standards used by the Postal Service to determine if the performance goals are being met?

Mr. POTTER. The goals of the European Community have been shared and are measuring themselves against what was formed as part of the International Postal Corporation. The Postal Service is a member of that group. We do measure performance within a small community of nations, European, Canada and the Postal Service. The UPU, the United Nations Universal Postal Union is having a big meeting this year where they are going to discuss the notion of expanding what has been done within the IPC to the rest of the world. We certainly will embrace the notion of putting standards amongst the countries of the world.

Obviously there are some Third World countries that would have problems meeting such a standard. But the Postal Service, the United States Postal Service, is engaged through the UPU in discussions on increasing the standards for delivery of mail throughout the world.

Senator SHELBY. Are you going to those same standards? And if so, when do you think you will be doing that for the delivery of mail?

Mr. POTTER. Right now within the IPC we are, for those communities. But it is not measured—beyond that small group of nations—mail is not measured.

Senator SHELBY. Let us talk about the United States of America. Let us say from Seattle, Washington to Portland, Maine. What is the average first class delivery on that?

Mr. POTTER. The standard is 3 days and we are achieving that, about a 90 percent on-time delivery.

If you look at the United States, our overnight area which is generally within about 100 to 150 miles of an origin, our goal is overnight service. Right now we are achieving 95 percent.

Within 500 or 600 miles is our 2-day standard. We are achieving a little over 90 percent. Three-day nationwide, our goal for areas beyond 600 miles, our goal is 3 days. Last quarter we achieved a 90 percent. This quarter we are at about an 88 percent. The reason for the decline is the weather that we have experienced and the shutdown of airports around the country.

Senator SHELBY. What would be the average mail performance of first class mail from Atlanta, Georgia to Birmingham, Alabama? It is about 150 miles.

Mr. POTTER. It would probably be a 2-day standard and I can give you specifically in a follow-up what the actual achievement was. I would be guessing at best if I attempted to tell you. I hope it is very high, though.

[The information follows:]

A First-Class letter mailed from Birmingham, AL, to Atlanta, GA, is delivered in 2 days. During the first quarter of fiscal year 2004, First-Class Mail destined for overnight delivery in Alabama was delivered on time 93 percent of the time.

Senator SHELBY. I was going to use Spokane, Washington to Seattle. What is the delivery time there from Spokane to Seattle? I hope about half a day.

COST REDUCTIONS

Cost reductions. Would you touch on cost reduction measures for just a minute? And also, how do you intend to implement the process of streamlining the Postal Service's operations?

Mr. POTTER. The first thing that we have done nationwide is to standardize our operations.

Senator SHELBY. What do you mean by standardize?

Mr. POTTER. By standardize I mean what we have done is we have benchmarked internally against ourselves and we have identified the top quartile of performers in the country in any operation, whether it is sorting mail, canceling mail. And what we have done is we have looked at the best practice—and we have done this about 3 years ago.

We looked at what the best practices were that enabled them to be in the top quartile. We then, in turn, shared that throughout the country and said these are the practices that work, here is an expectation of how you should perform. And we set targets for improvement year by year.

What you have seen is a continuous improvement in productivity throughout the country. You have seen us be able to not replace work force that we had habitually just replaced, as people leave, we replaced them. For every three people that leave the Postal Service we replace one. And largely it is because of the opportunity to improve productivity.

We have also gone back and looked at all of our carrier routes to determine whether or not the 8-hour job that this route was based upon is still 8 hours. With the decline in mail volume over the years, what has happened is the average delivery in America which as recently as the year 2000 was reaching 1,870 pieces of mail per year, that has declined to 1,700 pieces of mail per year.

Senator SHELBY. What percentage of those 1,700 is first class mail?

Mr. POTTER. Just slightly less than half.

And so as a result of the decline in volume per delivery, that has reduced the workload for a carrier and has enabled us to go back in and reconfigure those routes so they have more deliveries.

So it is those kind of just basic practices that have enabled us to streamline and lower our costs.

In addition to that, we have been very careful about the purchase of goods and services. Over the last 3 years we have reduced our annual spending on goods and services by $1 billion. So any time a truck route comes up for rebid, we review it. A lease for a facility, we review it and look at our needs and determine whether or not it is the most economical way to go.

Senator SHELBY. Have you saved a lot of money that way?

Mr. POTTER. We have saved over $1 billion in our base per year.

Senator SHELBY. How many years have you been associated with the postal system?

Mr. POTTER. Me, personally? Twenty-five.

Senator SHELBY. So you have done just about every job?

Mr. POTTER. Pretty much, yes.

Senator SHELBY. Thank you.

Senator Murray.

APPROPRIATIONS REQUEST

Senator MURRAY. Thank you, Mr. Chairman.

As the Chairman referred to, on security and emergency preparedness efforts, it is a big undertaking and one that is necessary so that our mail workers can be protected and the mail processing and deliveries will be as safe as possible.

Congress was able to provide some initial funding in the amount of $762 million. Last year you requested $350 million, not even a dollar of which this subcommittee was able to provide.

This year you are requesting $779 million, which includes the 2005 request of $429 million plus the 2004 request that was not funded.

If we are to do anything in support of this request it must be exempt from the spending cap set forth in the budget resolution. In other words, the only way to provide this funding would be if it were declared an emergency.

You did not receive any appropriations last year for emergency preparedness and you were still able to proceed with anthrax decontamination and are now proceeding with plans to put in place biodetection devices in all of your plants. If that is the case, why are you asking for funding?

Mr. POTTER. Because when the initial funding was provided, it was noted that it was an extraordinary circumstance that surrounded this whole biohazardous-material-in-the-mail issue. And at the time, the Congress said that it was providing funding because of these specific security concerns and the Congress's notion that they wanted to help protect the mail system from biohazards.

So consistent with that sentiment that was expressed a couple of years ago, we feel that we have continued down that path and asked for the funds again simply for the capital portion of these

systems, with the Postal Service picking up the operating expenses. So again, we are responding to the sentiment of the Congress in the past and we would hope that it would continue on into the future.

BIOHAZARD DETECTION SYSTEMS

Senator MURRAY. The biodetection systems that you referred to a few minutes ago that you are planning to install to detect anthrax, do you have an estimate yet on how much it would cost to retrofit the machines to detect ricin or other toxins?

Mr. POTTER. We believe that they can be retrofitted. Our estimates are, if we move to the new technology, we could do it within the $779 million because of the fact that we have not fully deployed these systems and we can reduce the amount of the systems that we would have to deploy. So right now it looks like we could do it within the requested funding.

Senator MURRAY. How can we be sure that those machines will be effective against anthrax or other toxins? And is there a chance it is going to be outdated before we get it installed? Is nanotechnology coming?

Mr. POTTER. We were very concerned about a couple of things. One was, and very important, was the reliability of the system. Because a false-positive, as we have learned over the last several years, creates a lot of panic not only within the postal community and our workers but also within the communities that surround our facilities.

And so we were very, very diligent in making sure that these systems were effective. And our requirement was that we have no more than one in every 500,000 tests be a false-positive. And that was a high hurdle for us to achieve and for our suppliers to achieve. And that is why it has taken quite a long time for us to do that.

One of the things that we have done is we have tested in a lab environment a thing we call an anthrax simulant. So basically it is a non-virulent form of anthrax. And we have tested the system such that every time we put this non-virulent form of anthrax in, it has a 100 percent hit. We did not want to err on the side of lack of false-positives and in the process compromise the notion that if something was in the system it would be found.

So we have again spent a lot of time, a lot of diligence coming up with a system that right now is state-of-the-art, that again we do not know and we cannot forecast what the equipment will be 3 and 5 years down the road. But the need for us is immediate.

We have had over 20,000 incidents where buildings have been closed, postal facilities have been closed because of anthrax hoaxes or just accidental spills. And we believe we need, again for the safety of our employees and the people in facilities, we do not want to get to the point where we become so callous to the fact that these incidents occur that when the real one does happen we are not ready to react. So we have to step up and move this equipment out.

And I wish I knew what the best would be 10 years from now and I could buy it today but that is simply not the case. We have to move on the best we know. And we have used a whole army of folks in every agency that we could think of that could help us to

determine what the best technology is today and to move out on it.

Again, safety of our employees and safety of the communities is paramount. I wish we could wait but I do not think we have the time to.

Senator MURRAY. Fair enough.

POST OFFICE CONSOLIDATION

Mr. Potter, an issue that has always been a concern to this subcommittee is the consolidation or closure of small or rural post offices. In fact, every year we carry bill and report language prohibiting any of the funds provided from being used in the consolidation of or closing of rural and other small post offices.

In addition, Title 39 of the U.S. Code stipulates that "no small post office shall be closed solely for operating a deficit, . . .". It is not altogether clear that consolidation or closures undertaken by the Postal Service are consistent with the law.

Is the Postal Service planning to consolidate any operations or close any post offices this year?

Mr. POTTER. The post office does suspend post office operations and has done so for years and will continue to do so. We have, just to describe it to you, we have over 2,500 post offices that serve less than 200 people. We have over 4,500 post offices that serve less than 200 deliveries. Now I am not here to tell you that any one of those post offices should or can be closed.

But I also will tell you that we do have post offices that are in people's living rooms. We have post offices that are in stores. And as these smaller communities, and I just described a profile of some of them, as these communities in some cases wither and die, we cannot get people to volunteer their living rooms to be post offices when somebody retires.

Or if we are the last storefront in town and a flood wipes it out, we are not about to rebuild the post office.

And we have had emergency closures and we have followed the procedures as laid out by the Postal Rate Commission. We followed those procedures for closures. But we have no wholesale plan.

I think there is some assumption that someone in the Postal Service has a plan to close 20,000 facilities. There is no such plan.

However, we do have these small units that by act of God or somebody retiring, you know, we have to make decisions about how we best serve those communities and we do. In many cases, what we do is we provide delivery to the door or delivery to the end of a person's property versus them having to travel down to the post office.

So we are committed to universal service. We will provide service to every American wherever they are and we have no game plan to close post offices en masse. There is nobody sitting with a secret list of 20,000 post offices to close, although people would have you believe that. But every time that there is an act of God or retirement we do consider okay, how do we best serve the community?

VERTICAL IMPROVED MAIL

Senator MURRAY. In downtown Spokane, in my State, recently six of the satellite post offices were closed. Those six post offices

served as kind of a collection point of mail for the majority of businesses that are in downtown Spokane. They have now been replaced with unstaffed mailrooms and locked mailboxes. And as a result there has been a lot of disruption of service to the buildings. My office has received a lot of phone calls and letters regarding that.

Can you tell me if that type of consolidation is occurring in other parts of the country?

Mr. POTTER. We call it a VIM room.

Senator MURRAY. You call it what?

Mr. POTTER. VIM, which stands for "Vertical Improved Mail". Years ago the Postal Service decided that as large buildings were constructed, we provide centralized delivery. And in many cases, the building owner provided us a room in which our employees could come and work and sort mail so that the people in the building could pick it up from the equivalent of a post office box. And they could pick up their packages by knocking on the door.

What has happened over the course of time is the volume of mail for those vertical buildings, those big tall buildings, has gone away. Business-to-business delivery or business-to-business white communication letter and flat communication has dropped dramatically. Because the first group to move to electronic communication were businesses who were equipped to do that.

And so what we have done is we have undertaken an evaluation of those delivery units that are only located in large buildings. They are not post offices. They were built to provide delivery. If our person can go in there and sort the mail for the building in 2 hours, it makes no sense to leave the person there for 8 hours.

And so we have gone throughout the country, and again the action is a result of a reduction in mail. In some of those cases what we have done is we have had two and three people working in those units and we have reduced the number of people. They may still get 8 hour coverage. But 40 percent of those units throughout the country have eliminated full-time staffing in those units.

Again, it is a result of demand. If the customer is not using the mail, we are not going to leave that open.

Senator MURRAY. I think one of the problems and the reason people were so upset is that the Spokane business community was not officially informed or told that any of this consolidation was happening. A lot of them learned about the service reduction from signs that the post office posted after the service reductions were made. And in some cases, the information on the signs was inaccurate and postal customers were really left in the lurch, which is why we are hearing from them.

I would just encourage you to, if you have to do these kinds of things, really work with the business community especially in those areas to make sure they understand and are working with you.

Mr. POTTER. You have my assurance, we will look at the whole communications effort. Because I think if people understood the background that I just described to you, they would know that we are making a good business decision. And our intent is not to reduce the level of service to those buildings but to maintain it, if not improve it.

Senator MURRAY. Thank you. I really appreciate that.

Thank you, Mr. Chairman.

Senator SHELBY. Senator Stevens, thank you for joining us.

STATEMENT OF SENATOR TED STEVENS

Senator STEVENS. Thanks very much, Mr. Chairman.

We have several subcommittees meeting this morning at 9:30 and 10 o'clock. So I am sorry I was not here at the beginning of it. Would you place my opening statement in the record?

Senator SHELBY. Without objection, it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR TED STEVENS

Thank you Chairman Shelby for holding this hearing.

I commend Postmaster General Jack Potter for his efforts which have guided the Postal Service since June 1, 2001. Under his leadership, the Postal Service has increased productivity and has improved customer satisfaction.

In the early 1970's, I along with other senators, joined together to create the Postal Service out of the Old Post Office Department. In 1971, President Nixon signed into law the Postal Reorganization Act. Since the Postal Reorganization Act was originally adopted, technological advances coupled with the financial state of the Postal Service have demonstrated the need for postal modernization.

Reducing the Post Office's debt is a priority. I am committed to working with Senator Collins, Senator Carper, and other members of the Government Affairs committee to draft postal reform legislation to ensure the vitality of the Postal Service.

For my State of Alaska, the Postal Service and the concept of universal service are essential. Alaska does not have access to the infrastructure found in the lower 48. For many Alaskans the mail service is a lifeline. Each day the Postal Service delivers 2 million pieces of mail to Alaskan homes and businesses, including vital products that would not otherwise be available in bush Alaska.

The services provided by the United States Postal Service reach every home and business in America and are essential to American commerce and society.

I know the Postal Service is requesting funds for emergency preparedness and I believe it is important to ensure the Postal Service has adequate funds to safeguard this country from a hazardous substance attack. The Postal Service is a possible conduit for terrorist activity, therefore it is necessary for the Postal Service to have detection systems to not only protect postal employees, but to intercept mail carrying hazardous substances.

I believe we should do what we can to help the Postal Service ensure this Nation's safety.

Senator STEVENS. I do commend the Postmaster General for his handling of systems right now, particularly during this period of terrorism. And I want the subcommittee to know that I have personally visited with him concerning the emergency preparedness funding that is so essential. And after that, personally visited with the director of OMB.

We are still trying to work out how we can handle this because the budget, as you know, has not handled it in the budget session. We will have to work with the Governmental Affairs Committee and members of our committee to see if we can get support for an emergency declaration for the money that they need.

I believe that the Senate, in particular, should push this because after all we were the target of both the attacks. The terrorists' use of the mails to come to the Senate, I think is something the Senate must respond to.

And I do believe that if we declare that emergency that the House will accept it.

So I cannot tell you we have got an agreement yet, Mr. Postmaster General, but we are still working on it.

I do thank you for the new post office that is going to be brought to that little town I live in in Alaska, which is a very welcome development from our point of view. And I hope that you will be able to come up this summer and dedicate it.

Maybe the Chairman would come, also.

Senator SHELBY. I would like to do that.

Senator STEVENS. And we will have a little event there. There are only 1,900 people living there, Mr. Chairman.

Senator SHELBY. Do you have fish around there, Mr. Chairman?

Senator STEVENS. Not right there but we might be able to travel to a place where they fish.

I just pointed out to another subcommittee that when I was in Iraq and Afghanistan I pointed out that both of those nations would fit within my State with some space leftover. Actually, they are only each about the size of Texas.

I just really came by to give my support to you, my friend, and to urge the committee to work with me and with Chairman Collins and see if we can find the support that what we have to have for this emergency declaration for the money that you seek.

Mr. POTTER. Thank you, Senator.

Senator STEVENS. Thank you.

Senator SHELBY. Thank you, Chairman Stevens.

Do you want to respond to any of that?

Mr. POTTER. I would just like to thank Senator Stevens for his comments and to apologize to him. I did not realize how bad things were in Girdwood until I got there and found out that we had taken your post office box away and made you begin to get general delivery.

So I am sorry that you had to get in line to get your mail, but we will rectify that situation and certainly there other safety issues there. So I appreciate your bringing them to my attention.

Senator STEVENS. I may have failed to pay the rent, I am not sure.

Senator SHELBY. Mr. Potter, what would be the time sequence on mailing a first class letter from Fairbanks to Anchorage? When would it get there?

Mr. POTTER. Overnight.

Senator SHELBY. Thank you.

Senator STEVENS. That is called Alaska delivery.

Senator SHELBY. We like that Alaska delivery.

COMPETITION: E-COMMERCE

Competition. Why should the Postal Service, a $68 billion enterprise with a government monopoly, be allowed to compete with the private sector in areas other than its original mission?

In other words, after reviewing the dismal financial results of virtually all the Postal Services' commercial initiatives, would it not make more sense to concentrate your focus on the Postal Service's core mission instead of risking new ventures? In other words, what steps have been taken by management to ensure that financial mistakes will not continue to happen?

Mr. POTTER. I think you will be happy to know, Mr. Chairman, that I have eliminated practically all of those ventures that were beyond our core mission. We still have a mailing online electronic presence. We believe that people should be able to, through the Internet, access a printer and send cards and letters and we believe that is part of our core business.

But for all intents and purposes, everything else has either been eliminated or the only thing that we lend to any of these ventures is our brand identity. We have pulled back from any expenditures that are beyond what we consider to be our core business.

REVENUE FOREGONE

Senator SHELBY. The Revenue Foregone Reform Act, to which Senator Murray alluded, required an annual reimbursement to the Postal Service of $29 million to subsidize certain nonprofit mail. The total payment the Postal Service is expected to receive is $1.2 billion.

You have received payments for the past 11 years but this budget submission does not request funding this year for this reimbursement.

What impact will this have on the Postal Service and its customers if this appropriation is not funded in 2005?

Mr. POTTER. One might say what is $29 million to a $68 billion organization? The real concern for us is that there is still some $899 million owed and it is part of the statute that required a $29 million-a-year payment.

Our auditor has told us that if that revenue stream is not a real revenue stream, according to GAAP rules, we may have to declare that entire revenue stream as being lost to us. And so that is the immediate concern that we have, that we would have to write off that revenue stream as a bad debt owed to us.

CIVIL SERVICE RETIREMENT SYSTEM

Senator SHELBY. Mr. Potter, the Postal Civil Service Retirement System Funding Reform Act, that is a mouthful, of 2003 reduced the Postal Service's funding requirement for Civil Service Retirement System pensions after it was discovered that the Postal Service was overfunding its—that is unusual—its Civil Service Retirement System obligation. The Postal Service used the savings from the Act to reduce its debt by $3.8 billion. After 2004, the savings are to be held in escrow until otherwise provided by law.

How do you plan to expend the escrow savings if allowed to use them?

Mr. POTTER. The law required us to pay down debt last year with the savings, which we did. In fact, we paid down more debt than the savings were. This year it requires us also to take the "savings" and pay down debt.

In 2005, the law assumes that we will use those funds for operating expenses. And our goal next year is to break even or do better than break even.

In 2006 is when those monies would go into an escrow account. Now the escrow account, as we understood it, was created because there was concern on the part of some in Congress of how we would use those monies.

And we have provided a plan to the Congress, to the House, a very specific plan, a very thick plan, on how those funds would be used. It includes, in particular, a concern about how we would handle and deal with capital investments because there was some concern that we were not going to capitalize future equipment requirements that would help make the Postal Service more efficient.

So we have gone into great detail about what our capital investment plan is and we have talked about and addressed an issue of concern that was employee retiree health benefit funding.

So I have had a hearing at the House since and the indications have been that that plan has at least met the needs of most of the Congressmen. We have a similar request from the Senate and we are to provide that, I believe, by the end of this week, a similar plan. We have done some minor modifications but it is essentially the same plan.

So we believe we have addressed the concerns that caused folks to create the escrow account.

We need the escrow account to be eliminated now that people understand how we spend the money because there are no—if we are in a break even mode in 2005, there are no funds to create a $3 billion plus escrow account. And so we would like that to be eliminated.

And the funds in 2006 would be used similar to the way they were used in 2005. Basically, they would be used for operating expenses and to fund the capital requirements.

FACILITY ISSUES

Senator SHELBY. Regarding facilities repair and new construction, I would like to get back to this for a minute.

In the last 3 years, the Postal Service has reduced capital expenditures by more than 50 percent by limiting capital commitments to levels that could be funded solely from cash flow. The infrastructure continues to age, as we all know.

In addition, many facilities can no longer meet the needs of customers as the delivery network continues to expand, while other customers lack convenient access to the postal system altogether.

What priority, Mr. Potter, has the Postal Service given to address new construction and expansion needs? And during the freeze on capital commitments, what has the Postal Service done to adequately maintain its existing infrastructure and preserve buildings in an economically effective manner? And, how will the Postal Service address infrastructure needs that have been deferred since the freeze on capital commitments commenced in 2001?

Mr. POTTER. Life safety is our No. 1 issue and throughout this process we have not taken any funds out of life safety. If buildings have been destroyed by acts of God, we have spent the money to repair those facilities. We have a robust repair and alteration budget. We have not eliminated capital funds for repair and alteration. We have slowed the building of new buildings. We have 38,000 buildings in the Postal Service. We only own 8,000 of those buildings.

Senator SHELBY. Say that again?

Mr. POTTER. There are 38,000 buildings in the Postal Service that we have. We only own 8,000 facilities.

So we have continued with leased facilities, a concept that has gone on. But the capital side, the building of postal facilities was slowed.

Now the rationales for slowing that down were a couple. One was cash flow. But another real important issue was what are our facility requirements going forward, particularly in light of the fact that we are seeing volumes decline, we are seeing a change in mailer behavior?

Mailers have taken advantage of rates that allow them to deposit mail close to delivery. So where in 1990, if you were to mail an advertising piece of mail from Washington, DC to anywhere in the country it would be the same rate for you to mail it from Washington, DC to Spokane, Washington or to Chicago.

Today we have rates that allow you to bring that mail well into the system, right down to the processing center. So I can bring the mail to the Seattle plant for mail in Washington and I pay a lower fee in order to do that.

Mailers have taken advantage of that in a significant way over the last decade. And in the process of doing that, they have reduced the infrastructure that we are required to have. So we are constantly analyzing that infrastructure.

Right now I believe we have more space in plants than we need.

In addition to that, delivery units, if you go back historically in delivery units——

Senator SHELBY. You have more space in plants now?

Mr. POTTER. That is the 282 processing centers.

Now in delivery units, we have also stepped back to take a look at what our requirements are. Today, about 80 percent of the mail for a letter carrier, letter size mail, is walk-sequenced. It is presented to the carrier off of a machine that is in a plant, where a decade ago they would have to sort all of those letters into a case to take out on the street. It is now presented to them in a tray. So that case does not have to be as big as it was before.

In addition to that, oversized letter mail, flat mail we call it, which is a catalog, a magazine or a large manila envelope. In the past all of that mail had to be sorted to the carrier route. So it would go to the post office, sort it to the carrier route in that unit by clerks at cases. Today, the bulk of that, over 90 percent of that sorting, has moved from that post office to the plant because we have automated equipment that sorts this mail at a very high productivity level.

In fact, we have doubled the level of productivity on flat mail in the last couple of years because we have automated it.

So where a post office used to have to have cases to sort mail, flat mail, to carriers and they would have to have carrier cases to sort mail for the walks along the way, the requirements of that unit have shrunk dramatically.

In addition to that, the number of packages that we have in the system has declined. Priority Mail, Express Mail and package mail is down. So we are looking at the demands for space within that unit and what we are finding out is that we have enough space, we just have to change the methods that people are using.

Now, that is not to say that we do not have growth areas like a Las Vegas, where we have whole new communities sprouting up. And in those cases we are building post offices.

Senator SHELBY. Let me ask you another question. Could you save money, for example, in a lot of areas, like smaller communities, by following the business practice of UPS and Federal Express where they have bought businesses like the copying company, where they will pick up parcels.

And it looks to me like in some of the smaller communities you might not need a new postal building. But if you could rent from a store there or if you could rent a little space in that store—and I know you do in certain instances—it looks like that would be economical.

Mr. POTTER. It would, Senator, and we have over 5,000——

Senator SHELBY. That is what I want to hear.

Mr. POTTER [continuing]. Contract post office units throughout the country. We also sell stamps at over 40,000 locations other than post offices. So we sell stamps in grocery stores, people can buy postage stamps through ATM's.

Senator SHELBY. You do not necessarily need a huge facility, do you?

Mr. POTTER. We do not, to have a retail operation, we do not.

Also, every one of our 60,000 rural routes are post offices on wheels. So they are designed to bring services to the customer.

People now can access, through the Internet they can now access a system—we call it Click and Ship—to print a priority label and pay for postage online.

So we are trying to bring as many services as we can to the doors of all Americans. We do not think that a traditional post office is the only way of doing it.

Now that said, we are still going to need post offices throughout the country for post office box operations. Our carriers are going to have to be housed, they have to come and collect their mail.

Senator SHELBY. But, you could have a facility without spending all of the money?

Mr. POTTER. Exactly and we are doing that, sir.

Senator SHELBY. Especially in smaller areas?

Mr. POTTER. Exactly.

CIVIL SERVICE RETIREMENT SYSTEM

Senator SHELBY. Let us go back a minute to the Civil Service Retirement System correction, you elaborated on that. Would you submit this plan to the committee when you get it?

Mr. POTTER. Yes.

Senator SHELBY. We would like that.

Mr. POTTER. We would be happy to do that.

CONSUMER ACCESS

Senator SHELBY. Expanded points of service. We were talking about this.

The President's Commission of the U.S. Postal Service proposed to revolutionize retail access by bringing a wider range of postal services and products to consumers in grocery stores, pharmacies, and other convenient locations. What is the current status of your

efforts—I know I alluded to it a minute ago—to expand access to retail Postal Services at venues other than post offices? In other words, where people are.

Mr. POTTER. We are actively engaged and talking with a number of national retail outlets.

Senator SHELBY. I am not trying to promote Wal-Mart or Target.

Mr. POTTER. You are pretty close there.

Senator SHELBY. But look at the traffic that is going through these or Home Depot or Lowe's. You go there and you see that there are thousands of people going through those stores all over America every day.

Mr. POTTER. Right, and we are working closely with several of them. There are issues that we are dealing with, with some legal requirements but we are actively engaged in that.

We recently had a deal with Hallmark Crown Stores. Seventy percent of all greeting cards end up in the mail, which I thought was a much higher number than I expected it to be. So we have worked out an arrangement with them where they will sell stamps, they will sell Priority Mail. And we are looking at all our options to do that. But we want to do it in an economical way.

FINANCIAL TRANSPARENCY

Senator SHELBY. Mr. Potter, the President's Commission has also proposed to try to enhance the transparency of the Postal Service's financial reporting. What steps have you done, working with the Board of Governors, to enhance annual financial reporting? Is the Postal Service committed to report financial information in accordance with the SEC reporting requirements and disclosure statements?

Mr. POTTER. The Postal Service has begun doing quarterly reports, that we believe are comparable to SEC. Obviously we are not a private corporation with stockholders but we have begun enhanced quarterly reporting. We have posted it on our web site. We have begun to report the equivalent of the 8–Q where basically if there is a major incident that might affect our finances, we are reporting that.

We have changed our annual statement to become what we believe is more transparent.

In addition to that, we are in contact and having discussions with the SEC and they are taking a look at our reports and we are looking forward to their recommendations on what we can do.

Right now we believe we are probably more transparent than most, in terms of the level of information that we provide through the rates process and through all of the oversight that we have.

Senator SHELBY. But first of all, you need to know your financial condition, the real financial condition. Otherwise, you really cannot run the place if you do not know what is going on.

Mr. POTTER. One of the outcomes of doing that was the Civil Service Retirement legislation change. At the time people were saying, there were some saying we were underfunding our retirement benefits.

Senator SHELBY. You certainly do not want to do that, either.

Mr. POTTER. But we were of the opinion that we might have been overfunding. So there was the exploration and thanks to GAO and

the administration, who took it upon themselves to help us with that, we were able to find out, thankfully, that we were in an overfunding condition.

SPONSORSHIPS

Senator SHELBY. What return on investment has the Postal Service realized from sponsorship deals such as those with the New York Yankees, Tampa Bay Devil Rays, and Lance Armstrong?

Mr. POTTER. The sponsorships, I do not have a specific return.

Senator SHELBY. Would you furnish that for the record?

Mr. POTTER. I can furnish a response. I do not know if we have a specific return.

Senator SHELBY. You need some kind of way to measure that.

Mr. POTTER. It is very subjective and we will provide you what our analysis is for the record.

Senator SHELBY. But if you were advertising in private business, you would measure that advertising to see if you are selling cars or you are moving certain goods and services. Otherwise, you stop that advertising or you change it.

Mr. POTTER. Exactly. We will provide it for the record. Some of the numbers are I believe, for example, some you will look at with a skeptical eye and say I do not think it is worth that much. I have that same skeptical eye when it comes to a few of these.

Senator SHELBY. I am not in a position to say.

Mr. POTTER. I am not either, so we will share with you what others' analyses of it are.

[The information follows:]

Sponsorships increase brand awareness, build positive corporate image, promote employees' corporate pride and accrue positive public relations. While some of those attributes may be difficult to measure, the Postal Service did commission its advertising agency, Campbell-Ewald, to track and measure the level of media exposure for the Postal Service for the July-August 2003 timeframe, including the 2003 Tour de France. The value of domestic exposure for the Postal Service for this 2-month time frame represented in excess of $31 million.

Regarding the other sponsorships, the Devil Rays sponsorship should be regarded more as an advertising purchase; it solely comprises a billboard in the outfield promoting Priority Mail. Most of what we pay for in our Yankees sponsorship is also about advertising exposure in the stadium. However, in the case of the Yankees relationship we also received permission to produce philatelic merchandise that includes Yankee images. From the sale of this merchandise we gross several million dollars annually.

DELIVERY GROWTH

Senator SHELBY. The postal mail volume has continually dropped since fiscal year 2000, while the number of new addresses has increased by 5.4 million annually. The volume of first class mail and the number of delivery points are moving in opposite directions it seems.

How do you plan to address, Mr. Potter, the delivery requirements for communities with the rapid growth of homes and businesses? And once the determination has been made that a new postal facility is needed, what is the approval process? Is it too protracted or can you have a fast track?

You know, you have got communities growing by leaps and bounds and you have got some that are shrinking.

Mr. POTTER. We have got advance site acquisition where we actually go out and buy land in anticipation of growth.

Senator SHELBY. Save you some money, will it not?

Mr. POTTER. For example, out in Las Vegas we worked with the Bureau of Land Management, which has control over expansion beyond the city. And there are different actions that are taken——

Senator SHELBY. Did they give you the land? They should.

Mr. POTTER. We have been able to do that. I do not want to publicize it. We have been able to work certain arrangements, but in other parts of the country we cannot do that. But that is an example of what we do. We have different strategies in different areas around the country.

But advance site acquisition is one of the methods that we use where we anticipate growth.

Senator SHELBY. You do that by demographic trends, among other things, do you not?

Mr. POTTER. Exactly, and you just look at, for example, the midsection of the country, you look at Montana, South Dakota, Iowa, down to Oklahoma. We have seen 30 percent of the population has been reduced. And obviously, the growth is in other sections.

We do look to build facilities in those areas of the country. And we have provided funds to do that and we are expanding the amount of money that we have spent on that.

UNIVERSAL SERVICE

Senator SHELBY. As you look at the demographics of rural America, rural America is shrinking in population. How do you anticipate that to reduce the facilities and your costs? What about the political overtones there?

Mr. POTTER. Well, reducing the facilities is a major issue and one that by law we cannot do for economic reasons. So we live within the law. It is one thing that we would hope that, if we were to get reform legislation, would be considered by the Congress.

Senator SHELBY. It is universal mail service.

Mr. POTTER. We are not going to back away from universal mail service. If we do, I do not think you need a Postal Service in this country. That is the reason that we were formed. There are communities in America that would not get service if it were not for the Postal Service. We recognize that and we believe that.

And I think that based on everything that I have read about the creation of the Postal Service, that that is why we were formed, to assure that. Some people have suggested that we get out of the package business, for example. So I said, how did we get into it?

It turns out in 1912 there was a law passed by Congress, prior to which the Postal Service was not able to carry anything that weighed more than 4 pounds. But what happened and what was happening throughout the country was that there were rural communities that were either getting no service or whatever service they were getting, was an infrequent service, they were paying exorbitant rates to get.

There were inner-city communities, the less affluent inner-cities communities that were not getting regular package services. And when they were getting it they were paying exorbitant fees to receive it.

So when I look back historically I think wow, think about it today. If we were not in certain areas, I am not sure that the private sector could step in or would step in and deliver without surcharges.

And today, many of our competitors surcharge rural Americans for delivery of mail or companies that want to reach rural Americans. And certainly others do not have daily delivery to certain communities that are less affluent.

So I think the role of the Postal Service still is relevant today in light of what we were founded to do and the notion that everybody has equal access to a system to conduct business and send messages.

Senator SHELBY. At one time, you were in the banking business, too.

Mr. POTTER. We were and I wish we could get back into it. If you look at foreign post, many of them are getting into the banking business because they have retail outlets in these small communities.

Senator SHELBY. As chairman of the Banking Committee, I am not recommending that.

Mr. POTTER. I can always try, right.

ADDITIONAL COMMITTEE QUESTIONS

Senator SHELBY. Mr. Potter, we appreciate your appearance. We appreciate your candor and we have a number of requests you said you would get back with the record to us.

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

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

DETECTING BIOHAZARDS IN THE MAIL

Question. I am told by GAO and others that the detecting systems that the Postal Service has acquired may not have the capability to detect other hazardous agents, such as a chemical or radiological weapon. Given that there are many other toxic agents that can be sent through the mail without being detected by your system, is the Postal Service still planning to deploy such detecting systems?

Answer. Yes. We currently plan to install 1,708 Biohazard Detection Systems (BDS) at 282 facilities nationwide. National deployment of the BDS began in early April 2004. The 282 sites were selected because they represent our major processing facilities and cover our collection mail entry points for the entire postal network. Today, we have a total of 32 BDS systems in operation.

Nationwide installation of the BDS will resume on June 5. The program experienced a slight delay for testing to determine why some systems were producing "inconclusive" test results. Inconclusive or non-determinant results do not mean that a threat was in the mail. It simply means that tests had to be rerun to get a valid result.

Our goal through the testing, implementation and everyday use of the BDS has been to ensure the safety of every employee and the customers we serve. That is why it was critical that the system operated properly before installation continued. Postal Service Engineering, working along with the equipment contractors, conducted tests to determine the cause of the problem. The cause has been determined and changes to basic processes and procedures have been instituted to return BDS to normal performance levels.

Our methodology has been to develop a threat assessment that outlines known threats to our resources. Based on that assessment, we have identified and developed technologies to mitigate those known threats. These technologies include the BDS, capable of detecting biohazards, the Ventilation and Filtration System, capable of containing biohazards, and an irradiation process that neutralizes biohazards.

BDS was developed as a scaleable system. In its current state, the system can detect only for the presence of Anthrax. However, BDS can be expanded in the future to detect for other biological agents, as well as toxins such as Ricin. Working in conjunction with our primary contractor for the BDS program, Northrup Grumman, we are integrating a prototype device in the BDS equipment that is capable of detecting Ricin. Testing of the device is planned for the spring of 2004.

Question. How many systems have been installed? Where have they been installed and at what cost?

Answer. We currently have 31 production systems and 1 pre-production system operating. The pre-production system will be replaced with a production unit as part of the national deployment effort.

Unit Location	Number of Units	Costs (Approx)
Cleveland, OH	9 Production Units	$2,250,000
Baltimore, MD	11 Production Units	2,750,000
Pittsburgh, PA	1 Pre-Production Unit	250,000
Lancaster, PA	5 Production Units	1,250,000
Queens, NY	6 Production Units	1,500,000

We estimate the manufacturing and installation costs for one BDS system to be approximately $250,000 to $180,000 for the hardware and $70,000 for logistical support and installation efforts. To date, we have awarded a contract for the first production phase that consists of the manufacture and installation of 742 BDS systems. Total funding committed to date is $212.1 million.

Question. Will additional detection capabilities be added in the future? If so, how cost effective is it to address one threat at a time?

Answer. We have developed a threat assessment that outlines known threats to our resources. Based on this assessment, we have identified and developed the Biohazard Detection System (BDS) capable of detecting biohazards. BDS was developed as a scaleable system. In its current state the system can detect only for the presence of Anthrax. However, BDS can be expanded in the future to detect for other biological agents, as well as toxins such as Ricin. Working in conjunction with the primary contractor (Northrop Grumman) for the BDS, we are integrating a prototype device within the BDS equipment that is capable of detecting Ricin. Testing of the device is planned for the spring of 2004.

As threats are identified and required to be detected by BDS, we will aggressively pursue adding the capabilities to our detection systems. However, in order to add additional threats to BDS, specific reagent sets and processes must be developed and scientifically validated with respect to each individual threat.

Question. Are there any analyses of how the Postal Service's efforts compare to the steps that private sector mail companies have taken to detect hazardous agents?

Answer. Yes. After the anthrax attacks of October 2001, the Postal Service consulted with the Joint Program Office (JPO) for Biological Defense as well as other military and Federal agencies. After these consultations, it was determined that a system did not exist that met the needs of the Postal Service. From October 2001 to September 2002 more than 20 systems were tested. BDS was the only system that successfully passed all test protocols jointly established by the Postal Service and Bio-Defense experts.

COST REDUCTIONS

Question. Please outline the cost-cutting measures planned for the Postal Service for fiscal year 2005.

Answer. We are in the process of finalizing cost reduction plans for fiscal year 2005, which will become a part of the fiscal year 2005 Integrated Financial Plan, scheduled for Board of Governors review in September. It is our expectation that we will plan for a sixth straight year of positive productivity gains as a result of continuing cost reduction efforts that has been successful in the past 5 years.

We have achieved savings through a variety of measures, which we will build upon for fiscal year 2005. Postal management will continue to identify best practices and achieve savings through breakthrough productivity initiatives. We will continue to deploy automation that will save mail processing costs, and that also will have a positive effect on delivery productivity through higher levels of sequenced mail for the letter carrier. We will also continue to achieve additional savings and cost avoidances through streamlined transportation networks, refreshed communications/computer networks, centralized support functions and opportunities presented by supply chain management initiatives.

Through stringent cost management, we have delivered $5 billion in cost savings since 2000. This includes $2.7 billon in savings resulting from Transformation Plan initiatives over the last 2 years. We are on track to surpass the $5 billion in savings called for by the Plan over the 5-year period ending in 2006.

Question. What actions does the Postal Service intend to implement to continue the process of streamlining its operations?

Answer. In its July 31, 2003 report, the President's Commission on the United States Postal Service made a total of 35 recommendations derived from the findings of its four subcommittees that reviewed all aspects of Postal Service operations. Of those 35 recommendations, 17, or approximately 50 percent, aligned closely with the strategies that the Postal Service adopted as "near-term" strategies in its April 2002 Transformation Plan. The "near-term" strategies are those the Postal Service can accomplish without statutory change. For example, the President's Commission recommended that the Postal Service expand retail access to postal products and services. This was a key Transformation Plan strategy that is being implemented currently through such programs as retail access to postal services through partnerships with commercial retail stores, such as Safeway, and continuing expansion of product and service offerings over the Internet.

For a complete review of the progress of Transformation Plan strategies please see the attached November 2003 Transformation Plan Progress Report. Please note that the Transformation Plan made two key commitments: to hold rates steady and to remove $5 billion in costs by the end of 2006. The Postal Service is well on its way to meeting these commitments. Rates will be held steady until 2006, and $2.7 billion of the $5 billion commitment was achieved by the end of fiscal year 2003.

Of the 18 remaining President's Commission recommendations, most deal with issues that require statutory change, such as changes in the governing structure of the Postal Service. In the Transformation Plan the Postal Service associated such topics with structural change, and while it made some recommendations, it recognized that many of the policy issues are within the purview of the Congress, not the Postal Service. There were a small number of President's Commission recommendations that the Postal Service did not address in its Transformation Plan in any form, such as personalized postage stamps and an independent advisory body for the evaluation, acquisition and deployment of technology. The Postal Service has been studying the feasibility of such recommendations. Early in 2004 the Citizens' Stamp Advisory Committee, which reviews and approves subjects for printed postage stamps, recommended against implementation of personalized postage stamps by a vote of eight to three. The Committee cited nine reasons, including concerns about counterfeiting and negation of the social value of stamps as a unifying symbol of culture and community.

E-COMMERCE INITIATIVES

Question. The 2003 Comprehensive Statement on Postal Operations states that the Postal Service is evaluating and modifying non-postal business plans. It is my understanding that e-commerce was an area of special concern. As a result of the e-commerce evaluation, what changes has the Postal Service made regarding commercial ventures, including e-commerce activities?

Answer. We have aggressively reevaluated e-commerce initiatives and we have eliminated those that didn't meet expectations. We are focusing on repositioned core-product initiatives to satisfy customer needs. Our Postal Service website, www.usps.com, is a logical extension of our core mission. Our customers may access this site to buy stamps, look up ZIP Codes, and even ship parcels through our new Click-N-Ship service, a convenient online shipping solution that allows customers to send mail without leaving their home or office.

And we are moving toward greater reliance on private sector providers to eliminate postal expenses. For example, we repositioned Electronic Postmark and Mailing OnLine to private sector agreements.

We will continue to support initiatives that align with our core mission. As we gain experience, we will assess performance and make determinations on a product-by-product basis.

Question. How do initiatives, such as the partnership with Hallmark Gold Crown, differ from prior e-commerce ventures?

Answer. Our latest initiative is building upon previous initiatives designed to expand customer access without creating additional, permanent network costs.

Recently, we have identified potential partnerships with sophisticated multi-location retailers, such as Hallmark, through standardized contract terms and conditions that are individually awarded. These limited-service contract postal at units will provide only the most desired postal products and services and times and in

locations that are convenient to consumers. This relationship between two partners with an interest in "keeping customers in the mail" was not intended to replace post offices that offer a full line of services.

These multi-location retailers are easily recognized and well respected brands that complement the USPS brand. These providers also have the marketing expertise and advertising funds to support the promotion of these units. These partners will provide retail services below the cost of the traditional post office.

Hallmark was the first limited service CPU provider and the first to use Postal Service-provided postage evidencing devices to affix postage. By using this device, we reduce administrative costs in the field by eliminating stamp orders (stamps are provided under the consignment program) and eliminating daily financial reporting as well as auditing and bonding requirements. Because Hallmark stores pre-pay for the postage loaded onto the provided meters, the consumer benefits from conducting their store purchase with their postal purchase in one transaction and they can use their credit cards (credit card postal purchases are not allowed in traditional contract postal units.)

By providing expanded access to Postal Service customers, contract postal units (CPUs) provide the Postal Service with a flexible and adjustable retail network that is a lower-cost alternative to Postal owned facilities.

As customer behavior changes and they begin to access postal services through the Internet or through other means, and as they move to new communities, we will have the ability to adjust our retail network to meet the demand. CPU partners typically offer customers the convenience of providing postal services in the evenings and on weekends where customers live, work and shop.

Customers can also purchase stamps "at post office prices" at participating Stamps-on-Consignment locations such as grocery stores, convenience stores, drug stores, banks and ATMs. Approximately 40,000 locations and ATMs are part of this network. These stamp channels also provide expanded hours and days of access. These stamps are provided to our consignees through our vendor. The Postal Service cost to sell stamps through consignment is one of our least expensive methods of selling postage.

REVENUE FORECAST

Question. Is it possible to offset the revenue loss without additional rate increases?

Answer. We continuously assess our products and services to identify ways to stabilize costs to offset any revenue losses independent of our rate increases. As mentioned earlier, we are on track to take $5 billion in cost out of the system by 2006. Concurrently, we are working to enhance our products to keep pace with customer needs and grow revenue.

Question. What is the Postal Service doing to reverse the revenue losses it has experienced with Express Mail since 2000 and Priority Mail since 2001?

Answer. In terms of Express Mail and Priority Mail, customers have told us that the four most important factors in choosing a shipping company are service/reliability, price, ease of use/access, and information.

In late 2001, we entered into a transportation agreement with FedEx to fly a significant portion of our Express Mail and Priority Mail. As a result, costs were reduced and service levels are at an all time high. We are also regularly reviewing our Express Mail network for opportunities to expand our overnight reach.

Some of the cost-reduction initiatives we are working on include processing and barcode standardization to increase automation of the parcel mail-stream. We recently awarded a contract for 75 Automated Package Processing Systems (APPS) that will provide high-speed parcel and bundle processing, reduce labor costs, and provide en route tracking information for customers.

Another initiative to help generate revenue was our recent launch of a pre-paid Priority Mail Flat Rate envelope to make it easier for customers to use Priority Mail service. We are also evaluating a Flat Rate Priority Mail box. These products will make it easier for customers to mail documents and merchandise anywhere in the country for one flat rate without the need for weighing and rating to determine how much postage needs to be placed on their package. We also enhanced our parcel pickup capabilities by allowing customers to notify their local post office when they have prepaid Priority Mail and Express Mail packages to be shipped. The notification alerts their carrier to pickup the packages at the same time they deliver their mail. Since we are already at the address, there is no charge for the pickup.

PUBLIC-PRIVATE PARTNERSHIP

Question. The President's Commission stated that the Postal Service should continue to look for opportunities to offer discounts for additional work-shared products and to expand opportunities for small mailers to participate in them, particularly as new technologies are developed, that reflect the lowest combined public-private sector costs.

Does the current rate-setting environment prevent the implementation and acceptance of work-sharing discounts with large mailers and cost the USPS potential sources of revenue?

Does the Postal Service believe the work-share discounts are appropriate?

What opportunities does the Postal Service foresee regarding additional worksharing and what impact will it have on the budget?

Answer. The current rate setting environment has not prevented the implementation or acceptance of generic worksharing discounts. Generic discounts are available to all postal customers and are used by thousands of customers; they are applied in a standard manner for use at thousands of postal facilities. We note that these thousands of customers are not only large mailers, but also small, local businesses and nonprofit organizations.

Many customers or groups of customers have different mail preparation capabilities. At the same time, the operations of different postal facilities can be enhanced by variations in mail preparations designed to accommodate unique mailing needs. This creates potential opportunities to design worksharing arrangements for small groups of customers (niche classifications) or individual customers (negotiated service agreements or NSAs.) The current rate setting process often involves protracted and expensive litigation for these relatively simple cases. For instance, a current small filing for Periodicals, which affects primarily one mail preparer and roughly a tenth of 1 percent of total mail volume, is 3 months into what is an "accelerated" schedule. Realistically, this process cannot be repeated for thousands of customers or customer niches.

The Postal Service is a strong supporter of workshare discounts. In testimony before the President's Commission on the U.S. Postal Service, Chief Marketing Officer Anita Bizzotto stated:

"Partnering with customers through worksharing has been one of the major success stories of the U.S. Postal Service over the past 30 years. These partnerships, now valued at $15 billion a year, have provided affordable mailing alternatives for customers; reduced Postal Service costs; and; have been a primary source of mail volume growth. These partnerships and worksharing discounts have helped usher in the age of automation by encouraging customers to prepare machine-readable mail and have remained an important tool for aligning the mail with the operating environment."

Some opportunities for additional worksharing will come in the form of more customized arrangements. At the same time, there is still opportunity for new generic arrangements. For instance, we believe more incentives are needed to encourage the transporting of magazines and newspapers downstream closer to their points of delivery. Such destination entry incentives have been successful in holding down rate increases for parcel and advertising mail customers but current policy has limited the applicability of these incentives. We have not succeeded in extending worksharing opportunities to Priority Mail but we are looking for opportunities that would serve the needs of Priority Mail customers.

Lastly, we are concerned that the language in some of the legislative proposals may have a harmful effect on workshare in the future. In general, the more rigid standards which are applicable only to worksharing rates run counter to attaining one of the enunciated goals of postal reform: a more flexible rate structure. Rigid standards for worksharing rates would limit the Postal Service's ability to implement and maintain workable worksharing rates in a dynamic operating environment.

RETAIL STORES REVENUE

Question. Has the Retail Network Optimization Plan been implemented?

Answer. Since the initial development of the Transformation Plan, the Postal Service has established a retail direction that is focused on access, convenience, and ease of use for the customer. Building upon these goals, we have implemented a program that allows customers to purchase postage on-line, enabling letter carriers to pick up their postage materials when the carrier is delivering to the area. This is accomplished via the USPS Web site and eliminates the need for a special trip to

the Post Office, which is a real convenience to small businesses and consumers who cannot always make a visit to the post office during normal businesses hours.

Our retail network of access is evolving on a continuing basis and does not easily fit into an absolute optimization plan. For example, since the development of the Transformation Plan was announced, we have implemented a much more robust Web access channel. We do know that in order to serve the customer we must be where they work, shop, and live. Our focus is to provide that access and to adjust the network to meet those needs.

In the Transformation Plan we talked about technology and the role it plays for retail. We have begun the roll-out of 2500 Automated Postal Centers (APCs), that enables our customers to perform 80 percent of the most common transactions that take place at our counters. They are located in our busiest offices and provide access to our products and services up to 24 hours a day, 7 days a week. Implementation will be completed by December of this year.

The retail network continues to evolve, and like most businesses it is more than "brick and mortar"—all of the access points are critical in order to provide universal service. The Postal Service will continue to review, monitor, and adjust this network (expansion and consolidation) to ensure that it is operating as efficiently as possible and providing needed services to our communities.

Question. How were threshold values (proximity to other postal facilities, retail productivity indicators, number of households, deliveries, walk-in revenue, and small business accounts) determined?

Answer. We do not have established thresholds for the Postal Service. We have a database that contains this type of information that we provide to the field to help them determine how to adjust their retail operations to meet the needs of customers.

EMERGENCY PREPAREDNESS EXPENSES

Question. Since 2002, Congress has provided emergency appropriations to support the Postal Service's anthrax emergency preparedness activities. After the attacks, Congress appropriated $762 million to decontaminate postal buildings and to buy and install biohazard detection equipment. The Postal Service reportedly has spent a total of $971 million on emergency preparation, which include $209 million from its revenue.

Please provide an overview of what this funding has been spent on to date.

Answer. Following this paragraph, please find excerpts from the Postal Service's fiscal year 2005 Budget Congressional Submission, which addresses emergency preparedness costs to date, as well as our appropriations request. The following is information quoted directly from this document.

U.S. Postal Service Fiscal Year 2005 Budget Congressional Submission, page 12:

"Pursuant to Public Law No. 107–117, the Postal Service submitted on March 6, 2002, an Emergency Preparedness Plan that outlined and discussed in detail the activities considered necessary to provide for the safety of our employees and customers. The Plan covered a span of several years and the activities are categorized as Near-Term, Intermediate-Term and Long-Term in describing the time frames during which these activities are planned. At the request of the Appropriations Committee, an update to the Plan was submitted April 30, 2003.

"In the Plan, obligations for the Near-Term activities identified for fiscal year 2002 were projected to total $587 million. Of this total, $500 million was funded by Public Law 107–117, and $87,000,000 was funded by Public Law 107–206.

"No funding for emergency preparedness was included in the initial Postal Service Fiscal Year 2003 Budget Request pending completion of the Emergency Preparedness Plan, however, a fiscal year 2003 budget amendment request was subsequently forwarded to the Office of Management and Budget to fund activities totaling $799.8 million relating to fiscal year 2003.

"The Postal Service 2004 Budget requested $350 million to continue emergency preparedness activities.

"No additional funding beyond the $587 million, received in 2002, has been received.

"The Plan and related requests are dynamic and, as such, some modifications are necessary as our field-testing proceeds, our knowledge of biohazard detection increases, and as technology matures."

U.S. Postal Service Fiscal Year 2005 Budget Congressional Submission, page 13:

"Significantly more funds than originally anticipated were required to clean and restore two mail processing centers that had been closed due to anthrax contamina-

tion. Safety was the paramount concern in performing this task and actions were coordinated with several scientific, medical, and government agencies. Delays were experienced due to questions regarding indemnification of contractors performing the process and the sheer scale of the task for which EPA required additional testing and verification. Reimbursement is now requested for the additional costs required in the refurbishment of these facilities.

"A major portion of the $779 million Emergency Response funds requested for fiscal year 2005 and prior years will be used to continue acquisition and deployment of ventilation and filtration (VFS) equipment that was initiated with the funds provided previously. A portion of the $587 million provided during fiscal year 2002 is being used to develop, acquire and install VFS on our culling and canceling equipment. Our Emergency Preparedness Plan discussed further deployment of VFS equipment to be installed on our delivery barcode sorters (DBCS) and automated flat sorting machines (AFSM) 100 and loose mail systems. The $779 million includes funding for the DBCS and AFSM 100 VFS acquisition and deployment."

[In thousands of dollars]

Item	Prior Years	Fiscal Year 2005	Total
Building Restoration	268,800	.....	268,800
Biohazard Detection System	402,700	24,000	426,700
Ventilation and Filtration	271,700	364,000	635,700
DC Area Mail Irradiation Facility	9,000	7,000	16,000
Other	18,800	.....	18,800
Subtotal	971,000	395,000	1,366,000
Appropriation Received	−587,000	.....	−587,000
Total	384,000	395,000	779,000

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

CONSOLIDATION OF RURAL POST OFFICES AND CLOSURE OF SMALL POST OFFICE

Question. There have been instances when the Postal Service does not consult with or officially inform the customers and community prior to closures or consolidation. Why not? What is the process employed by the Postal Service when it closes a facility or consolidates facilities?

Answer. The Postal Service follows post office closing and community notification procedures outlined in Title 39. There are occasions, however, due to emergency situations such as loss of lease with no suitable alternate quarters, a natural disaster or flood where there are no suitable alternate quarters or other similar emergencies. The Postal Service considers a suspension a temporary situation until a decision is made to either re-open the facility or propose discontinuance. If discontinuance is proposed, then a community meeting along with customer questionnaires are sent out to gather input from the community.

Attached are the Postal Service regulations governing the discontinuance and emergency suspension of postal facilities.

POSTAL FACILITY CONSTRUCTION

Question. The fiscal year 2004 Omnibus Appropriations bill directed the Postal Service to report on localities that require a new postal facility, the current conditions of post offices in need of renovation, and when a new facility or replacement will be built. The report is required within 90 days of the enactment or by my count, April 22, 2004. Can you give me a preview of what the report will say? What is the status of postal facilities in Washington State and is there a need for any new construction or renovation in my State?

Answer. In fiscal years 2001 and 2002 and part of 2003 due to financial constraints, the Postal Service implemented a freeze on capital and expense investments related to facilities. Exceptions to the freeze were allowed for ongoing construction and, on a case-by-case basis, projects were submitted to Headquarters for review and approval to address health and safety, emergency, legal, and lease preemption issues. Exceptions were also allowed for repair and alteration of facilities due to legal, health and safety, emergency, and maintenance of our infrastructure.

During fiscal year 2003, the freeze was lifted. Annual budgets were established for repairs and alterations. Repair and alterations continue to be limited to projects

addressing legal, health and safety, emergency, and infrastructure maintenance issues, within the budget provided. At the same time, a new national prioritization system was established for new or replacement customer service projects. This process focused on space deficiency and growth, and continued to allow exceptions to be submitted as part of the prioritization process and throughout the year for health and safety, emergency, legal, and lease preemptions issues, as well as those projects which generated favorable returns on investment. The projects included on the list depend on the funds available in the budget and the priority scores of the projects submitted. These do not include numerous other projects which are approved on an ongoing basis as exceptions.

As a result of the actions above, we believe we are addressing our most critical facility needs and prioritizing projects within the funding available.

Regarding Washington State facilities, the following is a list of projects being pursued as part of approved plans:

New Facility Projects

—Bickleton Main Post Office
—Clarkston Main Post Office
—Ford Main Post Office
—Lake Stevens Carrier Annex
—Lilliwaup Main Post Office
—Seattle—Wedgewood Carrier Annex
—Southworth Main Post Office
—Spokane Vehicle Maintenance Facility
—Union Main Post Office

Repair and Alteration Projects

—Auburn Main Post Office—lobby remodel
—Colfax Main Post Office—life safety systems upgrade
—Newport Main Post Office—heating/air conditioning replacement
—Pasco—Processing & Distribution Facility—heating/air conditioning controls
—Pullman Main Post Office—security upgrade
—Spokane—Hillyard Station—enlarge collection box drop-off lane
—Spokane Processing & Distribution Center—install concrete pad enclose dock
—Tacoma Processing & Distribution Center—security upgrade
—Vancouver—Downtown Station—window replacement
—Veradale Main Post Office—enclose dock

POSTAL REFORM/REGULATORY BOARD ISSUES

Question. Legislation enacted last year shifted the responsibility of funding civil service retirement benefits earned by postal employees while they served in the military from the Treasury Department to the Postal Service. I understand that most of the financial obligation is due to military service performed before the modern-day Postal Service was even created in 1970. The President's Commission recommends that military service costs not be borne by the Postal Service. What would be the financial impact on the Postal Service if the Postal Service is to be responsible for this $27 billion cost?

Answer. The Postal Service has submitted two proposals concerning the disposition of these funds. Our first proposal requests that the United States Treasury again be required to fund all CSRS costs associated with the military service of Postal Service employees and retirees. Our second proposal assumes that responsibility for funding military service costs is transferred to the Postal Service.

Under the first proposal, in fiscal year 2006, the Postal Service will contribute $5 billion to fund and pre-fund retiree health benefits for all career employees; under the second proposal it will contribute $1.9 billion to fund retiree health benefits and to pre-fund retiree health benefits for career employees hired after fiscal year 2002. The difference in the amounts reflects the fact that returning the funding of CSRS costs of military service to the Treasury increases the "savings" under the Act, and makes available additional funds that can be used to pre-fund retiree health benefits for career employees.

Both proposals address the funding retiree health benefits, which we estimate to be valued at between $40 billion and $50 billion, depending on the long-term medical inflation assumption used, at the end of fiscal year 2002. At the end of fiscal year 2003, post-retirement health benefit obligations were estimated to be valued between $47 billion and $57 billion.

Each proposal stands on its own merits. Neither was designed around its impact on rates. The first proposal returns to the U.S. Treasury the responsibility for funding CSRS pension costs earned by military service of Postal Service employees and

uses funds made available from this adjustment to pre-fund retiree health benefits cost for current Postal Service employees. However, to provide the required level of funding, an additional $1.2 billion in funds would be necessary, causing a 2 percent increase in rates.

In our second proposal, it is assumed that the transfer of CSRS military service costs to the Postal Service is not reversed and that retiree health benefits are prefunded only for new employees hired after fiscal year 2002, when the pension funding reform legislation was enacted. This would require approximately $200 million more in additional funds, causing a 0.3 percent increase in rates. It would be possible to select arbitrarily a different hire date for funding employee retiree health benefits for new employees to match the additional funding requirement of $1.2 billion, but it would be just that, arbitrary.

Question. I also want to let you know that I have heard concerns from constituents about the recommendation to establish a new Postal Regulatory Board. This entity would replace the current Postal Rate Commission and significantly expand its authority. What are your views on this proposal?

Answer. We understand the rationale the President's Commission has defined for the Postal Regulatory Board. Yet regulators are normally required to operate within limits and guidelines. Regulated private companies and their shareholders have legal protections against arbitrary action by the regulator that the Postal Service cannot have as a government institution.

At the least, there should be standards drawing a clear line between what is appropriately a managerial function within the oversight of the Governors or Directors, what is a regulatory function committed to the regulator, and what is a public policy function reserved to the Nation's lawmakers.

For instance, the Postal Regulatory Board can revisit the vital national issues of the postal monopoly and universal service. These are clearly issues of broad public policy that should be resolved as part of our management responsibilities, as determined by Congress.

They are not regulatory issues. Without defined limits or guidelines, the regulator could conceivably limit the monopoly in such a way as to jeopardize universal service or even redefine the scope of the Nation's mail service itself.

The powers of the proposed Postal Regulatory Board could also affect the outcome of the collective-bargaining process. The Postal Service has been, and continues to be, a strong supporter of collective bargaining. This process of give and take assures that the interests of our employees—and the unions that represent them—are considered within the larger picture of the Postal Service's financial situation and the needs of our customers.

By determining the range within which wages may be negotiated, the Postal Regulatory Board could impede the ability of the parties to successfully negotiate agreements.

REVENUE FOREGONE REIMBURSEMENT

Question. Mr. Potter, I understand that for the first time ever, the fiscal year 2005 President's Budget does not include the $29 million reimbursement to the Postal Service for the revenue foregone debt. Do you know why this has occurred? Do you consider this a violation of the agreement that has been in operation since the early 1990's when legislation was enacted that promised the Postal Service $29 million annually from 1994 through 2035?

Answer. The Office of Management and Budget (OMB) did not provide us with their rationale for not including our request for payment of earned but unpaid Revenue Foregone appropriations in the President's fiscal year 2005 budget request.

In a December 3, 2003 letter to OMB Director Bolton, the Postal Service formally requested that OMB reconsider the funding reductions of the Postal Service, including reductions in revenue foregone payments, which OMB had proposed to include in the President's budget request. An OMB official verbally informed us on December 17 that our requested changes had been denied.

In accordance with the Revenue Foregone Act of 1993, the Postal Service is to receive $29 million annually through 2035. These payments, totaling $1.2 billion, cover the cost of services we provided in fiscal years 1991 through 1993, but for which there were insufficient amounts appropriated. They also cover payment for services provided from fiscal year 1994 through 1998. The payment requested for fiscal year 2005 would be the twelfth in the series of scheduled 42 annual payments.

In an unusual departure from past Presidential budget submissions, the 2005 budget is silent on this statutory reimbursement. The Postal Service is required under generally accepted accounting principles to reduce the value of an amount receivable to reflect any uncertainty as to full payment. As a result, the failure to re-

ceive these funds may require the Postal Service to treat these remaining payments, which amount to nearly $900 million, as a bad debt, significantly increasing our costs. As we work to address our long-term obligations in a responsible manner, it is counterproductive to increase costs by writing off a debt deferred by interest-free installment payments spread over a period of 42 years.

The second part of our request is for $75.9 million for free mail for the blind and for overseas voting materials, as defined by statute. This provides funding for the free mailing of materials used by the blind and others who cannot use or read conventionally printed materials. It also includes absentee balloting materials that can be mailed free by members of the armed forces and other United States citizens residing outside of the United States, and balloting materials that can be mailed in bulk between State and local elections officials.

Our appropriations request for free mail differs from the President's budget proposal of $61.7 million. The President's budget proposes to continue the practice of "advance" funding the amount requested for free mail. This means that funding is "advanced" until the fiscal year following the actual mailings and not made available to the Postal Service until after these mailings have been handled and delivered. The Postal Service is not authorized to control or limit these mailings to reduce the funding needed. And while that is not a role we seek, the simple fact is that we have no way to mitigate the shortfall in funding. Providing less than the requested amount will only compound the financial burden caused by the current "advance" funding.

The amounts due under this Act are for the absolute nominal costs incurred related to services previously performed. The Act's requirements to reimburse the Postal Service over an extended time period with no payment of interest places additional cost burdens on other postal rate payers. For this reason, the Postal Service in the past has requested an accelerated repayment program.

POSTMASTER VACANCIES

Question. According the Postal Service, there are more than 1,600 post offices with postmaster vacancies. Please explain what steps are being taken to fill these postmaster slots.

Answer. Six hundred of the current 1,600 vacancies consist of emergency closings and/or other non-vacancy, leaving about 1,000 valid vacant postmaster positions. The attrition rate in the Postal Service is about 5 percent, which equates to approximately 1,380 (5 percent of the total post office count of 27,620). With about 1,000 currently, we are below the number of postmaster vacancies that would be expected. The entire hiring and promotion process takes, at the very least, 90 days and includes the following: vacancy announcement posting, review of applications, interview of the most eligible applicants, and generating the selection and non-selection communication.

Vacant post offices are often used to develop employees who have identified the position of postmaster as a career goal, with the average developmental assignment lasting about 90 days. As positions are filled, others become vacant, which creates a constant vacancy rate of about 3 to 5 percent or 830 to 1,380 positions. The Postal Service is currently within that range.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

Question. The administration has proposed to permanently repeal the annual appropriation for foregone revenue. What effect do you anticipate the permanent repeal of this appropriation would have on postal rates?

Answer. The receipt of these funds for past services performed is used to pay for current-period expenses. Accordingly, if the funds are not received, the price of stamps will increase directly related to these costs.

If the entire sum were written off as bad debt, postal rates could increase by approximately 0.5 percent in the year of the write-off. In each of the remaining years of the payment period, lesser, but direct, rate increases would result.

On average we would expect the rate increase to be similar for all mailers. However, since commercial mail comprises more than 70 percent of all mail, we would expect that in terms of absolute dollars, commercial mailers would shoulder the greatest burden.

If any of the payments due as specified in the Revenue Foregone Reform Act of 1993 are not received, the loss in reimbursement for services performed will increase postal rates directly. Accordingly, postal rate payers will fund the hundreds of millions in debt authorized to be paid through appropriation.

Question. Under postal pension reform legislation (Public Law 108–18) enacted last year, the U.S. Postal Service will be required to assume all pension costs associated with Postal employees with military experience. What effect do you anticipate that this provision will have on postal rates?

Answer. The Postal Service has submitted two proposals concerning the disposition of these funds. Our first proposes that the United States Treasury again be required to fund all CSRS costs associated with the military service of Postal employees and retirees. Our second proposal assumes that responsibility for funding military service costs is transferred to the Postal Service.

Under the first proposal, in fiscal year 2006, the Postal Service will contribute $5 billion to fund and pre-fund retiree health benefits for all career employees; under the second proposal it will contribute $1.9 billion to fund retiree health benefits and to pre-fund retiree health benefits for career employees hired after fiscal year 2002. The difference in the amounts reflects the fact that returning the funding of CSRS costs of military service to the Treasury increases the "savings" under the Act, and makes available additional funds that can be used to pre-fund retiree health benefits for career employees.

Both proposals address funding retiree health benefits, which we estimate to be valued at between $40 and $50 billion, depending on the long-term medical inflation assumption used, at the end of fiscal year 2002. At the end of fiscal year 2003, post-retirement health benefit obligations were estimated to be valued between $47 billion and $57 billion.

Each proposal stands on its own merits. Neither was designed around its impact on rates.

The first proposal returns to the U.S. Treasury the responsibility for funding CSRS pension costs earned by military service of Postal Service employees and uses funds made available from this adjustment to pre-fund retiree health benefits cost for current Postal Service employees. However, to provide the required level of funding, an additional $1.2 billion in funds would be necessary, causing a 2 percent increase in rates.

In our second proposal, it is assumed that the transfer of CSRS military service costs to the Postal Service is not reversed and that retiree health benefits is pre-funded only for new employees hired after fiscal year 2002, when the pension funding reform legislation was enacted. This would require approximately $200 million more in additional funds, causing a 0.3 percent increase in rates. It would be possible to select arbitrarily a different hire date for funding employee retiree health benefits for new employees to match the additional funding requirement of $1.2 billion, but it would be just that, arbitrary.

Question. What are the likely financial ramifications of the sequestration of the U.S. Postal Service's Civil Service Retirement System (CSRS) contribution savings as a result of Public Law 108–18?

Answer. Under this reform legislation, it will be necessary to include the "savings" as an expense in the revenue requirement of future rate filings. Therefore, in order to obtain funds to place in an escrow account in fiscal year 2006, a 5.4 percent increase in postage rates will be required unless the law is amended. Additionally, biannual postage rate increases between 1.0 percent and 1.5 percent would be necessary just to cover the escrow requirements over the next 15 years. These escrow-driven rate increases will cause further declines in mail volume, contributing to the need for higher additional rate increases in order to fund the ever expanding delivery network.

Question. How will the repeal of the foregone revenue appropriation, the assumption of military pension costs, and the sequestration of CSRS pension savings affect the Postal Service's long-term transformation?

Answer. These actions, all of which require the Postal Service to subsidize the Federal Government, are nothing more than a transfer of its obligations from taxpayers to postal ratepayers. These transfers, totaling billions of dollars, will jeopardize the financial viability of the Postal Service and its long-term transformation efforts. It makes no sense in any circumstance to retroactively transfer such costs to the Postal Service, a self-sustaining public organization. But, in order to defray the financial obligations of the Federal Government, these actions would: transfer to the Postal Service the Federal Government's obligations of over $27 billion for military service pension costs; deny the Postal Service nearly $900 million in revenue foregone funds due for services it provided between 1991 and 1998; and deprive the Postal Service of an estimated almost $70 billion of its own pension overfunding. Further, in 2006, the Postal Service will be required to place the "savings" resulting from the Act in an escrow fund that, over time, would require postal rate payers to pay higher rates in order to fund the additional $70 billion escrow requirement. Taxing the Postal Service with these transfers at this time ignores the organi-

zation's critical business needs and the significant financial challenges resulting from declining mail volumes and the requirement to fund an ever expanding delivery network necessary to provide universal service.

Further, implementing these cost transfers to the Postal Service would ignore the stated concerns of the President's Commission on the United States Postal Service regarding the fiscal health of the Postal Service and would run counter to the Commission's recommendations for actions necessary to institute a transformative business model for the Postal Service.

Question. What is the status of the implementation of the Postal Service's Emergency Preparedness Plan?

Answer. The Emergency Preparedness Plan covers four major areas: health-risk reduction, detection, intervention, and decontamination. First and foremost, we have been working swiftly over the past 2 years to ensure the safety and security of our employees and customers. While many efforts are underway, we are accomplishing this monumental task primarily through the development of leading-edge technologies and changes to our standard operating procedures.

Health-Risk Reduction

We have introduced improved standard operating procedures, including the use of High Efficiency Particulate Air (HEPA) vacuums to clean our mail processing equipment. Additionally, the Postal Service, in conjunction with the National Institute of Occupational Safety and Health (NIOSH), developed Ventilation and Filtration Systems (VFS). These systems are installed on key mail processing machines and function to collect and contain airborne particulates from the machines during mail processing operations. We have purchased over 1,300 systems to be deployed at our 282 major mail processing centers nationwide. National deployment of the systems began in April 2004.

Detection

The Postal Service has developed the Biohazard Detection System (BDS) to act as an early warning system against the threat of biohazards that may enter our mail network. We currently plan to install 1,708 detection systems at 282 facilities nationwide. National deployment of the BDS began in April 2004 and we currently have a total of 32 BDS systems in operation.

In accordance with our threat assessment, we are also reviewing upgrades to the BDS that will allow for the detection of additional threats including toxins such as Ricin.

Intervention

We continue to irradiate government mail prior to its delivery. This process neutralizes hazardous substances that may be contained in the mail. We are meeting this commitment by contracting with IBA in Bridgeport, NJ to irradiate and sanitize the government mail. Additionally, we are considering plans to build and operate our own irradiation facility specifically designed to meet our needs. The facility will significantly reduce our annual operating expenses and improve our service with respect to government mail.

Decontamination

We have successfully decontaminated both Postal Service facilities that where closed due to the anthrax attacks of 2001. The Curseen/Morris facility (formerly known as the Brentwood facility) in Washington, DC resumed operations in December of 2003 and continues to operate today. The Trenton, NJ facility was successfully decontaminated in February 2004. Efforts are underway to refurbish this building and it is expected to begin operations in early 2005.

SUBCOMMITTEE RECESS

Senator SHELBY. We wish you well and thank you for appearing with us.

Mr. POTTER. Thank you, Mr. Chairman.

Senator SHELBY. The subcommittee is recessed.

[Whereupon, at 11:14 a.m., Thursday, April 1, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2005

WEDNESDAY, APRIL 7, 2004

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

The subcommittee met at 10:17 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Richard C. Shelby (chairman) presiding.

Present: Senators Shelby and Reid.

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

STATEMENTS OF:
MARK O. EVERSON, COMMISSIONER
PAMELA J. GARDINER, ACTING TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION, DEPARTMENT OF THE TREASURY

Senator SHELBY. The subcommittee will come to order.

Good morning. I would like to welcome Internal Revenue Service (IRS) Commissioner Mark Everson and Pamela Gardiner, the Acting Treasury Inspector General for Tax Administration (TIGTA) to this morning's hearing. I look forward to hearing each of your views on the IRS's administration and enforcement of our Nation's tax code.

As we all know, the April 15th tax filing season deadline is rapidly approaching. Each year the subcommittee requests that the IRS Commissioner appear before it in order to provide an update on how the Service is responding to the influx of questions and assistance that taxpayers need to correctly file their tax returns. This year we have also asked TIGTA to participate in order to provide a different perspective on the IRS's performance.

I have taken note of the IRS's stated mission to provide America's taxpayers with top quality service by helping them to understand and meet their tax responsibilities, and by applying the tax law with integrity and fairness to all. This mission statement is appropriate, but some might question whether we are making progress toward achieving that goal.

The IRS continues to face numerous challenges in tax law enforcement, customer service, and the modernization of its computer systems. While some strides have been made in some areas, much

work remains to be completed. Each one of these tasks would prove difficult to undertake individually and to tackle all three at once is daunting indeed.

I look forward to discussing each of these areas with both of you. The strength and weakness of our Nation's Federal income tax system is its reliance on the voluntary compliance of American taxpayers. Most Americans make every effort to comply with the law and pay their taxes. But as with any law, some intentionally seek to avoid compliance or engage in outright fraud. That is why effective enforcement of our tax laws is so important. If enforcement is lax, ineffective, or uneven, it encourages more people to commit fraud.

IRS ENFORCEMENT FUNDING

While it is uncertain whether tax fraud is on the rise, I am certain that funding for the IRS tax enforcement has been and will continue to be an important priority for the administration and for the Congress. Over the past several years Congress has consistently increased funding for tax law enforcement, including a $265 million increase this past year.

In each fiscal year since 2000, Congress provided the IRS with additional funding to increase its enforcement staff. Inexplicably, these staffing needs were not filled and the funds were instead used for other budgeted expenses. The use of these additional dollars to cover other funding shortfalls rather than increase staffing belies the priority the Service claims to place on enforcement. This diversion of funds is in direct contravention to your own statements, Mr. Commissioner, and is simply unacceptable.

The first and foremost mission of the IRS must be to ensure the full and fair compliance of all U.S. taxpayers with their tax obligations. Yet, how can we ensure that the IRS is taking its enforcement responsibilities seriously if we continue to allow the Service to spend its funding for purposes other than that for which they have been requested and for which Congress has provided them?

If there are administrative shortfalls caused by absorbing pay increases or diverting funds to other priorities and other unbudgeted items, then the IRS should ask for funding for these expenses and not hide behind claims of underfunding of initiatives such as customer service and enforcement. With 100,000 employees and an annual budget that exceeds $10 billion, I find it hard to believe that the IRS lacks the resources it needs to get the job done.

I look forward to hearing both your comments and any update on how the IRS is utilizing the additional $265 million in enforcement and compliance funding appropriated recently. In the long term, a strong enforcement capability supported by necessary funding will continue to be a key part of combating tax non-compliance. But enforcement alone will never be enough. The IRS must provide high-quality customer service to assist taxpayers. I believe that many people who fail to comply with the code do so unintentionally because of its difficulty and complexity. Accurate and timely guidance from the Service is imperative to ensuring taxpayer compliance.

The IRS is to be commended for the improvements it has made in customer service over the past few years. Helpful guidance is

now much more accessible by way of the Internet, telephone, and in-person assistance. The accessibility of e-file options has eased the burden of filing tax returns for both the Government and the taxpayer.

While the IRS has improved its responsiveness to taxpayer questions, the troubling fact remains that nearly one in four callers to its toll-free helpline receive inaccurate guidance. The numbers are only slightly better for online questioners and considerably worse for those taxpayers who seek in-person assistance in an IRS-operated taxpayer assistance center.

I was even more alarmed, Mr. Commissioner, after learning of TIGTA spot audit visits to 26 different assistance centers throughout the country that uncovered, "IRS employees incorrectly prepared 19 of 23 tax returns that they prepared," during the audits. How can we expect taxpayers to understand and comply with the complexities of the tax code when IRS's employees themselves have so much trouble understanding and explaining it?

Our Federal tax code is a large part of the problem. The code and accompanying regulations are more than 54,000 pages long, and are too complex, too confusing and costly to comply with. Comprehensive reform of the tax code itself would go a long way towards reducing tax fraud by making the process simpler and the system fairer for all taxpayers. Additionally, a less complex tax code would provide fewer opportunities for cheaters and reduce the paperwork burden for all taxpaying Americans.

I continue to believe that a simple and transparent tax structure would promote taxpayer compliance and lead to increased collections for the Treasury, while also markedly reducing the huge cost of administration and enforcement of our current tax system.

BUSINESS SYSTEMS MODERNIZATION

Now I would like to focus for just a few minutes on an area of particular concern to me, the ongoing effort to modernize the IRS computer systems, known as Business Systems Modernization (BSM). This effort has been ongoing for a number of years, and it has consistently run over schedule and over budget while also failing to achieve meaningful milestones for its development.

Mr. Commissioner, your budget request wisely seeks a decrease of $102 million for BSM. I agree that now is an appropriate time to focus on reengineering efforts to achieve the goals set for the BSM initiative. This initiative was supposed to be completed in 10 years. However, I do not believe that anyone expects this schedule to be achievable as schedule delays continue to be the rule, not the exception, to this ongoing effort.

By way of example, the Customer Account Data Engine (CADE), the centerpiece of the entire BSM effort, was originally scheduled to roll-out in January of 2002, 2 years ago. Former Acting Commissioner Wenzel last year testified that CADE would be ready in August of 2003. It is now April 2004, and there is still no sign of CADE. True to form, CADE is not only late but significantly over budget. These schedule slippages and cost overruns have been epidemic. In fact, the IRS is running late and is over budget on all seven core projects related to BSM.

I am very concerned that BSM is becoming the 21st-century version of the Tax Systems Modernization (TSM) program which was abandoned after consuming $4 billion of Federal tax dollars. That prior modernization effort was a complete loss. The current BSM effort began in 1998 and has already cost $1.7 billion. This program, like TSM before it, raises more questions than it answers. As you noted, Commissioner Everson, in February of 2002, "good intentions and good beginnings are not the measure of success. What matters in the end is completion, performance, and results." Applying your own standard, Commissioner Everson, I think you will agree that the BSM effort has woefully under-performed.

I look forward to hearing the thoughts of both witnesses as to the best approach to take to keep this all-important modernization program on track. Again, I welcome you to the committee. Your written testimony will be made part of the record in its entirety, and Mr. Commissioner, we will start with you.

STATEMENT OF SENATOR HARRY REID

Senator REID. Excuse me, can I make a statement?

Senator SHELBY. Senator Reid. Excuse me.

Senator REID. I also feel at somewhat of a disadvantage. You are 6 foot 4 and I am just a small guy, and you have got a pad under your chair and I am here in this hole. It does not seem fair to me, Mr. Chairman.

Senator SHELBY. I do not think you would be at a disadvantage to anybody, Senator Reid.

Senator REID. I briefly want to just say this. I have a statement that is prepared and I do not want to take the time of the committee, but I would ask your permission that it be made part of the record.

Senator SHELBY. It will be made part of the record in its entirety and you may proceed as you wish.

Senator REID. Mr. Chairman, let me just say this. I hope that we can give the Commissioner of the Internal Revenue Service (IRS) the money that has been requested. I hope we do not have to cut that. I say that because we in Nevada have been faced with someone who has been indicted, and I think that is good, but he has promulgated falsehoods around the country saying you do not have to pay your taxes, and thousands of people have followed his lead. As a result of that, it is just one indication of why we have to have an Internal Revenue Service that has the manpower to collect the money that is due the government, because it places an unfair burden on those of us who pay their taxes fairly, if others are not.

PREPARED STATEMENT

Nobody likes to pay their taxes, but I would hope that we would give the Internal Revenue Service the tools they need to collect the taxes, and especially the tools to go after those people who are, like the person in Nevada, openly cheating. They do not have the manpower to do this adequately and I hope we can help them in that regard.

[The statement follows:]

PREPARED STATEMENT OF SENATOR HARRY REID

Mr. Chairman, I want to thank you for calling this important meeting to talk about one of the most serious challenges facing the Internal Revenue Service today—the mismatch between the resources devoted to the Service's enforcement activities and the results that we in Congress and the public at large expect of it.

Back in his 1996 State of the Union address, President Clinton declared that the "era of big government is over." Generally speaking, with the exception of homeland security and defense, that has continued to be the case. It's a positive step to demand a more efficient, effective, and accountable government. Bloated and wasteful government is dangerous.

But there is also danger in not having enough government to perform critical services in a responsible fashion. Take the S&L Crisis as an example. Back in the 1980s and early 1990s, the pool of Federal bank regulators shrank dramatically in size, training, and experience. That was a material contributing factor in the savings and loan crisis that saw over a thousand S&Ls with over $500 billion in assets fail. The Federal bailout of S&Ls eventually cost us $124 billion. If we had employed a better-trained, more experienced, and larger team of examiners, we could have prevented that crisis at a miniscule fraction of what it eventually cost us.

I view the IRS's enforcement budget in much the same way. It's not that we're attempting to avert a crisis here—it's just that we have to make sure that the IRS has the tools it needs to conduct its important work effectively.

Nobody likes to pay their taxes, but taxes are necessary for our society to function. And the collection of those taxes should be efficient, accurate, and fair. Without an adequate staff and budget, the IRS can't collect taxes efficiently, it can't collect them accurately, and it can't collect them fairly.

Since 1996, the number of IRS agents has fallen from just under 23,000 to 16,750, which is a decline of nearly a third. The number of taxpayers audited fell from 1.9 million to 849,000. Criminal cases against alleged tax offenders have fallen by about half, and civil cases have fallen by more than 60 percent.

Those numbers indicate that the IRS is experiencing difficulty carrying out its mission—collecting revenue. Last year, the IRS chose not to pursue $16.5 billion of taxes owed on 2 million tax returns, mainly because of short-staffing. That represents 1.8 percent of the total individual and corporate income taxes expected for 2003. According to officials of the Service, many of these taxpayers would pay their bills if an agent simply called them.

The problem extends beyond the delinquent accounts. As was noted in yesterday's USA Today, the Service estimates that it loses $250 billion every year from taxpayers who cheat, fail to file, or abuse tax shelters. The lost revenue constitutes 10 percent of the Federal budget. That amounts to almost as much as we spend on Medicare!

When the IRS has a limited organizational capacity to go after this money—which is fairly owed—it means that the tax burden just got a little bit heavier on everyone who pays their taxes honestly. That's not right.

Furthermore, especially at a time when the Federal budget deficit is $500 billion, we should be ensuring that everyone pays in full.

Sometimes in our haste to create a smaller government, we settle for a considerably less efficient and productive government. That is unacceptable when it comes to the enforcement activities of the IRS, and I look forward to working with Commissioner Everson and his talented associates to ensure that they are equipped with the resources necessary to do their vital enforcement work.

Senator SHELBY. Thank you.

Senator REID. I am sorry to be here late.

PREPARED STATEMENT OF SENATOR PATTY MURRAY

Senator SHELBY. That is okay, Senator Reid.

Senator Murray has submitted a prepared statement which will also be included in the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR PATTY MURRAY

Thank you, Mr. Chairman. Over the past 3 years, our country has pursued a destructive and inequitable economic policy centered on providing tax cuts to the wealthiest Americans while restricting spending on programs that help all Americans. As a result, our Federal budget has gone from one of the greatest surpluses

in its history to the highest deficit ever known in the history of our country—$478 billion—close to half a trillion dollars in the current fiscal year.

But if that sea of red ink is not bad enough, it is even more disturbing when you consider that a growing percentage of Americans believe that it is okay to avoid the taxes that they do owe the Federal Government.

Our IRS Commissioner, Mark Everson, is before the subcommittee today to report that the estimated tax gap, the difference between what the Nation's taxpayers actually owe versus the amount of actual tax receipts paid has grown to the level of $255 billion.

In about 1 week from today, millions of American families who work hard every day and play by the rules will struggle to write a check to the Internal Revenue Service to cover their Federal tax liability while the rich and the super-rich in this country will pay an increasingly smaller percent of their income in taxes. If that isn't galling enough, the situation is made worse when you recognize that the Internal Revenue Service is very ill-equipped to catch and penalize those crooked Americans that do cheat on their taxes, especially the most wealthy and sophisticated of tax cheats.

Indeed, the IRS's own methods of prosecuting tax cheats and collecting old debts is so troubled that the Treasury Inspector General for Tax Administration recently reported that the IRS has failed to collect the taxes due even from dozens of individuals who have been convicted in court for tax evasion. This is an appalling situation where the government goes through the effort and expense of dragging these individuals into court and convicting them of cheating on their taxes. Even then, the IRS fails to collect the debts owed by these convicted criminals. This situation is unacceptable and it has got to change. The IRS must turn a corner and cease to be the laughing stock of the wealthy and super-wealthy tax cheaters in this country.

I am pleased to say that, today, the IRS Commissioner Mark Everson is here to testify on behalf of a budget that seeks to do something about the problem. He is asking for a 9.4 percent boost in funding for tax law enforcement, including funding for 2,942 additional enforcement agents. However, there are several questions that surround the Commissioner's request in this area that must be addressed in today's hearing.

The first question is: are the resources that the Commissioner is seeking enough to do the job? Recently, an oversight board appointed by the President said that the answer is "no." That oversight board pointed out that, absent even more resources beyond the level requested by the administration, the IRS will actually have to curtail some of its most critical enforcement and collection efforts.

A second question of equal importance is "will this subcommittee be in a position to fund the increased resources sought by the IRS?" Here, I believe that the Republican budget resolution adopted by the thinnest majority in the U.S. Senate indicates that the answer is "no."

At a time when the IRS is seeking a budget increase for tax law enforcement of 9.4 percent, the budget resolution adopted by the Senate, which I voted against, allows for an overall funding increase in discretionary spending of less than 1 percent. This is precisely one of the reasons that I voted against the budget resolution. That budget calls for continuing tax cuts to the wealthiest Americans while forcing difficult and illogical choices when it comes to Federal spending.

We know that when we provide for increased spending for the education of our young, we avoid even greater expenses down the road in job training, welfare payments, even the construction of new prisons. Similarly, if we can't fund enhanced enforcement in the Internal Revenue Service, our Federal budget will not gain the tax revenue that it is due and our deficit will be far worse. It is estimated that an increase in IRS enforcement efforts of several hundred million of dollars could yield billions in additional revenue that is owed to the government.

A third question that must be asked is whether the IRS can really do the job when it comes to hunting down and prosecuting tax cheats. The agency is working with very antiquated computer systems, and its efforts to modernize those computer systems have failed to produce promised results. Moreover, the President's Budget singles out these modernization efforts for a 26.5 percent funding cut for the coming fiscal year.

We have to recognize that it takes upwards of half a dozen years or longer for the IRS to finally pursue and prosecute individuals cheating on their taxes. We regularly have underpaid and overworked government lawyers going to court against handsomely paid private lawyers. Often times, those private lawyers are the very same lawyers that concocted the very complicated tax avoidance schemes that landed their client in court.

So, I hope our hearing will, at a minimum, pursue these three central questions that surround the Commissioner's request. I am glad that he is here to testify before

us. I should say that I believe his commitment to reversing the growing trend in tax avoidance and tax cheating is a sincere one and I look forward to hearing his testimony this morning.

Thank you, Mr. Chairman.

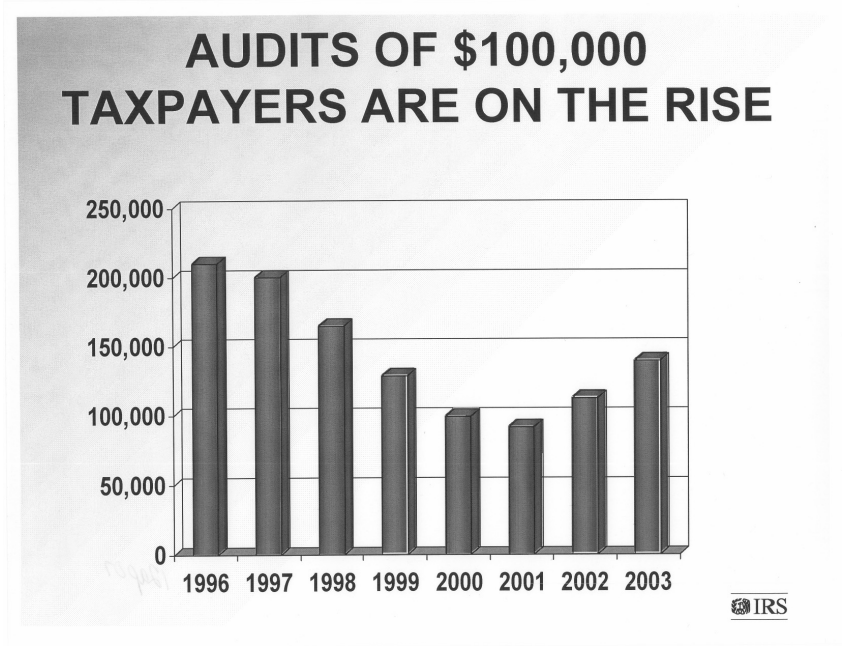
Senator SHELBY. Mr. Commissioner.

STATEMENT OF MARK W. EVERSON

Mr. EVERSON. Thank you, Mr. Chairman, Senator Reid. Nice to see you again. Thank you very much for your opening remarks. I am pleased to be here before the subcommittee today to speak about the President's 2005 budget request for the IRS. I would also like to welcome the future taxpayers behind me to this hearing.

Our working equation for the IRS is service plus enforcement equals compliance, not service or enforcement. The IRS must do both. We must run a balanced system of tax administration based on a foundation of taxpayer rights.

Last month we released our enforcement statistics for fiscal year 2003. They demonstrate that we have arrested the enforcement decline which began in the 1990s and worsened with the implementation of RRA 1998. Audits, criminal investigations and monies collected were all up. In particular, when compared with the fiscal year which started October 1, 2000, audits of taxpayers with incomes over $100,000 were up by over 50 percent. That is taxpayer's income over $100,000. You can see how badly over a period of years this declined, as did a lot of our audit rates. But you can see we have turned that around and we have given great prominence to this category in particular.



IRS ENFORCEMENT ACTIVITIES

The President's 2005 budget request for the IRS will continue to rebuild our enforcement activities. I would note that two-thirds of the new monies requested will be devoted to enforcing our compliance efforts in the areas of high income individuals, corporations, and criminal activities. The extra $300 million in new monies that we seek will carry out our four objectives in enforcement. They are, discourage cheating and non-compliance, particularly by corporations, high income individuals and tax-exempt groups; help attorneys, accountants, and other professionals adhere to professional standards and obey the law; detect and deter domestic and offshore tax and financial criminal activity; and discourage and deter non-compliance within tax-exempt and government entities, and misuse of such entities by third parties for tax avoidance and other purposes.

ADDRESSING NON-COMPLIANCE

These incremental resources will help us address the tax gap, the difference between what is owed and what is paid due to non-filing, underreporting and underpayment, and secure billions of dollars for the Treasury. Furthermore, over a 4-year period we have seen an increase in the percentage of Americans who think it is okay to cheat on their taxes; an increase from 11 percent to 17 percent. I find this alarming, as I am sure do you. I believe, however, that enhanced enforcement efforts will improve attitudes concerning compliance by reassuring the average American who pays his or her taxes that when he or she pays neighbors and competitors will do the same.

Once we have hired and trained the new enforcement personnel as requested in the President's budget, this direct return on investment would be 6 to 1. That is the dollars we would get back directly. Beyond the incremental revenues associated with the increased audits, investigations, and collection activities there will also be a favorable spillover effect. Other taxpayers will be discouraged from cheating when they observe that those who play fast and loose with the tax code are being held accountable. Behaviors at the margin will change.

I am convinced we can augment our enforcement activities without diminishing our commitment to service. Our filing season results thus far in 2004 show that we can. Through last Friday, total returns filed have increased more than 1 percent. Our electronically filed returns are up 12 percent from last year. Electronic filing is more reliable both for the taxpayer and Service, and it is faster, allowing the IRS to issue refunds in half the time. Also noteworthy is that the Free File initiative, which helps low and middle-income taxpayers, has grown in volume by 23 percent from last year.

Our other service indicators for the most part also show improvement. We have handled increased call volumes with stable resources and bettered our level of service. There is increased usage of automated services both on the phone and the Internet. While we made some changes to improve tax law accuracy and had some

startup problems earlier in the season, in recent weeks our results in this area have recovered.

I want to assure you that should the Congress approve our budget request we will spend these resources wisely. I am aware of the problems in the past, particularly in the efforts to modernize information technology at the IRS. We are addressing our challenges in IT modernization and our plans in the 2005 budget take into account the necessity to improve as you indicated.

PREPARED STATEMENT

In conclusion, let me note with gratitude the strong bipartisan support the President's IRS budget request is getting here in the Senate. I was pleased by the letters of support from the leaders of the Governmental Affairs Committee to the Appropriations Committee as well as the letter from the Finance Committee to the Budget Committee. I think the tax administration can and should be a matter of broad bipartisan agreement.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF MARK W. EVERSON

INTRODUCTION

Chairman Shelby, Ranking Member Murray, and Members of the subcommittee, thank you for the opportunity to testify today on the fiscal year 2005 budget request for the Internal Revenue Service.

Our working equation at the IRS is service plus enforcement equals compliance. The better we serve the taxpayer, and the better we enforce the law, the more likely the taxpayer will pay the taxes he or she owes.

This is not an issue of service OR enforcement, but service AND enforcement. As you know, IRS service lagged in the 1990's. In response, we took important and necessary steps to upgrade service—we significantly improved the answering of taxpayer telephone inquiries and electronic filing to name just a couple areas.

Unfortunately, improvement in service coincided with a drop in enforcement of the tax law. After 1996, the number of IRS revenue agents, officers, and criminal investigators dropped by over 25 percent.

We currently have a serious tax gap—the difference between what taxpayers are supposed to pay and what is actually paid—in this country. By our best estimates, we lose a quarter trillion dollars each year due to non-filing, under-reporting, and underpayment. (This is a rough estimate based largely upon data from our old Taxpayer Compliance Measurement Program, most of which was collected in the 1980's. Our estimates have been updated to reflect changes in the economy during the intervening years, but a key assumption is that compliance behavior has remained largely unchanged. If taxpayer compliance has changed in the last 15 years, the tax gap could well be much different than our estimate suggests.)

In addition, over the last 4 years, the number of Americans saying it is OK to cheat on taxes rose from 11 to 17 percent. Sixty percent of Americans believe that people are more likely to cheat on taxes and take a chance on being audited.

We must restore the balance between service and enforcement, but that will not come at the expense of continued improvements to taxpayer service. In recent years, we have begun to attack these declines by revitalizing our investigations, audits and prosecutions against those who do not pay their taxes. The President's fiscal year 2005 budget—if approved by Congress—will help with our efforts to boost enforcement while maintaining our levels of service. The submission requests an additional $300 million for enforcement activities over the fiscal year 2004 consolidated appropriations level.

PRESIDENT'S FISCAL YEAR 2005 BUDGET SEEKS INCREASE IN ENFORCEMENT

The President has asked for an IRS fiscal year 2005 budget of $10.674 billion, a 4.8 percent increase over the fiscal year 2004 consolidated appropriations level for the IRS.

This budget includes the goals of customer service, infrastructure/modernization and enforcement. After a period of declining enforcement resources, the IRS has stabilized and increased the amount of resources dedicated to enforcement.

This budget has an increase of $300 million for a more vigorous enforcement of the tax laws. This strong commitment to tax administration will provide a significant augmentation of our enforcement resources.

The additional $300 million will increase enforcement in several key ways:

—Discourage and deter non-compliance, with emphasis on corrosive activity by corporations, high-income individual taxpayers and other contributors to the tax gap;

—Assure that attorneys, accountants and other tax practitioners adhere to professional standards and follow the law;

—Detect and deter domestic and off-shored based tax and financial criminal activity;

—Discourage and deter non-compliance within tax-exempt and government entities and misuse of such entities by third parties for tax avoidance or other unintended purposes.

Let me now provide more details on the broad categories of the budget request for the IRS.

PROCESSING, ASSISTANCE, AND MANAGEMENT

We are seeking $4,148,403,000 for processing, assistance and management. This includes necessary expenses for pre-filing taxpayer assistance and education, filing and account services, shared services support, and general management and administration. Up to $4.1 million of the $4.1 billion total will be for the Tax Counseling for the Elderly Program and $7.5 million of the total will be available for low-income taxpayer clinic grants.

The Processing, Assistance, and Management (PAM) appropriation handles all functions related to processing tax returns, including both manual and electronic submissions, and provides assistance and education to taxpayers to enable them to file accurate returns. The PAM appropriation issues refunds, maintains taxpayer accounts, and provides tax law assistance that includes tax law interpretation and rulings and agreements related to tax law issues. This appropriation is responsible for IRS personnel, facilities, and procurement services.

The IRS will continue to focus on pre-filing services and is requesting funding for taxpayer communication and education to help all taxpayers comply with tax laws and assume their fair share of the tax burden. Funding is being requested for resources to warn taxpayers of abusive tax schemes and improve compliance by preventing fraud and abuse. The IRS is redirecting funding to enhance customer service by reengineering processes to complement new technology and to develop an outreach strategy for the Child Tax Credit.

The IRS is reinvesting resources for filing and account services by providing funding for field assistance to reduce filing season details of compliance staff, funding the Business Master File workload increase, improving the level of telephone service to taxpayers, and updating processes to complement technology.

As part of the shared services program, the IRS will reinvest resources in new training and training delivery methods to develop and to improve expert consultative skills. This effort will significantly improve administrative and resource management decisions that will enhance delivery of compliance initiatives. Additional resource reinvestments will be used to defer rent annualization costs (based on partial year costs extrapolated annually for approved fiscal year 2003 space expansion projects) to fulfill the IRS's operational mission objectives. Shared services will implement HR Connect, the integrated Human Resources Management System over the next 2 years. This system will seamlessly link multiple Human Resource applications that should result in significant program efficiencies.

The OMB Program Assessment Rating Tool (PART) review of Submissions Processing recommends that IRS successfully implement the Modernized E-File IT projects. IRS is enabling e-file growth by increasing the numbers of returns eligible to be electronically filed. In fiscal year 2005, the IRS plans to complete the architecture and engineering analysis required to develop and deploy functionality, allowing taxpayers to electronically file Forms 1065, 990T, and 1041.

TAX LAW ENFORCEMENT

For enforcement, we are requesting $4,564,350,000. This appropriation ensures IRS's ability to: provide equitable and appropriate enforcement of the tax laws, identify possible non-filers for examination, investigate violations of criminal statutes, support the Statistics of Income program, conduct research to identify compliance

issues and support the national effort to combat domestic and international terrorism.

The resources in the Tax Law Enforcement (TLE) Appropriation provide service to taxpayers after a return is filed and support activities such as research to identify compliance and tax administration problems, as well as tabulation and publication of statistics related to tax filing. In fiscal year 2001, Tax Law Enforcement was realigned and redefined as mandated by the Internal Revenue Restructuring and Reform Act of 1998 (RRA 98) to better serve the needs of taxpayers. The modernized IRS structure is similar to those widely used in the private sector: organized around customers' needs, in this case taxpayers. The IRS has set up four operating divisions to service the four major categories of taxpayers; Wage and Investment Income (W&I), Small Business and Self-Employed (SBSE), Tax Exempt and Government Entities (TEGE) and Large and Mid-Sized Business (LMSB). Each of these business units has substantial operations within the Tax Law Enforcement appropriation. The Criminal Investigation (CI) business unit investigates criminal violations of the Internal Revenue Code and also supports the national effort to combat terrorist financing by integrating CI special agents into the Joint Terrorism Task Forces and other anti-terrorism task forces. CI has the largest part of its operation within the Tax Law Enforcement appropriation.

The TLE appropriation is the primary source of funding for the compliance functions of the IRS, including: (1) automated, in-person and correspondence collection of delinquent taxpayer liabilities, (2) the matching of reporting documents with taxpayer returns, to insure reporting compliance, (3) face-to-face examination to determine taxpayers' correct income levels and corresponding tax liabilities, (4) service center support of the field examination function and correspondence with taxpayers regarding tax issues, (5) investigation of criminal violations of the tax laws, (6) processing of currency transaction reports over $10,000, (7) tax litigation, (8) acting as an advocate to provide prompt resolution of taxpayer problems and (9) a general counsel function to offer legal advice and guidance to all components of the IRS.

I would specifically like to emphasize our continuing commitment to the administration's efforts to combat terrorism. The funding provided in the President's budget request will allow us to continue to make a significant contribution to this effort.

The functions in TLE are essential to accomplishing the primary goals of the Fiscal Year 2005 Budget Request. To accomplish this goal, the IRS must restore the strength of the compliance function. Staffing devoted to compliance and enforcement operations has declined in recent years. Annual growth in return filings and additional work related to RRA 98 have contributed to a steady decline in enforcement presence, audit coverage and case closures in front-line compliance programs.

The Fiscal Year 2004 Appropriations Act merged the Earned Income Tax Credit (EITC) Appropriation with the TLE Appropriation. The merge of EITC into the TLE appropriation will provide for customer service and public outreach programs, strengthened enforcement activities and enhanced research efforts to reduce over claims and erroneous filings associated with the Earned Income Tax Credit (EITC) compliance initiative.

Customer service for the EITC initiative includes dedicated toll-free telephone assistance, community-based tax preparation sites and a coordinated marketing and educational effort (including paid advertising and direct mailings) to assist low-income taxpayers in determining their eligibility for EITC. Improved compliance activities include increased staff and systemic improvements in submission processing, examination, and criminal investigation programs. Increased examination coverage, prior to issuance of refunds, reduces overpayments and encourages compliance in subsequent filing periods; in addition, post-refund correspondence audits by service center staff aid in the recovery of erroneous refunds. Criminal investigation activities target individuals and practitioners involved in fraudulent refund schemes and generate referrals of suspicious returns for follow-up examination. Examination staff assigned to district offices audit return preparers and may apply penalties for non-compliance with "due diligence requirements."

OMB Program Assessment Rating Tool (PART) observations concluded that the IRS does not work enough collection cases with its current resources, work processes and technology to ensure fair tax enforcement. Each year IRS fails to work billions of dollars worth of collection cases. Consequently, the Budget includes a legislative proposal to allow IRS to hire private collection contractors to assist the IRS in addressing a significant number of cases. In addition to the increased resources requested, the IRS is making internal process improvements, including: developing models to better identify high priority work, better use of the predictive dialer, realigning the workforce to core hours and creating a performance support tool to provide employees with technical guidance while handling calls. The PART review also determined that IRS financial management systems remain weak. In response, the

IRS plans to modernize its collection technology to improve effectiveness. New technology tools will be developed for collection employees (e.g., electronic Automated Collection System, contact recording, and desktop integration), which will improve program efficiency.

HEALTH INSURANCE TAX CREDIT ADMINISTRATION

We are requesting $34,841,000 for expenses necessary to implement the health insurance tax credit included in the Trade Act of 2002. This appropriation provides operating funding to administer the advance payment feature of the Trade Adjustment Assistance health insurance tax credit program to assist dislocated workers with their health insurance premiums. The Trade Act of 2002 created the tax credit program and it became effective in August of 2003.

INFORMATION SYSTEMS

We are requesting $1,641,768,000 for information systems. This appropriation is for necessary expenses of the Internal Revenue Service for information systems and telecommunications support, including developmental information systems and operational information systems.

It provides for IRS information systems operations and maintenance, investments to enhance or develop business applications for the IRS Business Units and staff support for the Service's Modernization program.

The appropriation includes staffing, telecommunications, hardware and software (including commercial-off-the-shelf), and contractual services. It also provides for Servicewide Information Systems (IS) operations, IRS staff costs for support and management of the Business Systems Modernization effort, and investments to support the information systems requirements of the IRS business units. It includes staffing, telecommunications, hardware and software (including commercial-off-the-shelf software), and contractual services.

Staffing in this activity develops and maintains the millions of lines of programming code supporting all aspects of the tax-processing pipeline as well as operating and administering the Service's hardware infrastructure mainframes, minicomputers, personal computers, networks, and a variety of management information systems.

In addition, the Information Systems "Tier B" modernization initiatives fund projects that modify or enhance existing IRS systems or processes, provide changes in systemic functionality, and establish bridges between current production systems and the new modernization architecture being developed as part of the Servicewide Business Systems Modernization efforts. Investment activities also include improvements or enhancements to business applications that support requirements unique to one of the IRS business units. These Tier B projects yield increased efficiency and allow the Service to progressively improve the quality of its interactions with the taxpaying public and its many other internal and external customers.

BUSINESS SYSTEMS MODERNIZATION

We are seeking $285,000,000, for our Business Systems Modernization (BSM) efforts. This request is based upon the resizing efforts we began following the various internal and external reviews of BSM.

This appropriation provides for the planning and capital asset acquisition of information technology systems, including related contractual costs of such acquisition and contractual costs associated with operations authorized by 5 U.S.C. 3109, to modernize IRS's antiquated business systems.

The IRS collects $1.7 trillion in revenues annually through an assortment of computer systems developed over a 40-year period. The IRS developed the most important systems that maintain all taxpayer records in the 1960's and 1970's. These outdated systems do not allow the IRS to meet today's taxpayer and business needs. Failure to modernize IRS's tax administration business systems will result in a significant increase in resources required to maintain legacy systems—systems that no longer efficiently or effectively serve America's taxpayers.

The BSM Appropriation provides for revamping business practices and acquiring new technology. The IRS is using a formal methodology to prioritize, approve, fund and evaluate its portfolio of BSM investments across the IRS Business Units and Modernization and Information Technology Services (MITS). This methodology enforces a documented, repeatable and measurable process for managing investments throughout their life cycle. The MITS Enterprise Governance (MEG) Committee, which includes the Chief Information Officer and other senior MITS executives, the Chief Financial Officer, and the heads of the Business Operating Divisions, approves investment decisions. This executive-level oversight ensures that products

and projects delivered under the Business Systems Modernization program are fully integrated into IRS Business Units. The Department of the Treasury Investment Review Board also reviews the BSM expenditure Plan once the IRS executive-level oversight board approves the investment decisions. The plan is then cleared through OMB and submitted through the Appropriations Committees.

The IRS has undergone an intensive servicewide portfolio prioritization effort, leading to a long-term modernization plan identifying selected modernization projects, a release sequence for each project, and estimated costs for each project. The effort is based on vision and strategy initiatives that created an enterprise-wide view, which unified the needs of the IRS Business Units. Fiscal year 2005 resources will fund the infrastructure, program management, and releases of business applications to support the successful delivery of a modernized tax administration system. More complete details are provided in the BSM Expenditure Plan.

A partial Fiscal Year 2004 BSM Expenditure Plan was submitted by the Department of Treasury for Congressional approval in January 2004, and the full-year revision incorporating current project information should be completed by this spring.

PROGRAM PERFORMANCE

The IRS expects to achieve the following levels of performance after attaining full performance of the requested fiscal year 2005 initiatives:

—Examine an additional 30,000 investor returns in the Small Business and Self-Employed (SB/SE) business unit and increase coverage of high-income taxpayers, generating an additional $170 million in fiscal year 2006. SB/SE also anticipates closing an additional 50,000 taxpayer delinquent accounts, resulting in an estimated $215 million in additional revenue.

—Hire and train over 2,000 new staff in the Examination, Collection and Document Matching programs. These increases will generate some $2.8 billion in direct enforcement revenue through fiscal year 2007. Additional audits of investor returns and high-income taxpayers, together with 55,000 correspondence examinations, will yield more than $1.0 billion during that same period. Collection closures will increase by 240,000 and taxpayer contacts through the Automated Underreporter Program by some 300,000 through fiscal year 2007—generating an additional $1.8 billion.

—Increase the overall audit coverage rate in the Large and Mid-Sized (LMSB) business unit from 5.1 percent in fiscal year 2004 to 9.6 percent in fiscal year 2007 and increase projected return closures by 63 percent from 16,067 returns in fiscal year 2004 to 26,193 returns in fiscal year 2007. Enforcement revenue recommended for the 3 years fiscal year 2005 through fiscal year 2007 should increase by over $3 billion.

—Complete 229 significant Corporate Fraud investigations through fiscal year 2007. Tax-related completed investigations will increase by approximately 20 percent over the fiscal year 2003 level by fiscal year 2007. In addition, CI is striving to reduce elapsed time on completed investigations by 30 percent from fiscal year 2002 levels.

IMPROVING SERVICE

We are improving service to the taxpayer. Let me give a broader picture of service and compliance, and how the President's budget will lead to more effective and fair collection of taxes.

It was not long ago that IRS service was not all that it should be—some would even say it was poor. In many areas the service level we provided, or more accurately stated, failed to provide, frustrated taxpayers in their effort to understand and comply with the tax law.

Regardless of the merits of some of the allegations directed against the IRS in the mid-1990's, there was a significant gap between the quality of service that the IRS was providing taxpayers and the quality of service that the public had a right to expect. This shortfall in services clearly warranted the fundamental improvements and reorganization established under RRA 98.

The reorganization of the IRS along customer lines of business and the other changes brought about by RRA 98 were, taken as a whole, sound reforms. The twin themes of the legislation were improvement of service and protection of taxpayer rights.

Through an almost single-minded focus on RRA 98 implementation, the IRS has demonstrated unmistakable progress in improving customer service and increasing its recognition of, and respect for, taxpayer rights. While we still aim to reach a higher level of customer service, our improvement and commitment with respect to these core goals is measurable.

Last year 53 million individuals filed their returns electronically. Thus far this year, nearly 1 week away from "tax day", electronic filing is up again, by about 12 percent. Electronic filing is more reliable, both for the taxpayer and the IRS. And it is faster. Over three-quarters of Americans get refunds, and we issue the refund in about half the time when a taxpayer files electronically.

Another challenge in the 1990's was getting through to the IRS at all. We now have a world-class telephone call routing system. A call is directed to the right person, someone who knows something about charitable contributions or IRA's—whatever the subject may be—and the system balances workforce planning against predictable workload patterns to reduce waiting time. By 2003, overflows to the telephone system, such as busy signals—the crudest indication of service failure—decreased 99 percent from its worst performance of 400 million. We also reduced taxpayer call-waiting time by half since 2001, reduced the number of abandoned calls by half since 2002, and doubled the number of refund inquiries from our Spanish-speaking taxpayers.

Meanwhile, we have delivered other applications that provide tangible benefits to taxpayers and improve the efficiency and effectiveness of our tax administration system. They include:

—Where's My Refund?/Where's My Advance Child Tax Credit?, which gives taxpayers instant updates on the status of their tax refunds and advance child tax credits. Where's My Refund? has provided almost 11 millions services and Where's My Advance Child Tax Credit? has provided another 20 million services. By shifting a significant volume of customer demand to the Internet and automated telephone services, we have seen a measurable improvement in service for taxpayers who still need to talk with an IRS assistor.

—e-Services, which includes preparer tax identification number (TIN) applications with instant delivery, individual TIN matching for third party payers, on-line registration for electronic e-Services, and on-line initiation of the electronic originator application (currently released to a controlled segment of external users). I am pleased to announce that we recently made the first part of e-Services available on our public website. The remaining parts will come out over the next several months.

—Internet EIN, which permits small businesses to apply for, and receive, an Employer Identification Number on-line.

—HR Connect, which allows IRS users to perform many personnel actions on-line. This technological advance will enable the Service to redirect hundreds of positions to enforcement activities by the time it is fully deployed, which we have planned for October 2005.

Are we where we need to be on service? Not yet. As you know, I have been emphasizing enforcement, but I do not want this subcommittee or anyone to think the IRS will walk away from service. We still continue to maintain and improve service.

Our objectives for improved taxpayer service are three-fold:

—First, to improve and increase service options for the tax-paying public;

—Second, to facilitate participation in the tax system by all sectors of the public; and

—Third, to simplify the tax process.

These are service objectives that recognize the dynamics of a rapidly changing world, one in which the Internet will be the dominant communications tool. Yet we realize there will remain a wide range of computer and technological literacy among individual taxpayers, and we must not fail to provide the same level of service to all taxpayers regardless of their technological sophistication. Our objectives also recognize an America with an increasingly diverse population, and that diversity will create challenges for us as tax administrators. Nevertheless, we are confident that we can and will serve all American effectively.

Continued changes in traditional media will make it harder to cover the waterfront as we seek to educate taxpayers. Moreover, the complexity of our tax laws, along with the frequency of changes to these laws, is not only a challenge to taxpayers trying to comply with the tax laws, but a basis of cynicism about complying with the tax laws. The administration is committed to addressing this complexity. While it remains, we have an obligation to help taxpayers navigate these laws and make it as easy as possible for them to comply.

In a world increasingly impatient for prompt and reliable information and transaction processing, all of these factors pose significant challenges to the IRS as it strives to improve the level of service provided to the American taxpayer.

A good example of the challenges we will face is reconciling our desire to standardize our processes through electronic filing with the reality that some groups, such as immigrants and the elderly, will need different, targeted services. Electronic filing is important to the IRS and to taxpayers, but we cannot overemphasize it to

the detriment of services to taxpayer groups who will not utilize it. Addressing competing priorities on the service side of the IRS will not be easy, but we will work diligently to provide a balanced, effective program.

EFFECTIVE ENFORCEMENT

Our focus on the strong mandate of RRA 98 to improve IRS services to the taxpaying public made it difficult for us to balance both the service and enforcement elements that are so necessary to the success of our tax system. Improved taxpayer service enhances compliance and respect for our laws among the vast majority of Americans who do their best to pay their fair share. Improved taxpayer service also may help discourage those who might not otherwise do what is necessary to comply with our tax laws. Taxpayer service, however, does not address those who actively seek to avoid paying their fair share. I believe most people would agree that we achieved improvement of IRS taxpayer services in large part at the expense of needed enforcement activities.

Over a 5-year period beginning in 1997, the IRS refocused its enforcement resources significantly. The number of revenue agents (those who conduct audits), the number of revenue officers (those who collect monies due), and the number of criminal investigators (those who prepare cases for possible prosecution by the Justice Department) each declined by over a quarter.

In essence, we did not observe the wise admonition of President John F. Kennedy that "Large continued avoidance of tax on the part of some has a steadily demoralizing effect on the compliance of others."

We are correcting our course and re-centering the agency. We are strengthening the IRS enforcement of the tax laws in a balanced, responsible fashion. And we will do so without compromising taxpayer rights. As the IRS enhances enforcement, we have four priorities:

First, we are working to discourage and deter non-compliance, with emphasis on corrosive activity by corporations and high-income individuals. Attacking abusive tax shelters is the centerpiece of this effort. What is at stake is greater than many billions of dollars of lost tax revenues. Our surveys indicate that 80 percent of Americans believe it is very important for the IRS to enforce the law as applied to corporations and high-income individuals. Enforcing compliance in these sectors is critical to maintaining Americans' faith that our system is fair. The abuses of recent years have to a very real degree strained the credibility of our tax administration system.

The IRS is moving aggressively to attack these transactions. Working with our partners in the Treasury Department, we have accelerated the issuance of guidance identifying abusive and potentially abusive transactions and improved disclosure requirements to provide greater transparency—sorely needed in today's complex world. And we have over 100 promoter audits underway, not to mention thousands of audits of high-income individuals and corporations who have entered into potentially abusive transactions. Where necessary, the Treasury Department, on behalf of the administration, has proposed legislation that would stop abusive transactions that we may not be able to fully or quickly address under existing law.

However, we need to do better. We need to do more, and we particularly need to do it faster. The length of time it takes us to complete the audit of a large, complex corporation is 5 years from the date the return is filed, which in most cases is already 8½ months after year end. And these figures don't include the appeals process, which runs another 2 years before the matter is settled or goes to court. That means that half of our current inventory of large cases is from the mid 1990's or the early 1990's. In today's rapidly changing world, we might as well be looking at transactions from the Civil War.

Simply stated, the IRS did not detect and deter the abusive transactions that spread during the 1990's on an adequate or timely basis because we did not have an informed view of current taxpayer behavior, only an historical understanding of events long past. And the challenge is becoming greater every day, as promoters of abusive tax transactions operate globally, without regard to national boundaries.

The lessons we have learned make it imperative to get current in our audits, to identify transactions and shorten the feedback loop so that abusive transactions can be shut down promptly. I am convinced we can do it. Technology will help. Right now it takes 2 years on average before complicated corporate returns find their way into the hands of the assigned examiner. We are addressing this issue. Electronic filing by corporations will facilitate our analysis of data and help us calibrate risk. Through speedier audits we will provide better service to the compliant taxpayer by resolving ambiguity earlier, and hold accountable those who seek to game the sys-

tem. And we are creating a web of disclosure, registration and maintenance of investor lists that will provide information about abusive transactions.

Second, we are working to ensure that attorneys, accountants and other tax practitioners adhere to professional standards and follow the law. In recent decades, with an accelerated slide in the 1990's, the model for accountants and attorneys changed. The focus shifted from independent audit and tax functions, premised on keeping the client out of trouble, to value creation and risk management. The tax shelter industry had a corrupting influence. It got so bad that in some instances blue-chip professionals actually treated compliance with the law—in this case IRS registration and list maintenance requirements—as a business decision. They weighed potential fees for promoting shelters but not following the law against the risk of IRS detection and the size of our penalties.

Our system of tax administration depends upon the integrity of practitioners. The vast majority of practitioners are honest and scrupulous, but even they suffered from the erosion of ethics by being subjected to untoward competitive pressures. The IRS is acting. We have augmented our Office of Professional Responsibility by doubling its size and appointing as its director a tough, no-nonsense, former prosecutor; we are tightening the regulatory scheme; and we are receiving excellent support from the Justice Department in our promoter and associated investigations. But we need the Congress to enact the tougher penalties proposed by the administration for those promoters who have not yet gotten the message.

Third, we must detect and deter domestic and offshore-based criminal tax activity, our traditional area of emphasis, and financial criminal activity. Our Criminal Investigation Division is a storied and proud law enforcement agency. Their expertise comprises not just criminal tax matters but other financial crimes. Our investigators are the best in law enforcement at tracking and documenting the flow of funds. In addition to our tax investigations, the IRS has over 100 agents assigned on an ongoing basis to support the President's Corporate Fraud Task Force. We will continue and intensify these important efforts.

Two factors account in significant part for America's great economic vigor and success. They are our pervasive culture of entrepreneurship, on the one hand, and the stability and transparency of our markets on the other. The reputation and attractiveness of our markets have been compromised by the scandals of recent years. The President's Corporate Fraud Task Force and the President and Congress with Sarbanes-Oxley have taken important steps to restore confidence. Through these three enforcement initiatives, the IRS will do its part so that sound tax administration contributes to public confidence in our economic system.

We have one more enforcement priority. The stakes for America in this area are also important. We will discourage and deter non-compliance within tax exempt and government entities, and the misuse of such entities by third parties for tax avoidance or other unintended purposes. Non-compliance involving tax-exempt entities is especially disturbing because it involves organizations that are supposed to be carrying out some special or beneficial public purpose. Enforcement in this area has suffered as IRS staffing in the exempt organizations area fell from 1996 through 2003. Enactment of the President's budget would allow us to gradually build up staffing in this important area and step up enforcement.

If we do not act to guarantee the integrity of our charities, there is a risk that Americans will lose faith in and reduce their support more broadly for charitable organizations, damaging a unique and vital part of our Nation's social fabric.

A case in point is credit-counseling agencies. These organizations have been granted tax-exempt status because they are supposed to be educating and assisting people who are experiencing credit or cash flow problems. Based on the information we have reviewed, we believe that a troubling number of these organizations, however, instead are operating for the benefit of insiders or in league with profit-making companies, such as loan companies, to generate income from lending to these distressed individuals and families. We are taking a close look at these organizations to ensure that they are operating within the bounds of the law.

It is, of course, imperative as we reinvigorate the enforcement program that IRS employees maintain their respect for and diligence to all taxpayer due process rights and protections.

We are making progress in our effort to reduce the annual tax gap. Our enforcement statistics for Fiscal 2003, released in early March, demonstrate that we have arrested the enforcement decline that began in the 1990's and worsened with the implementation of RRA 98. Audits, criminal investigations and monies collected were all up. In particular, the number of high-income taxpayer audits again increased by 24 percent. Moreover, audits of taxpayers with income over $100,000 were up over 50 percent from 2 years ago. Overall audits of all taxpayers increased to 849,296, an increase of 14 percent from 2002.

BUSINESS SYSTEMS MODERNIZATION AT THE IRS

While not as publicly visible as service or enforcement, modernization of IRS information technology is also a high priority. This effort is often referred to as Business Systems Modernization or BSM. Most of our tax administration systems are very old and difficult to keep current with today's fast paced environment—they must be modernized.

We are committed to resizing our modernization efforts to allow greater management capacity and to focus on the most critical projects and initiatives. Last summer, we used comprehensive studies to help us identify opportunities to improve management, re-engineer business processes and implement some new systems and technology.

As I have noted, the IRS has made progress on applications such as improved telephone service, electronic filing, and a suite of e-services to tax practitioners. But we have failed thus far to deliver several important projects with which taxpayers are not directly involved.

The projects include replacing our master file system, implementing the on-line security features, and building the modernized technological infrastructure on which all of our future modernization applications will depend.

Four studies completed last year consistently identified the following problems in delivering the large information technology efforts:

—Insufficient participation in the technology program by IRS business units;
—An overly ambitious portfolio;
—Inadequate performance by the contractor.

The IRS is responding by to this challenge by:

—Increasing business unit ownership of projects;
—Resizing the project portfolio and reducing the modernization program from $388 million this year to $285 million in the President's fiscal year 2005 request;
—And revising our relationships with the contractor and ensuring joint accountability.

While we have much work to do on modernization, I can assure you that it is one of my top priorities as Commissioner. We need to put in place the foundation upon which the tax system will build and rely for decades to come.

Before I conclude my testimony, let me give you an update on the 2004 filing season and what we are doing to make the tax season easier and more convenient for the American taxpayer.

2004 FILING SEASON

Mr. Chairman, I have been on the job for not quite a year so I am still going through my first filing season. Each year at the IRS, we process billions of tax-related documents. We process well over 100 million taxpayer returns. We send out about 100 million refunds. And we do a lot of other things as well.

It all peaks, of course, on April 15, a little more than 1 week away.

Here are some highlights as of March 26th (unless otherwise indicated):

Return Receipts

The IRS has received 74 million total individual returns. Twenty-nine million returns (39 percent) are paper and 45 million (61 percent) are e-file.

—The number of online returns is at 10.5 million, a 22.9 percent increase from last year.
—Through March 24th, 2.6 million Free File returns have been accepted, an increase of 24 percent from last year (2.1 million).

Refunds

Refund measures continue to show an increase over 2003. Total refunds are up from 2003 by 3.9 percent. Total dollars paid are 9.26 percent higher than last year, with an average refund of $2,113 paid.

Telephone Measures

As of March 28, assistor level of service, at 84.9 percent, is up 1.9 percent compared to last year. Assistors have answered approximately 729,000 more calls than they did during the same period in 2003.

Automated calls completed are 183,000 more than the same period in 2003. A major contributor to this increase is Advanced Child Tax Credit (ACTC) related calls.

We created automated ACTC applications for use in providing taxpayers the correct amount of ACTC to report on their 2003 tax return. These applications are available through telephone automation and interactive web applications.

Telephone Quality Rates

We measure telephone quality two ways: (1) customer account accuracy and (2) tax law accuracy. While our customer account accuracy estimates, as of February 29th are 89.76 percent, up 1.32 percent over the past year, our tax law accuracy has declined to 75.79 percent thus far in 2004 (down 6.69 percent from last year.)

Fiscal Year 2004 Quality Review results indicate that two of our most frequent tax law defects are: incomplete research and applying tax law incorrectly.

We are undertaking the following efforts to improve performance:

—Identifying root cause of performance deficiencies and implementing corrective initiatives through analysis;

—Establishing Quality Review Improvement Teams to determine the drivers of Customer Accuracy rates and to establish resolution priorities as needed; and

—Strengthening accountability to the frontline managerial level to facilitate improvement in services provided.

Taxpayer Assistance Centers (TAC's)

The number of taxpayers walking into a TAC for assistance has decreased as a result of streamlined services in the TAC's and initiatives to educate taxpayers on alternate methods of obtaining services generally requiring a face-to-face contact. The advent of technological advances in irs.gov services such as "Free File" and "Where's My Refund", and the accessibility of forms online have all contributed to the decline in the number of customers walking into a TAC.

CONCLUSION

The IRS has lagged behind, for reasons that are understandable, in tax enforcement. But that is changing. We will continue to improve service and respect taxpayer rights. But we will also enforce the law. We won't relax until taxpayers who are unwilling to pay their fair share see that that is not a worthwhile course to follow.

Mr. Chairman, the great majority of Americans honestly and accurately pay their taxes. Average Americans deserve to feel confident that, when they pay their taxes, their neighbors and competitors are doing the same.

The President's budget request will help us enforce the tax law more fairly and efficiently. I am most grateful for your support of increased enforcement, and I look forward to working with you on this important budget request.

Thank you very much. I'd be happy to take your questions.

Senator SHELBY. Ms. Gardiner.

STATEMENT OF PAMELA J. GARDINER

Ms. GARDINER. Chairman Shelby, I appreciate the opportunity to appear before you today to discuss the Internal Revenue Service's budget and the related tax administration challenges.

The IRS is critical to the functioning of our government. Each year the IRS collects over $2 trillion, processes over 200 million tax returns, and issues nearly 100 million tax refunds. It provides service to millions of taxpayers by telephone, Internet and in person. Since the enactment of the IRS Restructuring and Reform Act of 1998, the IRS has made significant progress in identifying opportunities to improve its operations.

For example, this filing season the IRS indicated it had received 43 million e-filed returns as of March 19, 2004, an increase of over 11 percent. The IRS has also made progress in providing information to taxpayers via its website, IRS.gov. Taxpayers have visited this website billions of times to obtain information. Just this tax season, the IRS stated taxpayers had made nearly 10 million visits by the end of February to obtain refund information from the "Where's My Refund?" section on this site.

Even with this progress, the IRS faces significant challenges to meeting its mission. I will focus my remarks on two of these key challenges: systems modernization and customer service.

The IRS's systems modernization program is in the sixth year of its effort to upgrade and modernize IRS information technology and business systems. This is an extremely complex effort and is expected to take up to 15 years at a cost of at least $7 billion. This program must be successful for IRS to reach its goals in customer service and tax compliance.

Since 1999 about $1.5 billion has been appropriated and released for modernization. The Treasury Inspector General for Tax Administration (TIGTA) agrees with the IRS's recent moves to scale back its systems modernization efforts to focus on ensuring that the most critical systems are implemented. In fact TIGTA has recommended such reductions in the modernization projects in the past. Our concerns are based on the cost and schedule overruns in the modernization program, including significant delays in the most critical project, the Customer Account Data Engine (CADE). CADE will eventually replace the existing Master File of taxpayer accounts and will enable the implementation of other modernized systems.

We believe the IRS and the PRIME contractor must address the following modernization challenges to be successful: implement planned improvements in key management processes; manage the increasing complexity and risks of the modernization program; maintain continuity with experienced leadership; and ensure PRIME contractor performance and accountability.

Improving customer service has been a key focus at the IRS for the last few years. Taxpayers have several options from which to choose when they need assistance from the IRS. These options include toll-free telephone assistance, walk-in service at the taxpayer assistance centers, or TACs, and the IRS Internet website. Each of these systems potentially effects the taxpayer's ability and desire to voluntarily comply with the tax laws.

The IRS's toll-free telephone system is the contact method most taxpayers choose when seeking answers to tax law questions or trying to resolve tax account issues. Taxpayers called the IRS toll-free telephone system over 50 million times during the 2003 filing season. Access to the IRS's toll-free telephone system has significantly improved. In comparison to the prior filing season, for example, the level of service increased, more calls were answered, and fewer taxpayers abandoned their calls. We evaluated the toll-free system and found that 78 percent of taxpayers received accurate answers to their account questions, and 73 percent of taxpayers received accurate answers to their tax law questions.

The next most popular contact method is the taxpayer assistance centers which provide face-to-face assistance to taxpayers in meeting their filing and payment responsibilities. Significant improvements have occurred in the percentage of accurate answers to tax law questions that TAC employees provided to TIGTA auditors anonymously conducting visits during the past 2 years. IRS employees correctly answered 69 percent of the questions asked from July through December 2003, compared to only 57 percent during the same period in 2002.

Although the IRS website has received billions of visits from taxpayers, most do not submit questions. Early statistics indicated approximately 75,000 questions had been received this year. Our past

audit work indicated that over 80 percent of Internet questions were answered correctly.

PREPARED STATEMENT

In conclusion, I believe the improvements in the levels of service the IRS has provided to taxpayers are impressive. However, challenges continue in the modernization effort. It must succeed if IRS is going to operate at a level that taxpayers expect and are entitled to receive from their government.

I would be happy to answer any questions.

[The statement follows:]

PREPARED STATEMENT OF PAMELA J. GARDINER

Chairman Shelby, Ranking Member Murray, and distinguished Members of the subcommittee, I appreciate the opportunity to appear before you today to discuss the Internal Revenue Service's (IRS) budget, and the challenges the IRS continues to face in using its funds to improve the economy, efficiency, and effectiveness of tax administration.

The mission of the IRS is critical to the functioning of our government. Each year, the IRS processes over 200 million tax returns and collects over $2 trillion. The IRS also issues nearly 100 million tax refunds, provides service to millions of taxpayers in person and via telephone calls and the internet, and applies complex tax laws to help ensure taxpayers meet their tax obligations.

E-filing provides significant benefits to both taxpayers and the IRS including quick acknowledgement to taxpayers that the IRS received their tax returns, more accurately processed tax returns, and faster refunds. In addition, the IRS estimates that the processing of an e-filed tax return compared to that of a paper tax return results in cost savings of approximately $2.30 [1] per tax return. Since the enactment of the IRS Restructuring and Reform Act of 1998 (RRA 98), the IRS has made significant progress in attracting taxpayers to e-file and continues to identify opportunities and create incentives for taxpayers to e-file. These efforts have resulted in individual taxpayers being able to electronically sign their tax returns, e-file their State tax returns with their Federal tax returns, pay their taxes using a credit card, e-file 99 percent of all tax forms, and e-file at no cost.[2] Furthermore, in an attempt to encourage paid preparers to submit tax returns electronically, the IRS offers specific support services and is in the process of providing incentives exclusive to e-file providers.[3] These incentives include the ability to apply to become an e-file provider online, interact with the IRS by email, and obtain client transcripts online. This filing season, the IRS indicated it had received 43 million e-filed returns as of March 19—an increase of over 11 percent.

The IRS has also made progress in providing information to taxpayers via its internet website IRS.gov. Taxpayers have visited this website billions of times to obtain information. Just this tax season, the IRS stated taxpayers had made nearly 10 million visits by the end of February to obtain refund information from the "Where's My Refund?" application which is featured on this site. This is almost double the number received last year at this time.

Even with much progress, the IRS still faces significant challenges to meeting its mission. TIGTA has identified major management challenges in the following areas that could affect the IRS's ability to help taxpayers address their tax responsibilities:

—Systems Modernization.
—Tax Compliance Initiatives.
—Security of Employees, Facilities, and Information Systems.
—Integrating Performance and Financial Management.
—Complexity of the Tax Law.
—Providing Quality Customer Service Operations.
—Erroneous and Improper Payments.

[1] Cost savings relate to the costs saved to process a tax return and do not include Information Technology and Customer Service costs as the IRS is still in the process of computing these costs.

[2] This no cost e-filing option is the result of the IRS entering into an agreement with tax preparation software companies and is available for taxpayers that meet certain requirements.

[3] E-file providers may be electronic return originators, transmitters, software developers, tax practitioners, and States.

—Processing Returns and Implementing Tax Law Changes During the Tax Filing Season.
—Taxpayer Protection and Rights.
—Human Capital.

Although each of these areas presents its own unique challenges, I have chosen to focus the remainder of my remarks on two of these key areas, Systems Modernization and Providing Quality Customer Service Operations.

SYSTEMS MODERNIZATION

The IRS's systems modernization program is in the sixth year of its effort to upgrade and modernize IRS information technology and business systems. It is expected that this program will take up to 15 years and cost at least $7 billion to complete. The modernization program is an extremely complex effort, since many of the IRS's current business systems are a mixture of technologies that date back to the 1960's. While difficult, the program must nevertheless be successful if the IRS is to meet its goals and commitments of improving its customer service and tax compliance activities. To facilitate the success of its modernization efforts, the IRS hired the Computer Sciences Corporation as the PRIME contractor and integrator for the modernization program, and created the Business Systems Modernization Office to guide and oversee the work of the PRIME contractor. Through March 2004, the IRS has received approximately $1.59 billion to support the systems modernization program, and the IRS plans to request an additional $142 million for fiscal year 2004. Approximately $285 million has been included in the fiscal year 2005 budget to further fund systems modernization efforts.

The Treasury Inspector General for Tax Administration (TIGTA) agrees with the IRS's recent moves to resize and scale back its systems modernization efforts to place additional focus on ensuring the most critical systems are implemented. In fact, TIGTA has been recommending such a reduction in the modernization projects based on the concerns we have raised with cost and schedule overruns in the modernization program. The IRS Commissioner recently launched a comprehensive review of the modernization program resulting in 21 recommendations for improvement. Many of those recommendations were similar to those made in TIGTA reports issued during the past 4 years.

Over the last 2 fiscal years,[4] TIGTA cited four challenges that the IRS and the PRIME contractor must overcome to be successful:

—Implement planned improvements in key management processes and commit necessary resources to enable success.
—Manage the increasing complexity and risks of the modernization program.
—Maintain the continuity of strategic direction with experienced leadership.
—Ensure PRIME contractor performance and accountability are effectively managed.

The fourth challenge has recently become critical as oversight groups are starting to lose confidence in the PRIME contractor's ability to meet its commitments in modernizing the IRS's business systems and have raised concerns about future funding. In light of this concern, effective contract management, always difficult on a project of this magnitude, is becoming an increasingly important challenge that needs to be overcome.

The IRS has made progress in defining the management processes and capabilities needed to effectively acquire and implement information technology systems. For example, it has deployed the infrastructure system on which future modernized applications will run. Establishing this infrastructure is a necessary prerequisite to introducing the business applications that are intended to provide benefits to taxpayers and the IRS. The IRS also deployed several applications that have immediately produced taxpayer benefits. The "Where's My Refund" application, as described earlier, has assisted taxpayers with millions of online inquiries to obtain refund information. Other applications that have been implemented allow businesses and taxpayers to obtain employer identification numbers online, tax preparers to apply to become an electronic filer and obtain an identification number for use in filing clients' returns, and businesses to electronically file certain tax returns.

In response to concerns of TIGTA and others, the revised fiscal year 2003 modernization spending plan submitted in March 2003 focused the program on a smaller portfolio of existing key projects. Although the IRS expressed high confidence in

[4] Annual Assessment of the Business Systems Modernization Program (Reference Number 2003–20–208, dated September 2003). Annual Assessment of the Internal Revenue Service's Business Systems Modernization Program (Reference Number 2002–20–189, dated September 2002).

the practicality of the revised plan and assured the Congress that it could timely deliver the revised fiscal year 2003 project portfolio, all of the projects experienced schedule delays and most incurred significant cost increases from fiscal year 2002 estimates. Also, management decisions were made to delay some of the functionality that was originally planned for these systems until sometime in the future.

These schedule delays, cost increases, and delayed functionality occurred, in part, because modernization project teams did not always follow defined management and project development processes. The IRS and the PRIME contractor have particularly struggled to develop adequate cost and schedule estimation techniques. As a result, delivery schedules and cost estimates were very aggressive and overly optimistic.

Additionally, the IRS and the PRIME contractor had not fully implemented disciplined project testing processes and procedures. Testing processes have been substantially revised and refined based on lessons learned during the early testing efforts for modernization projects. However, TIGTA analyzed several key projects and found the project teams were not consistently following the established testing processes. We believe the inadequate implementation of the testing processes was the result of the modernization project teams attempting to meet overly optimistic project schedules.

While progress has been made in the IRS's modernization efforts, it did not achieve its goals for fiscal year 2003. This underachievement is disappointing considering that the expectations for the year were scaled back in hopes of being able to successfully deliver several key modernization projects.

The delays in implementing projects can clearly be seen in the most critical modernization project, the Customer Account Data Engine (CADE). CADE will eventually replace the existing Master File[5] of taxpayer accounts, and will enable the implementation of other modernized systems that will improve customer service and compliance and allow the on-line posting and updating of taxpayer account and return data. Therefore, CADE will be the foundation for managing taxpayer accounts in the modernized IRS. The portion of CADE related to individual tax accounts will be incrementally deployed in five releases, each related to a specific taxpayer segment, over several years, as shown in the revised CADE release schedule below.

[5] The Master File is the IRS's database that stores various types of taxpayer account information and includes individual, business, and employee plans and exempt organizations data.

CADE RELEASE SCHEDULE

	Release One	Release Two	Release Three	Release Four	Release Five
Tax Return Types	1040EZ, Refund or Even balance.	1040EZ, 1040 Sch A, B, D, 1040A Sch 1, 3, with Refund or Even Balance. 1040, 1040A 1040EZ, Full Paid.	All 1040 Family and supporting forms, Refund or Full Paid. 1040A Sch 2, Refund or Balance Due. 1040ES Pmts.	All 1040 Family and supporting forms, Refund, Full Paid, and Balance Due. 941, 940, 720 Forms—Payroll, unemployment, and Excise returns for 1040 taxpayers.	All remaining individual tax returns.
Filing Status	Single	(Single, Married—Married once and no dependents).	All (including Head of Household).	All	All.
Account Characteristics	No account issues (Open or Closed).	No open account issues	No open account issues EITC	No open account issues	All accounts not included in previous releases.
Est. Returns :[1]					
Original estimate	6 Million	29 Million	41 Million	34 Million	12 Million.
Revised June 2003	5 Million	33 Million	57 Million	20 Million	15 Million.
Est. Delivery:					
As of April 2000	January 2002	August 2002	July 2003	July 2004	July 2005.
As of March 2001	January 2002	January 2003	January 2004	January 2005	January 2006.
As of April 2003	August 2003	January 2005	TBD	TBD	TBD.
As of Jan. 2004	Rel 1.1[2].—August 2004 Rel 1.2/1.3.—January 2005/January 2006.	TBD	TBD	TBD	TBD.

[1] Estimated tax returns (electronic and paper) are based on 1999 statistics.
[2] Release 1 has been divided up into three separate releases—1.1, 1.2, and 1.3.

CUSTOMER SERVICE

One of the Congress' principal objectives in enacting the RRA 98 was to mandate that the IRS do a better job of meeting the needs of its customers. In the RRA 98, the Congress directed the IRS to achieve a better balance between its post-filing enforcement efforts and pre-filing taxpayer assistance through education and service. To comply with this Congressional mandate, the IRS revised its mission statement to refocus its emphasis on helping taxpayers understand and meet their tax responsibilities. Additionally, the IRS has enhanced its focus on increasing the levels of electronic filing.

Taxpayers have several options from which to choose when they need assistance from the IRS. These options include toll-free telephone assistance, walk-in service at the Taxpayer Assistance Centers (TAC), and the IRS internet website IRS.gov. The effectiveness of each of these services potentially affects a taxpayer's ability and desire to voluntarily comply with the tax laws.

Toll-Free Telephone Assistance

The IRS's toll-free telephone system is the contact method most taxpayers choose when seeking answers to tax law questions or trying to resolve tax account-related issues. Taxpayers called the IRS toll-free telephone system over 50 million times during the 2003 Filing Season. The IRS's strategy for handling this significant customer demand is to direct those taxpayers with less complicated issues to its automated services (i.e., recorded information and interactive applications) and allow its Customer Service Representatives (CSR) to assist taxpayers with more difficult issues. However, during fiscal year 2003, over 26 million of the calls were from taxpayers who had questions about their accounts and who chose to speak with a CSR.

The TIGTA and others have raised continuing concerns about the IRS's ability to effectively meet the significant annual taxpayer demand for access to its toll-free telephone system. Over the past several years, the IRS has made many technological changes, as well as organizational and process changes, to its toll-free telephone system in an effort to provide taxpayers with better access and improve the quality of its service.

Many aspects of the taxpayer experience in accessing the IRS toll-free telephone system were significantly improved during the 2003 Filing Season. This improvement was reflected in the measures the IRS uses to gauge the performance of its toll-free telephone system. In comparison to the prior filing season, for example, the level of service increased, more calls were answered, and fewer taxpayers abandoned (i.e., hung up) their calls before receiving assistance. Further, taxpayers that called with account- or refund-related questions had shorter wait times to receive service, and taxpayers that called with account-related questions were more likely to receive assistance when they reached a CSR assigned to an account application.

Although taxpayer access to its toll-free telephone services improved, the IRS has opportunities to further enhance the taxpayer experience and reduce the costs of providing toll-free telephone services. A major improvement opportunity involves implementing enhancements to automated call routing solutions so that much of the need for call screeners can be reduced or eliminated. For the 2003 Filing Season, using screeners to manually route calls cost the IRS almost $3.6 million in salaries and benefits that would not have been needed if the previously developed call routing solution had worked as planned. Another improvement opportunity involves reducing the high Assistor Availability levels[6] that have existed for at least the past two filing seasons. The IRS had planned for a level of 5.5 percent in fiscal year 2003, but during the 2003 Filing Season, the rate was 11.2 percent, and had further increased to 12.15 percent through the end of June. We estimate that this cost the IRS nearly $6.4 million in CSR salaries and benefits. Finally, the IRS needs a financial system that will accurately track its cost-per-call for various toll-free telephone services to provide management and key stakeholders sufficient information to make critical decisions.

The IRS receives calls from taxpayers with account issues and questions about various aspects of the tax law. During the 2003 Filing Season, we reviewed both account assistance and tax law assistance calls for professionalism, accuracy, and timeliness.

Account Assistance.—TIGTA evaluated the professionalism, accuracy, and timeliness of account assistance obtained through the Toll-Free program. From a judgmental sample of 191 calls monitored between April 21 and May 16, 2003, we

[6] Assistor Availability is the measure the IRS uses to calculate how long its CSR's are available to take calls when none are coming in for their specific applications. Achieving the optimum Assistor Availability level is critical for effective and efficient call site operations.

determined that CSR's treated taxpayers professionally for 99 percent of the calls and provided timely service for 83 percent of the calls. In addition, 78 percent of taxpayers received accurate answers to their account questions. Using a statistical sample during the same period we reviewed, the IRS reported rates of 100 and 97 percent, respectively, for professionalism and timeliness, and 88 percent for customer accuracy.

Tax Law Assistance.—TIGTA monitored a judgmental sample of 294 toll-free tax law calls between January 27 and March 13, 2003, and compared the results to records from an IRS statistically valid sample of 6,011 calls monitored during the same period. The 2 samples showed that CSR performance was professional and timely in 98 percent or more of the total number of calls monitored. Although our sample showed a customer accuracy rate of 73 percent as compared to the IRS' measured rate of 81 percent, the need for CSR's to fully probe the taxpayer for information was clearly evident as an ongoing issue requiring improvement in both of the samples taken. The primary reason incorrect responses were given was because CSR's were not effectively using the appropriate guidance. Without effective use of this guidance, CSR's are unable to fully understand the taxpayer's situation and may provide information that is incorrect or incomplete.

Taxpayer Assistance Centers

The primary emphasis of the TAC's is to provide face-to-face assistance to taxpayers in meeting their filing and payment responsibilities, including educating taxpayers, providing self-help, interpreting tax laws and regulations, securing forms, resolving notices, and providing needs-based complimentary tax return preparation. The IRS has over 400 TAC's that served over 8.5 million taxpayers in fiscal year 2003.

Significant improvements have occurred in the percentage of accurate answers to tax law questions TIGTA auditors asked when anonymously conducting site visits to TAC's during the past 2 years. IRS employees correctly answered 69 percent of the questions asked and incorrectly referred only 2 percent to publications from July through December 2003, compared to correctly answering only 57 percent of the questions asked and incorrectly referring 12 percent to publications from July through December 2002. TIGTA commends the IRS for the improvements it has made in this level of accuracy.

Auditors also had positive experiences when they visited the TAC's. IRS employees were professional and courteous in 97 percent of the 194 TIGTA site visits to 105 TAC's. Wait time for service was 1 hour or less for 99 percent of the visits. In addition, 85 (81 percent) of the TAC's visited by our auditors had office hours listed on the IRS internet website IRS.gov, which matched the hours posted at the TAC's.

Although improvements have occurred in accuracy of responses to taxpayer questions, the accuracy of tax return preparation at the TAC's needs improvement. Complimentary tax return preparation and electronic filing is provided to those taxpayers whose returns meet certain requirements and limitations. For Tax Year 2002, IRS employees at the TAC's prepared 293,242 tax returns that involved refunds and tax liabilities totaling approximately $330 million and $6 million, respectively.

Returns prepared at the TAC sites, however, are often inaccurate. From February through April 2003, TIGTA auditors made 34 anonymous visits to 26 TAC's nationwide in an attempt to have a tax return prepared. IRS employees incorrectly prepared 19 of the 23 tax returns prepared during our visits. If these returns had been filed, the IRS would have inappropriately refunded $32,000 and inappropriately withheld $2,400 in tax refunds. IRS management has taken action to improve the accuracy of the tax returns prepared, and TIGTA has recommended additional actions to ensure taxpayers receive proper and accurate customer service when requesting assistance with tax return preparation.

Service to Taxpayers via the Internet

The use of the internet has increased dramatically. The latest statistics indicate that nearly 70 percent of the United States population are internet users. Since 1995, the IRS has administered a program to answer taxpayer questions submitted through its internet website IRS.gov. This program offers individual and business taxpayers an accessible and convenient alternative to using the telephone or visiting an IRS office to obtain answers to tax law questions. Taxpayers have the ability to submit tax law questions 24 hours a day, 7 days a week. The IRS provides responses to taxpayer questions via an e-mail message.

Past TIGTA testing indicated that the accuracy rate for the answers to the submitted questions was over 80 percent, which is higher than that received in TAC's or via the toll-free assistance telephone program. However, the IRS did not respond

to several of the questions TIGTA submitted anonymously to the program. Additionally, the number of questions submitted dropped from over 200,000 questions in the 2000 Filing Season to about 120,000 in the 2002 Filing Season. TIGTA encouraged management to provide clear instructions to taxpayers to help them locate the area to input tax questions on the internet website.

Statistics obtained from the IRS indicated that for the 2003 Filing Season, 146,369 questions were received from taxpayers (a 23 percent increase over the prior year). However, the average response time for each question increased from 2.4 days to 4.2 days. Thus far, for the 2004 Filing Season (through March 15, 2004), statistics indicate a reduction in the number of questions received—76,156 questions have been received (76 percent of the number received in the prior year during the same period) with an average response time of 3.6 days.

In closing, I would like to reiterate that the improvements in the levels of service the IRS has provided to taxpayers are impressive. The IRS has made great strides in enhancing the level of electronic filing, providing information via its internet website, and improving the accuracy and availability of toll-free telephone service. The early IRS filing season statistics indicate a rise in electronic filing and an increase in the use of some of the services available via the internet. However, significant challenges remain to be addressed as the IRS strives to modernize its systems and provide world-class customer service to America's taxpayers.

ACCURACY OF TAX RETURN PREPARATION

Senator SHELBY. I have a number of questions. The Treasury Inspector General for Tax Administration (TIGTA) reported that the IRS employees incorrectly prepared 19 of 23 tax returns during a spot check of 26 taxpayer assistance centers around the country. Ms. Gardiner, what recommendations do you have to ensure taxpayers receive proper and accurate customer service when requesting assistance in the preparation of a tax return?

Ms. GARDINER. The biggest problem that we see when mistakes are made, whether it is preparing tax returns or answering questions on the toll-free line or walk-in assistance, is that the IRS employees do not ask appropriate probing questions. For example, the earned income tax credit is a complicated law and there are so many different little pieces that make a difference in whether you qualify or not.

Senator SHELBY. I certainly would not be qualified——

Ms. GARDINER. A common problem is just simply the number of months that a child resides with the taxpayer that would determine whether they do or do not get the credit, and that is a common mistake.

Senator SHELBY. There is a problem of verification, too, is it not?

Ms. GARDINER. It is verification as well, but what we find is simply that they are not asking enough questions to get to the right answer.

IMPROVING THE ACCURACY OF RETURN PREPARATION

Senator SHELBY. Mr. Commissioner, what actions have you taken to improve the accuracy of tax returns prepared by the IRS personnel?

Mr. EVERSON. I think that as Ms. Gardiner has suggested, this is an area that needs our concern, and that is a relatively recent set of findings. We have had recent discussions—in fact, I think the issues here, Senator, extend beyond returns we prepare. As you may be aware, there are up to about 2 million returns that are prepared through volunteer organizations that work closely with the Service, to which people are referred and they may go visit one of these volunteer sites.

Senator SHELBY. How accurate are those returns?

Mr. EVERSON. I think we are seeing that there are some of the same issues. This comes back to what you spoke about, it comes back to the complexity of the code. That is a root cause here. I would just expand upon Ms. Gardiner's remarks, which I think hit it correctly. There are a couple things that are difficult here. One is the true desire of our employers or others to help. If they are sitting there with you and they think they understand the situation, they may fail to ask that next probing question. It is on a script that they are supposed to be using, but they have made an assumption, and they probably should not have made that assumption.

The way the scoring that TIGTA uses works and that we use works, sometimes it holds against them the fact they just have not asked that next question. Now, they may actually have been right but they did not fully follow the procedure, so there is a real risk that they have got the wrong answer. We need to keep working on our training. We are doing that. I think that this area——

Senator SHELBY. Does a lot of it go to training?

Mr. EVERSON. Training is it, and getting good scripts. The same thing applies to the tax law accuracy question where we made some changes earlier this filing season. Overall, our filing season results are excellent, but we did have a dip in tax law accuracy, and that was because we were making changes to actually get better. We were changing some of these scripts. They proved a little more difficult to use. And we were also having some people who worked in the account area, which Ms. Gardiner talked about, that is the area where you call in and you say, "I cannot remember what my payment ought to be," if you are on an installment plan, or "I got a notice from you," or a question like that. We were taking some of those folks and having them work in the tax law area. Getting them properly trained and up to speed took a little more time than we thought.

So this is an ongoing challenge. Whatever you can do to simplify the code, though, would really help us.

Ms. GARDINER. Yes.

Senator SHELBY. I have tried.

Mr. EVERSON. I know you have.

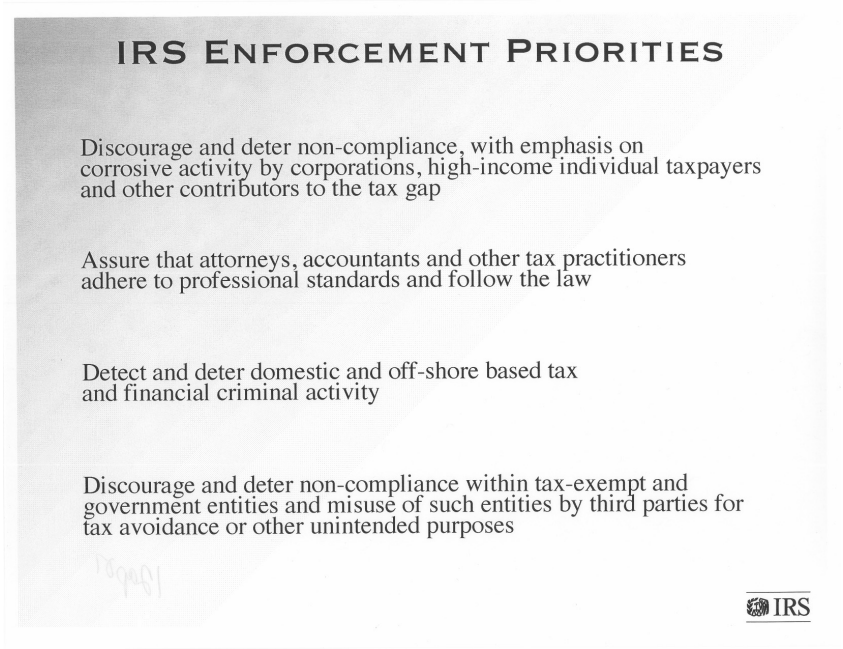
CORPORATE TAX SHELTERS

Senator SHELBY. Mr. Commissioner, I think we all know there have been a lot of abuse of tax shelters. We often hear of large corporations or high income taxpayers creating shelters that are obviously designed to avoid paying taxes. They do not have a real purpose, a business purpose, other than that. On top of that, these shelters are designed by a handful of attorneys, accountants, and tax practitioners whose standards and ethics are very, very questionable. You know this yourself. We have talked about it a little.

Does the budget request reflect your plan for attacking these corporate shelters and the few unprofessional individuals who created them? I think you have got to go to the heart of this.

Mr. EVERSON. Absolutely. If we could show the four enforcement priorities. We have very carefully constructed, through our plan-

ning process, four mutually reinforcing enforcement priorities. This issue is really at the heart of all four of these priorities.



ENFORCEMENT PRIORITIES

Senator SHELBY. Go over them.

Mr. EVERSON. The first is to discourage and deter non-compliance, with emphasis on the corrosive activities of corporations and high income individuals. That is the meat of the shelter question.

The second is to assure that——

Senator SHELBY. A lot of these people just exist to think of creative ways to beat the tax code, do they not?

Mr. EVERSON. That is the second point here: assure that attorneys and accountants and other tax practitioners adhere to professional standards and follow the law. If you could indulge me for just a minute. I started out my career at Arthur Andersen in the mid-1970s. The firm had one of the best reputations, and the standard of any Big Eight accounting firm was clear, any good law firm: you make sure that your clients follow the law. This all changed over a period of decades to become about value creation and risk management, and now you have interlocking networks of investment banks, accounting firms, law firms, commercial brokerages.

Senator SHELBY. Trying to beat the tax code?

Mr. EVERSON. They are working to do this. So this element of it is terribly important.

The third priority, augmenting our criminal investigations, gets to it too. Some of this gets to a criminal level. We have active criminal investigations, including against professionals, that will hold people to account.

Senator SHELBY. You have to do this, do you not?

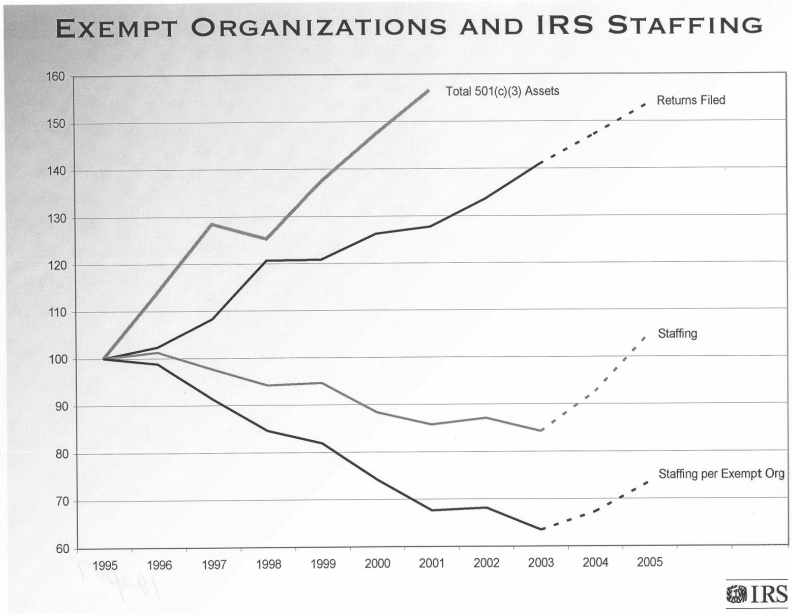
Mr. EVERSON. We have to. We are getting excellent support from the Department of Justice. They have litigated for the first time, as you may have seen, against law firms who have acted as promoters. They are not providing traditional advice to clients. They are acting as promoters of generic tax products that have had a corrupting influence on the practice of law and accounting.

IRS ENFORCEMENT PRIORITIES

Senator SHELBY. A lot of this advice has no real business purpose, does it?

Mr. EVERSON. That is exactly right. And it gets even to the fourth point here, which is about the abuse of tax-exempt entities. This is a very serious one, where we have seen some of these charities are being used. We just prohibited a transaction last week where people would take advantage of charitable organizations in order to actually promote a tax avoidance scheme. If I could just show you one chart as to the problem we have got ourselves into over a period of years, and then I want to address one thing you said in your statement.

Senator SHELBY. You go ahead.



IRS STAFFING

Mr. EVERSON. This green line, this is the growth over 6 years starting in 1995 in total assets of 501(c)(3) entities. This is the number of returns filed, together with some projections. This is what happened to the staffing at the IRS. What happened, basically, was we maintained—as you said, we kept working on service,

and that was good. We needed to do that. But the fallout in this was a dramatic decline across-the-board—but this is just the people working on tax-exempt groups. And if you adjust for this volume increase in terms of number of charitable entities, this shows you how far we are down.

This is bringing it back up. We brought it back up in 2004. What I wanted to say here, the only correction I would have, and I agree with your statement, is that in 2004 after I got here, the first thing I did was direct my two deputies to make sure that as we dealt with funding shortfalls we did not just take it out of enforcement. We stopped that last year, so that the fiscal year we are in now, we do have the enforcement increment the President and you want us to follow.

But this just shows, we are bringing this back. This is a terribly important area because of what you just said. It is also terribly important because of abuses, the credit counseling industry——

Senator SHELBY. How much money are we talking about in abuses, in your judgment?

Mr. EVERSON. In this area, in tax-exempt entities I would not have a precise figure but what I would tell you, let me give you——

Senator SHELBY. Could you furnish something for the record?

[The information follows:]

We do not have data with which to provide a precise answer. Lost revenues would generally result from tax-exempt organizations that are not operating in accordance with their exempt status, and therefore should be subject to tax. The market segment studies we are currently undertaking will enable us to better estimate revenue losses in particular segments or industries, but will not provide data that can be extended to exempt organizations generally.

Mr. EVERSON. Let me tell you one statistic on this. There is a $1 billion credit counseling industry that is operating as not-for-profit, calling around to people, taking advantage of the fact that they are exempted from the do-not-call list because they are a charity, taking advantage of the fact that they are not regulated by your State or others for consumer protection laws. They are preying, many of these entities are preying on good average Americans who have found themselves in trouble with debts, and they are no longer providing counseling and educational services, which is their mission under tax-exempt status.

So we are going after them. We may very well lift some of the tax exemptions, and I believe there may very well be criminal referrals on some of these entities.

Senator SHELBY. That is what you ought to do.

Mr. EVERSON. This is all what needs to be done. To get back to your statement, I want to give you my personal commitment that as we go forward—I am obviously asking for the President's full request. I am not asking for a penny more, but I am asking for the full request. I want to be crystal clear with you and your colleagues that we will protect that enforcement build and be very responsible at addressing shortfalls, should there be across-the-board rescissions and things like there have been in the past, or other gaps.

Senator SHELBY. You have got to have the money to do your job. What percentage, and you might want to furnish this for the record, of 501(c)(3) tax-exempt groups are abusing their status?

Mr. EVERSON. That is a very difficult question, and I would tell you, we have fallen so far behind——

Senator SHELBY. A lot of them are very clean, very straight-up.

Mr. EVERSON. Yes. Most of them are. What is really at stake here, Senator, is that Americans could lose faith in the integrity of charities and stop supporting our charitable institutions, which are so important to our way of life.

[The information follows:]

Currently, we do not have data that would yield a meaningful statistic. The 501(c) exempt organization community is made up of many different kinds of charities and other exempt organizations, with diverse activities and needs and correspondingly diverse compliance challenges. To address this diversity, we have divided the exempt organization community into several dozen market segments, and in fiscal year 2002 we began to conduct market segment studies. To date, we have begun studies looking at labor unions, business leagues, social clubs, community trusts, hospitals, colleges and universities, social services organizations, religious organizations (other than churches), private foundations, 509(a)(3) supporting organizations, fraternal organizations, elder housing organizations, arts & humanities organizations, as well as others. Although the results of these studies will allow us to make generalizations about compliance levels in particular segments or industries, we do not expect that they will allow us to make generalizations about the percentage of organizations that are not operating in accordance with their tax-exempt status.

Recently, we have devoted more of our limited resources to enforcement areas with known or suspected compliance problems, such as donor advised funds, credit counseling organizations, excessive compensation issues, and others. Although we will continue with market segment studies, we anticipate that fewer resources will be devoted to new studies as we increasingly concentrate on existing areas of noncompliance.

EARNED INCOME TAX CREDIT

Senator SHELBY. Absolutely.

Let us now focus on the earned income tax credit. As we all know, there is an estimated $8 billion to $10 billion of annual fraud. This is a lot of money. We were talking about $1 billion a minute ago, or $260 million, which is still a lot of money. But there is an estimated $8 billion to $10 billion dollars of annual fraud that occurs in the earned income tax credit program. What is the IRS doing currently to crack down on this? What is the status of your five-point initiative to improve the administration of the earned income tax credit (EITC)? And how and when does the IRS plan to determine whether the earned income tax credit pilot initiative, including the qualifying child certification filing status and income report, will be a success? Because we know a lot of people who receive the benefit do not abuse it. But we also know that there is a high rate of erroneous payments to people who should not receive it. It looks like it is a question of correlating information before you pay out, if you are double paying in areas. Do you want to respond?

Mr. EVERSON. Certainly, Senator.

Senator SHELBY. This is important.

Mr. EVERSON. It is very important. We want to make sure that everybody who qualifies for this program takes advantage of this program. That is our first objective. But the second one is, we want to, obviously, make sure that we are not paying out monies to people who legitimately do not qualify. As was indicated before, Ms. Gardiner indicated, there is some complexity in the program, so I would not want anybody to draw the impression that it is all fraud in there.

Senator SHELBY. No, it is not all fraud, but there is a lot of fraud.

Mr. EVERSON. There is a legitimate error rate that accounts for a good chunk of what you talked about. Our studies have indicated an error rate somewhere between 25 and 30 percent, which is the highest in government.

Let me draw the distinction, because your statement made reference to some things I said in my prior life over at OMB and this is something I looked at when we were there. The difference between this program and food stamps, or housing subsidies, is there is no front-end application process. In a lot of benefits programs, the government, either the Federal Government or a State entity, or somebody is going through an application process to determine whether you or I qualify for a benefit. That does not exist in the EITC. It is treated like it is embedded in the tax code. It is the largest means-tested program we have, so it is an odd animal.

Senator SHELBY. How much money, overall, is involved in the Earned Income Tax Credit?

Mr. EVERSON. Last year I believe it was about $36 billion with about 21 million filers who took advantage of the program.

Senator SHELBY. A $36 billion program and, say, 25 percent of it's more or less questionable?

Mr. EVERSON. Yes, 25 percent of it. So let me come back directly to your question. We do have the five-point program which is geared to hit those objectives, to help people participate, simplify forms. We are working on all that. We are bringing in a backlog of the old audits. The core of this though is this certification pilot. Right now we have got a certification—

EARNED INCOME TAX CREDIT CERTIFICATION PILOT

Senator SHELBY. How does that work?

Mr. EVERSON. We are asking people to demonstrate their eligibility this year at the time that they are filing for the credit, rather than getting—if they were in a high-risk category, rather than automatically getting their——

Senator SHELBY. Preapproval, in a sense?

Mr. EVERSON. It is not quite preapproval, but in lieu of getting their refund held. What would happen in the past is, they might go down a corridor where if their return looked suspect—I will give you an example where you typically might see a problem. You see the same address for a husband and wife, but they are filing as head of household and splitting their kids. That is not the right thing to do, obviously, because the presumption would be that since they are living together that it is one family. That would be something—and there are other indicators where you might end up holding the refund.

What we are doing here with this pilot group is we are looking, in a real-time basis, and asking them to complete the paperwork so that then their refund does not get held. I do not have the results for that yet. That is underway right now. My impression, and it is just an impression, is that so far, so good. But we are going to have an independent evaluation of this pilot done. We will not know until, I would tell you later in the summer, later in the year, how it has gone.

Senator SHELBY. Will you let us know how it is going?

Mr. EVERSON. Of course we will. We want to ramp this up, but only if we prove that it works and that it gets us a good answer, that it does not dampen the participation of those who qualify, and that it does the job that it is supposed to do, which is reduce the error rate.

ADDRESSING FRAUD AT ALL INCOME LEVELS

Senator SHELBY. But you can have fraud at the highest level, the richest people, and you can have big fraud, as you pointed out, in the Earned Income Tax Credit. It is our job to root it out in both places, is it not?

Mr. EVERSON. Absolutely correct. It is our job to run a balanced program. That is what I am seeking to do with this budget increase. But I do emphasize that where we start is at the high income and the corporate in the criminal area, because the basic sense of fairness of Americans is that the big guy should not get away with something here.

Senator SHELBY. Absolutely. And the little guy should not get away with it either.

Mr. EVERSON. We want everybody to be compliant.

Senator SHELBY. Both of them. Because you cannot have fraud by anybody, can you?

Mr. EVERSON. You cannot.

Senator SHELBY. Ms. Gardiner, what are your thoughts about the pilot and other initiatives in this area?

Ms. GARDINER. We have been looking at the pilot concept, the design of the original test, and it looked pretty good. We made some suggestions that in the early stages of planning for it, because they did not seem to have good measures on how they would determine whether the pilot was a success or not. They have improved that.

Senator SHELBY. Does the pilot relate to a software program that can correlate all this information?

Ms. GARDINER. No, it really is examining a sample of returns and related documentation, that would support the eligibility. So it is manual. The results could go into a database, of course.

Senator SHELBY. But this is a lot of money involved, as the Commissioner has pointed out, over time. There is a lot of money involved here in cheating. There is a lot of money involved in these fraudulent tax shelters, too.

Mr. EVERSON. Yes, sir.

Senator SHELBY. If you could cut down on both tremendously it would mean a lot of savings to the IRS. It would mean a lot more revenue, legitimate revenue coming in, would it not, sir?

TAX GAP

Mr. EVERSON. Senator, what you are getting to here is of great concern. It is what we call this tax gap. Our estimates are that this combination of non-filing, underreporting and underpayment is north of $250 billion a year. Now that number is not very precise and that is because it is based on a model that was last updated in the late 1980s, and adjusted for changes in demographics and economics. We are just now doing the research, through a new series of more in-depth audits, that will give us a basis for updating that number.

My fear is that it might well be greater than the $250 billion a year because of these shelters, the changes in behavior, and this change in compliance attitudes. So this is a serious problem, but anything that we do—and this is why I am so anxious to get the money—we help out on the deficit, we help out States, because when we get a dollar for the Federal Government, on average the blended rates across the country is that the States get 20 cents. So it is important everywhere.

Senator SHELBY. What are the current spending plans and changes the IRS has made to the Earned Income Tax Credit initiative as a result of the merger of appropriations with Tax Law Enforcement?

Mr. EVERSON. Last year we had an increase from the previous year in the EITC, and if you look at 2004 versus 2005, the spending actually goes down. It is not going to affect this program that we are talking about or our ability to do more audits, because we were making some one-time investments as we got ready to do these pilots and some of the other educational data requirements. So that number has gone down from about $201 million in 2004, to, I believe, it is $176 million. But it will not hurt our ability to move forward and do just what we were talking about.

FUEL TAX EVASION

Senator SHELBY. Mr. Commissioner, part of my duties as an appropriator of this subcommittee is transportation, as you know. Fuel tax fraud creates a drain on the Highway Trust Fund revenues which the Federal Highway Administration estimates could cost at least $1 billion a year. In testimony before this subcommittee, the Secretary of the Department of Transportation, Secretary Mineta, stated that he was not satisfied with the IRS's effort to combat evasion of Federal motor fuel taxes.

Mr. Commissioner, does the IRS agree with the Federal Highway Administration's estimate of the loss; in other words, a loss of $1 billion or more, from the fuel tax?

Mr. EVERSON. I have not looked at that specific number.

Senator SHELBY. Can you furnish that information?

Mr. EVERSON. I have no reason to challenge it. I understand that there is a legislative fix pending that would actually provide the Service more resources to go after this important area. When I was recently traveling, I went to a fuel depot, a tank farm, and saw the testing procedures we have. This is a big issue, and it comes down to fairness again. If the fellow who is running a gas station sees the guy across the corner mixing his fuels, he has got a competitive advantage that is not fair. So we need to do more. I am hopeful that the fix that I have talked about will get the extra agents to keep on this issue.

Senator SHELBY. Will that be a collaborative effort with the States?

Mr. EVERSON. I think that is more our own area. I could be wrong about that, but I believe—these are our folks that do the work themselves, and the fellows I met were just Service employees.

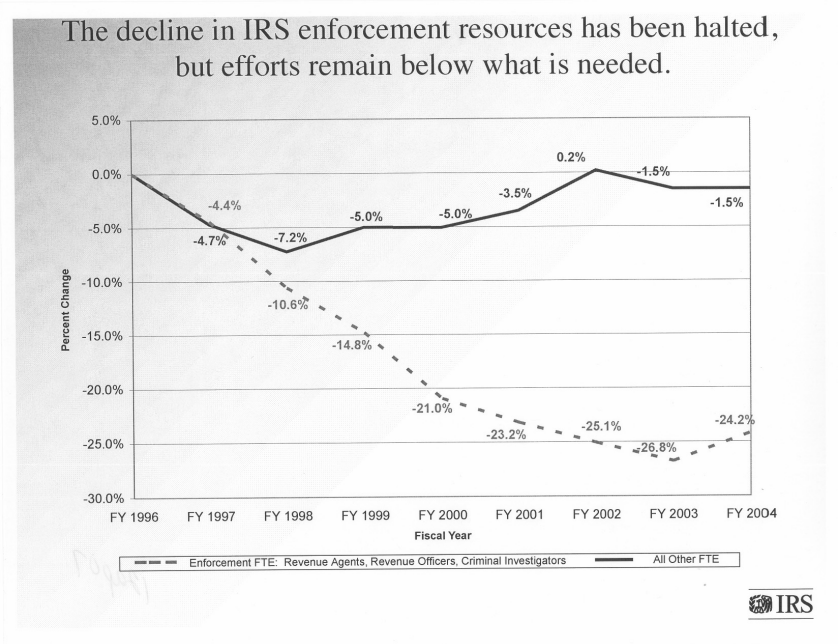
Senator SHELBY. It is still a lot of money involved.

Mr. EVERSON. It is a lot of money and it goes into, again, business fraud. We need to be attentive, not just to individuals, but to the businesses here.

WORKFORCE REALIGNMENT

Senator SHELBY. Mr. Commissioner, following the IRS's reform legislation of 1998, the IRS realigned significant levels of resources out of tax enforcement and compliance activities to customer service, telephone assistance, and submission processing activities. How do your fiscal 2005 realignment proposals and new funding initiatives compare to the pre-reform legislation levels for the tax enforcement and compliance programs?

Mr. EVERSON. Maybe I could show a chart on that.



This just shows you what happens. I am not quibbling with RRA 1998. I want to be clear about that. The reforms that were contemplated were necessary to improve services. We were not doing everything we needed to do on service. I want to be clear about that. But as the IRS worked in a single-minded fashion to improve services—these are our service and infrastructure personnel—it kept those resources stable and invested in phone services, restructured the agency, did a lot of things to get things better.

But what fell out was a decline in enforcement. This red dotted line represents FTEs as dollars turned into bodies for revenue agents, people who do audits, revenue officers, people who collect monies due, and criminal investigators. Over a period of time they fell by over a quarter.

Now we have turned that back in 2004, as I indicated to you, by absorbing some of the shortfalls in congressional spending. Last year, you know we ended up $250 million short at the end of the

day, plus the pay raise, plus the child credit; a series of factors. But for the first time what we did was, for this year, forced an allocation of these cuts in a way that protected enforcement, the enforcement initiative.

We will bring this back further. There will be another several thousand FTEs that we will get through the 2005 increment and about 4,000 positions. So this will make a difference in 2005. It does not bring us all the way back.

Senator SHELBY. It is progress, though.

Mr. EVERSON. My commitment to the Secretary and to Josh Bolten at OMB is we will look at this on an ongoing basis to see that we run a balanced system. We are also improving our processes so that we get more leverage. You do not always have to have more money, but in this case we felt that we needed the money to improve our processes.

IRS SERVICE AND STAFFING LEVELS

Senator SHELBY. Mr. Commissioner, does your fiscal year 2005 request reflect a belief on your part that sufficient service and staffing levels have been achieved for the customer service and processing program areas?

Mr. EVERSON. As a general rule, I would suggest that I would like to continue to maintain and improve services with a relatively stable resource commitment on the service. We are near inflation, if you look at what we have got in the 2005 request. I think that is appropriate.

We need to challenge our people to get the same kind of productivity gains that you get in the private sector. That sometimes results in some painful adjustments in the workforce. You probably read of some of the actions we are taking. But I believe that it is difficult for me to come and ask you for money in this resource-starved environment, and time of deficits, if I have not done everything I can to run the agency efficiently. So we are asking our people to look at that productivity, and I think that we can continue to run our services and improve them at a relatively stable investment level.

TAX LAW ENFORCEMENT FUNDING

Senator SHELBY. Has the IRS invested all the resources appropriated by the Congress in recent years for tax law enforcement or have some of the new resources been reallocated to other areas?

Mr. EVERSON. No, this is what we were just saying. The standing rule until I got here was that when there was a shortfall you took it out of enforcement to protect services. I have reversed that.

Senator SHELBY. That would be a mistake.

Mr. EVERSON. I am not in the business of challenging the past. I am not sure there was a great deal of choice, given the overall environment and the absolute imperative to improve services. But, clearly, now we need to rebuild the enforcement side and that is what I have started to do in the last year and I am asking your support for going down the road.

Senator SHELBY. Mr. Commissioner, why has the IRS been unable, if this is true, to hire the revenue agents and revenue officers requested and funded in prior fiscal years? Is this about not com-

peting in the market? Is there not enough money to hire people? Are the salaries too low or what?

Mr. EVERSON. It has been, I would tell you, primarily a funding question. It is dependent, obviously, on the overall economy and the desirability of Federal employment. Right now we are doing very well, as we look at this enforcement build. We are very pleased with the caliber and the interest we are getting. We are doing some creative things.

Senator SHELBY. But you cannot do it overnight, can you?

Mr. EVERSON. You cannot. This is why it is so important to get strong, continued support from you and your colleagues because what the IRS did, it stopped and started on its hiring. You do not develop a relationship with a good university to draw in accountants if you are there once and then you do not come back for 7 years. You have got to be there every year, develop a reputation as a good employer and then you get good people.

Senator SHELBY. Continuity is important.

Mr. EVERSON. Continuity is important, and I think that we will be able to address demographics. The only other thing I would say on this is: in the group that works with our large and mid-size businesses, corporations over $10 million in assets, for the first time we are hiring outside the IRS from mid-career people; folks who have been 10, 15 years at companies or accounting firms. This is a good, helpful thing too, because as you know, people in America, they do not tend to stay with the same employer for their whole career any more. Why shouldn't we in the government be able to take advantage of that a little bit too?

Senator SHELBY. I think you can and you are.

RETURN ON ENFORCEMENT INVESTMENT

What benefits does the IRS expect to derive from the additional $300 million that you have requested for 2005 in tax law enforcement?

Mr. EVERSON. As we have looked at this, we think will get about a 6 to 1 return. That is a blended return in terms of the dollars that we are asking for. It will increase audit rates. Let me just give you one example.

We will increase the penetration on corporations, largely mid-size corporations where we are not very active, from 7 percent up to 13 percent. That is one area where we do not have adequate coverage, in my opinion, right now. This will get us more dollars, and it will also then have a derivative effect on behaviors.

Same thing, we are going to be adding 350 special agents, plus support staff, to go after the crooks. Across the board there will—the chart that I showed before, for the first time in many years we will be adding to our agents in the tax-exempt area so they can look at these charities that have problems.

Senator SHELBY. Ms. Gardiner, is the IRS headed in the right direction, and can the Service execute the plan to improve the tax law enforcement without jeopardizing advances in taxpayer service? In other words, how do you balance that?

Ms. GARDINER. I believe they are, because the areas in customer service where we find deficiencies rarely have anything to do with resources anymore. I would say several years ago that that was a

problem. But now the phones are being answered, there are people available, the wait times are less than an hour. So there are people available to provide the customer service, so I would agree with the Commissioner's conclusion that keeping a steady resource level there is appropriate.

On the flip side, with enforcement, clearly, the volume and complexity of returns is growing. Those resources have declined. I share the Commissioner's concern that the average American's perception has grown that you can cheat on your tax returns. That needs to be addressed, so I think it is the appropriate thing to increase enforcement.

RESOURCES FOR TAX ADMINISTRATION

Senator SHELBY. Mr. Commissioner, in recent testimony on Capitol Hill, you indicated that Congress has not provided you with the resources you need to meet your tax administration responsibilities. A review of your request by the subcommittee and independently confirmed by the General Accounting Office (GAO) shows that at least 98 percent, not all, but 98 percent, of the request has been funded. The GAO has estimated that even if this Subcommittee on Appropriations gives you every dime of your enforcement request, the IRS would have already spent at least one-third of any increase on unbudgeted expenses. Is this correct, or is the GAO wrong?

Mr. EVERSON. The figure that we have overall is that—you know this. We are not the kind of agency that gets topped up in the appropriations process. If you look back over a 10-year period, the average shortfall to the President's request, that could be President Bush or President Clinton, is about 3 percent. Now last year's shortfall was $250 million. Now that has got a bunch of things in it. It has got things that you do here in the subcommittee or the full committee, and then it has got the overall, end-of-the-day rescissions that go across-the-board.

That gets compounded further by a gap. Seventy percent of our costs are in the pay area. So that if the administration proposes a civilian pay raise at one level and the Congress funds it more generously, then of course we do have an additional handicap.

What I would suggest to you, Senator, is I very much want 100 percent of the President's request. If we end up in a situation where there are issues like that I think it is reasonable for me to challenge my organization to find those levels.

What happens is, if you work to absorb 1 percent or 2 percent and then you get further whacked by another 2 percent or 3 percent, then it gets a lot harder to redress some of the problems you have got.

Senator SHELBY. To do your job.

Mr. EVERSON. To do the job, yes, sir.

COMMITMENT TO ENFORCEMENT FUNDING

Senator SHELBY. Mr. Commissioner, would you commit to this Subcommittee on Appropriations that any enforcement resources that we allocate to you will be used for the purpose it was appropriated for? In other words, for the enforcement initiatives which you have been pushing?

Mr. EVERSON. Yes, sir, I will. The only exception I would give you is that if this problem you just talked about was so severe that if I had to take cuts, I will take them. I commit to you that I will take them across-the-board. I would take them at the service side, infrastructure, and I might have to touch some of the enforcement base. But we will make this build, the new programs on enforcement, we will do.

DELINQUENT TAX INVENTORY

Senator SHELBY. Every year the IRS fails to collect billions in delinquent tax obligations. What headway will the IRS make in curbing the growing delinquent tax inventory that exists? Do you anticipate another large write-off of delinquent taxes as was the case last year?

Mr. EVERSON. Collections are an important element of this enforcement build. The revenue officers that I mentioned, those are the folks that actually go out and work to collect the dollars owed. We will add many collection officers through this.

The other thing you may be familiar with that is important to us, is pending legislation to get private collection agencies to do some of the work here. This is somewhat more controversial, but frankly, over 40 States have this, in terms of their own tax programs. We will run this with full protection of taxpayer rights.

Senator SHELBY. But collection agencies would help you collect money that is owed to the government.

Mr. EVERSON. Absolutely, and what it will enable us to do, sir, is focus on the more complicated matters, the ones—there was a hearing up here not too long ago on monies owed by defense contractors that we are not fully getting after. This initiative will enable us to work on things like that, if we have relatively more simple matters being attended to by some of the private collection agencies.

Senator SHELBY. Ms. Gardiner, has your office, the Treasury Inspector General for Tax Administration, reviewed the efforts of the IRS to collect outstanding tax debts? Would you comment on the proposal to improve the collection case management?

Ms. GARDINER. We actually did an audit some time ago of the original pilot for using outside contractors, and then we looked at what IRS was proposing in this newer effort and believe it is an appropriate effort. I would guess that if IRS is not going to get the money to collect it themselves then we do believe that using outside debt collection agencies is a good move.

Our only concern there would be that IRS still would need a sufficient level of staffing themselves to provide proper oversight, because it would be a little tricky in terms of just monitoring the accounts that are turned over to the private collection agencies, ensuring that they do the work appropriately, protect taxpayers' rights, and those issues.

WORKFORCE REALIGNMENT

Senator SHELBY. Mr. Commissioner, you announced a realignment of your workforce in January. You also expect savings from a related initiative to close some facilities, such as the Brookhaven

service center. How much do you expect to save from these cost-reduction efforts?

Mr. EVERSON. Through a variety of programs, Senator, we would expect to save over $100 million on an annual basis. What these actions do is enable us to free up a couple thousand folks that would work on the enforcement side of the house. A lot of this is due to the tremendous success we have in electronic filing. As electronic filing increases—it was 53 million last year, up again 12 percent so far this year—you obviously do not need as many people opening the mail and doing the data entry.

At the same time what we are doing is consolidating some of our processing operations where after we realigned the Service around four lines of business, we did not fully realign all of the support efforts, which a business would have done. Some of this is consolidation of activities, administrative activities that businesses did 10 and 20 years ago. We are doing this because—I think, again, it goes back to our earlier dialogue—it is responsible that we be as efficient as possible.

Senator SHELBY. Ms. Gardiner, how likely are the anticipated savings the IRS is talking about to materialize?

Ms. GARDINER. Some things are tied to you just working smarter, not harder. The National Research Program is an example of that. As IRS can devote its resources, the limited resources in a smarter way, then they really should have savings. Modernization should bring about savings too.

For these particular efforts, we would have to look into them to see if the savings actually materialized.

TAX LAW ACCURACY

Senator SHELBY. The TIGTA testimony indicates that the telephone access rate for the IRS is steadily increasing. At the same time, the accuracy rate on tax law questions declined to 73 percent. Do you have a plan to bring that rate up? Does the telephone staff receive enough training? Are there specific questions that should not be answered by the telephone staff? How do you work all that?

Mr. EVERSON. This comes back, Senator, to the conversation we had a little while ago about how we are continually trying to improve tax law accuracy both at the phones and also for the walk-in centers. It comes down to training. We did some things, as I mentioned, earlier this year that we believe in the long term will actually increase the accuracy rate, but because of training some people who had been working on the accounts side of it, and rewriting the scripts, there was a short-term degradation and the accuracy went down about 6 percent.

Our figures are just a little bit different from TIGTA's, but they are basically consistent. They do show that decline. I think over time they will get better. We assess this on a weekly basis. We have real-time monitoring of conversations where supervisors are sitting in and listening randomly to the workers' calls. So we are continually trying to improve this.

But again, work on the simplification; it will help us too.

BUSINESS SYSTEMS MODERNIZATION

Senator SHELBY. On the subject of modernization, the Congress has appropriated approximately $1.7 billion for the Business Systems Modernization (BSM) program. The IRS has requested an additional $285 million in this year's fiscal year 2005 submission. This substantial investment is on top of almost $4 billion we provided and was lost by BSM's predecessor, TSM. The investment in TSM was a total loss. That was before your time, I have to say that to both of you. After serving a year as Commissioner of the IRS, what is your assessment on the progress of BSM at this time?

Mr. EVERSON. This is a very important question. I established three themes, as I testified before the Finance Committee before my confirmation, and I continue to believe that they are the correct themes. They are to continue to improve service and implement the reorganization that former Commissioner Rossotti and his team did a splendid job on before I got here. They are to augment the enforcement efforts, as we have been discussing. But it is also to successfully execute the modernization of the IRS. That is fundamental to achieving the first two. We will not be able to continue to improve service and help taxpayers, we will not be able to enforce the law adequately, if we do not modernize the IRS. So it is terribly important.

After I arrived, we commissioned a series of studies last summer to look at this basket of projects. I would say to you that, first of all, it is not all bad news. I give the Service a mixed grade here. There are many successes. It is true, some of them have cost more than they should have. As a taxpayer, you can check the status of your refund on the Internet, and you can file electronically. Practitioners now can get employer identification numbers. There is a whole suite of products where I would suggest to you the IRS has improved its services to the taxpayer—I would be hard-pressed to find another government agency that has made the dramatic leaps that we have made largely through technology. So that is a lot of good news.

Where we have failed, though, is on these big ticket projects, like CADE that you discussed, that are at the core of our master files. Or also another one that you did not mention—

Senator SHELBY. We cannot afford to fail this time.

Mr. EVERSON. We cannot afford to fail. The other one was the financial system we have been struggling to put in.

These studies indicated three problems. The first was that the IRS business units did not have adequate ownership of the projects. They were running as independent technical solutions, so that the businesses were not involved in setting specifications or the testing and development schedules.

The second observation was we were trying to do too much. GAO had said this, and as we studied this I concurred with all those observations.

The third was that we were getting uneven performance from the vendor. We are working on each of these. We have got the business units much more involved. They are participating every step of the way. We have resized the portfolio, as you indicated. I am comfortable with this. It will provide more focus. I believe in the long

run we will actually get more done because as we change our work processes and hold people accountable to get things done, I think we will actually move faster.

We are working with the contractor. I meet with the president and chief operating officer of CSC—a big company, Computer Sciences Corporation runs the consortium—every month and we go over the deliverables. We will see. Later this summer we will have that long-delayed first step of CADE, which works on a section of the 1040EZ filers. The feedback I am getting is pretty optimistic at this stage. It is not done till it is done. And the same thing is true on the financial system. I will report back to you. We will know for sure what is happening here.

Just to close I would say, we have held the contractor accountable in a way that I would say is fairly unusual in government. I sent a letter after they missed their last deadline and I said, look, for the next big piece of work we are going to do, which is a filing and payment compliance system, we are going to not automatically award that to this PRIME alliance. We are going to open it up to competition. That is a strong statement, very strong statement because it hurts them financially, and I think it got their attention.

Senator SHELBY. When do you expect BSM to be completed?

Mr. EVERSON. I will have to get back to you on that. That is a big, complicated project.

Senator SHELBY. It is an important question.

Mr. EVERSON. It is important. I think we will have a much better idea as we adjust our programs here. If we are successful with CADE, this first section of CADE, I will tell you that in about a year we will have a better capability of giving you a longer term projection.

[The information follows:]

The hallmark application of the Business Systems Modernization Program (BSM) is the Customer Account Data Engine (CADE), which is the application we are building to eventually replace the existing Individual Master File (IMF) and the Business Master File (BMF). CADE is now in service and handling its first filing season. Currently CADE is only handling a subset of Form 1040EZ filers, with the expectation that it will process approximately 1.9 million returns this calendar year. Our plans for CADE are now set for the next 2 years, with the expectation that CADE will handle 33 million returns in calendar year 2007. It is not possible, however, for us to predict when CADE will be fully implemented, since timing is based on a variety of unknown factors, including BSM funding levels, insertion of new technology to improve development productivity on CADE, and policy decisions regarding the extent to which CADE will need to handle returns from prior years. As a point of comparison, former Commissioner Charles Rossotti stated that he expected BSM implementation to last 10 years. Progress anticipated in the first 4 years of the project, however, fell far short of our goals for reasons that we have publicly stated. In addition, we based that plan on extremely robust funding levels for fiscal year 2005 and fiscal year 2006. Because of steps we have taken to streamline and focus the work we are doing on BSM, we requested and received lower funding levels than Commissioner Rossotti anticipated when he provided his estimate.

Additionally, given the size and complexity of the IRS's IT assets, modernization must be an ongoing endeavor. Modernization programs at the IRS have been difficult, mainly due to the fact that we did not have a program of continual modernization of its IT assets. This deficiency has led to a situation of increasingly antiquated software applications that are not well documented, are difficult to maintain and upgrade, and are difficult with which to interface. Given that the heart of our IT efforts is to increase the effectiveness and efficiency of tax administration, modernization will always be an ongoing activity at the IRS.

RESOURCES NECESSARY TO COMPLETE MODERNIZATION

Senator SHELBY. Ms. Gardiner, I want to ask you a few of these questions since you are the Inspector General. How much more is needed to complete this effort to modernize the IRS's outdated systems and processes? And how is the IRS's 2005 budget request consistent with that vision?

Ms. GARDINER. As far as what is needed, the estimates are that it would be $7 billion to complete the whole——

Senator SHELBY. Say it again.

Ms. GARDINER. Seven billion dollars to complete the whole effort, and those are the estimates.

Senator SHELBY. How many years?

Ms. GARDINER. A total of 15, and I believe that includes the 6 that have already passed.

Senator SHELBY. That is a continuous modernization.

Ms. GARDINER. Correct. Even with that, I am not sure that you will ever get to a point where you will say, okay, we are all done and we do not have to spend—you know, there will be upgrades and changes as time goes on.

Senator SHELBY. You will have to continue to do that to keep up.

Ms. GARDINER. But I agree with the Commissioner that getting CADE, the first release accomplished, that has to occur before you can make any projections on anything else.

Senator SHELBY. When do you think that will be?

Ms. GARDINER. I think everybody is giving it about 60 to 70 percent odds that the first part will be rolled out this year in August.

Senator SHELBY. What do you think? You said everybody.

Mr. EVERSON. I am interested in this answer.

Ms. GARDINER. Actually I could answer it for IFS. I am not as sure for CADE.

Senator SHELBY. Give me your best judgment.

Ms. GARDINER. It does appear that the testing and everything is going well. Certainly, the contractor is on notice that they need to do this. I would say it is probably a very good bet that in August they will be——

Senator SHELBY. Who is the main contractor here?

Ms. GARDINER. CSC is the one that is overseeing the whole effort.

Senator SHELBY. What about the total cost overruns so far on this project? Does that bother you, Ms. Gardiner? You are the Inspector General.

Ms. GARDINER. It does. We have been making recommendations for the past 2 years that we think have all been incorporated in these recent studies too, which is good, that it has validated what we have said and I think that that is getting the attention of Treasury and IRS and others. Some of the cost overruns were changing requirements. These projects are hard projects. They are totally new, and they are huge and complex. It would be one thing if you were just starting today to say, okay, let us create a master file. But the problem is they have to interface and talk to the old system. That is the biggest piece——

Senator SHELBY. Plus, you are doing business every day as you are doing this.

Ms. GARDINER. That is right.

Mr. EVERSON. Let me just expand, if I could, for a second on that last remark. This tie back to the legacy systems is very difficult because the IRS did a lousy job over a period of decades of keeping documentation of all the multitude of changes it made to the systems each year when the tax code would change. So when people have done the work, they developed a road map, but then all of a sudden when they get into doing the work they find it is much, much more complicated than they had contemplated. That, together with governance issues, too many changes in overall requirements, they all contributed to a very bad cocktail, I would suggest.

BSM COST OVERRUNS

Senator SHELBY. How much money are we talking about in overruns, hundreds of millions of dollars?

Ms. GARDINER. I would have to get back to you on that. We do know that information and we keep track of it.

[The information follows:]

Through BSM spend plans, the IRS requests funding for program level activities (e.g. MITRE Corporation assistance, PRIME Program Management Office, etc.) and modernization projects (e.g. Infrastructure Shared Services (ISS), Customer Account Data Engine (CADE), etc.). As of February 2002, we determined that 20 BSM projects had experienced costs increases of approximately $75 million.[1]

At the time of our analysis, the majority of the projects were in the planning phases. IRS officials responded that the reliability of costs estimates for the development and deployment phases would be much greater than that for the planning phases. This belief has not proven to be true. Most projects have now moved into the development and deployment phases and cost increases have risen, partially due to the fact that projects require more funds during the development and deployments phases.

The GAO testified in February 2004 that the IRS had experienced cost variances of approximately $290 million for 10 completed or ongoing projects.[2] The chart below is reprinted from the most recent data available (GAO testimony).

Project Name	Cost Variance (In Thousands)	Reported/Revised Estimated Cost (In Thousands)
Completed Projects:		
Security and Technology Infrastructure Release 1	+$7,553	$41,287
Customer Communications 2001	+5,310	46,420
Customer Relationship Management Exam	−1,938	7,375
Human Resources Connect Release 1	+200	10,200
Internet Refund/Fact Of Filing	+12,923	26,432
Ongoing Projects (as of 09/30/2003):		
Modernized e-File	+17,057	46,303
e-Services	+86,236	130,281
CADE Release 1	+36,760	97,905
Integrated Financial System Release 1	+53,916	153,786
Custodial Accounting Project Release 1	+72,058	119,219
TOTAL	+290,075	.....

Senator SHELBY. Mr. Commissioner, we hold the American taxpayers to a high standard: file your return by April 15 or face stiff penalties and interest payments. Why should we not hold the IRS

[1] Analysis of Business Systems Modernization Cost, Schedule, and Functionality Performance (Reference Number 2003–20–007, dated October 2003).

[2] Business Systems Modernization: Internal Revenue Service Needs to Further Strengthen Program Management (GAO–04–438T, dated February 2004).

acquisition process and the Service's contractor to a similar standard and enforce penalties when deadlines are missed and costs are increased? Ms. Gardiner, what steps have been taken or would you recommend that the IRS take to improve acquisition and management and discipline?

Ms. GARDINER. We actually have suggested that disincentives, or penalties so to speak, are built into contracts and that has not been looked on that favorably by the Service.

Senator SHELBY. Who has not looked on it favorably? I know the contractors never look on it favorably.

Ms. GARDINER. IRS as well. The folks that do the contracting have not really accepted those types of recommendations. They have accepted another, and that is that we have recommended early on that IRS use firm fixed-price contracts as often as possible. When we looked at it in the first year they were used very infrequently, and now they are using them more. So that puts the burden on the contractor and we think that certainly is a step in the right direction.

Mr. EVERSON. If I could, the other thing I would note on this is—after the contractor missed this deadline on the financial system, I did take that action of saying, we will open this up to competition for the next enforcement module. That is a very strong action because they contemplated, they had built their——

Senator SHELBY. That is a strong message.

Mr. EVERSON. They built their business on a projection of how much work they were going to get over a period of years, and I just said, wait a minute, you have just potentially lost this piece of work. They can compete for it, but it is very different. I have run businesses, and when you have a 100 percent account, that is different than running an account where there are other players in there. So that is a strong statement.

I have also communicated that these upcoming deliverables for CADE and IFS are critical to the maintenance of our continued relationship. So I think the stakes are very clear at this point.

BSM MANAGEMENT

Senator SHELBY. Good. Mr. Commissioner, what is the IRS's plan and schedule for fully implementing and institutionalizing all management processes and controls needed to effectively manage the BSM program? I know that is a big job.

Mr. EVERSON. This goes back to the point a few minutes ago of first and foremost getting an overall business sensitivity to this project. After I arrived at the Service I created a second deputy. It follows a model that we put in over at Homeland where we consolidated all of the support functions, CFO, CIO, human resources, in our case, mission assurance, which is security. We have cyber-security and physical security, people security, all of that, plus facilities management under one individual. He was our senior career official—came out of the business units—so that we would get proper attention to the long-term needs of the Service in our functions including the CIO function. I appointed our CFO, moved him over to be the CIO, to shake this up and to make sure that we are addressing this on a long-term basis.

I would suggest to you that—you mentioned earlier the $4 billion that had been squandered in the early 1990s. One of the reactions to that was the way this BSM project was done, perhaps too much was actually given to the PRIME alliance. We are taking a careful look at where we need to augment our own skills. It comes back to what Ms. Gardiner was saying before, it does not do us any good to just have contractors if you do not have enough people inside who are monitoring and working and understanding. So we are looking at that as well.

Senator SHELBY. Ms. Gardiner, do you view BSM's current problems as resource related, management related, or both?

Ms. GARDINER. One of the big, broad issues was just matching the capability in-house with the portfolio of projects. That would be somewhat resource related because they tried to take on more than they really could. But I would say probably the bigger part is management. Things like, if your process says that you are going to clearly define requirements and you are going to follow certain steps before you go to the next stage of the project, that you have to stick with that, and that has been a problem. Or for testing, in order to move the project on to the next stage the same thing applies, that you have to test and make sure that defects are identified and fixed, and they really have had some problems with that. But they do recognize those problems and are addressing them.

Senator SHELBY. As far as modernization is concerned, we both noted that $4 billion was lost, squandered or misused. Could you assure this subcommittee that your current refocus can put the program back on track so it will not go the way of TSM? That is important. In other words, we do not want it to go the way of TSM. TSM money was squandered or wasted, and it was $4 billion.

Mr. EVERSON. Senator, I can tell you that this is getting a lot of my attention. I am doing my level best to make sure it is being done responsibly, and we will reach a very real decision point. If this first piece of CADE and the financial system do not roll out correctly now, I will have to very seriously reassess it because we would run the risk of going down that corridor. I do not expect that will be the case, but we are not home free until we make sure we get that far. I give you my commitment that this will not leave my attention.

CUSTOMER ACCOUNT DATA ENGINE

Senator SHELBY. The Customer Account Data Engine (CADE), is the first major component of BSM and will replace the IRS's Master Files with a modern database management system. That is the goal. It will serve as the foundation for the rest of the BSM initiative. Thus far, the delivery of the first of CADE's five phases—I believe there are five phases—has already been delayed by at least 3 years. I think it has gotten off to a poor start. When will CADE be delivered, if you can say within some time frame? The first phase?

Mr. EVERSON. It is our expectation that this first phase will be delivered this summer. So far the testing is proceeding according to plan.

Senator SHELBY. How much will CADE cost over the original estimate?

Mr. EVERSON. I would want to respond for the record. It is many tens of millions of dollars. There are functions of complexity, also delay that have contributed to that problem.

Senator SHELBY. Do you have a figure on that, Ms. Gardiner?

Ms. GARDINER. No.

Senator SHELBY. Can you give us a figure for the record?

Mr. EVERSON. We will certainly do that. Let me say this though, we have just recently negotiated a cap on what this first module will cost, and that is responsive to what Ms. Gardiner was saying a few minutes ago about a change in philosophy in the last months that we have brought in, and we have worked very well with the vendor to do that. So that protects the Government's interest a lot more.

[The information follows:]

While we do not have current cost figures from the Automated Financial System (AFS) for the CADE, the following chart represents the funding that has been requested and received for the CADE project (all releases).

BSM Spend Plan	Amount Requested	Amount Received
Spend Plan #1	$3,500,322	$3,500,322
Emergency Funding Release #1	1,616,000	1,616,000
Spend Plan #2	15,312,000	15,312,000
Emergency Funding Release #2	1,400,000	1,400,000
Spend Plan #3	.....	.....
Spend Plan #4	40,038,000	40,038,000
Spend Plan #5	53,974,000	53,974,000
Spend Plan #6	27,683,000	27,683,000
Spend Plan #7	62,800,000	62,800,000
TOTAL	[1] 206,323,322	[1] 206,323,322

[1] This amount includes $15,574,000 that was requested in spend plan 5, but never spent on the CADE.

As shown in the response to Question 1, the CADE Release 1 has experienced a $36,760,000 cost variance.

Future releases of the CADE have also experienced cost variances of $25,723,000. Please see the table below.

Release or Activity	Amount Originally Requested	Current Estimate (As of September 2003)	Variance
Release 2	$38,400,000	$44,755,000	$6,355,000
Business Rules Management (Phase 1)	.....	8,300,000	8,300,000
Business Rules Management (Phase 2)	17,000,000	17,000,000	.....
Release 3	9,779,000	20,837,000	11,058,000
TOTAL	.....	.....	25,713,000

According to the CADE Baseline Business Case from March 2001, the overall estimated cost of CADE is $982 million over its life cycle.

CADE COST OVERRUN (FROM THE ORIGINAL ESTIMATE)

The description below explains the costs that GAO reported in their Audit of the fiscal year 2004 Expenditure Plan:

(1) Design work from September 2000 to July 2001:

—$15.3 million.—Initial estimate in March 2000 Expenditure Plan;

—$19.3 million.—Actual cost;

—$4.0 million.—Variance due to design period being extended by 3 months to add detail in some areas and to bridge to Development.

(2) Development work from July 2001 to March 2004:

—$40.0 million.—Initial estimate in March 2001 Expenditure Plan;

—$53.6 million.—Actual cost;

—$13.6 million.—A 2-month extension for a pilot using real tax returns (cost of $5.3 million) and the addition of capacity at the Martinsburg Computing Center to support Development and Testing (cost of $4.0 million) created $9.3 million of this variance. We incurred the cost of the delays outlined below, creating the remaining variance of $4.3 million.

(3) Cost impact of 2-year delay in delivering CADE:

—$2.4 million.—Hiring of non-PRIME contractors to support our IRS testing;

—$1.9 million.—Establishing a CADE Program Office (work to build an organizational framework to support multiple CADE releases simultaneously);

—$18.0 million.—Cost to apply tax law and other changes for 2003 and 2004 filing season.

These costs do not reflect any changes since the GAO audit of the fiscal year 2004 Expenditure Plan.

IRS ACTIONS IN REGARD TO THE PRIME

Senator SHELBY. Let me ask you a tough question. What steps will the IRS take, Mr. Commissioner, if the PRIME contractor fails to deliver?

Mr. EVERSON. I have made it very clear through the action to date——

Senator SHELBY. You are on top of them.

Mr. EVERSON [continuing]. That we will hold them accountable. And I have also said that we will have to reassess the very continuance of the relationship if we cannot do what we have said we will do.

Senator SHELBY. You would change that if the effort continues to flounder?

Mr. EVERSON. We will have to consider that, absolutely.

Senator SHELBY. Would you change if you thought you needed to?

Mr. EVERSON. I retain that latitude, yes.

Senator SHELBY. What is your view, Ms. Gardiner, for the slowness of this program?

Ms. GARDINER. I think some of it, as I mentioned, it certainly is complex. It is unique.

Senator SHELBY. It is complex.

Ms. GARDINER. But I do think a big part of it too is just the whole cost and scheduling process was flawed. It gave much more optimistic deadlines than it should have in the first place, so it caused people's expectations to be higher than they should have been.

For example, even just in simple segments of it for testing, they were so optimistic and they did not build in time for recovery in terms of if certain defects occurred, or there were failures, to fix those and then to start over again. So to some degree it is that, and then the rest is that it is very complex, and then also changing requirements. So I think everybody is disappointed, and we are too, as far as how long it is taking.

Senator SHELBY. But your modernization program is essential.

Mr. EVERSON. We cannot back away from this effort. We have to do it. We have got aging technology right now and we have got an aging workforce. I liken this, as I have said before, to the movie "Space Cowboys", if you ever saw that, where they send Clint Eastwood out into outer space because they have got these old guys who are the only ones who understand the technology. We have a bunch of people who want to retire, but they are still helping us

because we have got 1960s and 1970s technology that we are running. We cannot keep doing that forever.

PERFORMANCE OF THE CONTRACTOR

Senator SHELBY. Do you believe that the contractor is up to the challenge here? This is a very complex undertaking, but it has to be done. You are spending a lot of money here to modernize the IRS, which we think is important.

Mr. EVERSON. I feel that I have seen an improvement in the attitude and the work that is being done in the year that I have been involved with the Service, and I very much appreciate the leadership of Mike Laphen, is the president of the company. He has been in my office once a month. That is quite a devotion of resources for someone who is running, I think it is a $13 billion business. We have got a relationship that I believe is starting to improve. We had to let it all out, if you will. There had to be this accountability of what most recently happened. So I am cautiously optimistic that they can do this.

Senator SHELBY. But you are also guarded because you know what happened to $4 billion with TSM.

Mr. EVERSON. This is the old Ronald Reagan, "trust but verify", attitude.

Senator SHELBY. We hope you will, and we wish you every success, and we will continue to help you.

Mr. EVERSON. Thank you, sir.

ADDITIONAL PREPARED STATEMENT

Senator SHELBY. The subcommittee has received a statement from the Internal Revenue Service Oversight Board which will be included in the record.

[The statement follows:]

PREPARED STATEMENT OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD

INTRODUCTION

The IRS Oversight Board thanks the Chairman for the opportunity to submit this statement to the Subcommittee on Transportation/Treasury and General Government of the Committee on Appropriations. The Internal Revenue Service (IRS) Oversight Board is required by 26 U.S.C. Section 7802(d) to review and approve the budget request prepared by the IRS, submit a request to Treasury, and ensure that the approved budget supports the annual and long-range strategic plans of the IRS.

This year, the IRS drafted a special report presenting its recommended fiscal year 2005 IRS budget, comparing it to the administration's request, and explaining why the Board believes its recommended budget is needed to support the annual and long-term needs of the IRS. This statement discusses that report. The complete version is available on the Board's website at www.irsoversightboard.treas.gov and the Board asks that this report be entered into the record as well.

THE IRS OVERSIGHT BOARD BUDGET RECOMMENDATION

The IRS budget is more than dollars and cents. It represents the choices that we as a Nation make about the future of our tax administration system and how we help over 100 million American taxpayers deal with an increasingly complex tax code while ensuring that everyone pays his or her fair share of taxes.

The IRS Oversight Board acknowledges that the IRS's budget has increased in each year of President Bush's Administration, and that the administration's request for fiscal year 2005 is significant against other non-defense, non-homeland security discretionary funding. That commitment is commendable, and the Board recognizes and thanks Secretary Snow for his efforts, especially at a time when the Nation must balance many important and competing priorities.

However, the Board believes that now is a critical time for our tax system to be strengthened, not merely maintained at current levels. Enforcement activities are still at unacceptable levels. Our Nation's tax gap is estimated at $311 billion,[1] leaving billions of dollars on the table simply because the IRS does not have the resources to do its job.[2]

The Board's own research shows that each year, more Americans believe it is acceptable to cheat on their taxes. At the same time, our already complex tax code continues to be a changing, tangled mystery to most honest taxpayers—and an asset to those intent on skirting the law. Every effort must be made to provide quality service to honest taxpayers who want to comply with the law.

In crafting its fiscal year 2005 budget for the IRS, the Board addressed these concerns head on by reinvesting in the IRS to produce tangible benefits and results for America's taxpayers and our Nation. It is a sensible and pragmatic budget that reflects the real world in which the IRS must operate and be funded.

The Board recommends a 10 percent increase in funding from fiscal year 2004 to $11.204 billion, with a significant increase of 3,315 full-time equivalents (FTEs) to boost enforcement efforts. If enacted, the Board's budget would increase our Nation's revenue by approximately $5 billion each year once the IRS has hired and trained additional enforcement personnel.[3]

Under the Board's budget, the IRS would have the additional resources to:

—Close over an additional 1,000 cases involving high risk/high-income taxpayers and promoters who avoid paying income taxes by using offshore credit cards and abusive trusts and shelters.

—Boost audit rates by 42 percent from fiscal year 2004 to examine companies that use aggressive tax avoidance tactics, such as offshore transactions and flow-through entities.

—Contact an additional 200,000 taxpayers who fail to file or pay taxes due; a 40 percent boost from fiscal year 2004 and a 27 percent increase from the administration's request. This alone will allow the IRS to collect $84 million more in revenue owed than the administration's request would allow.

—Sustain the one-on-one assistance that millions of Americans rely on at tax time. The Board's budget will ensure that the IRS will be able to maintain its improved service to taxpayers by answering eight out of ten phone calls.

IRS MUST STAY THE COURSE ON CUSTOMER SERVICE

Mr. Chairman, the vast majority of Americans want to file their returns and pay their fair share, yet our Nation's tax code continues to become more complex. Resources must be available so the IRS can answer taxpayers' questions and promptly and accurately, whether it is over the phone, through the IRS website, by mail, or at walk-in center.

Under the board's proposed budget, customer service funding will remain at about the same level as fiscal year 2004; however, service should improve due to the deployment of self-service technology.

For taxpayers, that means eight out of ten phone calls will be answered. For tax practitioners calling the IRS toll-free hotline to resolve problems regarding clients' accounts, hold-time will remain at current levels.

The IRS call-routing systems as well as website applications that allow taxpayers to check the status of their tax refunds have already shown dramatic benefits in speeding service to taxpayers. New systems, such as e-Services, will soon be available, providing additional automated services to tax practitioners.

Clearly, service to taxpayers has improved in the past 5 years. Such improvements make it all the more imperative that we sustain them and not allow this positive trend to languish, or worse, decline. The agency must stay the course.

DAYS OF "OUTMANNED AND OUTGUNNED" IRS MUST END

The IRS is doing a better job of identifying egregious noncompliance—now it needs the resources to fight back. In the past 2 years, the IRS sharpened its compliance focus to identify and pursue promoters and participants of abusive tax shelters

[1] Nina Olson, National Taxpayer Advocate's 2003 Annual Report to Congress, (Washington, DC: December 31, 2003) p. 20–21. This is based on a July 2001 IRS Office of Research report.

[2] Charles O. Rossotti, Report to the IRS Oversight Board: Assessment of the IRS and the Tax System (Washington, DC: September 2002), p. 16.

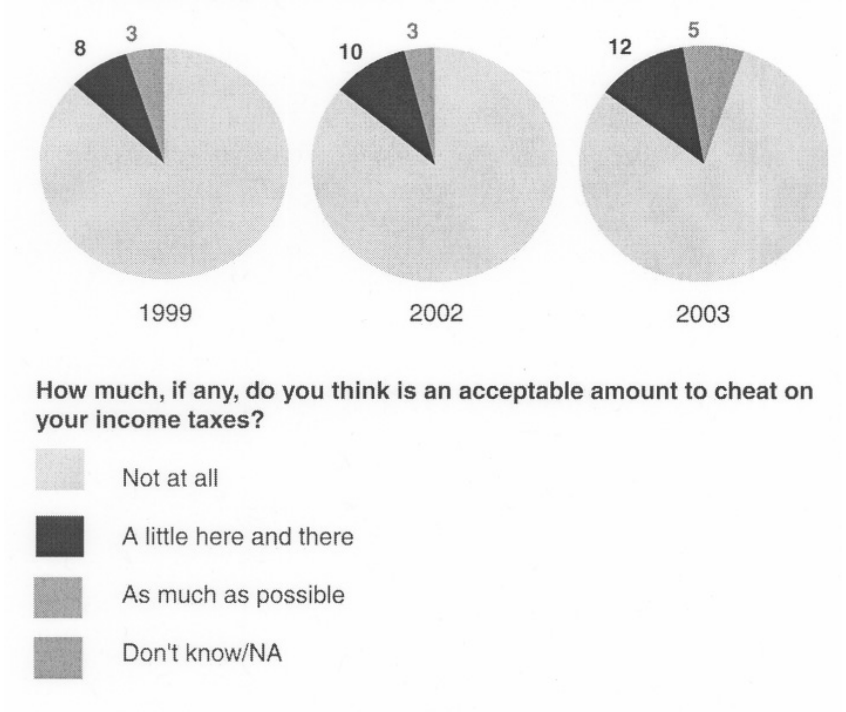
[3] These estimates are based upon the projected revenue anticipated by hiring and training full-time employees who would audit or collect owed taxes in known cases of taxpayers who did not file or pay, or who substantially underreported their taxes, as described in former IRS Commissioner Charles O. Rossotti's Report to the IRS Oversight Board: Assessment of the IRS and the Tax System, p. 16.

and tax evasion schemes. For example, the agency is now targeting its resources on promoters of illegal tax schemes that are often marketed to high-income individuals, but are also finding their way to middle-market businesses.

Despite this focus, enforcement activities are still at an unacceptable level simply because the IRS does not have the resources needed to accomplish its mission. It continues to be outmanned and outgunned. In fiscal year 2003, the agency was able to pursue only 18 percent of known cases of abusive devices designed to hide income, leaving an estimated $447 million uncollected.[4]

TAX CHEATING: ALARMING TRENDS

Public attitudes towards tax cheating show some alarming trends, particularly among young Americans. The Board's 2003 Survey on Taxpayer Attitudes found that support for total tax compliance diminished by four points over the previous year to 81 percent. In other words, nearly one out of five Americans now believe that it is acceptable to cheat at least a little on their taxes. Almost one-third (30 percent) of young adults age 18–24 age are among those most likely to feel that any amount of cheating is acceptable, an increase of six points since last year. Yet ironically, "fear of being audited" has the greatest impact on these non-compliers at a time when actually being audited is near historic lows.[5]



The IRS must prove to the public that it can and will identify and pursue those who show contempt for the tax code. The Board's proposed budget allows the IRS to begin to reverse this disturbing trend.

The Board's recommendation would increase our Nation's revenue by almost $5 billion each year once the IRS has hired and trained additional enforcement personnel. The Board believes the additional revenue achieved makes a strong business case for the recommended additional enforcement resources. While this is a modest boost in closing our compliance gap, it will also send a message to those contemplating tax avoidance: the IRS's hands are no longer tied.

[4] Rossotti, p. 16.

[5] Roper ASW, 2003 IRS Oversight Board Annual Survey on Taxpayer Attitudes, September 2003, p.17.

MODERNIZATION CRITICAL TO TAX ADMINISTRATION

In December 2003, the Oversight Board released an independent analysis of the IRS Business Systems Modernization (BSM) program. The Board called for nine specific recommendations for turning around the critical but troubled program that has experienced significant and unacceptable delays and cost overruns.

However, the Board still believes that the overall Modernization plan is sound and well-designed. Moreover, it is critical to the future of tax administration. As a Nation, we must remain committed to the IRS's computer modernization program. The Board testified before the House Ways & Means Subcommittee on Oversight on Feb 12, 2004:

"The IRS Oversight Board firmly believes that the IRS Modernization program cannot be allowed to fail. The IRS cannot continue to operate with the outmoded and inefficient systems and processes it uses today. Over time, the existing systems will become impossible to maintain and at that point, the ability to administer our country's tax system will be in grave danger. Such a risk to our nation is unacceptable. We remain convinced that the overall Modernization plan is sound and well-designed. The challenge is executing that plan. The IRS and the Prime must get it right this time."[6]

The Board's proposed budget provides the stable resources needed to focus and stabilize the steady stream of funding for the IRS's computer modernization initiative. Special controls are in place to ensure that no funding in this account is spent until the IRS has the capability to spend it effectively. If the IRS does not correct the weaknesses in the BSM program by fiscal year 2005, the Board advocates that the funds earmarked for modernization should not be spent. However, the Board does not believe the IRS should plan for failure. The agency must be poised to move forward with BSM once it has demonstrated that it has corrected the program's weaknesses. The funding level recommended by the Board sets the foundation for genuine progress for the program in fiscal year 2005.

The Board expects that the Customer Account Data Engine (CADE) Release 1 will occur in 2004. Over the next year, the IRS will test and build upon that system. The IRS should continue to strengthen its ability to manage the program and the Prime to deliver projects on budget and on time. By the end of fiscal year 2005 and early fiscal year 2006, the IRS should be able to proceed with the remaining releases of CADE as quickly as possible. This will minimize future risk and the long-term cost of modernization while providing a basis to deliver tangible results for taxpayers.

If the IRS's fiscal year 2005 BSM funding is reduced to $285 million, as it is in the administration's budget, future funding likely will be adversely affected. If that happens, the projects will drag on, risk will increase, and ultimately, the program will cost taxpayers much more.

For that reason, the Board believes fiscal year 2005 BSM funding should be set at $400 million, with only $285 million put into the fiscal year 2005 spend plan. This will allow the IRS's Business Systems Modernization fund to operate like a multi-year fund, as originally envisioned by Congress and as the Board has recommended each year since its inception.

Further, as its archaic, tape-based computers begin to give way to modern business systems, the IRS must plan for a smooth transition. The Board's budget recognizes that need. As new systems are incorporated, the IRS must plan to operate both the old and new systems in parallel for some time. The IRS must also retain employees with critical skills while training existing and new employees to use new systems. This will allow the IRS to reduce the risk of a catastrophic disruption to the system.

In addition, the Board believes that the transition to modernization is a real cost that must be incurred. There are no short cuts to successful modernization—the IRS's budget must reflect the real cost of maintaining legacy systems while simultaneously supporting modernized systems. Accordingly, the Board recommends an additional $25 million to cover these costs. The administration's budget fails to acknowledge them.

THE ADMINISTRATION'S FISCAL YEAR 2005 BUDGET REQUEST

By comparison, the Board believes the administration's fiscal year 2005 budget cannot achieve its stated goal to add almost 2,000 personnel to bolster the IRS's enforcement efforts, and will threaten hard-earned improvements in customer service.

[6] Larry R. Levitan, IRS Oversight Board Testimony before House Ways and Means Oversight Subcommittee Hearing on IRS BSM Program, February 10, 2004.

This year's request will lead to a $230 million shortfall in the IRS budget because it fails to budget adequately for the anticipated $130 million of congressionally-mandated civilian pay raises, rent increases, and at least $100 million of unfunded expenses.

In its fiscal year 2005 budget recommendation, the Board anticipates a 3.5 percent pay raise for civilian employees, which achieves parity with the administration's call for a 3.5 percent military pay raise. The administration, but contrast, calls for a 1.5 percent civilian pay raise. While discussions are now underway in Congress regarding parity, the Board believes that the 1.5 percent civilian pay increase fails to recognize recent history.

In fact, fiscal year 2005 is the fourth year in a row in which the administration has called for IRS staff increases, while not covering pay raises or required expenses.

As a result, the administration's proposed increase in the IRS's fiscal year 2005 budget will erode before new employees can be hired, more taxpayer phone calls can be answered, or new audits of possible tax cheats can be conducted.

IMPACT OF $230 MILLION BUDGET SHORTFALL ON THREE MAJOR IRS FUNCTIONS

Function	Performance Measure	Fiscal Year 2005 Performance Goal	Revised Goal After $230 Million Cut
Field Collection	Number of tax deliquent account cases resolved	981,000	463,000
Toll-free Telephone Level of Service.	Calls answered	32,000,000	17,000,000
Field Exam	Exams of individual taxpayers <$100,000 AGI	118,840	73,000

BOARD CITES COMPLEXITY AS FUNDAMENTAL FLAW

The IRS Oversight Board is precluded by law from addressing tax policy issues, but it would be remiss not to address the cost of our Nation's complex tax system; a cost ultimately borne by taxpayers and the IRS. The administration's legislative proposals contained in its budget request only begin to address the problems caused by complexity. The approach so far to tax simplification fails to address a fundamental flaw in our tax system: its costly, confusing, and debilitating complexity. The administration has, however, requested that Congress provide some relief in fiscal year 2005 on the Alternative Minimum Tax, but has not yet identified a long-term solution.[7] In her annual report, IRS National Taxpayer Advocate Nina Olson recommended repeal of the AMT, saying:

"The AMT is extremely and unnecessarily complex and results in inconsistent and unintended impact on taxpayers . . . [T]he AMT is bad policy, and its repeal would simplify the Internal Revenue Code, provide more uniform treatment for all taxpayers, and eliminate the oddity of dual tax systems. AMT repeal would also allow the IRS to realign compliance resources to facilitate more efficient overall administration of the tax code."[8]

The Board fully concurs with her assessment, and urges the administration and Congress to consider accepting this recommendation in future legislation.

CONCLUSION

The Board was established to bring to bear its collective expertise and familiarity with private sector best practices on the IRS's problems. To the private-life Board members, investments in enforcement pay for themselves many times over, not only in revenue dollars but by the deterrence value of reinforcing the belief that all taxpayers are paying their fair share. A strong business case can be made for providing the IRS with several hundred million dollars so it can collect billions in revenue. At a time when Federal revenue as a percentage of the economy has shrunk to

[7] Recent public remarks by Treasury Secretary Bodman noted that the President's budget extends through 2005 the temporary increase in the AMT exemption and the provision that allows certain personal credits to offset the AMT. These temporary provisions will keep the number of taxpayers affected by the AMT from rising significantly in the near-term. More importantly, they will allow the Treasury Department the time necessary to develop a comprehensive set of proposals to deal with the AMT in the long-term. Treasury Press Release JS–1250 contains the full statement of his remarks.

[8] Olson, p. 16.

1950s levels and we face a $500 billion deficit, the Board believes it imperative that we strengthen our tax collection system.

For that reason, the Board recommends that both Congress and the administration reevaluate their methodology by including the revenue value to the country when estimating budget requests for the IRS. Indeed, considering the positive impact of additional resources provides a better framework for making informed decisions and will lead to a more effective IRS.

In conclusion, the Board calls for Congress to stay the course it set more than 5 years ago with the passage of the IRS Restructuring and Reform Act. The IRS has made progress in carrying out the spirit and letter of the Act; we must now give it the resources to finish the job.

ATTACHMENT 1.—IRS OVERSIGHT BOARD FISCAL YEAR 2005 IRS BUDGET RECOMMENDATION AND ADMINISTRATION REQUEST: PROGRAM SUMMARY COMPARISON

ADMINISTRATION FISCAL YEAR 2005 BUDGET REQUEST PROGRAM SUMMARY

[Dollars in millions]

Appropriation Title	Fiscal Year 2004 Enacted	Fiscal Year 2005 OB Request	Increase	
			Enacted vs. Request	Percent
Processing, Administration and Management	$4,009	$4,148	$139	3.5
Tax Law Enforcement	4,171	4,564	393	9.4
Information Systems	1,582	1,642	60	3.8
Business Systems Modernization	388	285	−103	−26.5
Health Insurance Tax Credit Administration	35	35	.....	.....
Appropriation	10,185	10,674	490	4.8

IRS OVERSIGHT BOARD FISCAL YEAR 2005 BUDGET REQUEST PROGRAM SUMMARY

[Dollars in millions]

Appropriation Title	Fiscal Year 2004 Enacted	Fiscal Year 2005 OB Request	Increase	
			Enacted vs. Request	Percent
Processing, Administration and Management	$4,009	$4,291	$282	7.0
Tax Law Enforcement	4,171	4,770	598	14.3
Information Systems	1,582	1,708	126	8.0
Business Systems Modernization	388	400	12	3.1
Health Insurance Tax Credit Administration	35	35	.....	0.3
Appropriation	10,185	11,204	1,019	10.0

ATTACHMENT 2.—UNFUNDED IRS COSTS, FISCAL YEAR 2002–2003

UNFUNDED IRS COSTS, FISCAL YEAR 2002–2004

[Dollars in millions, rounded]

Detail	Fiscal Year 2002	Fiscal Year 2003	Fiscal Year 2004
Labor Inflation:			
Unfunded Pay Raise Increase (President's Request to Congressional Action)	$42.3	$128	
	42.3	128	
Non-Labor Inflation:			
Rent Shortfall	32	54	
Postage	16	53	
Corporate & Electronic Contracts	.....	23	
Health Service Contract	3	2	
Interpreter's Contract	0.5	0.3	
Child Care Subsidy	1	.....	

UNFUNDED IRS COSTS, FISCAL YEAR 2002–2004—Continued

[Dollars in millions, rounded]

Detail	Fiscal Year 2002	Fiscal Year 2003	Fiscal Year 2004
Increased Department of Labor EFAST Contract Processing Costs	2	.....	
TOTAL	55	132	
Added Requirements:			
Background Investigations	.....	4	
Increase Cash Awards from 1.24 percent to 1.42 percent	8	16	
Competitive Sourcing	.....	8	
Campus Security Response	15	.....	
Congressional Mandates	5	.....	
Guard Services	20	16	
Public Transportation Subsidy	9	.....	
TOTAL	56	44	
Total	153	304	
Total Less Pay Raise and Rent	79	122	

ATTACHMENT 3

WHERE THE ADDITIONAL ENFORCEMENT RESOURCES ARE APPLIED

[Dollars in thousands, rounded]

Enforcement Initiatives	Oversight Board Recommendation		Administration Recommendation		Difference	
	Budget	FTE	Budget	FTE	Budget	FTE
SBSE–2 Curb Egregious Non-Compliance	$159,264	1,408	$90,161	874	$69,103	534
SBSE–3 Select High-Risk Cases for Examination	5,500	.....	.....	.....	5,500	.....
SBSE–7 Savings through Consolidation—Case Processing	16,085	200	14,469	144	1,616	56
SBSE–8 Savings through Consolidation—Insolvency Processing	7,656	69	5,531	65	2,125	4
WAGE–2 Increase Individual Taxpayer Compliance	46,406	521	15,469	175	30,937	346
WAGE–9 Improve ITIN Application Process	15,484	50	.....	.....	15,484	50
WAGE–10 Eliminate Erroneous EITC Payments	18,000	.....	.....	.....	18,000	.....
LMSB–1 Combat Corporate Abusive Tax Schemes	60,017	394	36,100	207	23,917	187
TEGE–1 Combat Diversion of Charitable Assets	3,914	44	3,914	44	.....	.....
TEGE–5 Stop Abusive Transactions in the TEGE Community	11,140	100	11,140	100	.....	.....
CI–1 Combat Financial Fraud in the Corporate Sector	25,600	98	25,600	98	.....	.....
CI–2 Dismantle International and Domestic Terrorist Financing	12,208	80	.....	.....	12,208	80
CI–3 Reinforce Core Mission Tax Enforcement Resources	34,086	130	34,086	130	.....	.....
CI–7 Forensic Electronic Evidence Acquisition and Analysis	3,104	4	3,104	4	.....	.....
CI–10 Leverage/Enhance Special Agent Productivity	2,500	28	2,500	28	.....	.....
APPEALS–1 Resolve Appeals	13,945	112	7,000	56	6,945	56
COUNSEL–1 Combat Abusive Tax Avoidance	10,852	75	5,426	38	5,426	37
NHQ–2 Deliver Strategic Compliance Data	2,712	2	.....	.....	2,712	2

WHERE THE ADDITIONAL ENFORCEMENT RESOURCES ARE APPLIED—Continued

[Dollars in thousands, rounded]

Enforcement Initiatives	Oversight Board Recommendation		Administration Recommendation		Difference	
	Budget	FTE	Budget	FTE	Budget	FTE
Fiscal Year 2005 Enforcement Increases	448,472	3,315	254,500	1,963	193,972	1,352

ADDITIONAL COMMITTEE QUESTIONS

Senator SHELBY. There are some additional questions that will be submitted in writing for your response.

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

QUESTIONS SUBMITTED TO THE INTERNAL REVENUE SERVICE

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

Question. Following the IRS Reform legislation of 1997, the IRS realigned significant levels of resources from Tax Enforcement and Compliance activities to customer service, telephone assistance, and submission processing activities.

How do the fiscal year 2005 realignment proposals and the new funding initiatives proposed for 2005 compare to the pre-reform legislation levels for those programs?

Answer. The proposed fiscal year 2005 realignment proposals and new funding initiatives strive to better balance service and enforcement.

The IRS's service lagged in the 1990's. In response to the IRS Restructuring and Reform Act of 1998 (RRA 98), the IRS took important and necessary steps to upgrade service—significantly improving the answering of taxpayer telephone inquiries and electronic filing. Unfortunately, improvement in service coincided with a drop in enforcement activity. Since 1996, the number of IRS revenue agents, officers, and criminal investigators has dropped.

The President's fiscal year 2005 budget—if approved by Congress—will help with IRS efforts to continue strengthening enforcement activities while maintaining and enhancing levels of service. The submission requests an enforcement increase of $300 million over the fiscal year 2004 consolidated appropriations level. This increase will allow a partial recovery in the numbers of enforcement personnel, but will not fully restore the workforce.

Enforcement Workforce	FTE Fiscal Year 1997	FTE Fiscal Year 2004	FTE Fiscal Year 2005 Initiatives	FTE Fiscal Year 2005	FTE Percent Change
Revenue Agents	14,592	12,172	841	13,387	−9
Revenue Officers	7,333	5,238	332	5,734	−28
Criminal Investigators	3,244	2,553	160	2,739	−22

Question. Will IRS essentially restore those realignments from 1997, or does the request make real advances in tax compliance efforts?

Answer. As in the past 2 years, the IRS has identified efficiency improvements that could generate resources to be applied to high priority areas. These resources will be applied to enforcement in fiscal year 2005. However, they are not sufficient to completely reverse the decline in enforcement performance. The IRS needs the increase in enforcement resources requested in the fiscal year 2005 budget to carry out an appropriate level of activity in the enforcement arena.

The primary goal in the fiscal year 2005 budget request is to continue restoring the strength of the enforcement function. Staffing devoted to compliance and enforcement operations declined in the 1990's as the IRS focused on customer service; it is just beginning to recover. The number of revenue agents, revenue officers, and criminal investigators each declined by over a quarter from fiscal year 1997 to fiscal year 2003. Annual growth in return filings and additional work related to RRA 98 have contributed to a steady decline in enforcement presence, audit coverage, and case closures in front-line compliance programs.

This budget has an increase of $300 million for a more vigorous enforcement of the tax laws. This strong commitment to tax administration will provide a significant augmentation of enforcement resources, but will not completely restore enforcement personnel to 1997 levels. Improvements will also come from productivity increases (e.g. reeningeering, better audit targeting).

Question. Are the realignment proposals recognition that sufficient service and staffing levels have been achieved for IRS customer service and processing program areas?

Answer. While the ultimate desired level of taxpayer service remains to be reached, the IRS has improved and increased recognition of, and respect for, taxpayer rights. The IRS has made steady gains in better serving American taxpayers. Each filing season and year is appreciably better than the previous one and the IRS continues to build on those successes.

FISCAL YEAR 2004 FILING SEASON SUCCESSES—DATA AS OF APRIL 23 COMPARED TO SAME PERIOD IN FISCAL YEAR 2003

Service[1]	Fiscal Year 2003	Fiscal Year 2004	Percent Change
Free Filed Returns	2.7	3.4	26
Where's My Refund	9.5	12.4	31
Telephone Level of Service (Percent)	83	85	2
E-Filing From Home	11.7	14.2	21

[1] Service usage in millions, except percentages.

The IRS is doing a better job; however, much more remains to be done. The objectives for improved taxpayer service are three-fold:

—improve and increase service options for the taxpaying public;

—facilitate participation in the tax system by all sectors of the public;

—simplify the tax administration process.

Although the IRS is not requesting increases in fiscal year 2005 for taxpayer service initiatives, the IRS will be able to build upon its experience over the past 6 years and will continue to improve taxpayer service. In recognition of the need to rebalance service and enforcement activities, consistent with the formula of service plus enforcement equals compliance, the only increases the IRS requested in fiscal year 2005 are for enforcement.

Question. What headway will IRS's request make in the growing delinquent tax inventory that exists, or do you still anticipate large write-offs of delinquent taxes similar to this past year, even with the resource requests in the fiscal year 2005 budget?

Answer. Delinquent tax write-offs declined by 35 percent from 818,000 in fiscal year 2001 to 533,000 in fiscal year 2003. The dollar value of this inventory declined from $10.5 billion in March 2001 to $7.4 billion in March 2004. The fiscal year 2005 budget staffing increase will enable the IRS to continue this progress in reducing the delinquent tax inventory. Passage of the administration's proposed Private Collection Agent legislation would further reduce delinquent inventory.

Question. A continuing priority of the IRS has been to maintain and improve the Tax Fraud and Criminal Investigations program area. This committee has supported IRS requests in this area.

Has IRS invested all the resources granted by the Congress in recent years for the Criminal Investigations area or have some of the new resources been reallocated to other areas in the IRS?

Answer. The IRS has directed all the resources provided by the Congress for the Criminal Investigation area to the Criminal Investigation division (CI). None of the resources have been reallocated to other areas in the IRS; however, the IRS has applied any across-the-board rescissions or unfunded pay raises to CI proportionally. The IRS has protected all new CI initiatives.

Question. The IRS, in recent testimony, indicated that Congress has not provided the resources it needs to meet tax administration responsibilities. A review of IRS requests by GAO has shown that more than 98 percent of IRS's requests have been funded since fiscal year 2002, with most reductions relating to across-the-board reductions and absorptions beyond the control of this committee.

What is the basis of IRS's assessment on Congress' review of your requests?

Answer. The IRS has based its budget strategy on increasing productivity in current operations from reengineering, modernization, and increases in electronic filing to free up resources for reinvestment in taxpayer service and enforcement. The administration also has sought modest FTE increases in the last few years. If success-

ful, this strategy would have enhanced taxpayer service and met the demands of increased return workload. However, this strategy has not been as effective as anticipated due to unexpected cost increases. For example, the IRS absorbed $97 million to fund a portion of the fiscal year 2004 pay raise, in addition to an appropriation reduction of $252 million from the President's Budget.

The IRS absorbed these costs across the agency, protecting only the new fiscal year 2004 enforcement initiatives from reduction. Nevertheless, although the IRS protected these enforcement initiatives, the enforcement base absorbed a prorated share of these unexpected cost increases discussed above, and this resulted in FTE reductions in enforcement activities.

Question. Does IRS's assessment imply that the administration did not request sufficient resources for the IRS in past years' budgets?

Answer. The IRS has received the administration's full support, and funding requests have been sufficient. However, unfunded expenses absorbed throughout the agency have negatively affected budget goals. These unfunded expenses have been driven primarily by pay raises higher than those proposed by the administration.

Question. What is IRS's assessment of the request for fiscal year 2005? Is it adequate to support IRS tax administration responsibilities?

Answer. The proposed fiscal year 2005 budget takes a balanced, measured approach to the challenges facing the American tax system, with a needed emphasis on strengthening enforcement. The goal is to ensure that the tax system is fair for all while protecting taxpayer rights.

The request, if funded, is adequate to support IRS tax administration responsibilities. However, the fiscal year 2005 budget request includes a 1.5 percent increase for the pay raise, as proposed by the administration. If Congress approves the 3.5 percent increase proposed by some members, it would result in a shortfall of $109 million.

Question. What is IRS's assessment of long term requirements?

Answer. The vision of the IRS is to re-center the agency with the proper balance of service and enforcement poised to quickly meet technological and demographic changes, new challenges of taxpayer compliance, and customer expectations.

The IRS's goals remain the same—to improve taxpayer service, enhance enforcement through uniform application of the law, and improve the IRS infrastructure and modernize technology. The IRS's working equation is that service plus enforcement equals compliance. The IRS is maintaining high levels of taxpayer service, while focusing on corrosive areas of non-compliance. Ensuring fairness will help maintain the taxpaying public's faith in the Nation's tax system.

Question. How is the IRS's fiscal year 2005 request consistent with that vision?

Answer. The IRS will enforce the law and it will continue to improve service and respect taxpayer rights. The administration's fiscal year 2005 budget request will help the IRS restore the balance between service and enforcement envisioned in the IRS's Strategic Plan.

The fiscal year 2005 request allocates $300 million toward enforcement initiatives designed to curb abusive tax practices, end the proliferation of abusive tax shelters, improve methods of identifying tax fraud, identify and stop promoters of illegal tax schemes and scams, and increase the number and effectiveness of audits to ensure compliance with the tax laws. This budget will allow the IRS to apply resources to areas where non-compliance is greatest: promotion of tax schemes, misuse of offshore accounts and trusts to hide income, abusive tax shelters, underreporting and non-reporting of income, and failure to file and pay large amounts of employment taxes. The administration also has proposed a number of legislative changes to significantly enhance current enforcement programs and prevent the promotion of abusive tax avoidance transactions. The goal of these initiatives is to ensure that the tax system is fair for all, while protecting taxpayer rights.

Question. Besides the across the board reductions, what other expenses did the IRS pay that were not budgeted?

Answer. Examples of the expenses incurred that were not budgeted include $97 million for a portion of the unfunded pay raise, and unanticipated rent increases causing a shortage of $40 million. The IRS is working to manage our space inventory to minimize future rent increases to the extent possible.

Question. The GAO states that IRS has requested more enforcement staff to be funded partly by budget increases and partly through internal savings.

Please provide, for fiscal year 2002 and fiscal year 2003, a detailed breakout of the anticipated internal savings and the actual amount saved.

Answer. In fiscal year 2002, the IRS intended to offset projected non-labor inflation of $57 million by reducing travel and contractual services and improving purchasing power through interdepartmental consolidation of procurements. Actual results of those actions in fiscal year 2002 were:

Object Class	Obligations Variance From Fiscal Year 2001–2002
Temporary Space Leases	($19,765,165)
Management and Professional Support Services	(10,462,898)
Contractual Labor—Private Sector	(10,052,952)
Training/Travel	(4,114,005)
Misc Expenses, Foreign Posts—Government	(3,151,254)
Printing, Reproduction, & Related Services—Commercial	(1,900,000)
Support Services—Private Sector	(1,711,693)
Local Telephone Service	(1,280,417)
Services and Maintenance to Buildings and Space	(1,088,284)
Administrative Mail Costs	(1,042,750)
Telecommunications Equipment, Capitalized	(912,880)
Communication, Telephone Service—EE	(811,571)
Travel of Experts & Witnesses	(577,566)
Total	(56,871,435)

The IRS highlighted specific initiatives for savings in fiscal year 2003. Actual results of those reductions were:

[Dollars in millions]

Savings—Fiscal Year 2003	Budgeted		Realized, EOY		Difference	
	Dollars	FTE	Dollars	FTE	Dollars	FTE
CI—Narcotics Program	$14.6	85	$4.0	33	($10.6)	(52)
CI—Realigned Attrition	$11.6	80	$9.7	80	($1.9)	.....
COUNSEL—Reduced Tax Court Cases	$0.6	5	$0.6	5	.....	.....
WAGE—E-File	$18.5	490	$12.0	475	($6.5)	(15)
WAGE—Reengineering/Quality Improvements	$67.4	1,044	.....	.....	($67.4)	(1,044)
WAGE, SBSE—e-services release	$4.0	69	$0.3	6	($3.7)	(63)
LMSB—Customer Relationship Management (CRM) Exam	$11.9	119	$1.2	12	($10.7)	(107)
MITS—Selected Tier B Projects	$3.3	57	.....	.....	($3.3)	(57)
SBSE—Reduced Field Innocent Spouse	$13.8	184	$7.7	103	($6.1)	(81)
SBSE—Reduced Filing Season Support	$12.1	154	$17.9	230	$5.8	76
GRAND TOTAL	$157.8	2,287	$53.4	944	($104.4)	(1,343)

Question. The GAO states that the IRS realized only 32 percent of its claimed internal savings in fiscal year 2003. Is this correct? If so, does this point to a weakness in budget formulation at the IRS?

Answer. The actual figure is 34 percent. The fiscal year 2003 budget submission is the first such submission to identify specific reduction initiatives that could be used to fund high priority initiatives. Since then, the IRS has been improving. For example, in fiscal year 2004, the IRS expects to achieve 68 percent of the projected savings. The savings result either from modernization projects or reengineered systems that generate productivity increases. Because the IRS starts development of budget estimates over 15 months prior to execution year, the assumptions made can change, and any changes in assumption will affect the actual savings realized. In many cases these savings have been delayed, but will eventually be realized.

Question. Does it point to a lack of conviction to realize the savings promised to promote change at the IRS? If the IRS does not realize the savings assumed in its budget requests, how does it make up for the shortfall?

Answer. The IRS's prior experience in realizing specific reduction initiatives, particularly with respect to fiscal year 2003, in no way reflects a lack of commitment by the IRS to achieve cost savings and efficiencies.

In most cases, the savings generated are used to fund other high priority areas in the same business unit. Therefore, there is an incentive to ensure that the reengineering actions are taken so that the new work can be done. However, if for some reason the savings are not generated at the time expected, then the business unit must either scale back its hiring plans, and, therefore, projected performance, or reduce non-labor costs in other areas to maintain its performance level. Part of the problem experienced in fiscal year 2003 and 2004 was that the IRS did not use

generated savings to fund higher priority work, as planned in the budget, but used the savings mainly to fund unfunded mandates and unexpected costs.

Question. Congress has appropriated approximately $1.7 billion for the Business Systems Modernization program. IRS has requested an additional $285 million in this year's fiscal year 2005 budget. The current program is showing mounting delays in project milestones, with few results to show for the taxpayer.

What is the current status of this program?

Answer. The BSM program is—without a doubt—one of the largest, most visible, and most sensitive modernization programs ever undertaken in the world.

The results have been mixed; but first, the good news. The IRS built a strong technical infrastructure and designed and implemented stringent security and control mechanisms into the infrastructure. The IRS also developed a rigorous enterprise life cycle methodology. Over the past 2 years, the IRS has been working toward instituting and integrating established streamlined governance and management processes. The IRS has made progress, but a major thrust now focuses on sustaining a solid balance of business commitment, accountability, and scope management. Finally, the IRS has achieved a great deal of success with the projects delivered to date.

The IRS has fully deployed all e-Services Release 1.0 products and made them available over the Internet, including: registration and online address change access for third parties and IRS employees through secure user portals; Preparer Tax Identification Number (PTIN) online application; interactive Taxpayer Identification Number (TIN) matching; secure Electronic Return Originator (ERO) application processing; and access to e-Services registration and application processes by Modernized e-File (MeF) participants.

E-Services Release 2.0 products are also now in production and available for use by IRS staff and taxpayers, including: Application for e-Filing (external); Electronic Account Resolution (EAR); Electronic TIN Bulk Matching (Bulk Requests); Disclosure Authorization (DA); and infrastructure support for outbound facsimile service.

In March 2004, James D. Leimbach appeared before the Ways & Means Oversight Subcommittee on behalf of the National Association of Enrolled Agents (NAEA) and said, "This new capability is truly going to revolutionize the way we conduct future business with the IRS. The ultimate beneficiary is the American taxpayer. We are truly amazed and thrilled beyond description at this way of doing business with the IRS, and we would like for you to understand why we feel as we do."

The IRS delivered several additional applications that are providing tangible benefits to taxpayers and improving the efficiency and effectiveness of the tax administration systems such as Where's My Refund?, Where's My Advance Child Tax Credit?, Internet EIN, Modernized e-File, HR Connect, etc. The following chart highlights the applications the IRS has delivered, as well as the measurable business benefits being realized.

BSM DELIVERS REAL BUSINESS VALUE (RESULTS AS OF 6/15/04)

Project	Description	Recent Statistics
Internet Refund Fact of Filing (2002)	Improves customer self-service by providing instant refund status information and instructions for resolving refund problems to taxpayers with internet access.	—17.9 million inquiries in 2003; 22 million inquiries to date in 2004 (1/1/04–6/6/04). —32 percent of all real time IRS assistance calls come from IRFoF. —Modest reduction of telecommunications costs (about $250,000). —Every 1,000 IRFoF contacts eliminate 1,500–2,000 refund assistance calls.
Advanced Child Tax Credit (2003)	Modifies the Internet Refund application to provide taxpayers with Advance Child Tax Credit refund status on the internet.	—15.5 million inquiries in 2003; 11.9 million inquiries to date in 2004 (10/1/03–6/13/04). —Peak date 1.1 million interaction.
Customer Communications (2001)	Improves communications infrastructure, including telephone call management, call routing and customer self-service applications.	—68,000 calls in one 3-minute period during initial week (coincided with start of Advanced Tax Refund of 2001). —50 percent reduction in waiting time for assistor to answer call. —50 percent reduction in abandoned calls. —Number of Spanish calls doubled. —More accurate pre-routing of calls.
Internet Employee Identification Number (2003)	Allows businesses and taxpayers to apply for and receive employer identification numbers over the internet.	—1.37 million internet EIN applications received to date (as of 6/5/04).
HR Connect (2002)	Delivers an enterprise solution to allow IRS employees to access and manage their human resources information online.	—75,000 internal users. —Cited by Commissioner Everson as an enabling factor in the redirection of approximately 750 staff years to enforcement. —Treasury was selected as 2004 ComputerWorld Honors Laureate for HR Connect development and implementation.
e-Services R1 (2003–2004)	Creates a web portal and value adding e-Services services to promote the goal of conducting most of the IRS's transactions with tax practitioners electronically.	—Over 69,624 PTIN applications (W7P) entered to date, data entry productivity doubled (from 8/15/03–6/10/04). —Over 58,201 e-File applications to the Third-Party-Data-Store (TPDS) entered to date (from 8/15/03–6/10/04). —Approximately 24,939 Registered (and confirmed) User Portal (RUP) to date (from 10/1/03–6/10/04).
Customer Relationship Management Exam (2001)	Provides standard tax computation software to Large & Mid-Sized Business Revenue Agents.	—Deployed to almost 4,000 Revenue Agents.
Modernized e-File (2004)	Provides e-filing to large businesses (1120 family) and tax exempt organizations (990 family).	—Went live on 2/23/04. —Over 35,090 returns (1120 family) accepted as of 6/13/04. —Over 3,287 participating Electronic Return Originators as of 6/13/04. —Winner of Government Solutions ''Best-of-the Best'' Pioneer Solutions.

The bad news, however, is major. Significant cost overruns and repeated schedule delays have plagued critical projects, such as the Customer Account Data Engine (CADE), the Integrated Financial System (IFS), and the Custodial Accounting Project (CAP). CADE replaces the current master files that are the IRS's repository of taxpayer information. IFS will be the IRS's new core accounting system. CAP provides an integrated link between tax administration (revenue) and internal management (administrative) financial information.

The IRS has delayed the CADE program four times. It originally planned to deliver the first release of CADE in December 2001. The IRS then rescheduled it for August 2003, and later rescheduled it for April 2004. The IRS recently finalized the re-planning effort for CADE and set the latest delivery date for September 2004. While CADE is farther along than the IRS has ever been in replacing a component of the master file, there are still major hurdles to overcome. The CADE delays stemmed from infrastructure upgrades, initial poor software quality during the startup of systems integration testing combined with the failure to understand the complexity of balance and control, and the resolution of operational and performance issues that occurred during Phase 3 of the Release 1.0 pilot.

Like CADE, IFS has been plagued with schedule delays. The IRS originally planned to deliver the first release of IFS in October 2003. The IRS then rescheduled it for January 2004. The IRS later rescheduled it for April 2004. The IRS has subsequently scheduled Release 1.0 for October 2004. The IRS delayed the first release of IFS because of the need to make technical changes to comply with the enterprise architecture, the inability to resolve key design and integration issues in a timely manner, the identification of the health coverage tax credit interface requirement late in the development process, and delays experienced in integration testing due to poor application quality and interface testing issues.

IFS Release 1.0 will cover core accounting functions such as budget preparation, general ledger, accounts payable, accounts receivable, financial reporting, and purchasing. Problems continue to seriously jeopardize the scheduled delivery of this first release of IFS. The IRS is 2 weeks behind schedule on testing, which puts the data conversion schedule at risk. The IRS is negotiating a fixed price contract for the October delivery.

The IRS is also encountering delays on the first release of the Custodial Accounting Project (CAP), which provides an integrated link between tax administration (revenue) and internal management (administrative) financial information. The first release of CAP will address revenue from individual taxpayers on initial tax payments. Later releases of CAP will address businesses and collections. CAP delays resulted from unstable CADE and IFS interface definitions, needing additional testing time due to a much larger than anticipated volume of data anomalies discovered during the conversion of data from the current Individual Master File (IMF), and the time required resolving system performance issues.

In addition, though not directly responsible for CAP delays to date, the IRS has made some adjustments to the functionality that it needs to have in CAP Release 1 to support the GAO financial audit as well as internal accounting and management. These adjustments will increase the cost of later sub-releases of CAP Release 1. The IRS has now completed all testing for CAP Release 1, and is adding changes to reflect IMF changes from the start of the 2004 filing season (Release 1.1). The IRS plans to start production, which includes the initial load of IMF data, in mid-August. The IRS negotiated a fixed price contract for Release 1 and Release 1.1 in May 2004.

Question. Are the current problems resource-related or management-related?

Answer. The current problems experienced by the IRS are a combination of both. The IRS needs a more versatile team of seasoned executives to provide long-term stability to the program. The IRS is complementing the skills of experienced IRS tax executives with outside seasoned technology executives who have experience managing large-scale, complex IT projects. As such, the IRS is hiring two Associate Chief Information Officers to join the MITS organization, and an executive search firm is conducting searches for five senior executives with a wide range of diverse experience in developing and implementing large modernization systems. As a result of missing CADE and IFS key deliverables last summer, the Commissioner and Computer Sciences Corporation (CSC) commissioned external assessment studies from outside experts. The studies produced no major surprises; but, the IRS now understands more about the issues. All of the assessments confirmed that the IRS modernization effort is a massive, highly complex, high-risk program that is confronting a number of critical management and technological challenges. These studies also made it clear that the IRS should not turn back, but rather make a series of changes to strengthen the BSM program.

While all of these studies assessed different components of the modernization program, three major recommendations emerged, including:

—Scaling back the modernization portfolio to better align with IRS and CSC's capacities;

—Engaging IRS business units to drive the projects with a business focus; and,

—Improving contractor performance on cost, scheduling, and functionality.

The assessments also raised a number of other key improvement opportunities, including:

—Adding outside expertise to help manage the program and to complement IRS skills;

—Strengthening human resources capacity management;

—Adhering to methodologies in areas such as configuration management, cost and schedule estimating, and contract management;

—Reducing the burden from oversight organizations;

—Simplifying the budget process; and,

—Initiating the testing of the business rules engine on CADE.

Question. How much more is needed to complete this effort and modernize IRS's outdated systems and processes and is the fiscal year 2005 budget request consistent with that projection?

Answer. It is virtually impossible to estimate how much more is needed to complete the modernization effort and modernize IRS's outdated systems and processes. There are just too many unknown variables at this time. The IRS has a BSM Expenditure Plan in the approval process that includes a proposal on how it plans to allocate the $285 million in the administration's fiscal year 2005 budget request for the BSM program. This is the first time that the Business Systems Modernization Office (BSMO) has forecast so far ahead in an Expenditure Plan. The purpose of providing a 2-year plan is twofold. First, the goal is to provide key stakeholders with a comprehensive understanding of the sequencing of activities and to show the impact of changes to the plan across multiple years. Second, the objective is to provide enough information in advance so that funding for future fiscal years can be made available earlier in the fiscal year. The IRS will provide an updated BSM fiscal year 2005 Expenditure Plan in the summer of 2004, reflecting any adjustments made during the upcoming months.

A key component to delivering on the challenge of modernizing America's tax system is for the IRS to establish credibility with key stakeholders that it is identifying and addressing barriers to achieving business modernization success, and to show its constituents that it can and will get modernization done "right." The IRS must gain the trust of its stakeholders by consistently delivering systems on time and within budget, and significantly improving its productivity, quality, and effectiveness in building modernized systems.

Getting modernization "right" means building systems that meet the business needs of tax administration, while delivering tangible benefits to taxpayers. The right balance of IRS business leaders are now engaging with the modernization technology team to help determine how to best apply technology in order to improve service to taxpayers, support enforcement activities, and improve compliance.

Sharing leadership roles requires clarifying responsibilities, empowering managers with decision making authority, and holding individuals (both contractors and employees) accountable for delivering measurable results on time and within budget. The IRS has implemented processes and procedures to enable and enforce accountability, such as establishing a governance structure, clearly defining roles and responsibilities, and defining project milestone requirements.

Scope growth and unresolved issues can easily derail the best laid plans for developing and implementing large, complex, high-risk systems. The IRS resized the business systems modernization project portfolio, adopted policies to support the prompt escalation of issues, and reached an agreement to significantly control discretionary change requests. Maturing management processes, strategically driven business requirements, and improved project life cycle methodologies will define and drive the modernization initiative going forward.

The IRS has placed an emphasis on increasing the timeliness and accuracy of BSM communications to ensure that key stakeholders are well informed of program goals and the status of projects against schedule and cost targets.

There is much more work to do, but the Commissioner is committed to modernizing the IRS's archaic computer systems. While progress to-date has been decidedly mixed, the IRS owes it to taxpayers to stay the course and put a solid foundation in place upon which the IRS can build for decades to come.

Question. Please provide an update of all core systems being developed. In the update, please provide the original estimated cost of each program, the current cost estimate, the original estimated date of completion and the new completion date.

Answer. Response is combined with the response to the subsequent question.

Question. Please provide a list of any core system of the BSM program that the IRS has delivered on time and within the original budget estimate?

Answer. The IRS and PRIME have not delivered any BSM projects on time and within the original budget estimate. The following describes the major projects and includes a table detailing cost and schedule variances to date.

Modernized e-File (MeF)

Modernized e-File Release 1.0, which provides electronic filing for the first time ever to large corporations and tax exempt organizations, went live in February 2004. MeF provides 53 forms and schedules for 1120/1120S (corporations) and 990 (tax exempt organization) e-filing. It also provides the functionality to support those forms including:

—applicable interfaces;
—validation;
—retrieval and display options;
—the capability for large taxpayers to file using the internet; and,
—the capability to use Adobe files.

Release 1.0 has exceeded project volume for the year after only 2 months of operation. The project won the Government Solutions Pioneer Award from Federal Computer Week Magazine (1 of 15).

Modernized e-file release 2.0 will include 36 additional forms and schedules that are filed with Forms 1120/1120S (corporations) and 990 (tax exempt organizations). The IRS exited Release 2.0 Milestone 3 System design in March 2004. The IRS plans deployment for the summer of 2004. The IRS provides a chart listing the cost and schedule variances at the end of this response.

E-Services

The e-Services project focuses on providing electronic account resolution and fostering easy-to-use electronic products and services targeted at specific practitioner segments that will inform, educate, and provide service to the taxpaying public. In addition, e-Services will provide electronic customer account management or Indirect Channel Management capabilities to all businesses, individuals, and other customers in a safe and secure manner. This project will help the IRS move toward the Congressional goal of receiving 80 percent of tax returns and information filings by electronic transaction, while achieving a 90 percent customer and employee satisfaction rate by 2007. Taxpayers who e-file will have the benefit of quicker refunds, more accurate transaction processing, and access to an array of new electronic services. The IRS has made noticeable improvements in the 2003 and 2004 filing seasons, with considerable improvement resulting from a series of strategic enhancements resulting from a series of planned releases late in 2003.

The IRS has delivered electronic services to tax practitioners, and other third parties such as banks and brokerage firms that report 1099's. The IRS deployed all Release 1.0 and Release 2.0 initial operations functionality by the end of April 2004, except for Transcript Delivery System (TDS), which will be available in June 2004. The IRS conducted additional pilot and performance testing of both releases prior to deployment to the broad practitioner community.

The IRS fully deployed, and made available over the Internet, all e-Services Release 1.0 products, including: registration and online address change access for third parties and IRS employees through secure user portals; Preparer Tax Identification Number (PTIN) online application; interactive Taxpayer Identification Number (TIN) matching; secure Electronic Return Originator (ERO) application process; and, access to e-Services registration and application processes by Modernized e-file (MeF) participants.

E-Services Release 2.0 products are now in production and available for use by IRS staff and taxpayers, including: Application for e-Filing (external); Electronic Account Resolution (EAR), Electronic TIN Bulk Matching (Bulk Requests); Disclosure Authorization (DA); and infrastructure support for outbound facsimile service. A chart listing cost and schedule variances for the e-Services program is provided at the end of this response.

Customer Account Data Engine (CADE)

The IRS has delayed the CADE program four times. The IRS originally scheduled the first release of CADE for delivery in December 2001. The IRS then rescheduled it for August 2003 and again for April 2004. The IRS recently finalized the re-planning effort for CADE—under a fixed price contract—and set the latest delivery date for September 2004.

While CADE is farther along than the IRS has ever been in replacing a component of the master file, there are still major hurdles to overcome. The CADE delays stemmed from:

—Infrastructure upgrades;
—Failure to understand the complexity and control function combined with poor software quality during the startup of systems integration testing; and,
—Resolution of operational and performance issues that occurred during an initial release of the pilot.

The delivery of the CADE project is particularly important because, for the first time, it moves taxpayer data from the outdated tape-to-tape reels into an updated tax administration data and processing system that can be accessed and updated in real time. Like the new online technical infrastructure that the IRS deployed, CADE is a core fundamental component of the modernized systems. As such, CADE is the IRS's highest priority technology project. As of May 14, 2 weeks remained on 2004 filing season release pilot (Reprocesses cycles 4–8 from earlier this year). The pilot has gone well. The IRS recently signed a fixed-price contract through initial operating capability (IOC) and has started work on the 2005 filing season release.

Integrated Financial System (IFS) Release 1

Like CADE, IFS has been plagued with schedule delays. The IRS originally planned to deliver the majority of the first release of IFS in October 2003, and the balance in January 2004. The IRS later rescheduled it for April 2004. The IRS has subsequently scheduled Release 1.0 for October 2004. Delay of the first release of IFS occurred because of:

—The need to make technical changes to comply with the enterprise architecture;
—The inability to resolve key design and integration issues in a timely manner;
—Identification of the health coverage tax credit interface requirement late in the development process; and
—Delays experienced in integration testing due to poor application quality and interface testing issues.

IFS Release 1.0 will cover core accounting functions such as budget preparation, general ledger, accounts payable, accounts receivable, financial reporting, and purchasing. Problems continue to seriously jeopardize the scheduled delivery of the first release of IFS.

The IRS is currently negotiating a fixed-price contract for October delivery. Testing is behind schedule by 2 weeks and data conversion is at risk within the scheduled 6-week window. The IRS lists IFS cost and schedule variances in the chart at the end of this response.

Custodial Accounting Project (CAP) Release 1

The IRS has encountered delays on the first release of the Custodial Accounting Project (CAP). This project provides an integrated link between the tax administration (revenue) and internal management (administrative) financial information. The first release of CAP will address revenue from individual taxpayers on initial tax payments. Later releases of CAP will address businesses and collections. CAP delays resulted from unstable CADE and IFS interface definitions. Additional testing time is necessary due to a much larger than anticipated volume of data anomalies discovered during the conversion of the data from the current individual Master File (IMF), and the time required resolving system performance issues.

In addition, though not directly responsible for CAP delays to date, the IRS has made some adjustments to the functionality that it needs to have in CAP Release 1 to support the GAO financial audit, as well as its internal accounting and management. These adjustments will increase the cost of later sub-releases of CAP Release 1. The IRS has now completed all testing for CAP Release 1, and is adding changes to reflect IMF changes from the start of the 2004 filing season (Release 1.1). The IRS plans to start production, which includes the initial load of IMF data, in mid-August.

The IRS has scheduled the completion of negotiations of a fixed price contract for Release 1.0/1/1 for no later than the end of June. Once those negotiations are complete, the IRS will begin negotiating a fixed price contract for Release 1.2 (mid-year 2004 changes). The IRS lists cost and schedule variance information in the chart at the end of this response.

Project	Initial Est. Cost	Actual/Revised Est. Cost	Cost Variance	Initial Est. Completion Date	Actual/Revised Est. Completion Date	Schedule Variance
Customer Communications (CC) 2001	$41,110,000	$46,420,000	+$5,310,000	5/31/01	2/26/02 (Full Deployment)	+9 mo.
Improves communications infrastructure, including telephone call management, call routing, and customer self-service applications.						
Recent Statistics:						
—68,000 calls in one 3-minute period during initial week						
—50 percent reduction in waiting time for assistor to answer call						
—50 percent reduction in abandoned calls						
—Number of Spanish calls doubled						
—More accurate pre-routing of calls						
Customer Relationship Management Exam (CRM Exam)	$9,313,000	$7,375,000	$(1,938,000)	6/30/02	9/30/02 (Full Deployment)	+3 mo.
Provides standard tax computation software to Large & Mid-Sized Business Revenue Agents.						
Recent Statistics:						
—Deployed to almost 4,000 Revenue Agents						
—Software meets 91 percent of LMSB requirements						
—Average case time reduced due to new automated tax computation						
—Improved accuracy in computing corporate taxes						
Security and Technology Infrastructure Release (STIR) Release 1	$33,734,000	$41,287,000	+$7,553,000	8/31/01	1/31/02 (Initial Operation)	+5 mo.
Internet Refund/Fact of Filing (IR/FoF)	$13,509,000	$26,432,000	+$12,923,000	7/31/02	9/26/03 (Full Deployment)	+14 mo.
Improves customer self-service by providing instant refund status information and instructions for resolving refund problems to taxpayers with Internet Access.						
Recent Statistics:						
—17.9 million inquiries in 2003, 19.2 million to date in 1994 (1/1/04–4/25/04)						
—32 percent of all real time IRS assistance calls come from IR/FoF						
—Modest reduction of telecommunications costs (about $250,000)						
—Every 1,000 IR/FoF contacts eliminate 1,500–2,000 refund assistance calls						
Human Resources (HR) Connect Release 1	$10,000,000	$10,200,000	+$200,000	12/31/02	12/31/02 (Initial Operation)	N/A.

Delivers an enterprise solution to allow IRS employees to access and manage their human resources information online. Recent Statistics: —75,000 internal users —Cited by Commissioner Everson as an enabling factor in the redirection of approximately 750 staff years to enforcement —Treasury was selected as 2004 Computerworld Honors Laureate for HR Connect development and implementation						
E-Services	$44,045,000	$130,281,000	+$86,236,000	10/31/03	4/30/05 (Full Deployment)	+18 mo.
Creates a web portal and value adding e-Services services to promote the goal of conducting most of the IRS's transactions with tax practitioners. Recent Statistics: —Over 57,000 PTIN applications (W7P) entered to date; data entry productivity doubled (from 8/15/03–4/21/04) —Over 56,000 e-file applications to the Third-Party-Data-Store (TPDS) entered to date (from 8/15/03–4/15/04) —Approximately 23,000 Registered (and confirmed) User Portal (RUP) to date from (10/14/03–4/21/03) —4.7 million Bulk TIN requests						
Modernized e-File (MeF) Release 1	$29,246,000	$46,303,000	+$17,057,000			+4.5 mo.
Provides e-filing to large businesses (1120 family) and tax exempt organizations (990 family). Recent Statistics: —Went live 2/23/04 —Over 30,600 returns (1120) family accepted as of 4/25/04 —Over 3,109 participating Electronic Return Originators as of 4/25/04				11/3/03: Assurance Testing 12/22/03: Web-Filing 1/9/04: Production	11/04/03: Assurance Testing 2/9/04: Web-Filing 2/23/04: Production	+1 day. +7 weeks. +6 weeks.
Customer Account Data Engine (CADE)—Individual Master File (IMF) Release 1.	$61,145,000	$97,905,000	+$36,760,000	12/31/02	September 2004	+21 mo.[1]
Creates authoritative computations and stores data for individual taxpayer accounts and tax return information; it provides timely complete, accurate taxpayer information to IRS employees.						
Custodial Accounting Project (CAP) Release 1	$47,161,000	$119,219,000	+$72,058,000	1/31/03	August 2004	20 mo.
Provides integrated, reliable tax operations and internal management information to support evolving decision analytics, performance measurement, and management information needs.						
Integrated Financial System (IFS) Release 1	$99,870,000	$153,786,000	+$53,916,000	3/31/04	October/November 2004	7–8 mo.

Project	Initial Est. Cost	Actual/Revised Est. Cost	Cost Variance	Initial Est. Completion Date	Actual/Revised Est. Completion Date	Schedule Variance
Modernizes IRS financial management systems by providing a single general edger for custodial and financial data and a platform to integrate core financial data with budget, performance, and cost accounting data.						
Customer Account Management (CAM) Release 1	$57,578,000	TBD [2]	TBD [2]	10/31/04	TBD [2] (Initial Operation)	TBD. [2]
Delivers an enterprise solution to support access to tax account data, contact management, case management, outbound correspondence management, and workflow management.						

[1] CADE, CAP and IFS project schedules are currently under review.
[2] CAM project work suspended following completion of preliminary design activities ($15,452,000 expended). No further work planned until at least fiscal year 2005.

Source: GAO analysis of IRS data contained in Business Systems Modernization (BSM) Expenditure Plans.

Question. The budget contains an initiative related to Private Collection Agencies. Please provide some detail justifying this initiative.

How will taxpayer privacy rights be protected?

Answer. Private Collection Agencies (PCAs) will be required to comply with all taxpayer protections with which IRS employees are required to comply, including the provisions of RRA98, and would be prohibited from threatening or intimidating taxpayers, or otherwise suggesting that enforcement action will, or may be taken, if a taxpayer does not pay the liability.

—In no case would a PCA be permitted to take enforcement action against a taxpayer.

—PCAs will be required to comply with the Fair Debt Collection Practices Act.

—Under the proposal, taxpayers would be permitted to seek damages from PCAs and their employees who violate the protections provided.

—The IRS will approve PCA operational plans that will detail the actions a PCA will take to resolve IRS accounts.

—The IRS will establish an oversight group with responsibility for managing case referrals, monitoring and evaluating PCA performance against the approved operations plan, and reviewing and approving PCA actions.

—The IRS oversight function will use live phone monitoring, recorded phone monitoring, review of PCA systems for adherence to operation plans, and on-site reviews to ensure taxpayer rights are fully respected.

Question. The IRS implemented a similar pilot program in 1996. What lessons were learned from that pilot?

Answer. *Implementation Period*.—The IRS was required to implement, almost from scratch, the pilot program within the year of the appropriation legislation.

—*Funding*.—The pilot program was funded from the IRS's Tax Law Enforcement appropriation.

—*Processing and Communications*.—At the time of the pilot program, IRS computer and communication systems were not adequate for the processing, delivery, and updating of liabilities being handled by the PCAs.

—*Selection of Accounts*.—The pilot program required the IRS to place accounts where the IRS had previously made attempts to collect. Consequently, the pilot program involved the referral of many outstanding liabilities to PCAs that did not have realistic collection potential. This resulted in wasted effort by both the PCA and the IRS.

—*Taxpayer Information*.—The pilot program overly restricted the amount of information that could be provided to PCAs for purposes of collecting outstanding liabilities. As a result, many debts had to be returned by the PCAs to the IRS due to the PCAs' inability to respond to often-straightforward questions about a taxpayer liability.

—*Contract Structure*.—The pilot program involved a fixed-price contract with incentive payments.

Question. Have those lessons been implemented in the new initiative?

Answer. The administration's proposal reflects the lessons learned from the pilot program. The primary issues affecting the success of the pilot program, and the manner in which this proposal addresses those issues, are set out below.

—*Implementation Period*.—In contrast, this proposal has been developed over the past 2 years and has involved discussions between the IRS, Treasury Department, Office of the National Taxpayer Advocate, Department of Justice, and prospective contractors. Moreover, even if authorizing legislation were enacted in the next 6 months, this proposal contemplates that an additional ramp-up period of over a year would be required before the PCA program could begin. This additional time would be required to ensure that the business processes, security and oversight measures, and taxpayer protections are brought on-line and fully tested before the program begins.

—*Funding*.—The pilot program conducted in 1996/1997 was funded from IRS's Tax Law Enforcement appropriation. Funding in this manner resulted in a net reduction to the IRS compliance resources. In contrast, the administration's proposal to fund PCA activities from proceeds would allow PCAs to supplement, not displace, existing IRS resources.

—*Processing and Communications*.—The IRS will invest in modernized Collection Decision and Inventory Management Systems to ensure the successful integration of PCA activities into the IRS collection process.

—*Selection of Accounts*.—The IRS, under the administration's proposal, would focus on ensuring that the outstanding liabilities referred to PCAs are those that not only are within the authority of the PCA to resolve but also represent cases with the greatest likelihood of payment if a PCA were to handle the liability.

—*Taxpayer Information*.—Under the administration's proposal, PCAs would have access to specific information regarding an outstanding tax liability (e.g., type of tax, tax years affected, dates of assessment, whether the assessment is based on a taxpayer's own balance due return or an IRS notice, prior payments, and application of prior payments) in order to answer basic, but important, questions that a taxpayer may have regarding the liability. The taxpayer information that would be provided to PCAs would be strictly limited to the information required for the collection of the specific tax liability at issue. PCAs would not receive, for instance, information regarding a taxpayer's total or adjusted income, sources of income, delinquency history for liabilities not being handled by the PCA, or employer information.

All existing restrictions imposed by section 6103 of the Code would apply to the PCAs, and taxpayers would have the right to assert a claim against PCA employees who violate those protections.

—*Contract Structure*.—The administration's proposal would involve a competitive, fee-for-service, performance-based, incentive contract structure. The performance evaluation would be based on a balanced scorecard that would look to quality of service, taxpayer satisfaction, and case resolution, in addition to collection results.

The allocation of accounts among the PCAs participating in the program would be based on this performance evaluation, thereby providing a further incentive for PCAs to respect all taxpayer rights and protections. This compensation structure is modeled on the successful FMS and Department of Education contracts.

—*Oversight*.—The administration's proposal would involve extensive IRS oversight of the PCAs participating in the program. This IRS oversight would ensure that procedures are followed, and that any issues are identified and resolved early.

Question. How much outstanding tax debt owed to the Federal Government is likely to be collected if this initiative moves forward?

Answer. The Treasury Department has estimated net revenue will total $1.5 billion over 10 years. The gross revenue collected in the Treasury calculations is $1.9 billion over 10 years.

Question. The Customer Account Data Engine (CADE) is the centerpiece of the modernization effort. It holds the promise of moving the IRS from the tape driven system of the 1960's to a modern reliable database.

What needs to occur to make this plan a reality for the IRS?

Answer. As you have so appropriately noted, the delivery of the CADE project is particularly important because—like the new online technical infrastructure that the IRS deployed—CADE is a core fundamental component of the modernized systems. As such, CADE is the IRS's highest priority technology project.

The first release of CADE is scheduled for delivery in September 2004. The IRS has 2 weeks remaining on the fiscal year 2004 filing season release pilot. The pilot has gone well. The IRS is scheduled to go into initial production operation sometime in July or August under a fixed price contract through initial operating capacity.

Question. What has caused the 30-plus month delay in the delivery of Phase 1 of this system?

Answer. The CADE delays stemmed from infrastructure upgrades, initial poor software quality during the startup of systems integration testing combined with the failure to understand the complexity of balance and control, and the resolution of operational and performance issues that occurred during Phase 3 of the Release 1.0 pilot.

Question. Why has the estimated cost gone from $61,145,000 to $97,905,000? When can the committee expect a delivery of Phase 1? What is the IRS doing to control the massive cost increases to this system?

Answer. *CADE Cost Overrun (from the original estimate of $61,145,000 to $97,905,000)*.—The description below explains the costs that GAO reported in their Audit of the fiscal year 2004 Expenditure Plan:

Design Work from September 2000 to July 2001

$15.3 million—initial estimate in March 2000 Expenditure Plan.

$19.3 million—actual cost.

$4.0 million—variance due to design period being extended by 3 months to add detail in some areas and to bridge to Development.

Development Work from July 2001 to March 2004

$40.0 million—initial estimate in March 2001 Expenditure Plan.

$53.6 million—actual cost.

$13.6 million—$9.3 million of the variance was due to a 2-month extension for a Pilot using real tax returns (cost of $5.3 million) and the addition of capacity at the Martinsburg Computing Center to support Development and Testing (cost of $4.0 million). The remaining variance of $4.3 million was due to incurring the cost impact of delays (see first two items outlined below).

Cost Impact of 2-Year Delay in Delivering CADE

$2.4 million—hiring of non-PRIME contractors to support IRS testing.

$1.9 million—establishing a CADE Program Office (work to build an organizational framework to support multiple CADE releases simultaneously).

$18.0 million—cost to apply tax law and other changes for 2003 and 2004 filing season.

These costs do not reflect any changes since the GAO audit of the fiscal year 2004 Expenditure Plan.

Question. Please provide the committee with an update of the review.

Answer. The IRS used the results from independent studies commissioned during the summer of 2003 to create a BSM Challenges Plan comprised of 40 some action items. Given the strategic importance of the plan, the Commissioner appointed an IRS business unit deputy commissioner to oversee the implementation of the plan.

As a first step, the BSM project team developed a crosswalk to ensure that the BSM Challenges Plan's definition of the issues addressed and/or satisfied all of the recommendations from the four commissioned studies as well as the recommendations submitted by the IRS Oversight Board, and the Software Engineering Institute (SEI) study of CADE.

While the deputy commissioner made significant progress in implementing the plan, the full closure of all actions items was unrealistic within the elapsed timeframe of the 6-month appointment. Concurrently, the CIO created a new direct report position for modernization management and assigned responsibility for implementing the plan to the individual recently hired into this newly created position.

Under the leadership of the deputy commissioner, the IRS and CSC team brought closure to several key actions items, including: clarifying the roles of committees as advisory, identifying "blockers" on contracting issues, appointing business leaders to each project, establishing a risk-adjusted schedule and new baseline for CADE Releases 1.0 and 1.1, and increasing the frequency of CADE reviews with the business owner to twice monthly. The majority of the action items are still works-in-progress, some of which will take time to fully complete. Others will span the life of the BSM program.

For example, strengthening systems engineering capabilities by hiring external candidates will take time since it involves conducting the searches, interviewing the candidates, and negotiating the new hires to come on board. The IRS and CSC developed ground rules for escalating issues, but they will need to be continually enforced throughout the life of the program. The IRS rewrote the charters of the governing committees to reflect their advisory role and clearly articulated their responsibilities, however, it will probably take a year to truly evaluate and measure their effectiveness.

As stated, the IRS has made progress toward closing all the action items, but it has much more work to do in critical areas. For example, the IRS needs to religiously follow the proper methodologies and hold people accountable if they do not. The IRS must start "doing things right" as opposed to "doing things fast" such as exiting milestones prematurely. An ongoing challenge will be balancing the scope and pace of projects consistent with capacity, ensuring that the right people are in place before launching a project, and setting realistic delivery schedules and cost estimates. The IRS is committed to staying-the-course and delivering on its promise to modernize America's tax systems, but it is important for everyone to acknowledge this is a monumental effort.

The magnitude and evolution of the BSM program dictates that the IRS will always be going through an evolution of assessment and improvements. In that regard, the BSM Challenges Plan is still evolving and the IRS is using certain action items to continuously improve the program.

Question. What changes need to be implemented to get this mission critical system back on track?

Answer. As a result of missing CADE and IFS key deliverables last summer, the Commissioner and CSC commissioned external assessments studies from outside experts. The studies produced no major surprises; but the IRS now understands more about the issues. All of the assessments confirmed that the IRS modernization effort is a massive, highly complex, high-risk program that is confronting a number of critical management and technological challenges. These studies also made it clear that

the IRS should not turn back, but rather make a series of changes to strengthen the BSM program.

While all of these studies assessed different components of the modernization program, three major recommendations emerged including:

—Scaling back the modernization portfolio to better align with IRS and CSC's capacities;
—Engaging IRS business units to drive the projects with a business focus; and
—Improving contractor performance on cost, scheduling, and functionality.

The assessments also raised a number of other key improvement opportunities, including:

—Adding outside expertise to help manage the program and to complement IRS skills;
—Strengthening our human resources capacity management;
—Adhering to methodologies in areas such as configuration management, cost and schedule estimating, and contract management;
—Reducing the burden from oversight organizations;
—Simplifying the budget process; and
—Initiating the testing of the business rules engine on CADE.

The Software Engineering Institute (SEI) will periodically review the CADE program, and a third party (MITRE) will regularly assess the overall health of the modernization program reporting directly to the CIO.

The IRS committed to scaling back the modernization efforts to better match its management capacity as well as the PRIME's, and to focus on the most critical projects and initiatives. The IRS reduced the size and scope of the modernization program considerably, and has initially developed a human resource capacity planning model to help ensure the right people, with the right skills, are dedicated for the right amount of time to each IT project it undertakes.

The Commissioner is holding IRS senior business unit managers accountable for the success of modernization efforts as it relates to defining, developing, and controlling business requirements. For example, the involvement and leadership of the Deputy Commissioner for Wage and Investment played a key role in the successful delivery of Modernized e-File.

It was evident that CSC, as the PRIME contractor, needed to significantly improve their performance. While CSC has improved their performance somewhat, delays and cost increases persist, as evidenced by the continual delays in delivering CADE, IFS, and CAP. As a result, the IRS will expand the competition for the new enforcement projects that it plans to start later this year and next year. The IRS is also moving to capped or fixed price contracts for development work to balance the financial risk between the Government and the contractor in modernization projects.

The IRS needs a more versatile team of seasoned executives to provide long-term stability to the program. It is complementing the skills of experienced IRS tax executives with outside seasoned technology executives who have experience managing large-scale, complex IT projects. As such, the IRS is hiring two Associate Chief Information Officers to join the MITS organization, and an executive search firm is conducting searches for five senior executives with a wide range of diverse experience in developing and implementing large modernization systems.

The IRS has placed an emphasis on increasing the timeliness and accuracy of BSM communications to ensure that key stakeholders are well informed of program goals and the status of projects against schedule and cost targets.

There is much more work to do, but the IRS is committed to modernizing its archaic computer systems. While progress to-date has been decidedly mixed—the IRS owes it to the taxpayers to stay-the-course and put a solid foundation in place upon which the IRS can build for decades to come.

Question. The committee understands that the E-Services program is expected to be fully operational by fiscal year 2005. Is this program still on schedule? What has occurred to make this project cost go from $44,045,000 to $130,281,000? Why is it 18 months behind schedule?

Answer. The IRS has achieved a great deal of success with the e-Services project. The IRS has delivered electronic services to tax practitioners, and other third parties such as banks and brokerage firms that report 1099s. The IRS deployed all Release 1.0 and Release 2.0 initial operations functionality by the end of April 2004. The IRS conducted additional pilot and performance testing of both releases prior to deployment to the broad practitioner community. The response has been extremely positive.

In March 2004, James D. Leimbach appeared before the Ways & Means Oversight Subcommittee on behalf of the National Association of Enrolled Agents (NAEA) and said, "This new capability is truly going to revolutionize the way we conduct future

business with the IRS. The ultimate beneficiary is the American taxpayer. We are truly amazed and thrilled beyond description at this way of doing business with the IRS, and we would like for you to understand why we feel as we do."

All e-Services Release 1.0 products are fully deployed and available over the Internet, including:

—Registration and online address change access for third parties and IRS employees through secure user portals;
—Preparer Tax Identification Number (PTIN) online application;
—Interactive Taxpayer Identification Number (TIN) matching for payers and/or authorized agents who submit any of six information returns subject to backup withholding (Forms 1099-B, INT, DIV, OID, PATR, and MISC);
—Secure Electronic Return Originator (ERO) application process; and
—Access to e-Services registration and application processes by Modernized e-file (MeF) participants.

E-Services Release 2.0 products are now in production and available for use by IRS staff and taxpayers, including:

—Electronic Account Resolution (EAR);
—Electronic TIN Bulk Matching (Bulk Requests);
—Disclosure Authorization (DA); and
—Infrastructure support for outbound facsimile service.

Statistics gathered as of May 13, demonstrate that the e-services program is providing important benefits for taxpayers and tax practitioners:

—No. of Individuals registered=24,000;
—No. of Individuals changing address during registration=3,000;
—No. of Interactive TIN Match requests=221,000;
—Bulk TIN Requests=4.7 million.

There were five main causes for the schedule delays and cost increases from $44,045,000 to $130,281,000.

Budget Omission for Infrastructure Functionality/Acquisition ($8–9 million).—The original project budget failed to consider the integration of the e-services application with the modernized infrastructure or budget for the acquisition of specific hardware or software to support e-Services development and production environments.

Extended Testing and Infrastructure Integration ($15–17 million).—The quality of the software that CSC and Unisys delivered to the IRS for e-Services was lower than anticipated and the time it took to resolve each of the errors took longer than anticipated. In addition, there was a series of actual integration issues between the application and the infrastructure that were greater in number and took longer than anticipated to resolve.

Modernized e-file 1040 e-file support ($4–6 million).—In reviewing the proposed design for the Modernized e-file project, it was discovered that the project plan called for a system that would not be multifunctional. The IRS developed an alternative plan to expand e-Services functionality to provide these services for Modernized e-file in a manner that was consistent with the Enterprise Architecture, which describes the business and information systems and technical infrastructure that are both in place (Current) and planned (Target). In addition, the Enterprise Architecture defines the architectural strategies to be followed and prescribes standards and technologies to be used.

IRS Initiated changes including filing season changes ($8–10 million).—Due to the fact that it took longer than anticipated to build the e-Services system, the IRS made a number of significant changes to ensure that the e-Services system was consistent with filing season requirements and current production changes.

Extension of MS5 and a misestimate of MS5 costs ($45–48 million—increased estimates for costs through 9/30/05).—Because the e-Services project ran over cost and schedule estimates, the IRS deployed the project using version 8.1 Peoplesoft, CRM. Peoplesoft will stop maintenance of this version of the software in 2005. The IRS must upgrade the production system to conform to latest Peoplesoft CRM 8.8 release. Due to the complexity of the upgrade, the BSM program had to make the changes before turning it over to ITS for operations and maintenance. The BSM program was originally scheduled to turn the e-Services project over in May 2004. The program will now be maintaining and upgrading the system a year longer, until May 2005.

Question. Of the ten computer modernization projects ongoing as of September 2003, nine are currently over their original cost estimate by a total of $292,013,000.

What needs to occur for the IRS to better monitor the escalating costs of these systems?

What types of oversight does the IRS provide over the contracts for development and acquisition of these projects?

Answer. The IRS is currently putting in place several control mechanisms for Contractual, Enterprise Life Cycle, Earned Value Management, Performance and Cost and Schedule Estimating that directly address the estimate overruns. In particular, the IRS is enacting methodologies that will eliminate future "escalating costs."

The IRS has been working jointly with MITRE and CSC (the PRIME Contractor) to improve cost and schedule estimating capability. The IRS is using the well-recognized Carnegie Mellon Software Engineering Institute's (SEIs) Requisites for Reliable Estimating Processes as a guide. The requisites provide for development and execution of the following key cost and schedule estimating objectives:

—Maintaining historical data;
—Structured estimating processes;
—Mechanisms for extrapolating estimates from successful past projects;
—Audit trails; and
—Ensuring integrity in dealing with dictated costs and schedules.

Both CSC and the IRS have made significant progress towards achieving these key objectives. The IRS has implemented procedures for validating contractors' estimating systems and for reviewing cost and schedule estimates. The procedures provide guidance for evaluating reliability of documentation supporting individual estimates and for tracking compliance with sound estimating practices. Furthermore, the procedures also address professional development of personnel with the right skill set for developing and evaluating cost and schedule estimates. CSC has established a historical database, calibrated estimating models and developed detailed requirements for documenting and supporting bases of estimates along with related guidance and directives. Work is also in progress for continuing refinement and improvement in each of these elements.

In addition, joint training is being conducted for IRS, CSC and MITRE personnel as an integral part of the overall plan to ensure competent deployment of improved processes and procedures. The IRS, with MITRE's assistance, recently completed a review of CSC's estimating system. The IRS is finalizing the results and will issue them in a report in the latter part of June. In general, there have been improvements. The report will include a time phased corrective action plan for addressing deficiencies. To ensure the tools, guidance, processes and procedures are part of a mature repeatable process, a concerted effort is underway to fully validate all aspects of the processes and procedures prior to official roll-out within the IRS. This pilot program is intended to verify the soundness of the processes and procedures and provide lessons learned, before full implementation is effected.

Every effort is being made to hire qualified staff and fully implement improved tools, guidance, processes and procedures as soon as possible. However, this is taking more time than the IRS would like. This is a pervasive problem on programs of the size and complexity of the modernization initiative. Nonetheless, the IRS believes that there will be evidence of increased accuracy by the end of fiscal year 2004 and continued improvements over time.

Finally, all of these efforts are part of a highly visible set of plans geared to identifying, tracking, reporting, and reviewing the critical cost and schedule estimating commitments with IRS Executive Management and GAO/TIGTA.

The following initiatives have been implemented (or are pending) to improve performance in the other areas:

—*Application of Performance-Based Contracting (PBC) Techniques*.—Applying performance-based contracting techniques and leveraging lessons learned enhances the IRS's ability to proactively establish expectations for and manage the PRIME contractor's performance.
—*Determination of Task Order for Acquiring Modernization Systems*.—To further improve modernization controls and capabilities, the IRS has established and is implementing a process for determining the type of task order to be awarded when acquiring modernization systems. The IRS issued a policy stating that contracts and task orders for the BSM projects in Milestones 4 and 5 (development and deployment) will be fixed price, as appropriate. This type of task order will shift most or all risks from the IRS to the PRIME.
—*Implementation of Fixed Price Contracting Policy*.—The IRS's Contracting organization and the Enterprise Life Cycle program are developing a joint approach to implement the fixed price contracting policy.
—*Identification of Issues and Tracking Progress*.—The IRS is making use of Earned Value Management, Program Performance Measurements, and a sophisticated electronic analysis and reporting mechanism (the Dashboard) to track progress, identify variances early, and facilitate escalation of issues early in the life cycle.

—*Development of Metrics*.—Finally, the Program Performance Management Office (PPMO) is developing efficiency and outcome metrics to:

—decrease contracted program variances,

—decrease requirements volatility, and,

—increase contracted requirements delivery.

These metrics support program management effectiveness, and provide the ability to assess achievement of program performance goals relative to cost, schedule, requirements scope, and requirements delivery.

FUEL TAX EVASION

Question. The Federal Highway Administration (FHWA) Motor Fuel Tax Evasion Project supports Federal and State efforts to enhance motor fuel tax enforcement. The program was established by the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) and continued under the Transportation Equity Act for the 21st Century (TEA–21) (Public Law 105–178).

Since 1998, the Department of Transportation has provided the Internal Revenue Service (IRS) $31 million from Highway Trust Fund revenues to enhance motor fuel tax enforcement, primarily by developing and operating an automated excise fuel tax reporting system, the Excise Fuel Information Reporting System (ExFIRS). The administration's proposed Safe, Accountable, Flexible and Efficient Transportation Equity Act (SAFETEA) of 2003 includes $163 million for the IRS through fiscal year 2009, and the Surface Transportation Authorization bill as passed by the Senate proposes about $300 million.

The IRS has been struggling to modernize its automated systems. For example, the committee has been told that Commissioner Everson excluded one contractor from a project to update the IRS's tax enforcement systems after learning the contractor would miss an April deadline for putting in a new general ledger accounting system.

How is ExFIRS currently being used to enhance motor fuel tax enforcement and what are its capabilities? Is the system fully operational and functioning as envisioned? If not, what is needed to complete the systems development effort?

Answer. ExFIRS is an umbrella system made up of several subsystems/modules that support the collection of motor fuel industry information, support automated analysis of this information, and help identify areas with the highest risk for nonpayment of excise tax liabilities (therefore offering higher potential for return on investigative and enforcement activities). The most important of the subsystems is the Excise Summary Terminal Activity Reporting System (ExSTARS), which tracks all petroleum movements, in and out, through approved terminals, and captures information that the IRS shares with State taxing agencies.

ExSTARS is the information reporting system that was designed similar to the IRS 1099 matching system that matches information received from employers, financial institutions and other businesses with information reported by taxpayers. It enables the IRS to track all reported fuel transactions that occur within the fuel industry's bulk shipping and storage system. It provides tracking capabilities of fuel from the pipeline/barge delivery system to the point of taxation for the Federal Excise Tax at the terminal. This information is then matched by the IRS to fuel sales transactions reported by taxpayers and to verify their tax liabilities reported on the quarterly Forms 720.

ExSTARS was operational on April 1, 2001. However, the large volume of paper returns filed each month has hampered the maximum use and benefit of the system. ExSTARS requires information reporting from over 1,400 terminals registered to transact fuel sales in this country, as well as the pipelines and barge carriers that transport the fuel from the refineries to the terminals. The IRS receives information reports on 10 to 14 million fuel transactions monthly. Approximately 70 percent of these are filed electronically. Working with the remaining 30 percent filed on paper documents is both impractical and cost prohibitive. Senate Bill S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 (SAFETEA), would require electronic filing of any return containing more then 25 transactions, as proposed in the administration's SAFETEA bill. This legislation, if passed, will greatly enhance the tracking capabilities of ExSTARS.

ExFIRS includes a Data Warehouse module that interfaces with ExSTARS. This module uses the information reported in ExSTARS, on the distribution of fuel, to match against the reported amounts on taxpayer's 720 Excise Tax Returns. ExFIRS also includes legacy systems that the IRS used to track and monitor compliance in the motor fuel area. The Excise Tax Registration Authentication System (ExTRAS) contains the monitoring system for the registration program of taxpayers allowed to carry on tax free transactions within the fuel distribution system. The Excise

Fuel On-line Network (ExFON) is the management information system used to monitor the Dyed Fuel Program. The IRS included these systems in the ExFIRS Program because they are an integral part of the motor fuel tax program and must be included in the IRS's tracking of activities that impact compliance in this area. The funding for the update and enhancement of these systems came from IRS operating funds. These systems have been operational for several years and the updated versions are in place and operating within the ExFIRS Program. The Excise Tax Agent Work Center (ExTAC) is an automated work center that will enable IRS Excise Tax Agents to receive tax returns in electronic format and to conduct examinations in an automated environment. ExTAC is a part of ExFIRS and will receive information from the system to assist in the examination of returns. ExTAC was funded by the IRS and is currently a working prototype version. The system will be in full production and used by agents by the end of the first quarter of fiscal year 2005.

Question. Given the problems IRS has experienced fixing its other automated systems, what reasonable assurance can you provide this committee that taxpayers are getting a good return on their investment in ExFIRS and that the project is being properly managed?

Answer. In 1998, Congress passed the Transportation Equity Act for the 21st Century, requiring the IRS to develop a fuel tracking system. This act required the IRS to use an outside contractor for the development and maintenance of the system. The IRS has met this requirement, and is using Software Engineering Institute (SEI) CMMI Level 2 development processes to manage the development efforts of the contractor and subcontractor personnel in order to ensure a continuous, uninterrupted, integrated approach to the development, installation and implementation of the ExFIRS subsystems.

As stated above, the ExSTARS module of ExFIRS was operational April 1, 2001. The design and development of this system was a joint effort between the IRS, industry and the States. The IRS is using the system, but the ability to date to maximize the effectiveness has been limited by two factors.

Due to the high volume of paper returns that contain thousands of individual transactions, the IRS only captures summary information from paper returns. This limits the IRS's ability to meet the goal of matching ExSTARS information to filed Excise Tax returns.

The filing requirements for ExSTARS required a significant investment for the fuel industry and at the time of ExSTARS becoming operational, some companies were not fully prepared to meet all of the filing requirements. Since April 1, 2001, the IRS has worked closely with industry filers to ensure accurate and timely filing of the information returns required for the operation of ExSTARS. The IRS formed a Data Perfection Team composed of IRS personnel along with outside contractors to work with and assist individual companies meet their filing requirements. Although the IRS has made great progress this area, some companies are still experiencing problems. The IRS has made a decision to continue to work in a cooperative manner with all companies that demonstrate a desire to address their problems and come into compliance with the ExSTARS filing requirements.

The IRS is using the system today. It has the ability to track the movement of fuel in all States—but within the limitations of the problems outlined above. If the issue of paper returns is addressed, the IRS will be able to match individual filers to the ExSTARS database. This will enable the IRS to better determine where to allocate its enforcement resources to combat fuel tax non-compliance. This same information will allow States that have the same tax point as the Federal Excise Tax to "piggyback" on this data to enhance their own compliance efforts.

On the question of the return on investment to the American taxpayers, one needs to look at the effectiveness of information reporting for compliance with income taxes. Matching information received from employers, financial institutions, and other businesses with information reported by taxpayers has long been recognized as one of the most powerful tools that the Internal Revenue Service has used to ensure income tax compliance. In fact, third parties report approximately 80 percent of the personal income received by taxpayers. Through its document matching programs, the Internal Revenue Service is able to use this data as an effective compliance tool. The ExFIRS Program will deliver the same effectiveness to the Excise Fuel Tax arena. The information gathered by the ExFIRS Program will be shared with all State motor fuel taxing agencies and will lead to increased compliance for the States. The States will directly benefit from the increased revenues that will be generated by a higher level of compliance in both the Federal and State areas.

Question. How were systems requirements determined and were other Federal and State law enforcement agencies involved in defining the requirements?

Answer. The design, development, and implementation of ExSTARS is a result of a working collaboration between the Internal Revenue Service, Contractors, Federal Highway Administration, State tax administrators, and industry stakeholders over more than a 5-year time period. A key goal in the development process was to create a system that would benefit State revenue agencies as well as the IRS. The system uses the Uniform Reporting Standards developed by the States to ensure all data is compatible with State systems. The Excise Tax On-line Exchange (ExTOLE) module was developed specifically for use by the States. ExTOLE allows States to exchange data that relates to motor fuel tax issues.

Question. What is the total cost of ExFIRS to date? What is the cost, funding, and schedule status of any development effort still needed for the system? What is the annual cost to operate and maintain the system?

Answer. The IRS and FhWA have provided funding for ExFIRS. The IRS funding is used to cover the incorporation of legacy system into ExFIRS. The two charts below show the cost to date:

FHWA ExFIRS EXPENDITURES

Cost Categories	Fiscal Year 1999	Fiscal Year 2000	Fiscal Year 2001	Fiscal Year 2002	Fiscal Year 2003	Totals
Initial Distribution from FHWA	$9,430,000	$7,923,000	$4,479,000	$4,609,000	$4,739,000	$31,180,000
Budget Reduction from FHWA	(180,000)	.....	(11,000)	.....	(32,500)	(223,500)
Total Available for Project	9,250,000	7,923,000	4,468,000	4,609,000	4,706,500	30,956,500
Contractors	6,151,747	4,237,216	3,913,663	3,938,222	2,922,850	21,163,698
Labor	517,849	943,910	.....	114,489	.....	1,593,948
Training	20,615	33,270	85,320	112,165	96,653	348,023
Travel	521,052	968,000	.....	165,000	287,610	1,941,662
Background Investigations	.....	32,175	20,000	4,000	5,425	61,600
Hardware	1,871,037	772,693	89,015	108,315	271,358	3,112,418
Software	.....	769,676	146,079	13,819	918,060	1,847,634
Maintenance	.....	2,000	28,140	2,990	54,544	87,674
Criminal Investigation Division	150,000	150,000	150,000	150,000	150,000	750,000
Telecom	.....	14,060	35,783	.....	.....	49,843
Total Spent on Project	9,232,300	7,923,000	4,468,000	4,609,000	4,706,500	30,956,500

IRS ExFIRS EXPENDITURES

Cost Categories	Fiscal Year 1999	Fiscal Year 2000	Fiscal Year 2001	Fiscal Year 2002	Fiscal Year 2003	Totals
Initial Request from IRS	$2,510,000	$2,101,000	$3,758,000	$5,204,000	$9,106,000	$22,679,000
Budget Reduction from IRS	(92,338)	.....	(1,037,469)	(3,406,000)	(7,220,000)	(11,755,807)
Total Available for Project	2,417,662	2,101,000	2,720,531	1,798,000	1,886,000	10,923,193
Contractors	1,173,062	2,077,039	2,720,531	1,319,000	1,886,000	9,175,632
Labor	.....	.....	.....	.....	.....	.....
Training	.....	.....	.....	.....	.....	.....
Travel	.....	.....	.....	.....	.....	.....
Background Investigations	.....	.....	.....	.....	.....	.....
Hardware	967,462	8,000	.....	62,000	.....	1,037,462
Software	149,998	15,961	.....	.....	.....	165,959
Maintenance	127,140	.....	.....	417,000	.....	544,140
Criminal Investigation Division	.....	.....	.....	.....	.....	.....
Telecom	.....	.....	.....	.....	.....	.....
Total Spent on Project	2,417,662	2,101,000	2,720,531	1,798,000	1,886,000	10,923,193

In addition, here are spreadsheets detailing future development, maintenance and operating cost through fiscal year 2006. Funding is provided each year to assist the IRS CI in their efforts on motor fuel issues.

ExFIRS SUPPORT CONTRACTOR COST ESTIMATES BY FISCAL YEAR

[In thousands of dollars]

ExFIRS SW Develop/Enhance/Maint Via TIPSS Type Contract	Fiscal Year 2004 Oct 2003–Sep 2004	Fiscal Year 2005 Oct 2004–Sep 2005	Fiscal Year 2006 Oct 2005–Sep 2006
ExFON Dev/Maint/Enhancement (includes Legacy Maint, New ExFON Dev In Web Envir and Data Migration)	700.8	790.4	160.0
ExSTARS Dev/Maint/Enhancement (includes Maint of ExSTARS 1 and Dev/Maint of ExSTARS 2)	2,945.0	1,594.2	400.8
ExTRAS Dev/Maint/Enhancement (includes legacy maint and development in Web environment)	80.0	372.8	160.0
BTRIS Dev/Maint/Enhancement (includes maint of current BTRIS and development of the Analyst Module)	424.0	1,118.2	225.0
ExCIDS Dev/Maint/Enhancement (includes devel of case mgt and workflow modules)	190.6	1,182.7	120.0
ExTAC Dev/Maint/Enhancement (includes maint of current system, development of GM module, and migration to Web environment)	770.8	691.2	320.0
ExTOLE Maint/Enhancement (includes maint of current system and development of enhancements called out in SOW)	80.0	160.0	120.0
ExMIS Dev/Maint/Enhancement (includes DW and ExCIS maint and analysis/reporting enhancements)	546.0	597.1	120.0
Common Costs Associated with all Subsystems (includes Prog Mgt, Sys Engr, CM, QA, Testing, SEI/CMM, Security, Subcontract Mgt, travel expenses, etc.)	2,466.2	2,476.1	1,866.4
Infrastructure Costs—See Infrastructure sheet (includes SW/HW Upgrades/Migrations, Tier 2 and Modernization Requirements, COTS and SW Licenses/Maintenance, Technology Advancements, Service Center Support, etc.)	3,779.0	3,789.0	3,568.0
Subtotal	11,982.4	12,771.7	7,060.2
FhWA Funding at Current Rate	4,200.0	4,200.0	4,200.0
Projected Need	7,782.4	8,571.7	2,860.2
IRS Funding Allotted	4,959.0	4,250.0	3,453.0
Funding Shortfall	2,823.4	4,321.7	−592.8

ExFIRS INFRASTRUCTURE COST ESTIMATES BY FISCAL YEAR

[In thousands of dollars]

ExFIRS Infrastructure Estimates	Fiscal Year 2004 Oct 2003–Sep 2004	Fiscal Year 2005 Oct 2004–Sep 2005	Fiscal Year 2006 Oct 2005–Sep 2006
Annual COTS Licenses, Yearly Maintenance and New User Licenses (Oracle, Informatica, Paper Free, Mecator, Business Objects, MapInfo, FileNet, Ventica)	656.0	637.0	668.0
ExFIRS SW Migrations for New RDBMS/OS/COTS (Oracle/Sun/NT). Major migration every other year (even years)	924.0	236.0	970.0
Tier 2 Requirements (New CM tool, additional security, move to Tier 2 infrastructure and web page compliance—508J)	231.0	243.0	100.0
ExFIRS Harware Migrations (production, development, and test servers/user desktops, laptops and handheld devices/gateway firewalls and routers/technology upgrades). Major upgrade every other year (odd years)	236.0	892.0	248.0
ExFIRS Service Center Expenses (SA/DBA personnel and training covered by SLA—9.9 staff years)	982.0	1,031.0	1,082.0
Other ExFIRS Expenses (SW upgrades for technolgy advancements, new user functionality and IRS modernization initiatives)	750.0	750.0	500.0
Subtotal	3,779.0	3,789.0	3,568.0

Question. What benefits does FHWA derive from the system? Does IRS believe FHWA receives satisfactory return on investment from the system?

Answer. Tax receipts deposited in the Highway Trust Fund Account totaled $35.2 billion in fiscal year 2003, of which $30.2 billion went to the Highway Account and $5 billion to the Mass Transit Account. As described above, the ExFIRS Program will enhance fuel tax compliance directly impacting the FHWA's mission. In addition, the FHWA will be able to use data from the system in its own planning process. Just recently the IRS met and provided summary data to FHWA to assist in its efforts to develop their model of State revenue sharing.

Question. Has an independent audit or review ever been performed of the ExFIRS development effort?

Answer. ExFIRS has a requirement to operate at a minimum of Maturity Level 2 of the SEI CMM. Yearly Process Appraisal Review Methodology (PARM) review of the process was completed in February 23, 2004. At Technology Solutions Center a CMMI SEI Level 2 rating was verified by independent evaluations (external SCAMPI Class A) on February 27, 2004.

Question. Fuel tax fraud creates a drain on Highway Trust Fund (HTF) revenues, which FHWA estimates costs at least $1 billion annually. Department of Transportation Secretary Mineta has called evasion of Federal motor fuel taxes "a serious and growing problem that requires a serious Federal response." The loss of motor fuel taxes is also detrimental to State programs. The impact of these losses is even greater coming at a time when we have experienced a reduction in the growth of HTF revenues, while demands on highway capacity have reached unprecedented levels, and replacement and rehabilitation costs for aging infrastructure are rapidly increasing.

Although fuel excise taxes represent less than 2 percent of total Federal tax revenues, they are a critical funding source for DOT programs. Taxes on gasoline, diesel, and other fuels provide about $33 billion each year, or 89 percent of the HTF revenues used to finance highway and transit projects nationwide. Increased tax collections mean increased Federal revenues for funding the Nation's highways and transit programs.

In July 2002, FHWA Administrator Peters testified before Congress that the administration proposed to halt fuel tax evasion through "a vigorous and more collaborative enforcement effort by State and Federal agencies" and a significant increase in funding over TEA21. The administration proposed providing $202 million for the Highway Use Tax Evasion Project, of which $163 million would be transferred to the IRS.

What does IRS currently estimate the losses from fuel tax evasion to be and how was this estimate derived?

Answer. KPMG, not the Federal Highway Administration, estimates drain on the Highway Trust Fund revenues to be the $1 billion. Although it is difficult to estimate evasion because the IRS does not know what is not being reported, the IRS identified and is addressing critical areas of excise tax non-compliance. These include the:

—Continuing misuse of dyed diesel fuel;
—Smuggling to evade payment of taxes;
—Cocktailing (increasing the fuel volume by mixing in other products) to illegally reduce the effective tax rate; and
—Diverting aviation jet fuel to highway use to illegally evade motor fuel taxes.

The IRS continues to discover misuse of dyed diesel fuel for tax evasion purposes despite the numerous legislative and regulatory steps Federal and State governments have taken. The 140 fuel compliance officers (FCO) monitor 1,400 terminals, all fuel wholesalers, thousands of retail motor fuel outlets, and U.S. border crossings. Additionally, FCOs periodically inspect on-road vehicles on highways throughout the country. From January 1, 2003 through December 15, 2003, FCOs have assessed over 1,400 penalties totaling over $1,400,000 for misuse of dyed diesel fuels. A further analysis of these results indicates that 70 percent of the penalties involved the misuse of fuel by taxpayers in the construction and agriculture industries. Both of these industries are subject to broad-based tax exemptions for non-highway use of motor fuels, thereby, presenting opportunities for abuse.

Another critical compliance problem is smuggling of motor fuel. This involves the illegal introduction of fuel into the United States to evade payment of excise taxes. This problem may occur at border crossing points and points of entry for ocean-going vessels. More than 9 million trucks pass through the 55 border crossings between Canada and Mexico into the United States each year.

The IRS also has found instances of fuel smuggled into the country by people using barges that off load from ocean-going vessels. The IRS is involved in two investigations of barges being used to smuggle fuel; however, it does not know the full

extent of activities in this area. These activities are extremely hard to identify due to the multitude of locations and means smugglers may use. The Corps of Engineers has identified over 600 locations that are not terminals but are known to have the ability to off load fuel from barges. In addition, barges may have portable devices that become mobile racks, providing the ability to off load fuel at any location.

Another compliance problem is the use of adulterated fuel through cocktailing. This technique increases profits by increasing the volume of diesel fuel with used motor oil and other distillates including pollutants, cleaning agents, and unfinished refinery products. This form of tax evasion is attractive for two reasons. First, the substances used to extend the fuel are often not regulated, so they are not recorded in any fuel reporting system. Second, in some cases, the substances are regulated as waste materials, providing an unscrupulous individual an opportunity to get paid to dispose of the product(s) and then blend them into gasoline and get paid again. This tax evasion technique results in an ongoing revenue loss. It may also be dangerous to the public when the taxable fuels are blended with hazardous waste.

Aviation fuel is the last interchangeable product available within the legal fuel distribution system that is not taxed when the fuel leaves a terminal. In any given month, hundreds of millions of gallons of aviation fuel flow into and out of registered terminals. This exempt removal at the rack creates incentives and opportunities to divert aviation fuel to highway use. From fuel inspections, the IRS knows aviation fuel is being diverted. However, the IRS does not know for certain the amount diverted. The IRS is finding aviation fuel in small amounts blended into normal diesel in the propulsion tanks of trucks/tractors. Also, the IRS has found aviation fuel in larger quantities in retail outlets through its Below The Rack compliance efforts. The IRS has found a blend of 5 to 10 percent in most cases.

In 2002, KPMG released a report alleging that the possible loss each year to aviation fuel diversion may exceed $1 billion. The results from IRS internal efforts do not support or disprove an estimate of that size. The IRS initiated an audit program to determine if it could identify significant diversion through aviation fuel distributors operating as 637 H Registrants. In most situations, the distributor had the paperwork to support a tax free/reduced tax sale of the fuel. To date, the IRS has not identified registrants with massive amounts of fuel for which they cannot account. Due to the lapse of time between the sale of the fuel and the audit, the IRS could not successfully track down the ultimate users of the fuel to verify that the fuel was, in fact, used in a proper fashion. The only way to ensure the fuel is used properly is to track the fuel to each end user. The diversion of 1 percent of the aviation fuel that leaves the terminals in the United States represents the loss of over $65,000,000 per year. Based on IRS's findings in the fingerprinting test, it believes that a 3 percent diversion is a conservative estimate. This amount of diversion would cost $195,000,000 per year.

Dyed Fuel Misuse.—Dyed Fuel used on highways.—The IRS does not have an exact figure that it can state as the extent of total non-compliance for the misuse of dyed fuel. Based on penalties asserted over the past 3 years, the IRS assesses a penalty on an average of 1 percent of the trucks it inspects on the highway and 6 percent of the end user sites that it inspects. The IRS does not have data on the total volume of fuel involved in each of these cases; however, these results indicate a continuing non-compliance issue with the proper use of dyed fuel. Based on this experience, the IRS believes that at least 1 percent of dyed fuel sold each year is diverted, resulting in loss of tax of at least $50,000,000.

Cocktailing/Illegal Blending.—The Internal Revenue Service has developed a "fuel fingerprinting" technology to combat fuel tax evasion occurring "below the rack"—particularly bootlegging, smuggling, and adulterated fuel through "cocktailing" or blending the product. Fuel fingerprinting is a technique that examines the "chemical fingerprint" of samples taken from retail stations for adulteration or for a mismatch with samples taken from the terminal racks that normally supply those stations. This technology allows for the detection of untaxed kerosene intended to be used as aviation fuel, "transmix" taken out of pipelines, waste vegetable oils, used dry-cleaning fluids, and other chemicals that may be mixed with diesel fuel and find their way into the tanks of trucks on the road. Fuel fingerprinting provides a more efficient and comprehensive method to monitor compliance compared to traditional audit techniques. The IRS has conducted sampling on diesel fuel in several parts of the country. Results indicate approximately 8 percent of the diesel fuel tested has some form of adulterant. The amount of adulterant found in retail outlets has been in the range of 2 percent–25 percent with an average of 8.2 percent. Using these results, the IRS estimates that there is a minimum of $50,000,000 each year in tax loss due to illegal blending of diesel fuel.

Due to safety issues with handling gasoline, the IRS has not conducted fuel fingerprinting tests for gasoline. The IRS has anecdotal information from informants

that illegal blending is much more common for gasoline then diesel. The reason given is the huge demand for gasoline and the ease to hide the adulterants among the large volume of fuel moving through a location. Using estimates for diesel fuel and comparing the sale of gasoline to diesel (3 to 1), the IRS has a minimum estimate of $150,000,000 per year for illegal gasoline blending.

Although the IRS has evidence of fuel being smuggled into the country, it does not have a reasonable basis for an estimate at this time. As mentioned in the discussion of the various schemes used for motor fuel tax non-compliance, the IRS does not have exact estimates of the potential revenue losses. All of these schemes are outside the law and the information is based on information the IRS has gathered through examinations and fuel testing. The IRS believes this is a conservative estimate and, in fact, does not include any estimation for smuggling in these numbers. In summary, estimates for the overall loss of revenue are as follows:

	Amount
Misuse of Aviation Fuel	$195,000,000
Misuse of Dyed Fuel	50,000,000
Cocktailing of Diesel	50,000,000
Cocktailing of Gasoline	150,000,000
Overall Estimate	445,000,000

Question. How is IRS working with other Federal agencies and States to leverage enforcement resources? Since 2000, how many cases are being jointly investigated with other Federal and State law enforcement agencies?

Answer. The IRS has a long history of working fuel cases with its State counterparts and, when appropriate, with other Federal agencies. With current disclosure provisions it is difficult to jointly investigate motor fuel cases with other Federal agencies. In the past, the IRS has successfully worked with other Federal agencies under the umbrella of the grand jury. Working with State counterparts is most effective when the State has a similar point of taxation, that being at the terminal rack.

The IRS does not have a measurement process for determining how many cases have been worked with State or other Federal agencies. These situations have been on a case-by-case basis with the documentation in the case file.

Question. Who is responsible for coordinating the overall Federal and State efforts for pursuing all fuel tax evasion-related offenses?

Answer. The Internal Revenue Service is responsible for Federal efforts to pursue fuel tax evasion. It works in a collaborative fashion with State agencies and other Federal agencies. In these efforts, the IRS does not direct the resources of the other agencies; however, it does share information that it can properly share under the existing disclosure provisions. As stated earlier, the ability to share information with these partners must conform with the provisions of IRC 6103 for disclosure of taxpayer information.

Question. What is the total Federal "level of effort" in terms of staff and resources, being directed at these crimes?

Answer. The IRS has several programs/activities that support motor fuel tax compliance and other taxes that support the Highway Trust Fund. The Small Business/Self Employed (SB/SE) Division has approximately 260 revenue agents who are excise tax specialists and approximately 140 fuel compliance officers (FCOS). Historically, IRS's revenue agents spend 40–50 percent of their direct examination time on the taxes that support the Highway Trust Fund. The FCOs spend 100 percent of their time enforcing the dyed fuel laws and detecting illegally blended fuel through its below the rack (BTR) efforts. In addition to these employees, the IRS has approximately 50 tax examiners that audit claims for excise tax refunds, the majority being for motor fuel taxes. Motor fuel excise tax compliance is a priority for Criminal Investigation (CI) and included in its fraud program along with bankruptcy, insurance, healthcare, and other financial frauds. CI resources are applied to this program area based on the degree of criminal activity identified.

Question. What is the IRS's budget request for fuel tax enforcement activities for fiscal year 2005? Please compare to funding allocated to this area of enforcement for the past 5 fiscal years. Does IRS have any plans to increase the number of resources devoted to this area? Should funding for this project increase?

Answer.

COSTS FOR EXCISE AGENTS [1]

	FTE	Salaries	Benefits	Total
Fiscal year 2000	271	$59,636	$18,832	$21,264,828
Fiscal year 2001	267	61,249	19,342	21,517,797
Fiscal year 2002	285	63,451	20,037	23,794,080
Fiscal year 2003	282	65,421	20,659	24,274,560
Fiscal year 2004	252	68,103	21,506	22,581,468
Fiscal year 2005 [2]	240	69,465	21,936	21,936,240

[1] Based on GS–13 Step 5 RUS.
[2] Projected.

The above chart reflects the total number of Excise Agents that worked all Excise returns. The IRS is currently evaluating the staffing levels for fiscal year 2005 but no decisions have been made to date. In its SAFETEA legislation, the administration proposed $54.5 million for highway use tax evasion projects in fiscal year 2005. This funding would enable the IRS to increase resources applied to motor fuel tax compliance. As ExFIRS becomes a more viable system, the IRS anticipates having improved data to determine the appropriate level of future staffing.

Question. What is IRS's current fuel tax evasion investigative caseload? How many staff does IRS devote to this area? Does the IRS need to devote additional revenue agents or criminal investigators to fuel tax evasion fraud? Why or why not?

Answer. Criminal Investigation currently has fourteen motor fuel cases under investigation. In fiscal year 2003 the IRS devoted nine special agent FTE and three non-special agent FTE to excise tax cases. Criminal Investigation does not anticipate a significant increase in resources devoted to motor fuel excise tax evasion cases because the legislative changes enacted over the past decade have significantly curtailed opportunities for abuse that previously existed, but CI will commit additional resources if local or regional compliance problems arise.

Question. How does IRS measure the success or failure of its fuel tax evasion efforts? What indictments, recoveries, and convictions has IRS attained as a result of their fuel tax evasion efforts? What successes or failures have the States and other Federal agencies had in this area?

Answer. Criminal Investigation has no formal measures to gauge the success of its excise tax program. Ultimately, it is the impact of successful prosecutions that ultimately determine success or failure. During the period fiscal year 1993 through fiscal year 2003, the IRS prosecuted 364 people for participating in schemes to evade excise taxes. In aggregate, these prosecutions involved over $500,000,000 in tax revenue and involved many prominent members of organized crime. CI reported the magnitude of this effort in the excise tax case summaries contained in their annual reports from fiscal year 1993 through fiscal year 2001. These summaries chronicle many prominent cases and the history of motor fuel enforcement efforts over the last decade. After fiscal year 1997, motor fuel tax evasion case initiations began to decline. Subsequent schemes lacked the complexity and scope previously seen. This decline is attributable to the following factors:

—The cooperative efforts of Federal and State revenue and regulatory agencies;
—Support from the motor fuel distribution industry and professional associations;
—Effective criminal prosecutions;
—Development of improved auditing and compliance tools (particularly fuel tracking systems, fuel dyeing and the on road inspection programs; and,
—Passage of fundamental legislative changes that reduced the opportunities for evasion.

Question. Does the IRS have a plan for achieving a more vigorous and collaborative Federal and State effort for pursuing fuel tax evasion? If so, please describe the plan. Does IRS see any barriers to expanding current efforts to collaborate with other agencies on fuel tax fraud-related investigations?

Answer. The IRS is continuing to work closely with other Federal and State agencies that enforce motor fuel laws. It also works with State environmental agencies when notified of misuse of hazardous materials in illegal cocktailing and blending. The IRS is participating with nine regional task force groups as part of the joint project with FHWA. IRS staff meets periodically with State counterparts to share information and conduct joint investigations. The IRS is involved in several ongoing cases with multiple States and agency.

With the expansion of the ExSTARS reporting, several of the holes will be plugged in tracking motor fuel products. With the enhanced reporting, the States and the IRS will be able to easier identify fuel diversions. The principal roadblock

to collaborating with other Non-revenue State and Federal agencies is the disclosure restrictions.

Question. How do fuel tax evasion-related crimes relate to homeland security? How is IRS working with the U.S. Customs and Border Protection agency to combat this problem?

Answer. Motor fuel product is a very volatile liquid and in the hands of the wrong individuals could have disastrous results. Criminal Investigation is a member of the FBI's Joint Terrorism Task Forces. These task forces are aware fuel tanker trucks could be utilized by terrorists to perpetrate a terrorist attack. Since September 11, 2001, all allegations involving fuel tanker trucks have been vigorously investigated, as have allegations that persons potentially affiliated with terrorist groups may be acquiring licenses to operate fuel tankers or transport hazardous materials.

The IRS believes the ExFIRS/ExSTARS programs have the capability to handle enhanced tracking of fuel systems and it supports the legislation that would track vessels both for security and tax purposes. The IRS has also developed an acoustical device for identifying product that is being transported to ensure that the actual product being shipped matches the shipping paperwork.

BANK SECRECY ACT ENFORCEMENT

Question. Given the limited resources in the IRS budget for enforcement and compliance, what standards does the IRS use to select cases to review for Bank Secrecy Act (BSA) compliance?

Answer. The Internal Revenue Manual (IRM) 4.26.3.2.4, Selection for Assignment provides specific guidelines to the Anti-Money Laundering (AML) coordinators about case selection. It provides:

—The AML coordinator should select entities from the nonbank financial institution (NBFI) database or the Form 8300 inventory, using risk-based analysis to select those entities with the highest potential for noncompliance for compliance examinations or reviews, such as:
  —Entities with a high volume of cash transactions or abnormal cash activity;
  —Entities in local geographic areas with high potential in money laundering;
  —Entities which have a previous history of noncompliance; and
  —Entities which have been cited for poor or inadequate recordkeeping.
—The AML coordinator should consider available resources as well as balanced coverage (geographic area and industry) when selecting NBFIs or Non-financial trade or Businesses (NFTB) for compliance examinations or reviews.
—Input from other operating divisions (e.g. TE/GE) can assist the coordinator in assessing risk.
—Prior to opening the exam or review the names of selected entities are to be furnished to Criminal Investigation (CI) for clearance.

The IRS and the Financial Crimes Enforcement Network (FinCEN) jointly establish the priorities for types of NBFIs to be examined, and the IRS provides these priorities to its AML coordinators in an annual program letter. In addition, as part of the efforts to improve the effectiveness of the AML program, the IRS provided training for its AML coordinators in March 2003 on methods to apply against the Currency Banking and Retrieval System (CBRS) to identify cases. Since that time, CBRS analysis has been provided to the coordinators on a regular basis to assist them in the identification of cases. To further ensure consistency in case selection, the IRS plans to centralize the case identification process by October 2004. The IRS is also working with its SBSE Research to enhance the case selection criteria.

Question. Are the standards for determining BSA cases for review uniform in every office? Please provide a copy of those uniform standards.

Answer. The standards for selecting cases for review are detailed in the response to the question above. During the AML program reviews conducted by the headquarters office, conformity with these guidelines is reviewed specifically.

The IRS is currently centralizing case selection. BSA typed inventory varies demographically and changes or moves constantly. The IRS is seeing the shift of currency cells away from banks and larger cities. Efforts to centralize inventory selection will better help the IRS recognize these trends and quickly shift field resources as needed.

Question. How many cases were reviewed for BSA compliance? How many possible cases are there? What percentage of total cases are forwarded for prosecution or further review?

Answer. In fiscal year 2003, the IRS closed 3,655 NBFI cases. The IRS also contacted an additional 8,800 businesses to determine if those that had a requirement to register had done so. The number of possible Money Service Businesses (MSB) is constantly changing, but there are currently more than 88,000 potential NBFIs

on the database. One of the objectives of the program is to identify new businesses while removing from the database those that no longer are in business.

In fiscal year 2003, seven cases were forwarded to the IRS's Criminal Investigation Division and two cases were referred to FinCEN for penalty consideration. The number of cases is less than 1 percent of those examined.

Question. Does the IRS train its compliance personnel in the IRS's responsibilities under the USA PATRIOT Act?

Answer. IRS Compliance personnel involved in the AML program receive specific training regarding BSA AML Compliance Programs and related proposed regulations. IRS revised its Basic AML Course to reflect the changes resulting from the USA PATRIOT Act. As part of this training, personnel are:

—Instructed on how to access the Office of Foreign Asset Control's (OFAC) website to identify individuals and countries which have been placed on OFAC's Specially Designated Nationals (SDN) list. In addition, information regarding the SDN list is placed on the AML Website to insure that examiners are aware of any changes to the list.

—Trained to look for transactions going to OFAC sanctioned countries. If such transactions are found, personnel are trained to contact the OFAC's Compliance Hotline and proceed directly to OFAC.

—Trained to look for unlicensed money transmitters. Two Continuing Professional Education (CPE) modules have been developed specifically addressing Informal Value Transfer Systems and Section 352 of the USA PATRIOT Act.

—Trained in audit procedures to detect structuring, using data from actual examples of structured transactions. They are taught to follow the transaction through the final clearing in order to identify structured transactions through OFAC sanctioned countries.

Question. What training does each compliance officer receive each year related to BSA and the USA PATRIOT Act?

Answer. This year, the IRS provided CPE modules to IRS's AML examiners: Suspicious Activity Reports, Structuring, Informal Value Transfer Systems, and Section 352 of the USA PATRIOT Act. The IRS provides examiners with workshops regarding the BSA during group meetings held at least once a year. The IRS makes AML Technical Advisors available to attend these group meetings.

In addition, information regarding new regulations is forwarded from Headquarters to Territory Managers for immediate dissemination to examiners, and examiners review FinCEN's SAR Activity Reviews Digests as well as other issued guidance. In addition, examiners are required to refer to the AML website on a regular basis for any changes to procedures and/or regulations.

Question. When the IRS audits a casino, is the auditor versed in the intricacies of the Patriot Act?

Answer. AML examiners, all of whom have received training that deals specifically with the USA PATRIOT Act (for example, the four recent CPE modules: Suspicious Activity Reports, Structuring, Informal Value Transfer Systems, and Section 352 of the USA PATRIOT ACT), conduct the IRS's examinations of casinos. In addition, the Casino Course these examiners attend includes changes in the law under the Patriot Act, and the IRS makes these changes available to all casino examiners on the AML web page.

Question. Does IRS have any performance measures to determine auditor knowledge of the laws they enforce?

Answer. The official IRS position descriptions for the AML examiners outline the job knowledge required as well as Critical Job Elements. The Critical Job Elements on which AML examiners are evaluated include Knowledge and Application of Anti-Money Laundering Law. The IRS is currently developing case review procedures that will centralize closed case reviews using full time reviewers as well as provide managers with a review document. The attributes in the case review document include the interview conducted, managerial involvement, interpretation and application of the law, fact gathering, penalty determination, and documentation.

Question. Is there any follow-up with the casinos or money service businesses to get feed-back on its audit?

Answer. The IRS has an effort under way to develop a customer satisfaction survey for the AML Program by the end of fiscal year 2004.

Question. How many cases were referred by the IRS in fiscal year 2003 for enforcement action? What were the outcomes of the referrals?

Answer. In fiscal year 2003, seven cases were referred to IRS's Criminal Investigation (CI) Division; three are currently under active investigation. In addition, during the first 6 months of fiscal year 2004, SB/SE referred an additional seven cases to CI, five of which are under investigation. As a result of referrals from its

AML program, the IRS also examined and closed 538 cases for income tax violations in fiscal year 2003.

Question. How many cases were referred by the IRS in fiscal year 2003 to FinCEN for further review? What were the outcomes of the referrals?

Answer. In fiscal year 2003, the IRS referred two cases to FinCEN for penalty consideration. Both were issued warning letters. The IRS referred two additional cases in the first half of fiscal year 2004, and is currently developing another two for referral.

Question. What level of oversight regarding the compliance of casinos and money service businesses (MSB's) does the IRS exercise? Please describe those efforts in detail.

Answer. The IRS has been delegated responsibility for civil examinations for BSA compliance. In addition to examinations, the IRS also conducts outreach (in coordination with FinCEN) to ensure businesses are aware of their filing, recordkeeping and registration responsibilities. The IRS currently has approximately 350 examiners (including managers) assigned to the Anti-Money Laundering (AML) program. They are supported by 16 Area AML coordinators and approximately 8 computer audit specialists from LMSB. IRS AML examiners currently are conducting 5,576 examinations, which reflects 6 percent of the IRS-known potential population.

In addition to the examination of NBFIs, the AML examiners also conduct reviews for compliance with the currency reporting requirements of Sec. 6050I of the Internal Revenue Code. Since Sept. 30, 2000, the IRS has added 48,688 potential NBFI entities to the database. As of March 31, 2004 the NBFI database reflected over 88,000 potential NBFIs. The IRS is also conducting investigations on 690 businesses for potential registration requirements.

From September 30, 2000 through the present, the IRS has closed 13,288 cases and conducted 5,940 (fiscal year 2003 and fiscal year 2004) registration examinations.

Since 2002, the AML Compliance program has transitioned from conducting individual education visits to focusing on examinations. The education and outreach now is performed by the Small Business and Self-Employed operating Division's (SB/SE) Taxpayer Education and Communication (TEC) Division. TEC delivers education/outreach to external stakeholders, using leveraged resources to reach a larger number of covered businesses. The National TEC AML strategy was designed in conjunction with SB/SE Compliance, IRS's Criminal Investigation Division and FinCEN to increase compliance of MSBs, NBFIs and casinos with the BSA.

Question. What performance measures are in place to measure IRS compliance efforts as they relate to MSB's and casinos?

Answer. The current measures for the AML examination program include the number of NBFIs identified, the number of examinations conducted and closed, and the results of completed examinations. The IRS also now has a database in place that provides information on the hours per closed case as well as the cycle time of cases. In the course of the BSA examinations conducted, the IRS also identifies potential cases for unreported income under Title 26. On the education/outreach side, the TEC organization monitors the number of outreach events they deliver and the number of participants at the events.

Question. The Tax Inspector General for Tax Administration (TIGTA) reports that the IRS small business/self employed (SB/SE) division responsible for compliance of the BSA for non-bank financial institutions lacks meaningful performance measures, has no useful data to provide oversight of program performance, and does not base case selection in risk factors. Similar findings also occurred in a previous audit in December of 2000. The IRS has known since at least 2000 that these problems were pervasive in the compliance program. In September of 2003, the IRS continues to fail in delivering compliance results commensurate with the resources spent. In the response on this issue to the committee the IRS has stated that the agency "does not characterize this as a problem". There are two TIGTA audit reports which demonstrate the IRS has failed repeatedly to make meaningful progress in its compliance efforts for BSA. If the IRS and FinCEN do not believe this as a problem, what would elevate it to warrant recognition? How can the IRS allow these types of lapses to recur?

Answer. In 2002, the IRS made a commitment to ensure the effective operation of the Anti-Money Laundering Program. In particular, the IRS has taken the following steps:

—Named a national AML program manager in February 2002;

—Created 32 groups nationwide dedicated to the AML program (added one additional group in 2004);

—Replaced part-time revenue agents, for whom AML was a collateral duty, with full-time, fully trained revenue agents dedicated to AML;

—Minimized the use of lower-graded tax compliance officers, who previously handled many of the AML examinations;
—Designated a territory manager in each IRS Area for AML program responsibility;
—Designed a Management Information System to capture the results of BSA examinations; and
—Secured funding from FinCEN, beginning in fiscal year 2003, to add 70 additional FTEs to the AML compliance program.

As a result of these improvements, all program indicators (numbers of MSBs identified, outreach contacts, and examinations) are trending up. In the first half of fiscal year 2004, the IRS's SB/SE Division made more referrals to FinCEN and had more referrals accepted by CI than in all of fiscal year 2003. In fiscal year 2003, SB/SE also focused on ensuring that MSBs that had a requirement to register did, in fact, register. Those efforts resulted in an additional 2500 registrations, which represented a 20 percent increase in the number of registered MSBs.

In a recent review of the AML program, TIGTA acknowledged the IRS's efforts to enhance the program but identified the need for further improvements. Ongoing efforts include the following:
—Centralization of case identification, incorporating leads from the field and CI, as well as CBRS analysis for October 2004;
—Piloting of MSB examinations at the entity's corporate headquarters level to facilitate the identification of MSB agents with the highest risk of noncompliance;
—Incorporation of quality performance measures into the embedded quality process in October 2004;
—Transition of outreach activities from Compliance to TEC within SB/SE to provide broad educational opportunities to external stakeholders;
—Completion of a template for a Fed/State MOU to provide reciprocal opportunities to leverage resources for examinations, outreach, and training;
—Partnership with FinCEN to identify locations of potential noncompliance, as well as the first joint examination of a major MSB with FinCEN; and
—MOU with FinCEN to allow IRS full access to SARs (for purposes of BSA examinations only).

Question. What is the IRS doing to ensure case selection criteria are uniform? Please provide a copy to explain how case selection criteria have changed since the Tax Inspector General for Tax Administration (TIGTA) audit in 2003.

Answer. As mentioned previously in questions 1 and 2, the Internal Revenue Manual provides guidelines about case selection to the AML coordinator in IRM 4.26.3.2.4, Selection for Assignment. During AML program reviews conducted by the SB/SE headquarters office, conformity with the guidelines is an item specifically reviewed.

TIGTA identified a concern that there was no consistency in how the IRS selected AML cases for examination. To remedy this situation, the IRS increased program oversight to ensure the compliance risk case selection tools provided to the field are being used to identify cases. The centralization of case identification, incorporating leads from the field and Criminal Investigation, as well as CBRS analysis, is scheduled to be in place by October 2004. The centralization of workload identification will ensure consistency in risk based case selection. The IRS is including FinCEN in this process. Case selection methods are addressed in Area program reviews. In addition, SB/SE's Research organization has undertaken a project to possibly identify other methods for selection.

Question. The IRS has a poor record regarding regulatory compliance operation and management of BSA data according to numerous IG, GAO, and TIGTA reports. What is the IRS doing to correct these long-standing problems? What guarantees can the IRS provide that will show they will do the job right this time?

Answer. In recent years, the IRS has shown significant commitment to the effective operation of the Anti-Money Laundering Program, and considers the identification of opportunities for improvement to be an ongoing process. Improvement efforts in progress include the centralized review process, the embedded quality initiative, improved management information systems and centralized compliance examinations.

In particular, the IRS has taken the following steps to enhance the effectiveness and professionalism of the AML program:
—Named a national AML program manager in February 2002;
—Created 32 groups nationwide dedicated to the AML program (added one additional group in 2004);
—Replaced part-time revenue agents, for whom AML was a collateral duty, with full-time, fully trained revenue agents dedicated to AML;

—Minimized the use of lower-graded tax compliance officers, who previously handled many of the AML examinations;
—Designated a territory manager in each IRS Area for AML program responsibility;
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In a recent review of the AML program, TIGTA acknowledged the IRS's efforts to enhance the program but identified the need for further improvements. Ongoing efforts include the following:

—Centralization of case identification, and incorporating leads from the field and CI, as well as CBRS analysis for October 2004;
—Piloting of MSB examinations at the entity's corporate headquarters level to facilitate the identification of MSB agents with the highest risk of noncompliance;
—Incorporation of quality performance measures into the embedded quality process in October 2004;
—Transition of outreach activities from Compliance to TEC within SB/SE to provide broad educational opportunities to external stakeholders;
—Completion of a template for a Fed/State MOU to provide reciprocal opportunities to leverage resources for examinations, outreach and training;
—Partnership with FinCEN to identify locations of potential noncompliance, as well as the first joint examination of a major MSB with FinCEN; and
—MOU with FinCEN to allow IRS full access to SARs (for purposes of BSA examinations only).

Question. The IRS, in its response to the committee, states that there are standards in place to select cases in all compliance programs. TIGTA states in its 2000 and 2003 audit that the program still lacks performance standards. The only performance goal that exists for this program is "delivery of Direct Examination Staff Years (DESYs)." To accomplish this goal the IRS need only assign sufficient personnel to the program to meet the allocated DESYs. There are no other measures for evaluating the program's performance. Does the IRS consider this performance measure sufficient to measure the outputs and outcomes of this program? Are other compliance programs held to such a low threshold?

Answer. In addition to the delivery of DESYs, the AML Program currently measures the number of NBFIs identified, the number of examinations conducted and closed, the results of completed examinations, the number of Title 26 information items prepared and related income tax examinations completed. The TEC organization monitors the number of outreach visits, seminars, participants, and mailings accomplished. Recent improvements to the MIS now provide information on the hours per closed case, as well as the cycle time of cases.

Question. The committee understands that IRS has begun to review its performance measures and is in the process of establishing measurable performance-based indicators for BSA programs. What is the status of this effort? Please include in your response the new performance measures being used to measure fiscal year 2004 performance?

Answer. The current measures for the AML examination program include the number of NBFIs identified, the number of examinations conducted and closed, and the results of completed examinations. The IRS also now has a database in place that provides information on the hours per closed case, as well as the cycle time of cases. In the course of the BSA examinations conducted, examiners also identify potential cases for unreported income under Title 26. On the education/outreach side, the TEC organization monitors the number of outreach events they deliver and the number of participants at the events.

Question. In Treasury's April 30 responses to the committee, the Department and the IRS contend that IRS compliance programs include reviews of examiners work. Performance plans for all managers include the requirement to review cases and to be involved in case development. Yet the IRS in its response to the TIGTA report state "there continues to be significant risk of undetected noncompliance and inconsistent program delivery. Based on our review of a judgmentally selected sample of 76 cases from 3 Area Offices, standard case selection criteria are not used, cases

are not properly documented and potential noncompliance information is not available". How does the IRS explain the discrepancy between stated requirements and failed results?

Answer. The quote attributed above to the IRS was actually a statement made by TIGTA in their Report (Audit No. 200330004). The relevant TIGTA recommendations from that report, and the actions the IRS is taking to implement them, are as follows:

—Develop standard risk-based case selection criteria that would provide minimum requirements and parameters for case selection.

The SB/SE Division Research function is developing a scoring system, or set of rules, to prioritize workload by using Currency Banking Retrieval System data. Until the scoring system is implemented, the IRS has taken other steps to ensure appropriate case selection. The IRS has increased program oversight to ensure the compliance risk case selection tools already provided to the field are being used to identify cases. In addition, case selection methods are addressed as part of the Area program reviews. The centralization of case identification, incorporating leads from the field and Criminal Investigation, as well as CBRS analysis, is scheduled to be in place by October 2004. This centralization will ensure consistency in using risk based case selection for the AML cases.

—Reinforce the importance of case documentation with specific instructions or case models and implement a centralized quality review process.

The IRS has taken a number steps to increase the quality of the cases. In July 2003, two technical advisors were added to headquarters staff to provide technical assistance to the field. Since their arrival, they have visited several areas, to review cases and meet with the examiners and managers to discuss their observations. This has been well received by the field personnel, and requests for their participation continue to increase. The first AML Technical Digest, which addresses examination issues, will be published on the AML web page in late May 2004.

The IRS is on target to incorporate quality performance measures for AML into the new embedded quality process that will be in place in October 2004. Including AML in the embedded quality process will provide a systemic method for consistent managerial feedback. In addition, the centralized closed case review process, which will be a part of embedded quality, will provide headquarters with the ability to identify trends and training needs.

—Coordinate with the FinCEN to secure BSA examiner and RA access to SARs.

The Commissioner, SB/SE Division, initiated a Memorandum of Understanding with the Director of the FinCEN to permit BSA examiners access to SARs for the purpose of MSB compliance checks. That MOU has been signed by both the IRS and FinCEN. IRS senior executives are continuing to pursue access to SARs for RAs in the regular examination program.

Question. TIGTA found that "no standard criteria exist for selecting BSA compliance cases."

Should the committee be concerned that there are no standards that exist for case selection?

IRS states that AML coordinators use their own criteria. Please provide a complete list of those criteria.

Given Mr. Everson's strong statements about the need for more resources, does this program not point out that IRS has enormous savings to be realized by using its current resources in a smarter and more efficient manner?

Answer. Through its Internal Revenue Manual (IRM) 4.26.3.2.4, Selection for Assignment, the IRS provides specific guidelines to its AML coordinators about case selection. It reads as follows:

—The AML coordinator should select entities from the nonbank financial institution (NBFI) database or the Form 8300 inventory, using risk-based analysis to select those entities with the highest potential for noncompliance for compliance examinations or reviews, such as:
  —Entities with a high volume of cash transactions or abnormal cash activity;
  —Entities in local geographic areas with high potential in money laundering;
  —Entities which have a previous history of noncompliance;
  —Entities which have been cited for poor or inadequate recordkeeping;
—The AML coordinator should consider available resources as well as balanced coverage (geographic area and industry) when selecting NBFIs or NFTBs for compliance examinations or reviews;
—Input from other operating divisions (e.g. TE/GE) can assist the coordinator in assessing risk;

—Prior to opening the exam or review the names of selected entities are to be furnished to Criminal Investigation (CI) for clearance.

The IRS has increased program oversight to ensure these compliance risk case selection tools provided to the field are being used to identify cases. In addition, the IRS and FinCEN jointly establish the priorities for types of NBFIs to be examined, and the IRS provides these priorities to its AML coordinators in an annual program letter. Further, as part of the efforts to improve the effectiveness of the AML program, the IRS provided training for its AML coordinators in March 2003 on methods to apply against the Currency Banking and Retrieval System (CBRS) to identify cases. Since that time, CBRS analysis has been provided to the coordinators on a regular basis to assist them in the identification of cases. Case selection methods also are addressed during Area program reviews.

To further ensure consistency in case selection, the IRS plans to centralize the case identification process by October 2004. This centralization, which will incorporate leads from the field and Criminal Investigation, as well as CBRS analysis, will ensure consistency in risk based case selection and allow for improved trend analysis. In addition, SB/SE's Research organization has undertaken an effort to enhance the case selection criteria.

To improve its utilization of resources, the IRS is piloting the examination of Money Service Businesses (MSB) at the entity's corporate headquarters level. Three such examinations are currently underway. Working with the business, IRS will be able to identify the MSB's agents with the highest risk of noncompliance. This is a new approach for the program, one that was developed in cooperation with FinCEN, and one that will provide better customer service.

Question. IRS indicates that it is creating a scoring system to prioritize its BSA workload. Please provide an update to the committee on the development of this system?

Answer. SB/SE Research is designing a process that uses the Currency and Banking Retrieval System (CBRS) data to prioritize or select entities for Title 31 and Form 8300 examinations based on risk factors. The project is organized into five phases, including assessment of current processes used to select workload (Phase 1), development of rules that express predictive and evaluative factors of non-compliance with BSA requirements (Phase 2), engineering of formulas to evaluate and rank entities for risk of non-compliance based on CBRS data and completion of the decision factor set that will be used (Phase 3), suitability testing to ensure the proposed system follows the best practices identified by AML technical advisors (Phase 4), and assessment of automation and programming needs required to pilot the proposed system (Phase 5).

To date, much of the data and knowledge acquisition activity has been completed. As a by-product of this work, the research team developed a work flow diagram depicting "best practices" of processes, tools, techniques, and decisions in the AML program. Following review by the technical advisors, the IRS plans to make this interim work product will be available to Compliance Policy/AML examiners in July 2004 for use in the current program. The work that SB/SE Research is doing to develop a risk-based selection process using CBRS data will assist the IRS in applying case selection standards uniformly across the country. The proposed system will use the same identified scoring factors (with priorities and weights) to rank all entities for examination potential. Subsequently, local program managers will be able to filter the ranked list for geographic location, providing a local list that reflects the same selection criteria as any other case. A potential side benefit of the proposed system will be IRS's ability to assess whether their resources are appropriately deployed geographically and make adjustments based on where the prioritized workload actually exists.

Question. TIGTA has identified that IRS examiners have a perception that FinCEN does not assess penalties. TIGTA has also identified that FinCEN has a negative perception of the IRS case quality and that the cases referred for enforcement actions do not contain sufficient information to assess penalties. What are these two organizations doing to overcome these barriers?

Answer. FinCEN and the IRS are jointly committed to identifying opportunities to improve case development and the ability to assess civil penalties when appropriate. As a part of the IRS's revamped training efforts, FinCEN is participating in AML basic training classes to provide guidance on developing cases for penalty referral to FinCEN. For fiscal year 2004 the IRS has committed to taking a more proactive approach to getting FinCEN's input when serious violations have been identified, by providing them opportunity for involvement early in the development of the penalty case. To support this commitment, the IRS also has developed new referral guidelines based on previous well-developed cases, and has included these guidelines in the AML Technical Digest.

Question. The SB/SE division is responsible for compliance with the BSA. This unit spends $43 million for BSA compliance including examinations outreach and compliance. Please provide a detailed break out of how the $43 million is spent on by activity. Given the numerous reports about the failures of the SB/SE division, what is the IRS doing to correct the deficiencies identified?

Answer. The original estimate of $43 million for BSA compliance included some one-time training costs related to BSA, but did not include costs associated with Currency Transaction Report (CTR) processing (which is essential to the AML program). Based on a revised estimate, which reflects only annualized costs, SB/SE expects to spend $53.7 million in fiscal year 2004 in support of BSA compliance, including examinations, education and outreach activities, and processing of CTRs. The breakdown of these costs for both fiscal year 2003 and fiscal year 2004 is shown in the following table:

EXPENDITURES FOR BSA COMPLIANCE

[In millions of dollars]

Functional Activity	Fiscal Year 2003 (Actual)	Fiscal Year 2004 (Projected)
Compliance	33.66	34.97
Taxpayer Education and Communications	0.86	1.14
CTR Processing [1]	7.81	17.57
Total for SB/SE	42.33	53.68

[1] In fiscal year 2003, IRS's Modernizing Information Technology Systems spent $8.84 million in support of CTR Processing. In fiscal year 2004, SB/SE is responsible for the full program.

As described in the responses to the earlier questions, the IRS has taken, and is continuing to take, a series of proactive steps to improve its AML program. To summarize, the IRS has:

—Revamped the structure and staffing of its AML program by:
  —Naming a national AML program manager in February 2002;
  —Creating 32 groups nationwide dedicated to the AML program (added one additional group in 2004);
  —Replacing part-time revenue agents, for whom AML was a collateral duty, with full-time, fully trained revenue agents dedicated to AML;
  —Minimizing the use of lower-graded tax compliance officers, who previously handled many of the AML examinations;
  —Designating a territory manager in each IRS Area for AML program responsibility; and
  —Securing funding from FinCEN, beginning in fiscal year 2003, to add 70 additional FTEs to the AML compliance program;
—Focused increased attention on case selection using current guidelines, while developing a centralized case identification process;
—Ensured all AML examiners receive appropriate training, including the changes resulting form the USA PATRIOT Act;
—Undertaken a research-driven effort to design and develop a method for prioritizing case selection based on CBRS data;
—Taken steps to improve AML case quality via technical case reviews and included the AML program in the embedded quality measures process to be implemented in October 2004;
—Transferred AML outreach activities from Compliance to TEC within SB/SE to provide broad educational opportunities to external stakeholders; and
—Increased its coordination with FinCEN, especially in the areas of training, workload identification and penalty referrals.

WORKFORCE AND FACILITY REALIGNMENT

Question. The IRS expects to receive some savings from the closure of the Brookhaven Service Center. Are you going to increase the frontline enforcement personnel with these savings?

Answer. The IRS anticipates savings in fiscal year 2005 of $6 million and 147 FTE because of e-file efforts, including the closure of the Brookhaven facility. These savings, along with $105 million additional savings, will be reapplied as described in the IRS's fiscal year 2005 Congressional Justification. These reinvestments are:

[Dollars in millions]

Reinvestment	Millions of Dollars	FTE
Curb Egregious Noncompliance	$31.4	293
Select High Risk Cases for Examination	$6.0	.....
Embedded Quality[1]	$1.6	26
Consolidation—Case Processing	$13.7	80
Consolidation—Insolvency	$2.1	15
Combat Corporate Abusive Tax Schemes	$5.0	34
Leverage/Enhance Special Agent Productivity	$2.5	28
Standardize CLMC Training Rooms	$0.5	.....
IRS Reorganization Transition	$5.0	.....
Servicewide Competitive Sourcing	$9.1	.....
MITS Reorganization Transition	$34.0	236
Total	$110.9	712

[1] This initiative, through an Embedded Quality system in Submission Processing (EQSP), will create a new measurement system that will identify the cause and impact of errors, apply common measures to every level of the new organization, and enable frontline employees to understand how their contributions impact IRS's performance. An embedded quality system links individual and business performance with multiple quality review sources. EQSP will instill complete accountability for quality performance across operations.

TAX LAW ENFORCEMENT BUDGET PRIORITIES AND RESOURCE ALLOCATION

Question. Given IRS's inability to increase enforcement in recent years, what will be different in fiscal year 2005?

Answer. The IRS's enforcement statistics for fiscal year 2003 demonstrate that IRS has arrested the enforcement decline that began in the 1990's and continued through the implementation of RRA 98. Audits, criminal investigations, and monies collected have all increased. In particular, when compared with fiscal year 2001, audits of taxpayers with incomes over $100,000 increased by over 50 percent by fiscal year 2003.

The administration's 2005 budget request for the IRS will continue to rebuild its enforcement activities. Two-thirds of the new monies requested will be devoted to addressing abuses by high-income taxpayers and corporations, and increasing criminal investigations.

In fiscal year 2005, the IRS is seeking an additional $300 million for enforcement activities to focus on the following four objectives in enforcement:

—Discourage and deter non-compliance, with emphasis on corrosive activity by corporations, high-income individuals and other contributors to the tax gap;
—Ensure that attorneys, accountants and other tax professionals adhere to professional standards and follow the law;
—Detect and deter domestic and off-shore tax and financial criminal activity; and
—Discourage and the misuse of tax-exempt and government entities for tax avoidance and other purposes.

These incremental resources will help IRS to address the tax gap, the difference between what is owed and what is paid due to non-filing, underreporting, and underpayment, and secure billions of extra dollars for the Treasury. Once the IRS hires and trains enforcement personnel, it estimates the direct return on investment will be about 6 to 1 for direct revenue-producing initiatives. Beyond the incremental revenues directly associated with the increased audits, investigations and collection activity, the increased publicity of these actions will discourage other taxpayers from cheating.

FUTURE STAFFING REQUIREMENTS

Question. What is IRS's assessment of the IRS's long term requirements?

Answer. The vision of the IRS remains to re-center the agency with the proper balance of service and enforcement poised to quickly meet technological and demographic changes, and customer expectations.

The IRS's goals remain the same—to improve taxpayer service, enhance enforcement through uniform application of the law, and improve the IRS infrastructure and modernize technology. The IRS working equation is that service plus enforcement equals compliance. The IRS is maintaining high levels of taxpayer service while focusing on corrosive areas of non-compliance. Ensuring fairness will help restore faith in the Nation's tax administration system.

Question. Can the IRS assure this committee that the current refocus can put this program back on schedule so that it will not go the way of TSM?

Answer. The IRS needs a more versatile team of seasoned executives to provide long-term stability to the program. The IRS is complementing the skills of experienced IRS tax executives with outside seasoned technology executives who have experience managing large-scale, complex IT projects. As such, the IRS is hiring two Associate Chief Information Officers to join the MITS organization, and an executive search firm is conducting searches for five senior executives with a wide range of diverse experience in developing and implementing large modernization systems.

In addition, the IRS used the results from independent studies commissioned during the summer of 2003 to create a BSM Challenges Plan comprised of 40 some action items. Given the strategic importance of the plan, the Commissioner appointed an IRS business unit deputy commissioner to oversee the implementation of the plan.

As a first step, the BSM project team developed a crosswalk to ensure that the BSM Challenges Plan's definition of the issues addressed and/or satisfied all of the recommendations from the four commissioned studies as well as the recommendations submitted by the IRS Oversight Board, and the Software Engineering Institute (SEI) study of CADE.

While the deputy commissioner made significant progress in implementing the plan, the full closure of all actions items was unrealistic within the elapsed timeframe of the 6-month appointment. Concurrently, the CIO created a new direct report position for modernization management and assigned responsibility for implementing the plan to the individual recently hired into this newly created position.

Under the leadership of the deputy commissioner, the IRS and CSC team brought closure to several key actions items, including: clarifying the roles of committees as advisory, identifying "blockers" on contracting issues, appointing business leaders to each project, establishing a risk-adjusted schedule and new baseline for CADE Releases 1.0 and 1.1, and increasing the frequency of CADE reviews with the business owner to twice monthly. The majority of the action items are still works-in-progress, some of which will take time to fully complete. Others will span the life of the BSM program.

For example, strengthening systems engineering capabilities by hiring external candidates will take time since it involves conducting the searches, interviewing the candidates, and negotiating the new hires to come on board. The IRS and CSC developed ground rules for escalating issues, but they will need to be continually enforced throughout the life of the program. The IRS rewrote the charters of the governing committees to reflect their advisory role and clearly articulated their responsibilities, however, it will probably take a year to truly evaluate and measure their effectiveness.

As stated, the IRS has made progress toward closing all the action items, but it has much more work to do in critical areas. For example, the IRS needs to religiously follow the proper methodologies and hold people accountable if they do not. The IRS must start "doing things right" as opposed to "doing things fast" such as exiting milestones prematurely. An ongoing challenge will be balancing the scope and pace of projects consistent with capacity, ensuring that the right people are in place before launching a project, and setting realistic delivery schedules and cost estimates. The IRS is committed to staying-the-course and delivering on its promise to modernize America's tax systems, but it is important for everyone to acknowledge this is a monumental effort.

The magnitude and evolution of the BSM program dictates that the IRS will always be going through an evolution of assessment and improvements. In that regard, the BSM Challenges Plan is still evolving and the IRS is using certain action items to continuously improve the program.

BSM MANAGEMENT

Question. Is IRS's schedule for completing the remaining corrective actions identified in the associated BSM Action Plan?

Answer. Please see response to previous question.

ACTUARIAL SOFTWARE PROGRAM

Question. What number of life insurance companies or what percentage of the industry does the IRS consider an appropriate amount to examine in order to provide the IRS with "sufficient data to conduct a cost benefit analysis?"

Answer. The IRS has determined that a sample of four Coordinated Industry life insurance audits (based on the criteria as described in the question below) will give sufficient data for preliminary results from a cost benefit analysis. The fact that the IRS anticipates closing four cases led it to determine that a 5 percent completion

rate would give it preliminary figures so that it could project over the total population.

Question. What selection criteria is the IRS using to make sure that the initial examination results analyzed are an accurate estimation or cross-section of the industry?

Answer. The IRS based the selection criteria it used on a mix of variables, such as the stage of the audit cycle, product mix, and size of taxpayers. These criteria allowed the IRS to have a cross-section of the industry. Due to the length of time it takes to examine life insurance reserves, the stage of the audit means that the IRS needs to examine reserves very early in the audit and not when the audit's estimated completion date is approaching. Product mix means that the IRS attempted to select taxpayers for audit who sold different kinds of policies such as traditional life insurance, universal life insurance, variable life insurance, single premium annuities, and etc. Size of the taxpayer means that the IRS is looking to select not only the extremely large taxpayers in the Coordinated Industry arena but also the ones who have lesser gross receipts and assets in size.

Question. When does the IRS expect to have sufficient data?

Answer. The IRS is projecting to have four audits complete by the end of the fiscal year that would give sufficient data. The fact that the IRS anticipates closing four cases led it to determine that a 5 percent completion rate would give it preliminary figures so that it can project over the total population.

Question. Congress has funded the program for 3 years, yet due to the very late start date of the program, although the program has been provided fiscal year 2004 funding, the program is still using fiscal year 2003 funding. Has the IRS set aside the fiscal year 2004 funding provided for the third year of the program?

Answer. The appropriation language for fiscal year 2003 reads that the IRS will provide up to $4 million from available funds to support the program. As services are rendered and invoices received, the IRS is currently paying amounts to the vendor out of fiscal year 2003 funding for the actuarial software license, maintenance, actuary salaries, and related travel costs to conduct training sessions. In addition, the IRS has available $2 million from fiscal year 2004 funding for IRS employee travel and training expenses, testing and the related implementation costs, the purchase of additional memory to upgrade revenue agent computers to 512MB capacity, the purchase of additional software which is required for the vendor's Total Life software to work, and the possibility of hiring additional life insurance actuaries to assist on examinations.

Question. What plans does the IRS have for this funding?

Answer. Please see response to previous question.

Question. In March 2004, the IRS stated that after software training for 2004 is complete, "this will result in 41 coordinated life insurance examinations having the use of the software." How many coordinated life insurance examinations currently exist?

Answer. There currently are approximately 75 Coordinated Industry life insurance examinations, of which 30 are either using the software or are planning to use it in the near future. Another class is scheduled for the second week in June where more teams will receive training in using the software. The fact that the IRS anticipates closing four cases led it to determine that a 5 percent completion rate would give it preliminary figures so that it can project over the total population.

Question. Should not the software be used on all life insurance examinations?

Answer. If the results of the cost benefit analysis prove productive and promote compliance, the goal would be to use the software on any life insurance examination, as appropriate. The stage of the audit cycle, as mentioned in the second question above, will dictate when it is appropriate to use the software on the balance of the Coordinated Industry life insurance cases.

Question. Given the technical nature of the program, does the IRS have personnel with sufficient expertise and knowledge to effectively implement the program? What additional personnel, if any, does the IRS believe it needs to make the program fully effective?

Answer. Experience has shown over the last year of training revenue agents and computer audit specialists that they would have the expertise to utilize the software on audits immediately following training with the assistance of a life insurance actuary. The Large and Mid-Size Business Operating Division has two in-house life insurance actuaries with the level of expertise and knowledge to implement the program. Since audit cycles are normally 2 to 3 years in length, on an average, a revenue agent may only use this software once during this time frame, which may result in a high learning curve or the need for additional refresher training for subsequent and additional audit cycles. The IRS believes that it is essential for life insurance actuaries to be involved as the focal point to utilize this software effectively.

Depending on the benefit analysis results, the IRS will evaluate the opportunity to hire additional life insurance actuaries as funding permits.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

FAILURE TO COLLECT DELINQUENT TAXES

Question. Based on your collections to date, it appears that IRS is not pursuing billions of dollars in uncollected taxes. In recent testimony before the Finance Committee, Treasury Deputy Secretary nominee Samuel Bodman stated that:

—As of the end of fiscal year 2003, $16.5 billion was in deferred status, meaning that these taxpayers have filed a return and owe tax, but have not paid it or have only partially paid.

—The largest delinquent amount in deferred status is more than $50 million.

—In recent years, accounts in deferred status have decreased slightly but the dollar amounts have increased.

Mr. Everson, how do you respond to this pathetic record of collecting unpaid taxes?

Answer. The collection results for accounts that are in a deferred status are not indicative of the IRS's overall Collection effort. During fiscal year 2003, the IRS issued first notices to about 11.8 million new balance due accounts, as required by IRC section 6303. During the same period, the IRS resolved about 7.6 million accounts by full payment, installment agreement, or other means as a result of the taxpayer's response to the first or subsequent notices. The IRS subsequently resolves a significant portion (on average, about 67 percent) of the balance due accounts, which are not resolved in notice status and become Taxpayer Delinquent Accounts (TDAs), through full payment or the initiation of an installment agreement.

Deferred accounts are placed in a suspended category because of other collection priorities and resource limitations and they are first subject to risk and collection probability analysis. Cases that have a modest compliance risk, i.e., lesser impact on tax administration and subsequent noncompliance, and low probability of collection are deferred, freeing Collection resources to work more in-business trust fund cases and cases where there is a likelihood of full payment. However, the IRS is refining its Collection models for these cases and evaluating the benefit of filing notices of Federal tax liens on deferred accounts.

Question. Mr. Everson, your budget documents say that a growing number of Americans think it is okay to cheat on their taxes and that "this trend threatens the government's future revenue stream and basic respect for the law." Why should these taxpayers take their IRS debt seriously if the agency never presses for collection?

Answer. All delinquent accounts receive Collection action. The treatment for a particular delinquent account depends on the amount owed and the predicted compliance risk. Taxpayers generally receive at least two notices and if they fail to respond, enforcement action is likely. Each year, the IRS resolves a large percentage of its delinquent accounts through full payment or installment agreement. Many others are ultimately resolved through refund offsets, abatements, and Offers in Compromise. As shown in the following chart, overall enforcement actions on taxpayer delinquent accounts have increased significantly since fiscal year 2000. In fiscal year 2003, the IRS filed 548,683 Notices of Federal Tax Lien and served 1,680,844 Notices of Levy. Passage of the administration's proposed Private Collection Agent (PCA) legislation will further improve these results.

Activity	2000	2001	2001	2003
Enforcement activity (actual numbers):				
Number of notices of Federal tax liens filed	287,517	426,166	482,509	548,683
Number of notices of levy served upon third parties	219,778	674,080	1,283,742	1,680,844
Number of seizures	74	234	296	399

In addition, the IRS has taken a number of steps recently to further address taxpayers' noncompliance with their filing and payment obligations, including:

—*Case Selection*.—The IRS refined its inventory delivery system so that the higher priority cases (in terms of impact on tax administration and subsequent noncompliance as well as potential for collection) are selected for assignment to the Collection field function and the Automated Collection System. The IRS continually examines how case selection can be improved.

—*Employment Taxes*.—The failure of employers to make their Federal tax deposits and pay over the withheld trust fund taxes is a serious compliance issue. The IRS has developed and is implementing a strategy to improve collection of employment taxes.

—*Causes for Underpayment and Non-Filing*.—The IRS is working to identify the components of its potentially collectible inventory, the main causes of non-compliance, and the contributing market segments. The information obtained is being used to address taxpayers through outreach and education, and to determine potential systems and policy changes. One significant component involves estimated tax compliance.

—*Taxpayer Education*.—The IRS is aggressively reaching out to taxpayers before they either intentionally or inadvertently, fail to file or fail to pay the full amount of tax due. Stopping noncompliance before it occurs is far preferable than having to find it afterwards. The IRS website has been a tremendous success and has been an important resource for taxpayers. It also is an important way for the IRS to communicate to taxpayers, including reaching out to those taxpayers who may be missing out on important tax benefits when they fail to file a return. The IRS is continuing to examine how taxpayer outreach can be improved and made more effective.

Question. A recent report by the Treasury Inspector General for Tax Administration (TIGTA) found that IRS's existing procedures are ineffective in ensuring even that criminals who are convicted in court for tax evasion are paying their civil tax liabilities. Why can't IRS collect from tax cheats?

Answer. In response to problems identified in the TIGTA audit, the IRS completed a review of the process for referring criminal cases for civil disposition that have conditions of probation. CI conducted this review in partnership with SB/SE. Furthermore, CI and SB/SE have taken the following steps:

—The Chief CI and SB/SE Commissioner issued a joint memorandum on April 13, 2004, to field office personnel stressing the importance of cooperation in handling civil closings for sentenced taxpayers and provided operating procedures for processing the civil closings of all sentenced taxpayers. CI and SB/SE are revising the Internal Revenue Manual to implement these procedural changes.

—The Technical Service, Advisory Unit within SB/SE is reviewing assessed tax liabilities in these cases to identify cases wherein the conditions of probation were not met and will report this information to CI.

—CI's Research Unit has identified all cases within their management information system that have outstanding conditions of probation or appear anomalous. The Research Unit forwarded the information to the appropriate CI field office for review and corrective action, if necessary. Twice a year, the Research Unit will submit similar information to the responsible field office(s) for verification and correction.

—The CI Research Unit added additional tracking codes to the management information system to ensure that management only tracks and reviews viable open cases.

—CI revised its Criminal Investigation Closing Report. This report will serve as CI's notice to the SB/SE Territory Manager of Technical Services that the court has sentenced a taxpayer and document the tax-related conditions of the sentence.

—CI is developing a "Fraud Life Cycle" communications model as an educational tool to improve its understanding of the interaction among the various CI and SB/SE functional processes. This model will help CI and SB/SE develop ways to improve the processing of conditions of probation cases.

—CI front line managers received refresher training on using current systems to effectively identify, report, and monitor terms and conditions of probation on tax investigations.

—CI's Review and Program Evaluation (RPE) Section has incorporated, as part of its field office review process, an analysis of the CIMIS information on terms and conditions of probation. Senior executives in CI will use RPE reports to ensure that all conditions of probation procedures are effectively implemented in each field office.

—The Program Manager, Technical & Insolvency of SB/SE will include the monitoring of conditions of probation in fiscal year 2005 reviews of Technical Services operations and keep the Director, Payment Compliance informed of adherence to IRM procedures. These procedures require Technical Services to immediately report to CI evasive or uncooperative taxpayers, as well as taxpayers who have fully complied with conditions of probation. For other non-compliant taxpayers subject to conditions of probation, Technical Services must provide

the required reports to CI no later than 6 months before the probation expires. CI will advise the Courts of these conditions.

These steps will improve coordination between CI and SB/SE, clarify areas of responsibility, enhance employees' understanding of newly implemented procedures, and improve the processing of conditions of probation cases.

Question. Ms. Gardiner, given the fact that the head of IRS-Criminal Investigations disagreed with a number of your recommendations, are you confident that this grotesque abuse will be stopped? Mr. Everson, would you care to comment as well? Ms. Gardiner, why do you believe that IRS has not cleared up even the simplest of cases of uncollected taxes? Do you consider it a possibility that IRS has not done so in order to build a case for the use of private collection agencies?

Answer. The IRS unequivocally states that no collection action has been taken or not been taken for the purpose of building a case for the use of private collection agencies (PCAs). Under the administration's proposals, PCAs would supplement, and not supplant, IRS collection efforts. PCAs would expand the IRS's overall capability to address outstanding tax liabilities while also allowing the IRS resources to be directed at more complex cases and issues.

TIGTA will respond separately.

Question. Ms. Gardiner, why do you believe that IRS has not cleared up even the simplest of cases of uncollected taxes?

Answer. TIGTA will respond separately.

Question. Do you consider it a possibility that IRS has not done so in order to build a case for the use of private collection agencies?

Answer. TIGTA will respond separately.

Question. In response to questions posed at the Treasury Deputy Secretary's nomination hearing, Mr. Bodman said that IRS has implemented several actions to ensure that all deferred accounts receive adequate collection. But as I read it, only one of these four actions actually tries to collect from the taxpayer: the annual notices that remind taxpayers to pay their obligations. The other three seem to only further penalize the already delinquent party. How do these other activities really help in the collection of tax debts? Don't they simply compound the problem? Are these really the best ways to go after tax cheats?

Answer. The actions described by Dr. Bodman (refund offsets, the Federal Payment Levy Program (FPLP), and reactivation) are the principal methods of collection for deferred accounts; the IRS also uses these techniques as supplemental collection techniques for other types of cases. Since these methods generally employ automated processes, they allow the IRS to pursue these accounts at relatively low cost. Reactivation of a deferred account may be triggered when the taxpayer incurs a new liability, a tax filing delinquency occurs, or the IRS learns of a source of income. Based on the triggering event, the IRS reevaluates the priority of the case in terms of compliance risk and potential to collect the delinquency. Typically, if the case is deemed collectible, the IRS can expect to collect 64 percent of the debt through full payment or an installment agreement.

As noted in Dr. Bodman's response, many of the accounts in deferred status represent taxpayers who have filed a tax return showing an amount of tax due, but who have failed to pay the tax. Other accounts represent taxpayers who have been assessed additional tax by the IRS and have made three or more voluntary payments to satisfy that additional tax, but who have stopped making payments. These taxpayers are aware of their outstanding liabilities. The IRS, however, is unable to continuously pursue each taxpayer with an outstanding tax liability because of other resource and collection priorities. Many taxpayers with outstanding tax liabilities, however, would make payment if contacted by telephone and, if necessary, offered the ability to make payment of the full amount in installments. The administration's fiscal year 2005 budget proposes to permit the IRS to use private collection agencies (PCAs) to address accounts in deferred status.

Question. Mr. Everson, a recent IRS Oversight Board report claims that each year, "the IRS must absorb millions of unfunded costs, such as rent increases and postage, left uncovered by the administration's budget request." The Board estimates that in both fiscal year 2004 and fiscal year 2005, there will be at least $100 million in unfunded expenses. Further, the "resulting shortfalls mean that the IRS is consistently unable to hire the personnel assumed in the administration's request." In what areas has the IRS cut, in order to pay these unfunded costs?

Answer. The IRS took reductions across-the-board from all programs to fund pay parity, but protected enforcement initiatives. When absorbing the appropriation reduction, the IRS protected enforcement initiatives and related support costs, and took the majority of the cut from Information Systems and other support.

The fiscal year 2005 budget includes a 1.5 percent increase for pay. If Congress approves and the President signs the anticipated 3.5 percent increase, the impact

of this increase would result in a shortfall of $109 million. Most of the IRS budget is composed of labor (71 percent) and most of the remainder is composed of items that support staff directly (travel, rent, supplies and equipment). The total percentage of the IRS budget that does not support staff directly is less than 18 percent. Any reduction to IRS funding or any absorption of an unfunded mandate like a pay raise would, of necessity, have a direct impact on FTE. Because most IRS staffing is devoted to taxpayer casework—answering telephones, collecting overdue money, or auditing returns—reductions inevitably affect these taxpayer assistance areas, affecting both taxpayer service and enforcement.

[CLERK'S NOTE.—The report follows:]

REPORT

BACKGROUND

The National Commission on Restructuring the IRS issued a report in 1997 defining "A Vision for a New IRS." In 1998, the IRS Restructuring and Reform Act (RRA 98) codified much of that vision into law. Since the passage of RRA 98, the IRS has undergone enormous changes, including the most extensive reorganization of the agency in the past 50 years. Prior to the IRS reorganization, all ten IRS Submission Processing Centers performed similar functions and processed returns for both the Individual Taxpayers (IMF) and Business Taxpayers (BMF). Each center also handled Taxpayer Accounts (correspondence/telephones) and Compliance programs for both IMF and BMF.

Although the ten-center configuration was successful and worked for many years, we felt we could improve our business results and better respond to customer needs by organizing around our customer segments. We based the initial IMF Consolidation Strategy of our centers around Wage and Investment (W&I), Small Business/Self Employed (SB/SE), Large and Mid-Size Business (LMSB), and Tax Exempt and Government Entities (TE/GE) customer segments. As a result of this reorganization, we realigned the ten Processing Campuses into eight W&I (IMF) and two SB/SE (BMF) Submission (paper returns) Processing Centers. We completed this realignment of the customer base in 2002. Now, all BMF taxpayers file their paper returns at our processing centers located at either Ogden, Utah or Cincinnati, Ohio. All IMF taxpayers file their paper returns at one of the W&I centers.

The RRA 98 also mandated that the IRS improve the Electronic Tax Administration program to reach the goal of 80 percent of individual returns filed electronically by 2007. With increased emphasis and success of electronic filing, the volume of paper returns has decreased. To effectively administer and manage this change in taxpayer behavior, the IRS analyzed "E-file versus Paper Trends" and developed a detailed business plan to gradually reduce the number of IMF paper Processing Centers. We approved this "Business Plan," which will take several years to fully implement, in 2002. The plan calls for the consolidation of an IMF paper processing center every few years, contingent on the public's continued migration from paper to electronically filed returns.

At the completion of each filing season, we assess both the e-file progress and the paper return filing pattern to see if we need to adjust the consolidation timelines for the next filing season. Flexibility is a key component in this plan, allowing the IRS to plan and react appropriately as paper return volumes fluctuate. Many restructuring changes have already taken place at the Ogden, Utah; Cincinnati, Ohio; and Brookhaven, New York campuses. At Memphis, Tennessee; Philadelphia, Pennsylvania; and Andover, Massachusetts, the IRS will consolidate the paper return processing function over the next several years.

However, compliance and tax account work will remain at all the campuses, making them key employment centers. Our timetable for consolidating IMF paper processing at the campuses is as follows:

—Consolidate the processing of BMF paper returns into two sites (Ogden, Utah and Cincinnati, Ohio). We completed this migration in 2002.
—Discontinue the processing of IMF paper returns at Brookhaven, New York. We completed this change in October 2003.
—Discontinue the processing of IMF paper returns at Memphis, Tennessee by June 2005.
—Discontinue the processing of IMF paper returns at Philadelphia, Pennsylvania by June 2007.

We will determine the specific dates for consolidating of the remaining centers based on e-file and paper volume projections for subsequent years.

ELECTRONIC FILING

In 1999 the IRS processed 29 million electronically filed returns, and in 2003, 53 million taxpayers chose to file electronically. We estimate that nearly half of all taxpayers will e-file in 2004. We are encouraged by both the growth of e-file to date and the projected growth through 2010. We will continue to strive to reach the RRA 98 goal, but believe that individual returns filed electronically will not reach 80 percent by 2007; however the IRS's electronic tax filing program has experienced tremendous gains in customer acceptance. The chart below reflects the progress we made in e-file from 1997 through 2003, and our projections for the future look equally promising.

ACTUAL

[Volume in millions]

	1997	1998	1999	2000	2001	2002	2003
Total Returns	120.7	125.2	126.0	128.4	131.0	131.7	130.1
Total Paper	101.5	100.6	96.7	93.0	90.9	85.0	77.2
Total Electronic	19.2	24.6	29.3	35.4	40.1	46.7	52.9
Percent e-filed	15.9	19.6	23.3	27.6	30.6	35.5	40.7
Percent growth Electronic	.....	28.1	19.1	20.8	13.3	16.5	13.3
Percent decrease Paper	.....	0.9	3.9	3.8	2.3	6.5	9.2

PROJECTED—2004 AND BEYOND

[Volume in millions]

	2004	2005	2006	2007	2008	2009	2010
Total Returns	130.9	133.3	135.5	137.3	139.0	140.5	141.9
Total Paper	71.1	66.6	62.2	58.1	54.8	51.9	49.5
Total Electronic	59.8	66.7	73.3	79.2	84.2	88.6	92.4
Percent e-filed	45.7	50.0	54.1	57.7	60.6	63.1	65.1
Percent growth Electronic	13.5	11.5	9.9	8.0	6.3	5.2	4.3
Percent decrease Paper	8.1	6.3	6.6	6.6	5.7	5.3	4.6

PROCESSING PAPER RETURNS

As a result of the increase in e-file volume, the paper return volume has decreased each year since 1998. For example, in 1999 we processed over 97 million paper returns, or 77 percent of the total returns processed by the IRS. From 1999 through 2003, paper return volume has decreased by almost 26 million returns, a 26 percent reduction. In 2004, we project we will process 71 million paper returns, which is 54 percent of the total returns processed. This is an average of over 4 million fewer paper returns each year; a trend that we expect will continue. Based on these trends, we analyzed the impact on operations and developed a comprehensive business plan by looking at the impact e-file would have on our processing centers (Phase I), and then developing a strategy to address the decline in paper return volumes (Phase II).

PHASE I OF CONSOLIDATION STRATEGY

Due to the actual and projected increases in electronic filing (ELF), we decided to assess the current and future impact of e-file on our paper processing sites. In 2000, we developed a long-term strategy by answering three key questions about the future of IMF return processing:

—How does an increased ELF volume affect the workforce?

—What is the ideal configuration (end state) of centers when we achieve 80 percent ELF?

—How will the IRS manage the path toward the end-state configuration?

We assessed projected volumes of ELF and paper processing capacity at each site, multiple transition scenarios, and business objectives to arrive at a consolidation strategy. The results of this analysis showed that continuing to operate ten paper processing sites was inefficient. Although we analyzed multiple strategies, consolidating one IMF center at a time (as the volume of e-file returns continues to increase) was the most efficient strategy. We shared this strategy with all our internal and external stakeholders, then proceeded to implement this "Modernization/Consolidation of Submission Processing Centers," starting with the consolidation of the

Brookhaven IMF Submission Processing operation. As a result, Brookhaven stopped processing individual paper returns as of October 2003.

Our strategy will allow us to improve customer service, increase business performance, and adjust the plan as paper and e-file volumes and patterns dictate. It will also permit us to reduce overhead and real estate costs campus by campus.

PHASE II OF CONSOLIDATION STRATEGY

For the second phase of our analysis, we reviewed each site against factors including business operational alignment, economies of scale, labor market issues, and real estate costs. This analysis identified the order of the consolidation of IMF processing centers, starting with the Brookhaven Submission Processing center in October 2003, the Memphis Submission Processing center in October 2005, and the Philadelphia Submission Processing Center in October 2007.

We expect these consolidations to be followed by the Andover Submission Processing center, and so forth, until the IRS reaches its "end state" configuration. Again, this plan is contingent on the continued growth in the number of e-filed returns.

TAXPAYER IMPACT

At the very beginning of our modernization efforts, we recognized the challenge we would face in ensuring our customers understood the reason for consolidating our operations and the changes they could expect to see. We have tried to minimize the impact of these changes by consulting with various groups including the National Treasury Employees Union (NTEU) and Tax Practitioner groups. Working with our own Multi-Media operation, we made sure that various tax packages included updated instructions on the location to send returns. We also made presentations at various tax forums around the country. Although this effort has been challenging, we have successfully consolidated IMF and BMF customer processing sites and the Brookhaven Submission Processing operation. Even though we substantially reduced the number of returns processed at Brookhaven in 2003, we completed one of our most successful filing seasons. We review each consolidation process and build on that foundation as we continue our consolidation efforts.

WORKFORCE IMPACT

We recognize that one of our greatest assets is the people who help in the daily processing of taxpayers' returns. We also recognize that consolidating paper processing operations will affect our workforce. In anticipation of the consolidation, we stopped hiring "career conditional" employees and started hiring "temporary" employees in Memphis, Philadelphia, and Andover. The new hires understand their appointment is temporary. When job reductions occur, we will make every effort to minimize the adverse effects on our employees. For example, when we realigned the processing of IMF/BMF paper returns into eight IMF centers and two BMF centers, we did so without a loss of jobs. In addition, in the Brookhaven and Memphis centers we prepared for staff downsizing by consolidating our Centralized Offer in Compromise (COIC) program in the centers, creating hundreds of job opportunities at each location. We also recently announced the proposed consolidation of Case Processing and the Insolvency Program, which will also create hundreds of jobs in Memphis and Philadelphia.

We are working with NTEU to develop workforce transition plans and to take advantage of every tool we have to help employees through this transition. We have held "Town Hall" meetings with the employees at all our campuses and will continue to do so as we schedule specific campuses for consolidation. We will also continue to provide our employees with job placement assistance. Of course, if we must involuntarily separate employees from the IRS, we will give them all the benefits to which they are entitled under the law.

CONCLUSION

We began modernizing our paper processing centers in 1998. We conducted an extensive business plan analysis before making consolidation decisions, and we continue to rely on this business plan as we move forward with consolidation. We also adjust our plan based on our initial experiences with the streamlining of the service centers. This report captures at a high level the analysis, efforts and progress we have made in improving our processing operations. We would welcome the opportunity to present this extensive business case to you and your staff at your earliest convenience.

Question. In addition to the new enforcement funding IRS is seeking from Congress, the IRS's budget justification states the following about its intention to fund enforcement from other areas: "In fiscal year 2005, $111 million will come from current operations to improve enforcement and infrastructure." "The majority of resources ($61 million) generated from base mining will be diverted to enforcement activities. . . ." Why is only a little more than half of the money going toward enforcement? For what specific purposes is the other money going and what is meant by infrastructure?

Answer. The IRS is emphasizing enforcement, but it cannot ignore service or the infrastructure supporting it. Thus, in order to balance its efforts, the IRS redirected some funds to modernizing IRS infrastructure. The IRS budget strategy is designed to redirect productivity enhancements from increases in electronic processing and modernization of business systems to continue to improve taxpayer service and enforcement.

Of the $111 million in redirected resources, $61 million will be diverted to enforcement activities. The remaining $50 million will be redirected as follows:

INFRASTRUCTURE EXPENSES

[In millions of dollars]

	Amount
Cost of Transitioning Employees[1]	39.0
Continue Competitive Sourcing Studies	9.0
Embedded Quality[2]	1.6
Create ADA-Compliant Training Facility	0.5
TOTAL	50.1

[1] Includes lump-sum leave, severance and relocation.

[2] This initiative, through an Embedded Quality system in Submission Processing (EQSP), will create a new measurement system that will identify the cause and impact of errors, apply common measures to every level of the new organization, and enable frontline employees to understand how their contributions impact IRS's performance. An embedded quality system links individual and business performance with multiple quality review sources. EQSP will instill complete accountability for quality performance across operations.

Infrastructure refers to programs and activities that support enforcement and taxpayer service. These activities align with the IRS's third strategic goal, "modernize the IRS through its people, processes, and technology."

Question. As part of its budget request, IRS proposes spending $121.6 million and 1,167 FTE to "curb egregious noncompliance". Please provide a table citing each instance of egregious noncompliance, along with the associated dollar amount and FTE.

Answer. The "Curb Egregious Noncompliance" (CEN) enforcement initiative addresses the continuing concern over the proliferation of abusive domestic and international tax avoidance transactions and schemes. In addition, requested staffing will allow the IRS to address issues associated with certain individual taxpayers and those who use structured transactions and flow-through entities to conceal or improperly reduce taxable income and avoid payment of taxes owed. This noncompliance represents a real threat to the American system of voluntary compliance. Traditional approaches aimed at maintaining audit coverage and managing growing case inventories with a declining resource base have failed to adequately address these complex enforcement issues.

To address these issues, the CEN initiative will allow the IRS to hire and train new staff in the Examination, Collection and Document Matching programs during fiscal year 2005.

The following table shows the projected expenditures of FTE and dollars by program.

[Dollars in millions]

Program	FTE	Amount
Field Examinations	492	$66.0
Field Collection	332	$29.2
Automated Underreporter	53	$4.2
Automated Collection (ACS)	125	$10.9
Correspondence Exams	165	$11.3
Total	1,167	$121.6

Question. Please provide a breakdown by percentage of how proposed enforcement resources would be allocated toward the various segments of the taxpayer population within $25,000 increments.

Answer. In fiscal year 2005, proposed increases for the Tax Law Enforcement account, including annualization and enforcement initiatives, total $393 million. The IRS aligns increases in enforcement as follows:

—*Corporations*.—$59 million (22 percent) and 562 FTE;

—*High-income taxpayers (>$100,000)*.—$57 million (21 percent) and 674 FTE;

—*Criminal activity*.—$64 million (23 percent) and 299 FTE;

—*Tax-exempt organizations*.—$16 million (6 percent) and 180 FTE; and

—*Other contributors to the tax gap*.—$76 million (28 percent) and 1,226 FTE.

The increase also includes $121 million for inflation to maintain current levels.

IRS REORGANIZATION

Question. Please summarize in detail what has happened to IRS employees who were determined to be "transitional", stating from which program area they were taken and when, how many reassigned, how many were lost due to attrition, as well as how the requested $5 million will remove the remaining employees "from the rolls."

Answer. Upon stand-up in September 2000, approximately 5,000 employees did not align with the new organizational structure. Over the next 3 years, the IRS placed approximately 4,450 employees into permanent positions or they voluntarily left the IRS. Approximately 1,000 of these employees left under Voluntary Early Retirement Authority (VERA) or Voluntary Separation Incentive Payment (VSIP). On August 9, 2003, the IRS terminated the "transition" designation and declared permanent all employees previously designated as "transition." At that time, there were approximately 550 formerly transition employees. Of this group, the IRS placed approximately 290 employees in permanent positions and 260 remained in non-continuing positions. The IRS expects to offer VERA/VSIP to the employees in the non-continuing positions to facilitate voluntary separations.

Question. In early January, IRS officials announced a major organizational restructuring resulting in 2,400 layoffs as well as office consolidations. As part of the same announcement, IRS indicated its intention to then fill 2,200 new positions. What is the cost of the 2,200 new enforcement positions the IRS intends to add? What is the cost savings associated with the layoffs and consolidations?

Answer. As noted in the January announcement, as a result of our planned consolidation, the IRS expects to perform its Case Processing and Insolvency operations while using fewer full-time employees—saving approximately 350 staff years. Similarly, the IRS expects that Support Optimization initiative will allow it to deliver its operations support services while saving approximately 750 staff years. The Memphis Submissions Processing ramp-down will eliminate approximately 2,200 positions. The January announcement stated the intention to redeploy the personnel reductions towards enforcement priorities.

In determining the approximate numbers of full-time positions that could be redirected to enforcement activities, the IRS assumed a 1-for-1 redeployment of the full time positions (i.e., approximately 350 from Case Processing and Insolvency and 750 from Support Optimization) and a 2-for-1 redeployment for the submissions processing positions (i.e., for every two submission processing positions eliminated the IRS could expect approximately one full-time position available for redeployment, or approximately 1,100 positions). Thus, the IRS estimated that approximately 2,200 positions would be available for redeployment to enforcement activities that would not be otherwise available without such efficiencies.

In determining the numbers of employees potentially subject to involuntary separation, the IRS estimated the numbers of employees in positions to be eliminated, and reduced that figure to account for the numbers of employees who are expected to voluntarily leave through normal attrition, the use of Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Payments (VSIP), and those employees expected to be placed in other positions with the IRS. For this determination, the IRS did not include employees hired for limited-term appointments, because employees accepted these positions with the understanding that the positions would "sunset" in 2005 and because the elimination of these positions does not require the same involuntary separation procedures.

For the income tax returns processing initiative, the IRS estimates that approximately 2,200 positions will be eliminated. Of this number, approximately 400 are term appointments. Therefore, the IRS determined that approximately 1,800 permanent (full-time or seasonal) positions would be eliminated. Based on this figure, the IRS anticipates approximately 1,000 employees will be involuntarily separated. For

the case processing and insolvency initiatives, the IRS estimates that approximately 1,400 positions will be eliminated. Of this number, it anticipates that approximately 1,000 employees will be involuntarily separated (because the case processing and insolvency initiative involves consolidating work, i.e., eliminating positions in field offices while creating positions in the four consolidated campus locations, the net number of positions available for redeployment (approximately 350) is less than the gross numbers of positions being eliminated (approximately 1,400)). The Support Optimization initiative involves eliminating approximately 750 positions, and based on that figure, the IRS anticipates approximately 400 employees will be involuntarily separated. Thus, the total number of employees estimated to be subject to involuntary separation is estimated to be 2,400.

Question. The nationwide case processing and insolvency support workforce would be reduced from 1,600 positions to 1,200, a 25 percent reduction. What analysis has been done to show that 25 percent fewer employees can perform this work? What cost savings does the IRS project from this? All background on how the savings are projected should be provided.

Answer. The IRS has been studying the reengineering of the case processing and insolvency operations since 2000. Even after taking into account costs such as severance, hiring, training, salary cost differentials, and infrastructure, the IRS expects these initiatives to yield more than $300 million in savings over the next 10 years. These savings will allow us to redirect the equivalent of 350–425 full-time employees to front line tax law enforcement.

The IRS considered alternative approaches, including switching staffing allocations from the area offices to the campuses at a pace driven by natural attrition. The IRS rejected this approach because of low return on investment and implementation difficulties. Competitive outsourcing was also considered and rejected because case processing and insolvency work is mainly inherently governmental.

The IRS's analysis involved baselining the existing case processing and insolvency processes currently performed in the areas, identifying best practices, and standardizing the processes to be implemented in the campus from these baselines and best practices. The new operational structure builds on existing processes currently being performed at IRS campuses, provides economies of scale and standardization, allows the creation of a quality review unit, offers staffing flexibility, and creates space savings due to shift work.

The IRS's analysis of sources such as OMB and best practices used in private industry predicted that a 35 percent reduction in case processing and insolvency costs would be possible through consolidation and process standardization. The results predicted from external indicators were compared with area and campus case closure efficiencies. Centralized staffing calculations were updated based on area and campus efficiency and projected work plans resulting in a more conservative of 25 percent cost savings projection.

Question. IRS has stated that no employee would be involuntarily separated before January 2005. When would new employees be hired and what kind of training will be provided? How would IRS deal with an inexperienced workforce—reduced by 25 percent from current levels—that will have no institutional memory?

Answer. The IRS is currently in negotiations with NTEU regarding the potential reduction in force. Until negotiations are finalized, no employee will be involuntarily separated. However, the IRS has recently entered into a separate memorandum of understanding with NTEU that authorizes a staged hiring at the campus consolidated sites to address excess workload in the area offices created by the natural attrition of staff. This step will allow the organization to begin ramp up by providing training and significant experience with the work before any off rolls occur.

Once this IRS reaches its final agreement with NTEU, full implementation will occur with a staged deployment of hiring at the campuses, redirecting work from the field, and workforce transition in the non-continuing sites. This approach allows campus personnel additional experience with total centralization before off rolls will occur in 2005.

The IRS established a training team made up of subject matter experts from case processing, insolvency, and campus employees to revise existing training material, write additional training lessons and develop training guidelines and timeframes. All campus hires will be given a combination of classroom and on the job training as soon as they are hired, which is a significant improvement over current field practices in case processing and insolvency.

Learning curves were projected for centralized case processing and insolvency new hires aligned by grade level and skill set. These learning curves provided the underpinnings for decisions regarding the timing for early ramp up and staging the implementation. Projections for the time needed for training are conservative as many of the hires will already have experience from positions and activities cur-

rently performed on the campus that are similar to those in centralized case processing and insolvency.

Question. How is it more efficient to move these case processing staff away from the collection staff they are supporting to centralized locations?

Answer. In a centralized situation, a smaller team of employees can focus on one function for longer periods of time, and can work more efficiently than the larger number of staff in the separate locations. The workload can also be more easily managed and scheduled because of the consolidation. Training expenses and other costs have been considered, and the resulting savings shows centralization is cost effective.

Many revenue officers and revenue agents currently mail their work to the area offices and under the new design the only change for them would be the address they mail to. To address lingering concerns of the collection staff there will be a FORT (Field Office Resource Team) consisting of revenue officers who will be responsible for assisting tax examiners and field collection personnel in making any necessary corrections to reports or closing documents.

Question. How is it more efficient to centralize insolvency/bankruptcy staff when this work is ruled in large part by 50 different State laws?

Answer. Over 900 Insolvency Specialists and Advisors will remain in the area offices to address the more technical issues. They will no longer be pulled away from the technical work to help with clerical and para-professional duties. Therefore, centralization will actually enhance the relationships with the bankruptcy courts, trustees and external stakeholders that have been established over the years and increase customer service.

The new structure provides economies of scale and standardization, allows the creation of a quality review unit, offers staffing flexibility, and creates space savings due to shift work. Centralization will also help create an environment suitable for electronic processing and transmission of Proofs of Claim. The planned use of an electronic knowledge system will provide a national resource for State law information.

Question. Have you discussed this reorganization with the affected parties? What do the revenue officers and agents think the impact of this will be on their efficiency? What do tax practitioner groups think of this?

Answer. There is a natural concern and uneasiness that accompanies any change. Focus interviews and customer surveys were conducted with area directors, revenue officers, revenue agents, and other bargaining unit employees in which the case processing redesign team received valuable information on issues and ideas to be considered for possible centralization. As a result of this feedback, the IRS developed the concept of the Field Office Resource Team (FORT). The FORT, consisting of revenue officers, will be available to address the needs of field collection personnel in making any necessary corrections to reports or closing documents.

Insolvency has little contact with revenue officers, revenue agents, or practitioners. A centralized phone number and phone unit will be established to answer calls and concerns of trustees, taxpayers as well as any internal customers.

The Case Processing Team had conversations with some of the large institutional practitioner groups and received support for the redesign.

Question. At the Memphis Service Center, 2,200 current employees would be laid off and not replaced. IRS claims that this is aimed at reducing paper processing staff in response to increases in electronic filing. IRS has already downsized returns processing employees at the Brookhaven, NY Service Center. The House report accompanying the fiscal year 2004 Transportation, Treasury Appropriations bill recommended that IRS refrain from initiating any premature and ill-considered reductions in force until reporting to Congress. What progress has been made on the report to Congress and when will it be submitted? What are the cost savings associated with the reduction in force?

Answer. The IRS delivered the report to Congress on April 22, 2004. A copy is attached. The IRS estimates the cost savings for Memphis to be $12.5 million for the period 2004 through 2006 and then an annual cost avoidance of $9.5 million dollars a year starting in 2007.

Question. GAO has indicated that electronic filing is far short of IRS projections. What is the level of electronic filing compared to IRS projections? What level of increase in electronic filing is IRS projecting that will make it plausible to lay off 2,200 return processing employees within the next year?

Answer. While the IRS is below projections needed to achieve the goal of 80 percent of individual returns filed electronically by 2007, it is continuing to make strong gains. The Consolidation Strategy is based on projections that are keyed to the workload shifts necessary to process the reduced paper volumes. In 2004, the IRS projected 59.8 million electronic returns would be filed. As of May 14, taxpayers

exceeded the number e-filed returns from the prior year by over 8 million returns to reach the 60 million mark. This figure equates to approximately 50 percent of all individual returns filed and represents a milestone in e-file progress. The IRS's Consolidation Strategy is on track.

PROBLEMS WITH IRS BUSINESS SYSTEMS MODERNIZATION (BSM)

Question. In a March 2004 review, GAO found that although IRS has made some progress in implementing their recommendations and improving its modernization management, certain recommendations have not yet been fully implemented or institutionalized. These weaknesses have contributed, at least in part, to BSM project cost and schedule shortfalls. GAO states that, "Projects continue to incur cost increases and schedule delays for several reasons, including inadequate definition of systems requirements, increases in project scope, and cost and schedule estimating deficiencies." Mr. Everson, this modernization effort has been plagued with these problems from the start. What have you done to ensure that IRS staff is adequately prepared to define its systems requirements instead of relying completely on the contractors to do so? What steps are you taking to ensure that cost and schedule estimates, which have been grossly off-track, will now be more accurate?

Answer. Recent improvements to the IRS Enterprise Life Cycle (ELC) will ensure that the IRS adequately defines system requirements in the future. The recent updates to the ELC include a new milestone (Milestone 4A), that requires a detailed definition of a systems' physical design baseline under strict configuration management (CM) control. This baseline can be used for awarding fixed priced contracts for the development, integration, and testing of the system. As a prerequisite to the implementation of MS 4A, the ELC now requires redefinition of requirements management, and strict CM control for projects in prior milestones. For example, at Milestone (MS) 2, business requirements constitute the functional baseline. The functional baseline is then decomposed into logical systems requirements that are baselined under CM control at MS 3. Requirements that evolve from milestone 1 through 4A are verifiable and traceable in both directions and must be compliant with the Enterprise Architecture in order for a project to gain approval to move to the next stage of development. There will be a major systems engineering review at the end of each development phase, conducted by IRS business and technical personnel.

As the IRS moves forward, constant involvement of the IRS stakeholder organizations is critical. Stakeholder involvement in the definition, approval, and coordination of system requirements will ensure that what the IRS develops is closely traced to IRS's business needs and that ownership is clearly identified and understood. As this revised ELC strategy is unveiled, training will be provided to ensure that IRS personnel are adequately prepared to achieve success.

The IRS has been working jointly with MITRE and CSC (the PRIME Contractor) to improve cost and schedule estimating capability. The IRS is using the well-recognized Carnegie Mellon Software Engineering Institute's (SEIs) Requisites for Reliable Estimating Processes as a guide. The requisites provide for development and execution of the following key cost and schedule estimating objectives:

—Maintaining historical data;
—Structured estimating processes;
—Mechanisms for extrapolating estimates from successful past projects;
—Audit trails; and
—Ensuring integrity in dealing with dictated costs and schedules.

Both CSC and the IRS have made significant progress towards achieving these key objectives. The IRS has implemented procedures for validating contractors' estimating systems and for reviewing cost and schedule estimates. The procedures provide guidance for evaluating reliability of documentation supporting individual estimates and for tracking compliance with sound estimating practices. Furthermore, the procedures also address professional development of personnel with the right skill set for developing and evaluating cost and schedule estimates. CSC has established a historical database, calibrated estimating models and developed detailed requirements for documenting and supporting bases of estimates along with related guidance and directives. Work is also in progress for continuing refinement and improvement in each of these elements.

In addition, joint training is being conducted for IRS, CSC and MITRE personnel as an integral part of the overall plan to ensure competent deployment of improved processes and procedures. The IRS, with MITRE's assistance, recently completed a review of CSC's estimating system. The IRS is finalizing the results and will issue them in a report in the latter part of June. In general, there have been improvements. The report will include a time phased corrective action plan for addressing

deficiencies. To ensure the tools, guidance, processes and procedures are part of a mature repeatable process, a concerted effort is underway to fully validate all aspects of the processes and procedures prior to official roll-out within the IRS. This pilot program is intended to verify the soundness of the processes and procedures and provide lessons learned, before full implementation is effected.

The IRS is making every effort to hire qualified staff and fully implement its improved tools, guidance, processes, and procedures as soon as possible. However, this is taking more time than the IRS would like. This is a pervasive problem on programs of the size and complexity of the modernization initiative. Nonetheless, the IRS believes that there will be evidence of increased accuracy by the end of fiscal year 2004 and continued improvements over time.

Finally, all of these efforts are part of a highly visible set of plans geared to identifying, tracking, reporting, and reviewing the critical cost and schedule estimating commitments with IRS Executive Management and GAO/TIGTA.

Question. The modernization of IRS business systems has suffered numerous problems and delays and now some IRS staff integral to the process are leaving, including the director of BSM. How will this affect the program, what steps are being taken to ensure that institutional knowledge of the modernization program remains?

Answer. In addition to putting a succession management plan in place, the IRS needs a more versatile team of seasoned executives to provide long-term stability to the program. The IRS is complementing the skills of its experienced tax executives with outside seasoned technology executives who have experience managing large-scale, complex IT projects. As such, the IRS is hiring two Associate Chief Information Officers to join the MITS organization, and an executive search firm is conducting searches for five senior executives with a wide range of diverse experience in developing and implementing large modernization systems. The new Associate CIOs will assume modernization management responsibilities so that the Associate CIO of business systems modernization can focus primarily on delivering projects.

Question. Until recently, IRS has used its information technology services staff with minimal input from its business units. The business units will be the ultimate users of this program. What steps has IRS taken to incorporate the business managers into BSM?

Answer. The Commissioner is holding IRS senior business unit managers accountable for the success of modernization efforts as it relates to defining, developing, and controlling business requirements. For example, a senior business unit manager is responsible for working closely with the BSM and Modernization and Information Technology Services (MITS) executives to ensure that the delivery of the CADE project meets all business requirements.

Question. GAO has concluded that the IRS must institutionalize the management processes and controls necessary to resolve the deficiencies identified by the reviews and assessments in order to strengthen management of the Business Systems Modernization program. What steps is IRS undertaking to accomplish this?

Answer. Over the past 2 years, the BSM organization has been working diligently toward integrating and institutionalizing the management processes of the BSM program. While the IRS has achieved real progress, as recognized by TIGTA and GAO, the BSM Challenges Plan has complemented ongoing efforts by providing a special focus on significant issues that needed more attention.

GAO recognized the need for continual growth in the maturity of the BSM management processes and raised concerns in key areas such as configuration management, human capital management, contract management, and cost and schedule estimating. Accordingly, BSMO committed to maturing its management processes and established corrective action plans for each area, assigned responsibilities and set milestones, and initiated a formal monitoring process for measuring progress in each area.

For example, the IRS has developed configuration management processes and is institutionalizing configuration procedures. It established a process for determining the type of task order to be awarded and MITS is implementing plans for attracting, developing, and retaining requisite human capital resources. Key stakeholders are reviewing documented procedures for how to effectively validate the cost and scheduling estimates submitted by the PRIME.

Question. The IRS Oversight Board stated in a December 2003 report that, as the foundation of the modernization project, the Customer Account Data Engine (CADE), requires special attention. CADE will replace the existing IRS Master File of taxpayer accounts. It is the most costly, complex, largest, and longest-running project within the BSM portfolio. IRS has engaged Carnegie Mellon's Software Engineering Institute (SEI) to review CADE. One of SEI's findings is that a key compo-

nent of CADE, its "business rules engine" which translates tax processing rules into computer code, must be defined and modeled in order for CADE to succeed. Is IRS following this recommendation and if so, what is the status? If not, why not?

Answer. The IRS is following the recommendation from Carnegie Mellon's Software Engineering Institute. The IRS tasked PRIME to do a business rules engine performance engineering study that measured and modeled the performance of the business rules engine. The IRS also tasked PRIME to evaluate design alternatives that lowered risk of implementing business rules. The PRIME has completed performance tests.

Senior engineers from IRS, PRIME, MITRE, and Sapiens (the business rules vendor) met the week of May 10, to review the test results and assess alternatives that will improve the performance of CADE and lower the risk of implementing business rules. Design changes will be modeled using the performance data obtained in the tests. The final report is due to be completed June 20, 2004.

Question. In Ms. Gardiner's formal testimony, she states that oversight groups are starting to lose confidence in the ability of your PRIME contractor to meet its commitment in modernizing the IRS's business systems. This observation is clearly based on the deadlines that have already been missed and the cost overruns already incurred. Mr. Everson, what is your current assessment of your PRIME contractor's ability to get the job done without further delays and further cost overruns? Are you giving any consideration to changing your PRIME contractor on this critically important endeavor? If so, what would be the cost to the taxpayer of changing your PRIME contractor at this time?

Answer. There are no current plans to replace CSC as the PRIME contractor, however, Commissioner Everson has made it vividly clear to Mike Laphen, the President and Chief Operating Officer of CSC, that CSC needs to significantly improve their performance. In February 2004, he announced his decision to direct the upcoming enforcement modernization projects for collection contract support and filing and payment compliance to other contracts. It is the Commissioner's hope that this action, while no doubt unwelcome to CSC, will lead to a sharpened focus and discipline, and will in fact enhance the prospects for successful and timely delivery of other modernization projects by CSC.

While CSC has improved their performance somewhat, the IRS carefully assessing CSC's performance on current projects and the results of CSC's overall program management and integration efforts before awarding any follow-on work for existing projects. The IRS needs consistent, high-level performance and service from CSC. The IRS has also moved to capped or fixed price contracts for almost all development work to balance the financial risk on modernization projects.

COMPETITIVE SOURCING

Question. Mr. Everson, you are very familiar with the President's competitive sourcing initiative since you served as Deputy Director for Management at OMB. I understand that you plan to spend $9.1 million in unbudgeted funds in fiscal year 2005. What areas are you planning to contract out?

Answer. The $9.1 million you cite is the amount the IRS has requested in the fiscal year 2005 budget submission to support the Competitive Sourcing program. The IRS plans to use public-private competition to improve operations, but only if it makes economic sense. Traditionally, the employee government bid teams have won over 50 percent of the public-private competitions. Historically, organizations that have successfully used competition to improve operations have achieved an overall 30 percent reduction in operating costs. These reductions are typically in the support functions and are achieved through such actions as consolidation of existing facilities (releasing commercially leased space), staff reductions, and increased use of technology. Similarly, the IRS focus is on support functions.

Question. What is the status of all the competitive sourcing studies that have been undertaken at IRS? Please include year, area, and result. How much money has been spent on these competitions? Since the competitions are not budgeted for, where has the money come from?

Answer. It has been difficult to finance the Competitive Sourcing Program since the IRS does not know the outcomes in advance, the exact level of savings are yet to be determined, and it takes time to realize these savings. The IRS had to internally realign. However, the investments made today in public-private competitions show a return on investment usually within 2–3 years (including payment of transition costs—voluntary early retirement, voluntary separation incentive, etc.). At that time, the IRS plans to reinvest the savings to fund future competitions and cover transition costs. It will take several years to get there. The IRS does request funding in the fiscal year 2005 budget for the Competitive Sourcing program.

Status of IRS Competitive Sourcing Studies

Architects and Engineers (10 FTE).—Streamline competition resulted in in-house award. The in-house team was most efficient.

No savings achieved.

Area Distribution Centers (500 FTE in Bloomington, IL; Rancho Cordova, CA; Richmond, VA).—The three Area Distribution Centers distribute tax forms, instructions and publications to taxpayers and internal use documents to IRS employees.

Standard Competition with award decision scheduled for June 28, 2004.

Expected Saving and Benefits: Consolidation of activities and geographic locations resulting in the release of commercial space, revised operational processes and procedures to gain efficiencies, new information system, reduced staff and increased managerial span of control.

Anticipated return on investment (fiscal year 2005–fiscal year 2009): $22 million.

Building Delegations or Operation and Maintenance (O&M) of Delegated Buildings (100 FTE in Covington, Fresno, Austin, Ogden, Philadelphia, Headquarters).—O&M are those functions identified in the Building Delegation Agreements between the General Services Administration (GSA) and the IRS. These services include responsibilities to operate and maintain building systems (electrical, HVAC, control systems, etc.).

Standard Competition with solicitation release scheduled for June 2004.

Expected Saving and Benefits: Revised operational processes and procedures to gain efficiencies; reduced staff; and increased managerial span of control.

Anticipated return on investment (fiscal year 2006–fiscal year 2010): $3.9 million.

Mail Rooms (70 FTE).—Mailroom services functions include all aspects of the delivery of mail from full service delivery to mail stop or desktop to self-service mailrooms where customers pick up their own mail. The IRS made a decision to divide the study among headquarters, nationwide "stand alone sites" and campuses.

The IRS plans to use public-private competition to improve operations.

Direct Conversion—in progress.

Fully Implemented—Denver, CO; Detroit, MI; Plantation, FL; Detroit Computing Center, MI; Houston (Leland), TX; Laguna Niguel, CA; Oklahoma City, OK; and San Francisco, CA.

Partially Implemented—Washington, DC; New Carrollton, MD.

Scheduled for Implementation—Cincinnati, OH; Jacksonville, FL (5/17); and Nashville, TN.

Implementation Not Scheduled—Atlanta, GA; Baltimore, MD; Boston, MA; Buffalo, NY; Dallas, TX;; Greensboro, NC; Hartford, CT; Houston (Alliance), TX; Indianapolis, IN; Los Angeles, CA; Milwaukee, WI; New Orleans, LA; Oakland, CA; Philadelphia, PA; Phoenix, AZ; Richmond, VA; Chicago, IL; Springfield, NJ; St. Louis, MO; St. Paul, MN.

Anticipated return on investment (fiscal year 2005–2009): $399,000.

Campus Operations (Information Technology) (350 FTE in Ogden, UT; Atlanta, GA; Brookhaven, NY; Andover, MA; Cincinnati, OH; Fresno, CA; Austin, TX; Memphis TN; Kansas City, MO; Philadelphia, PA).—This functional area provides the Information Systems (IS) computer operations at the ten IRS Campus facilities. The positions include computer operators, production controllers, tape librarians, computer specialists, and clerks.

Standard Competition with award decision scheduled for July 2004.

Expected Saving and Benefits: Revised operational processes and procedures to gain efficiencies; reduced staff; and increased managerial span of control.

Anticipated return on investment (fiscal year 2005–2009): $12.7 million.

Logistics Support (formerly Warehouse and Transportation) (160 FTE in Andover, MA; Philadelphia, PA; Brookhaven, NY; Atlanta, GA; Covington, KY; Austin, TX; Kansas City, MO; Ogden, UT; Fresno, CA; Memphis, TN).—This functional area provides warehousing and transportation, mainly at the 10 campus sites. This activity includes positions such as material handlers, warehouseman, motor vehicle operators, laborers, and clerks.

Standard Competition with Performance Work Statement development underway.

Expected Saving and Benefits: Revised operational processes and procedures to gain efficiencies, release of leased space, reduced staff and increase of managerial span of control.

Anticipated return on investment (fiscal year 2006–2010): $4.8 million.

Campus Files Activity (1458 FTE in Austin, TX; Andover, MA; Philadelphia, PA; Brookhaven, NY; Cincinnati, OH; Memphis, TN; Atlanta, GA; Kansas City, MO; Ogden, UT; Fresno, CA).—This functional area receives, controls, shelves and maintains all returns/documents for retention and retirement. They retrieve documents as requested by customer organizations. Liaison work is critical with the Federal

Records Centers for final retention of documents. The work is routine and does not involve making complex determinations or present unique fact patterns.

Standard Competition with solicitation release scheduled for the fourth quarter of 2004.

Expected Saving and Benefits: Revised operational processes and procedures to gain efficiencies; reduced staff; and increased managerial span of control.

Anticipated return on investment (fiscal year 2006–2010): $22 million.

Learning and Education (617 FTE Service-wide).—This functional area is responsible for determining service-wide and division-level professional training requirements, developing training plans and curriculum, evaluating the effectiveness of training, and performing a broad spectrum of program administration.

Standard Competition with Performance Work Statement development underway.

Expected Saving and Benefits: Consolidation of activities, revised operational processes and procedures to gain efficiencies, implementation of learning content management and learning management systems, reduced staff and increased managerial span of control.

Anticipated return on investment (fiscal year 2006–2010): $25 million.

Competitive Sourcing Competition Costs

[In millions of dollars]

	Amount[1]
Fiscal year 2003	5.0
Fiscal year 2004	6.3

[1] Travel, training, staffing, expert contractor support (PWS, Most Efficient Organization, Independent Review)—does not reflect transition/separation costs.

Note.—Return on investment includes cost of conducting competition and transition/separation costs. The IRS calculated savings calculated through fiscal year 2007.

Business Case Analysis/Feasibility Studies

Tax Law Telephone.—This is a preliminary feasibility assessment of having a vendor provide tax law telephone assistance. After the completion of the preliminary feasibility assessment, the IRS will make a decision as to whether to go forward with the competition.

Fuel Compliance Activity (140 FTE Service-wide).—This function area monitors 1,400 terminals, all fuel wholesalers, thousands of retail motor fuel outlets, and U.S. border crossings. Additionally, these personnel are charged with conducting periodic inspections of on-road vehicles on highways throughout the country.

IT Support (Service-wide).—This is identification and development of sourcing strategy to identify candidate public-private competition activities.

Question. One of the provisions included in last year's appropriations bill was a prohibition against using fiscal year 2004 funds to contract out any Federal job overseas. To my shock, the President's budget specifically requests that this provision be deleted for fiscal year 2005. Mr. Everson, could you cite for me some instances at IRS where you might take work that is currently be conducted by Federal employees and send that work overseas?

Answer. The IRS has no specific plans to move work overseas. There are added complexities and security challenges that make moving work that would involve access to the IRS's information technology systems and/or sensitive data cost prohibitive.

However, while the IRS has no specific plans to contract work overseas, it is conceivable that qualified bidders with overseas operations may be responsive to future IRS public-private competitions that do not involve access to the IRS's information technology systems and/or taxpayer return information. The IRS will continually identify a series of functions that are commercial in nature in accordance with the FAIR Act. At that time, a business case is developed that indicates whether or not a more efficient method of operation may be available. If so, a competitive sourcing initiative is begun under the guidelines of the OMB A–76 Circular. A contractor may then bid for that work. It is highly unlikely that a contractor would bid work to be performed overseas given the nature of the work the IRS has identified to date or anticipates identifying. Under the IRS Competitive Sourcing Program, no initiative has resulted in Federal jobs being outsourced overseas. The IRS adheres primarily to the Federal Acquisition Regulations (FAR) and the A–76 Circular when conducting public-private competitions for work performed by Federal employees. The FAR currently contains some limitation on issuance of contracts to some overseas locations.

CUSTOMER SERVICE

Question. IRS consistently finds its own accuracy rates higher than TIGTA does when measuring taxpayer assistance functions, whether we are talking about toll-free telephone assistance, walk-in service at Taxpayer Assistance Centers, or the IRS website. Mr. Everson, how do you explain the discrepancy? Ms. Gardiner, would you care to comment?

Answer. Typically, TIGTA's reports on accuracy are based on limited judgmental sampling conducted during the brief period of their fieldwork on a particular audit. The results that they report are not statistically valid. The IRS results for telephone accuracy and for irs.gov e-mail assistance are based upon an on-going process that is statistically reliable. TIGTA typically acknowledges the limitations of their data in their reports with statements such as, "We selected a judgmental sample of calls to monitor between April 21 and May 16, 2003. Our results cannot be compared to the statistical results reported by the IRS."

The discrepancy between the TIGTA accuracy rates and the Taxpayer Assistance Center (TAC) walk-in service accuracy rates is due to the calculation methodology. TIGTA and the IRS treat responses to tax law questions differently. In contrast to the IRS, TIGTA includes referrals to publications, service denied, and referrals to other employees in its accuracy calculation. The IRS disagrees with the assertion that a non-response is synonymous with providing an incorrect answer. While it is clear that there is some disparity in methodology, it is important to note that neither of these methods of measuring walk-in service accuracy is statistically reliable.

TIGTA will respond separately.

Question. As stated in testimony, TIGTA found that IRS employees incorrectly prepared 19 of the 23 tax returns prepared during TIGTA audit visits to Taxpayer Assistance Centers. What steps has IRS taken to remedy this egregious example of inaccuracy and Mr. Everson, do you plan to implement the additional actions that TIGTA recommended?

Answer. The IRS implemented the recommendations made by TIGTA and has taken several steps to remedy inaccurate return preparation. The IRS directed all TAC employees to adhere to existing screening procedures to ensure taxpayers meet the return preparation criteria. In addition, the IRS required all employees to use the appropriate worksheets in the return preparation software and the publication method guide to assist in determining a taxpayer's eligibility for deductions and credits claimed on the tax return.

The IRS also implemented a quality review plan to ensure TAC employees adhere to these and other return preparation procedures in the Internal Revenue Manual. The IRS requires group managers to complete three employee return preparation reviews and the quality review staff is required to visit each Area and conduct at least two return preparation reviews.

Question. As stated in testimony, TIGTA found that IRS didn't respond to several of the questions TIGTA submitted anonymously to the website. Do you have statistics about the number of questions that go unanswered? How is this allowed to happen? What is being done to prevent this in the future?

Answer. During the period from February 22 to March 6, 2002, TIGTA anonymously submitted 90 questions through the website. TIGTA reported that they did not receive a response to 14 of these questions. During that period of time, the IRS was making system changes that affected its responsiveness. As it transitioned to a new server and a new contractor, some messages did not transfer between servers. The IRS was able to recover most messages, but unfortunately lost several, including some initiated by TIGTA.

In an October 2002 report, Reference No. 2003–40–014, TIGTA recommended that the IRS improve its control system by sending an e-mail receipt acknowledgement to the requestor and develop a system to track each question submitted to ensure the IRS provides a response. The IRS concurred with these recommendations and modified the program to add both new features in 2003. Both of these enhancements are performing as designed. However, taxpayer e-mail limitations, such as address problems, discontinued service, mailbox full, and stringent spam filters may continue to block delivery of an IRS response.

Question. Ms. Gardiner points out that the IRS revised its modernization plan for fiscal year 2003 to focus on executable segments that could be accomplished in a timely manner. Despite all of the IRS's assurances to the contrary, all of the projects on the newly downsized list still experienced delays and most incurred significant cost increases. What are her observations regarding the IRS's abilities to deliver modernization projects on time and on budget for the current fiscal year and next year? Why should we believe that the IRS and its contractors will improve its per-

formance on these projects going forward? Mr. Everson, do you care to comment on this matter?

Answer. The BSM program is—without a doubt—one of the largest, most visible, and most sensitive modernization programs ever undertaken in the world.

When nominated in February 2003, the Commissioner set three priorities for his term as Commissioner. First, the IRS must continue to improve service to make it easier for taxpayers to understand and comply with tax laws. Second, modernization of IRS information technology is also a high priority. The third priority is to strengthen the integrity of the American tax system with enhanced enforcement activities. The Commissioner's first action to address the modernization priority was to appoint two new leaders to the modernization effort.

Commissioner Everson appointed John Dalrymple, a 30-year IRS veteran who has spent his career focusing on front-line taxpayer issues, as the Deputy Commissioner for Operations Support to own the modernization initiative and drive productivity across the IRS. Simultaneously, he appointed the former IRS Chief Financial Officer, W. Todd Grams, to the position of Chief Information Officer to bring stronger leadership and discipline to the technology modernization program.

These executive appointments to the IRS modernization program represent a major change in the way the IRS has managed previous modernization projects. They were necessary steps to bring more management discipline and increased business unit knowledge and involvement to the modernization program. The following is a brief recap of IRS's progress and struggles over the past year.

The results have been mixed. The IRS built a strong technical infrastructure, and designed and implemented stringent security and control mechanisms into the infrastructure. It also developed a rigorous enterprise life cycle methodology. Over the past 2 years, the IRS has been working toward maturing its management processes. The IRS has made progress, but a major thrust now focuses on sustaining a solid balance of business commitment, accountability, and scope management. Finally, the IRS has achieved a great deal of success with the projects delivered to date.

For the first time ever, corporations and tax exempt organizations have the option of filing their annual income tax and information returns electronically using Modernized e-File (MeF). This new electronic filing system significantly reduces the time and cost for corporations and tax exempt entities to file their Forms 1120 and 990. Simply by using a secure Internet connection to file 1120 and 990 forms, corporations and tax exempt organizations eliminate the need to submit hundreds of pages of paper returns. The e-Gov Institute recently chose MeF as a winner of the Government Solutions Center Pioneer Awards.

The IRS has achieved a great deal of success with the e-Services projects. All e-Services Release 1.0 products are fully deployed and available over the Internet, including: registration and online address change access for third parties and IRS employees through secure user portals; Preparer Tax Identification Number (PTIN) online application; interactive Taxpayer Identification Number (TIN) matching; secure Electronic Return Originator (ERO) application processing; and access to e-Services registration and application processes by Modernized e-File (MeF) participants.

E-Services Release 2.0 products are also now in production and available for use by IRS staff and taxpayers, including: Application for e-Filing (external); Electronic Account Resolution (EAR); Electronic TIN Bulk Matching (Bulk Requests); Disclosure Authorization (DA); and infrastructure support for outbound facsimile service.

In March 2004, James D. Leimbach appeared before the Ways & Means Oversight Subcommittee on behalf of the National Association of Enrolled Agents (NAEA), the professional society of enrolled agents, to present NAEA's views regarding e-Services delivering electronic services to tax practitioners. NAEA's overall assessment was that the 2003 filing season has run very smoothly—and the NAEA gave the IRS a great deal of praise.

Mr. Leimbach said, "The difficulty in integrating a 1960's era mainframe with the Internet and doing so in an environment using highly complex encryption is enormous, costly, and worth every effort and every dime spent." He added, "This new capability is truly going to revolutionize the way we conduct future business with the IRS. The ultimate beneficiary is the American taxpayer. We are truly amazed and thrilled beyond description at this way of doing business with the IRS and we would like for you to understand why we feel as we do."

Mr. Leimbach cited numerous examples of eliminating time delays of over a week and reducing response times from weeks and months to 3 days simply by having the ability—24 hours a day, 7 days a week—to submit information directly to the IRS using the Internet.

The IRS delivered several additional applications that are providing tangible benefits to taxpayers and improving the efficiency and effectiveness of tax administration systems such as Where's My Refund?, Where's My Advance Child Tax Credit?,

Internet EIN, Modernized e-File, HR Connect, etc. The following chart highlights the applications the IRS delivered, as well as the measurable business benefits being realized.

BSM DELIVERS REAL BUSINESS VALUE (RESULTS AS OF 6/15/04)

Project	Description	Recent Statistics
Internet Refund Fact of Filing (2002)	Improves customer self-service by providing instant refund status information and instructions for resolving refund problems to taxpayers with internet access.	—17.9 million inquiries in 2003; 22 million inquiries to date in 2004 (1/1/04–6/6/04). —32 percent of all real time IRS assistance calls come from IRFoF. —Modest reduction of telecommunications costs (about $250,000). —Every 1,000 IRFoF contacts eliminate 1,500–2,000 refund assistance calls.
Advanced Child Tax Credit (2003)	Modifies the Internet Refund application to provide taxpayers with Advance Child Tax Credit refund status on the internet.	—15.5 million inquiries in 2003; 11.9 million inquiries to date in 2004 (10/1/03–6/13/04). —Peak date 1.1 million interaction.
Customer Communications (2001)	Improves communications infrastructure, including telephone call management, call routing and customer self-service applications.	—68,000 calls in one 3-minute period during initial week (coincided with start of Advanced Tax Refund of 2001). —50 percent reduction in waiting time for assistor to answer call. —50 percent reduction in abandoned calls. —Number of Spanish calls doubled. —More accurate pre-routing of calls.
Internet Employee Identification Number (2003)	Allows businesses and taxpayers to apply for and receive employer identification numbers over the internet.	—1.37 million internet EIN applications received to date (as of 6/5/04).
HR Connect (2002)	Delivers an enterprise solution to allow IRS employees to access and manage their human resources information online.	—75,000 internal users. —Cited by Commissioner Everson as an enabling factor in the redirection of approximately 750 staff years to enforcement. —Treasury was selected as 2004 ComputerWorld Honors Laureate for HR Connect development and implementation.
e-Services R1 (2003–2004)	Creates a web portal and value adding e-Services services to promote the goal of conducting most of the IRS's transactions with tax practitioners electronically.	—Over 69,624 PTIN applications (W7P) entered to date, data entry productivity doubled (from 8/15/03–6/10/04). —Over 58,201 e-File applications to the Third-Party-Data-Store (TPDS) entered to date (from 8/15/03–6/10/04). —Approximately 24,939 Registered (and confirmed) User Portal (RUP) to date (from 10/1/03–6/10/04).
Customer Relationship Management Exam (2001)	Provides standard tax computation software to Large & Mid-Sized Business Revenue Agents.	—Deployed to almost 4,000 Revenue Agents.
Modernized e-File (2004)	Provides e-filing to large businesses (1120 family) and tax exempt organizations (990 family).	—Went live on 2/23/04. —Over 35,090 returns (1120 family) accepted as of 6/13/04. —Over 3,287 participating Electronic Return Originators as of 6/13/04. —Winner of Government Solutions ''Best-of-the Best'' Pioneer Solutions.

The bad news, however, is major. Significant cost overruns and repeated schedule delays have plagued critical projects, such as the Customer Account Data Engine (CADE), the Integrated Financial System (IFS), and the Custodial Accounting Project (CAP). CADE replaces the current master files that are the IRS's repository of taxpayer information. IFS will be the IRS's new core accounting system. CAP provides an integrated link between tax administration (revenue) and internal management (administrative) financial information.

The IRS has delayed the CADE program four times. It originally planned to deliver the first release of CADE in December 2001. The IRS then rescheduled it for August 2003, and later rescheduled it for April 2004. The IRS recently finalized the re-planning effort for CADE and set the latest delivery date for September 2004. While CADE is farther along than the IRS has ever been in replacing a component of the master file, there are still major hurdles to overcome. The CADE delays stemmed from infrastructure upgrades, initial poor software quality during the startup of systems integration testing combined with the failure to understand the complexity of balance and control, and the resolution of operational and performance issues that occurred during Phase 3 of the Release 1.0 pilot.

Like CADE, IFS has been plagued with schedule delays. The IRS originally planned to deliver the first release of IFS in October 2003. The IRS then rescheduled it for January 2004. The IRS later rescheduled it for April 2004. The IRS has subsequently scheduled Release 1.0 for October 2004. The IRS delayed the first release of IFS because of the need to make technical changes to comply with the enterprise architecture, the inability to resolve key design and integration issues in a timely manner, the identification of the health coverage tax credit interface requirement late in the development process, and delays experienced in integration testing due to poor application quality and interface testing issues.

IFS Release 1.0 will cover core accounting functions such as budget preparation, general ledger, accounts payable, accounts receivable, financial reporting, and purchasing. Problems continue to seriously jeopardize the scheduled delivery of this first release of IFS. The IRS is 2 weeks behind schedule on testing, which puts the data conversion schedule at risk. The IRS is negotiating a fixed price contract for the October delivery.

The IRS is also encountering delays on the first release of the Custodial Accounting Project (CAP), which provides an integrated link between tax administration (revenue) and internal management (administrative) financial information. The first release of CAP will address revenue from individual taxpayers on initial tax payments. Later releases of CAP will address businesses and collections. CAP delays resulted from unstable CADE and IFS interface definitions, needing additional testing time due to a much larger than anticipated volume of data anomalies discovered during the conversion of data from the current Individual Master File (IMF), and the time required resolving system performance issues.

In addition, though not directly responsible for CAP delays to date, the IRS has made some adjustments to the functionality that it needs to have in CAP Release 1 to support the GAO financial audit as well as internal accounting and management. These adjustments will increase the cost of later sub-releases of CAP Release 1. The IRS has now completed all testing for CAP Release 1, and is adding changes to reflect IMF changes from the start of the 2004 filing season (Release 1.1). The IRS plans to start production, which includes the initial load of IMF data, in mid-August. The IRS negotiated a fixed price contract for Release 1 and Release 1.1 in May 2004.

Question. Ms. Gardiner, in her testimony, points out that she found several instances where the Business System Modernization project teams at the IRS were cutting corners and not following established testing procedures due to their desire to meet overly optimistic project schedules. It seems that the IRS responds to missing its deadlines by cutting corners and thus undermining the likelihood that the agency will get what it paid for. What has Ms. Gardiner concluded about the IRS's ability to manage these projects effectively and ethically? Is there any reason to hope that the IRS is turning a corner and actually getting value for the taxpayer from these modernization projects? Mr. Everson, would you care to comment?

Answer. The IRS used the results from independent studies commissioned during the summer of 2003 to create a BSM Challenges Plan comprised of 40 some action items. Given the strategic importance of the plan, The Commissioner appointed an IRS business unit deputy commissioner to oversee the implementation of the plan.

As a first step, the BSM project team developed a crosswalk to ensure that the BSM Challenges Plan's definition of the issues addressed and/or satisfied all of the recommendations from the four commissioned studies as well as the recommendations submitted by the IRS Oversight Board, and the Software Engineering Institute (SEI) study of CADE.

While the deputy commissioner made significant progress in implementing the plan, the full closure of all actions items was unrealistic within the elapsed timeframe of the 6-month appointment. Concurrently, the CIO created a new direct report position for modernization management and assigned responsibility for implementing the plan to the individual recently hired into this newly created position.

Under the leadership of the deputy commissioner, the IRS and CSC team brought closure to several key actions items, including: clarifying the roles of committees as advisory, identifying "blockers" on contracting issues, appointing business leaders to each project, establishing a risk-adjusted schedule and new baseline for CADE Releases 1.0 and 1.1, and increasing the frequency of CADE reviews with the business owner to twice monthly. The majority of the action items are still works-in-progress, some of which will take time to fully complete. Others will span the life of the BSM program.

For example, strengthening systems engineering capabilities by hiring external candidates will take time since it involves conducting the searches, interviewing the candidates, and negotiating the new hires to come on board. The IRS and CSC developed ground rules for escalating issues, but they will need to be continually enforced throughout the life of the program. The IRS rewrote the charters of the governing committees to reflect their advisory role and clearly articulated their responsibilities, however, it will probably take a year to truly evaluate and measure their effectiveness.

As stated, the IRS has made progress toward closing all the action items, but it has much more work to do in critical areas. For example, the IRS needs to religiously follow the proper methodologies and hold people accountable if they do not. The IRS must start "doing things right" as opposed to "doing things fast" such as exiting milestones prematurely. An ongoing challenge will be balancing the scope and pace of projects consistent with capacity, ensuring that the right people are in place before launching a project, and setting realistic delivery schedules and cost estimates. The IRS is committed to staying-the-course and delivering on its promise to modernize America's tax systems, but it is important for everyone to acknowledge this is a monumental effort.

The magnitude and evolution of the BSM program dictates that the IRS will always be going through an evolution of assessment and improvements. In that regard, the BSM Challenges Plan is still evolving and the IRS is using certain action items to continuously improve the program.

QUESTIONS SUBMITTED BY SENATOR RICHARD J. DURBIN

TAX EVASION/IRS COLLECTION

Question. In the days leading up to April 15, newspapers around the country ran features on personal and corporate tax evasion and the IRS's failure to collect many of the taxes it is owed. The President proposes a 4.6 percent increase in IRS funding for fiscal year 2005, claiming that this will allow the hiring of 5,000 new auditors and collectors. While increasing the number of IRS agents and officers is central to more effective tax collection, the IRS Oversight Board argues that much of the 4.6 percent increase will be swallowed by rising salaries and administrative costs. In fact, the Oversight Board claims that fiscal year 2005 is the fourth year in a row in which the administration has called for IRS staff increases while failing to cover pay raises or required expenses.

In your estimation, how many new auditors and collectors would be hired as a result of a 4.6 percent increase in IRS funding in fiscal year 2005, and what would be the impact of such an increase on the IRS's ability to collect some of the estimated $250 billion in owed taxes that go unpaid each year due to tax evasion?

Answer. The IRS will hire approximately 5,000 new enforcement personnel. These new hires will improve voluntary compliance by increasing the number of individual and corporate returns examined and directly increasing collections of delinquent revenue owed to the government by approximately $3 billion in the first 3 years of the initiative, fiscal year 2005 through fiscal year 2007, and additional collections of $1.5 billion annually thereafter. This increase in IRS enforcement personnel also improves voluntary compliance by deterring would-be tax cheats from engaging in illegal behavior.

TAX ASSISTANCE PROGRAM—ILLINOIS

Question. In the fiscal year 2004 Senate Transportation-Treasury Appropriations report, language was included regarding the Tax Assistance Program in Chicago, Illinois. "The Committee is aware of an innovative financial literacy and tax assist-

ance project in Chicago, Illinois—Tax Assistance Program—designed to assist low income workers and their families with tax education and filing, in cooperation with the State of Illinois and the City of Chicago's Earned Income Tax Credit (EITC) outreach efforts. The Committee encourages the IRS to continue to provide appropriate technical and financial assistance for this worthwhile initiative."

Is the IRS working with the Tax Assistance Program in Chicago, Illinois, and what Federal resources are being provided? Will the IRS continue to work with programs like TAP in Chicago in fiscal year 2005?

Answer. The IRS has partnered with the Tax Assistance Program (TAP) for several years and each year has been increasingly impressed with the achievements and the dedication of the staff and volunteers. The IRS is very fortunate to have this fine organization as a partner in providing free tax preparation to low income taxpayers in the Chicago metro area. The IRS hopes to sustain this relationship in fiscal year 2005 and for many years to come. However, outside the Low Income Tax Clinic (LITC) Grant Program, the IRS has no legal authority to offer funding to the TAP organizations. The TAP currently receives Federal funds available through the LITC Grant Program, and the IRS anticipates that the TAP will continue to apply for funding through this program in the future.

QUESTIONS SUBMITTED TO THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

MODERNIZATION

Question. How much more is needed to complete and modernize the IRS's outdated systems and processes?

Answer. We do not know the true total cost needed to complete the Business Systems Modernization (BSM) effort. To date, the Internal Revenue Service (IRS) has received $1.6 billion for this effort. The IRS anticipates that the value of the PRIME[1] contract will be $8 billion. However, the PRIME contract is not the only cost associated with the BSM effort as other contractors, such as Northrop Grumman, International Business Machines, and MITRE Corporation, are involved in the BSM effort. In addition, the IRS is incurring substantial internal costs in managing the BSM effort. The sum of all PRIME contractor, other modernization contractors, and IRS costs for the life of the BSM program is not known.

Question. Is the fiscal year 2005 budget request consistent with that TIGTA assessment?

Answer. Yes. We have recommended since September 2002 that the IRS slow the pace of the BSM program due to some of the risks that have surfaced. The fiscal year 2005 budget request is consistent with our past recommendations.

Question. When will BSM be completed?

Answer. The BSM program is currently in its sixth year of a 15-year contract. However, the IRS and the PRIME contractor have been experiencing significant delays. For example, the Customer Account Data Engine (CADE)[2] project is approximately 30 months behind schedule, and the detailed planning for the business taxpayer account portion (Federal tax deposits, corporate entities, partnerships, etc.) of the project has not been completed. Unless the IRS and the PRIME contractor take actions to make up the lost time and thoroughly plan all projects, it is difficult to know how long the BSM effort will last.

Question. What is the status of IRS's efforts to resolve the findings and deficiencies identified by the various internal and independent assessments of BSM?

Answer. To address the results of the recent assessments, the IRS and the PRIME contractor have developed a 48-point action plan, known as the "BSM Challenge Plan". While the 48 planned corrective actions should help improve the BSM program, it will take time to institutionalize new processes and ensure they are being followed. Only at that time will it be possible to determine if the actions have been effective.

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[1] The PRIME contractor is the Computer Sciences Corporation, which heads an alliance of leading technology companies brought together to assist with the IRS's efforts to modernize its computer systems and related information technology.

[2] The CADE is the foundation for managing taxpayer accounts in the IRS's modernization plan. It will consist of databases and related applications that will replace the IRS's existing Master File processing systems and will include applications for daily posting, settlement, maintenance, refund processing, and issue detection for taxpayer tax account and return data.

The IRS recently reported that 44 of the 48 action plan items were closed. However, our preliminary analysis shows that additional actions are scheduled for many of these closed items. The IRS Chief Information Officer acknowledged that follow-on actions are required to completely address the various internal and independent BSM assessments.

It should be noted that the various assessments resulted in 21 recommendations for improvement in the BSM program, 15 of which are similar to those made in Treasury Inspector General for Tax Administration (TIGTA) reports issued during the past 3 years. In several instances, the principal recommendations were reported multiple times during this period. Since many of the prior TIGTA recommendations have resurfaced as part of the recent assessments, we conclude that previous weaknesses have proven difficult to correct. Only time will tell whether actions taken as part of the 48-point plan will completely address the root causes identified in the various assessments.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

MODERNIZATION

Question. Ms. Gardiner, your testimony says that IRS plans to request $142 million—the remainder of the $388 million appropriated last year—for Business Systems Modernization in fiscal year 2004. In your opinion, based on performance to date, should the Congress withhold or make conditional the approval of that $142 million?

Answer. While we have not been provided with a copy of the revised spending plan, our opinion is that the Congress should approve the release of the remaining $142 million. In February 2004, the Commissioner testified, "It's no secret that our projects have consistently run late, delivered less functionality than planned, and cost significantly more than targeted." The IRS's track record is of concern; however, the withholding of funds could cause projects to stop, which would result in the loss of contractor expertise and would lead to additional costs needed to restart the projects. In addition, there has been little time to determine if the actions being taken as part of the 48-point plan are leading to improvements.

We believe the $142 million in additional funding should be provided, but we would recommend to the Appropriations Subcommittee that the BSM program be monitored closely to determine if future funding is warranted. The IRS and the PRIME contractor have developed a 48-point plan to respond to various internal and independent assessments. Once the 48-point plan is implemented, it will take time to institutionalize new processes and ensure they are being followed. Only at that time will it be possible to determine if the corrective actions have been effective.

Question. Ms. Gardiner, you point out that the IRS revised its modernization plan for fiscal year 2003 to focus on executable segments that could be accomplished in a timely manner. Despite all of the IRS's assurances to the contrary, all of the projects on the newly downsized list still experienced delays and most incurred significant cost increases. What are your observations regarding the IRS's abilities to deliver modernization projects on time and on budget for the current fiscal year and next year? Why should we believe that the IRS and its contractors will improve its performance on these projects going forward? Mr. Everson, do you care to comment on this matter?

Answer. We believe that there are two critical areas that the IRS needs to address to be able to deliver modernization projects on time and on budget: requirements management and contract management. We have provided recommendations for improvement to the IRS in these areas, and the 48-point plan also addresses these areas. In addition, we have additional concerns in the areas of portfolio management, integration management, and staffing.

Requirements Management

The PRIME contractor testified that the heart of the problem has been the lack of fully defined requirements. While it is inevitable that some requirements changes will be needed, e.g., legislative changes, the PRIME contractor testified that it often began work without fully understanding requirements, and requirements were still being identified during the testing phase. In our opinion, this is the fault of both the IRS and the PRIME contractor. The IRS should create detailed requirements before moving forward, and a contractor at the maturity level of the PRIME contractor should know not to start work without a full understanding of requirements. Requirements instability will continue to lead to increased costs and schedule delays if not corrected. This area has been a continuing concern and has been reported in several TIGTA reports, beginning in November 2001.

Contract Management

Beginning in February 2001, we have made recommendations to assist the IRS in shifting financial risk to the PRIME contractor. Our recommendations have ranged from including positive and negative contractor incentives in task orders to using firm-fixed price task orders whenever possible. The recent BSM assessments also recommended moving toward a firm-fixed price model. When requirements are fairly stable, a firm-fixed price task order shifts some of the risk away from the government and to the contractor. If requirements become stable and firm-fixed price task orders begin to be issued, this will begin to curb some of the cost overruns that have been experienced to date. However, this may not have an effect on the timeliness of delivery.

Portfolio Management

Beginning in 2002, both the TIGTA and the General Accounting Office recommended that the IRS slow the pace of the BSM program due to some of the risks that have surfaced. The recent internal and independent assessments also make this point. While the IRS responded to this concern by scaling back the scope and number of projects in fiscal year 2003, we noted the fiscal year 2004 BSM plan includes an additional modernization project (Collection Contract Support—part of the Filing and Payment Compliance project).[3] Since the IRS and its contractors have been unable to deliver the scaled-back portfolio of projects on time and within cost, we continue to be concerned that the IRS and its contractors may not have the ability to successfully manage the BSM portfolio.

Integration Management

When the BSM effort began, the PRIME contractor was responsible for all modernization projects, with the exception of the Custodial Accounting Project.[4] As such, one significant role of the PRIME contractor was to ensure integration between all modernization projects. This role has become blurred recently with the PRIME contractor not being responsible for the Modernized e-File project. In addition, the Commissioner testified that he had decided to direct upcoming enforcement modernization projects to other contracts. With more modernization work being performed outside of the PRIME contract, the risk increases that modernization projects will not work in a fully integrated fashion.

Staffing

Recently, the IRS reported to the IRS Oversight Board that it has or will make changes in six of eight executive positions within the BSM program in an effort to bring more outside experience into the program. While the addition of new executives from outside the organization may bring new ideas and energy to the program, we are concerned about the potential disruption that it may cause. As part of our annual BSM assessment, we have included the following challenge for the last 3 fiscal years: "Maintain the continuity of strategic direction with experienced leadership."

Question. Ms. Gardiner, in your testimony, you point out that you found several instances where the Business System Modernization project teams at the IRS were cutting corners and not following established testing procedures due to their desire to meet overly optimistic project schedules. It seems that the IRS responds to missing its deadlines by cutting corners and thus undermining the likelihood that the agency will get what it paid for. Ms. Gardiner, what have you concluded about the IRS's ability to manage these projects effectively and ethically? Is there any reason to hope that the IRS is turning a corner and actually getting value for the taxpayer from these modernization projects? Mr. Everson, would you care to comment?

Answer. Our audits are not designed to examine the ethics of project management and, therefore, we cannot answer this portion of the question. The IRS and its contractors have deployed projects that provide value to taxpayers and have built the infrastructure needed to support these projects. Some of the BSM projects that have delivered value to taxpayers are the Customer Communications, Internet Refund/Fact of Filing (IRFOF), Internet Employer Identification Number (I-EIN), e-Services, and Modernized e-File (MeF) projects.

Customer Communications.—This project has improved customer service by increasing the capacity of the toll-free telephone system and providing the ability to

[3] The Filing and Payment Compliance project will provide support for detecting, scoring, and working nonfiler cases (filing compliance) and delinquency cases (payment compliance).

[4] The CAP will be a single, integrated data repository of taxpayer account information, integrated with the general ledger and accessible for management analysis and reporting.

route taxpayers' calls to the appropriate IRS employees. This project became operational in August 2001.

IRFOF.—This application (also known as "Where's My Refund?") offers improved customer self-service by providing refund status information via the Internet. The pilot version of the "Where's My Refund?" application was deployed in May 2002. The application was upgraded in 2003 and was accessed 17.9 million times that year according to the IRS. In 2003, the application was modified to provide taxpayers with Advance Child Tax Credit refund status via the Internet. The IRS stated that 15.5 million Advance Child Tax Credit inquiries were received in 2003.

I-EIN.—This application allows small businesses and self-employed taxpayers to obtain EINs online, eliminating the need to send paperwork to the IRS. This application was deployed in May 2003. The Commissioner recently testified that the application had processed over 450,000 applications as of February 2004.

e-Services.—Deployed in August 2003, this project allows tax professionals the ability to register online, create an electronic account, and apply for a Preparer Tax Identification Number to use in place of their Social Security Number for submitting returns. The IRS reported in January 2004 that over 16,000 tax professionals had applied to use the e-Services application.

MeF.—This project is developing the modernized, web-based platform for electronically filing approximately 330 IRS forms. The first release of the MeF project was deployed in late February 2004 and provided electronic filing for 59 forms, including United States (U.S.) Corporation Income Tax Return (Form 1120), U.S. Income Tax Return for an S Corporation (Form 1120S), Return of Organization Exempt From Income Tax (Form 990), Short Form Return of Organization Exempt From Income Tax (Form 990–EZ), U.S. Income Tax Return for Certain Political Organizations (Form 1120–POL), and Application for Extension of Time To File an Exempt Organization Return (Form 8868). The IRS has stated that over 18,520 tax returns had been accepted by March 21, 2004.

Progress is being made. Nonetheless, BSM projects are taking longer and costing more to deliver less than originally anticipated. Over the past 2 fiscal years, we have cited 4 primary challenges the IRS and its contractors must overcome to be successful: (1) implement planned improvements in key management processes and commit necessary resources to enable success, (2) manage the increasing complexity and risks of the BSM program, (3) maintain the continuity of strategic direction with experienced leadership, and (4) ensure PRIME contractor performance and accountability are effectively managed. Based on the results of recent TIGTA audits, as well as the assessment findings, we believe these four challenges still need to be met to achieve program success.

While the actions in the 48-point plan mentioned previously should help improve the BSM program, it will take time to institutionalize new processes and ensure they are being followed. Only at that time will it be possible to determine if the corrective actions have effectively addressed the four major challenges.

FAILURE TO COLLECT DELINQUENT TAXES

Question. A recent report by the Treasury Inspector General for Tax Administration (TIGTA) found that IRS's existing procedures are ineffective in ensuring even that criminals who are convicted in court for tax evasion are paying their civil tax liabilities. Why can't IRS collect from tax cheats?

Answer. In response to our recommendations in the subject report, the IRS issued an April memorandum to both the Small Business/Self-Employed Division and the Criminal Investigation organization containing interim procedures to process cases with terms of probation and to monitor compliance with these cases.

Question. Ms. Gardiner, given the fact that the head of IRS-Criminal Investigations disagreed with a number of your recommendations, are you confident that this grotesque abuse will be stopped?

Answer. The IRS did, in fact, disagree with several of our recommendations. First, the IRS disagreed with our recommendation concerning a technical legal matter on disclosure of tax information, stating that it believed it already had sufficient instructions on the matter. Our main concern in reporting the issue was to ensure that the disclosure rules were interpreted consistently and with the broadest possible application. The disclosure issue itself is tangential to the main problem of inadequate monitoring of, and follow-up on, probation cases.

The IRS also disagreed with our characterization of the impact of the errors in the Criminal Investigation Management Information System. Again, this issue is tangential to the main problem and does not affect the IRS's need for or commitment to improving its processes on monitoring terms of probation.

Finally, although the IRS disagreed with a recommendation to establish certain procedures and part of another recommendation to establish periodic systemic reports, it committed to reemphasizing its existing instructions and procedures, which it did in the April memorandum referenced above. As we stated in our report, we believe that this commitment satisfied the intent of our recommendations.

As to whether we are confident that this abuse will be stopped, the key will be the proper implementation and monitoring of the corrective actions recently taken or planned. If done properly, the IRS should be in a much better position to report to the courts whenever terms of probation are not met. Of course, collecting delinquent taxes or securing delinquent returns will also be a function of the taxpayer's ability to pay or requirement to file.

Question. Ms. Gardiner, why do you believe that IRS has not cleared up even the simplest of cases of uncollected taxes?

Answer. The IRS collection process for most cases begins with a series of notices mailed to taxpayers, asking them to pay the balance due. If the taxpayers do not respond, the cases are assigned either to the Queue (which is a holding area for cases waiting further assignment to the Collection Field function (CFf)) or the Automated Collection System (ACS) to be worked by telephone collectors. Generally, higher-priority cases are placed in the Queue while lower-priority cases are assigned to the ACS. If the ACS cannot resolve the cases, some of them are also assigned to the Queue. Cases in the Queue are assigned to Revenue Officers in the CFf according to priorities established by IRS management. In addition, the IRS has recently implemented a risk-based approach that attempts to select those cases with the highest probability of being collected. As a result, many lower dollar amount cases for individual taxpayer liabilities may not be collected if the taxpayer did not respond to the notice or a phone call.

Overall, the IRS is making some progress in collecting unpaid taxes. As we reported in April 2004, the level of compliance activities and the results obtained in many Collection function areas in fiscal year 2003 showed a continuing increase. Enforcement actions were higher in fiscal year 2003 than in fiscal year 2002, but they have not returned to pre-1998 levels. Enforcement revenue collected increased substantially in fiscal year 2003, while the total amount of uncollected liabilities and the gap between new delinquent accounts and account closures decreased slightly. Finally, the amount owed on accounts in the Queue decreased in fiscal year 2003, but the number of accounts in inventory increased.

Question. Do you consider it a possibility that IRS has not done so in order to build a case for the use of private collection agencies?

Answer. The IRS does not have the resources to work every delinquent account case. It has established risk-based priority systems in an attempt to use ACS and CFf resources as efficiently as possible. We have no evidence that the IRS is intentionally not working these cases to build a case for the use of private collection agencies.

CUSTOMER SERVICE

Question. IRS consistently finds its own accuracy rates higher than TIGTA does when measuring taxpayer assistance functions, whether we are talking about toll-free telephone assistance, walk-in service at Taxpayer Assistance Centers, or the IRS website. Mr. Everson, how do you explain the discrepancy? Ms. Gardiner, would you care to comment?

Answer. The large number of taxpayers who use Toll-Free Telephone, Taxpayer Assistance Centers (TAC), or the IRS's website, IRS.gov, to get answers to their tax law and account questions prohibits us from using statistical sampling techniques in our audits to determine the accuracy of IRS answers.

Type of Service	IRS-Reported Customers Served	IRS-Reported Accuracy (Percent)	TIGTA-Reported Accuracy (Percent)
Taxpayer Assistance Centers	8,588,850	[1] 75	69
Referral-Mail	279,558	72	74
Toll-Free Accounts	27,645,540	89	78
Toll-Free Tax Law	5,381,687	83	73
Internet-based IRS website, IRS.gov	119,036	N/A	Over 80

[1] IRS accuracy rate reported in the Wage and Investment Operating Division Business Performance Report, page 10, dated May 11, 2003.

Figures for TACs, Referral-Mail, Toll-Free Accounts, and Toll-Free Tax Law reported by the IRS are for fiscal year 2003. Figures for IRS.gov reported by the IRS are for the 2002 Filing Season.

Toll-Free Telephone Assistance

The differences in the TIGTA's and IRS's accuracy rates are based largely on the differences in the sampling methodologies, including the sample sizes. For example, during the 2004 Filing Season, we monitored over 350 toll-free tax law calls while during the same time period for the same types of tax law questions (referred to as applications) the IRS selected for monitoring a statistically valid sample of 1,527 tax law calls. For fiscal years 2002, 2003, and 2004, we monitored a judgmental sample of live taxpayer toll-free tax law calls received by the IRS during the filing season, generally considered the months of January through April. Although our judgmental sample is not statistically valid, we attempt to ensure it is representative of the population by creating a sampling plan in which the percentage of calls monitored by type of tax law question is reflective of the IRS's planned filing season volumes of calls per application. However, we do not always monitor calls on late evenings and on the weekends.

See "Improvement Is Needed in E-Mail Responses to Complex Tax Questions Submitted Through Toll-Free Telephone Help Lines" (Reference Number 2004–40–029, dated December 2003); "Toll-Free Account Assistance to Taxpayers Is Professional and Timely, but Improvement Is Needed in the Information Provided" (Reference Number 2004–40–057, dated February 2004); "Toll-Free Tax Law Assistance to Taxpayers Is Professional and Timely, but Improvement Is Needed in the Information Provided" (Reference Number 2003–40–216, dated September 2003).

Taxpayer Assistance Centers

The IRS did not measure the accuracy of its answers to tax law questions asked in the TACs until fiscal year 2003. For 2003, the IRS used judgmental sampling to determine accuracy. In fiscal year 2004, the IRS is attempting to establish a baseline using statistical sampling.

Though we used judgmental sampling for Calendar Years 2002 and 2003 to determine whether taxpayers were provided correct and prompt answers to their questions, we did ensure all TACs were visited during these 2 years. For Filing Season 2004, we again used a judgmental sample of TACs, ensuring that we visited at least one TAC in each of the IRS's territory offices. We visited 199 TACs in 2002, 209 in 2003, and 64 in 2004 (note that these numbers are only TACs visited to ask questions within the scope of TAC employees' training).

However, we average 80 questions per month while the IRS's Field Assistance quality reviewers average 420 a month (Wage and Investment Operating Division Business Performance Report, page 6, dated May 11, 2003). In addition, the IRS does not compute its accuracy rates the same way we compute it. TIGTA results present the overall results of auditor visits. Accuracy rates are calculated by dividing the total response for each category (i.e., correct, incorrect, refer to publication, etc.) by the total number of questions asked. In contrast, the IRS disagrees with our methodology for including referrals to publications and service denied when computing accuracy rates.

See "Taxpayer Assistance Center Employees Correctly Answered More Tax Law Questions During September and October 2003 Than Compared to One Year Ago" (Reference Number 2004–40–037, dated January 2004), "Accuracy Rates Have Increased at Taxpayer Assistance Centers, but Improvement Is Needed to Provide Taxpayers Top-Quality Customer Service" (Reference Number 2004–40–065, dated February 2004), and "Taxpayer Assistance Center Employees Correctly Answered More Tax Law Questions During November and December 2003 Than Compared to One Year Ago" (Reference Number 2004–40–090, dated April 2004).

IRS.gov

The differences in the TIGTA's and IRS's accuracy rates are based on the different methodologies, including the sample sizes. For the TIGTA fiscal year 2002 audit, TIGTA auditors anonymously submitted 90 tax law questions typical of those that may be submitted by an individual taxpayer. We rated the answers to those questions we submitted. In contrast, during the 2001 Filing Season, the IRS quality review system selected 995 questions for quality review.

The IRS has a centralized quality review site that samples email responses for accuracy and measures accuracy with a statistically valid sampling plan designed by its Statistics of Income function. The sampling plan requires the selection of email responses without regard to the type of taxpayer or tax law category, i.e., whether the tax law question pertains to individual or business taxpayers.

See "Response Accuracy Is Higher for the Internet Program Than Other Options Available to Taxpayers Needing Assistance With Tax Law Questions" (Reference Number 2003–40–014, dated October 2002) and "Management Advisory Report: The Internal Revenue Service Needs a Reliable Measure of the Quality of Electronic Tax

Law Assistance Provided to Small Businesses and Self-Employed Taxpayers" (Reference Number 2002–30–120, dated July 2002).

SUBCOMMITTEE RECESS

Senator SHELBY. I appreciate both of you appearing here, and we will be meeting and talking from time to time.

Ms. GARDINER. Thank you very much.

Senator SHELBY. The hearing is recessed.

[Whereupon, at 11:27 a.m., Wednesday, April 7, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2005

TUESDAY, APRIL 20, 2004

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

The subcommittee met at 10 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Richard C. Shelby (chairman) presiding.

Present: Senators Shelby, Bennett, Stevens, Murray, and Dorgan.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

STATEMENT OF HON. JOHN SNOW, SECRETARY

OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. The subcommittee will come to order.

I would like to welcome Secretary John Snow to this morning's hearing. I look forward to hearing about your vision for the future of the Treasury Department, as well as the challenges you will face during the upcoming fiscal year.

In your first year on the job, you presided, Mr. Secretary, over the divestiture of 30,000 Treasury employees pursuant to the Homeland Security Act of 2002. You also oversaw the establishment of the new Alcohol and Tobacco Tax and Trade Bureau (TTB). Such significant realignment of the Department is no small task, and you are to be commended, Mr. Secretary, for the fine job you have done in completing this transition.

Now that the transition is complete, I would like to hear how the Department is refocusing its resources on its core missions of economic policymaker, financial manager, revenue collector and the leader in tracking terrorist finances. All of these missions are critical to the continued success of the economy.

There is no economic stimulus that can equal the power of allowing taxpayers to retain more of their hard-earned paychecks and thereby spend their money as they best see fit for themselves and their families. I can think of no better way to stunt the present economic growth than a sudden increase in taxes. Such an action would dry up the additional capital that has flowed into our private

markets and would set the Nation's economy back on the downward course of recession.

Even if those who propose to raise taxes during the recovery are prevented from doing so, we will still face the specter of numerous expiring tax cuts over the coming years. Without a permanent extension of tax cuts, there is no way to provide the certainty and stability necessary to sustain our current economic recovery.

Even as our economy recovers, the threat of terrorism still hangs over us. Given its long-standing relationships with financial institutions throughout the world and its existing intelligence gathering and law-enforcement infrastructure, the Department is ideally suited to lead the Federal Government in our Nation's fight against terrorist financing. I believe it is time for the Treasury to step up to the task.

Along those lines, I am keenly interested in the proposal to create the Office of Terrorism and Financial Intelligence (TFI). All of us share the administration's goal to thwart financial support for terrorists. We will look forward to working with you to establish and to fund this office. I believe it is critical that we work together to ensure that we get the right structure and the necessary funding in place.

The Banking Committee and the Select Committee on Intelligence combined their efforts to give Treasury a platform to reposition itself as the linchpin in the Nation's efforts to identify and track movements of funds and commodities which would support those who seek to destroy our way of life.

The Intelligence Authorization Act of 2004 included a new Assistant Secretary for Intelligence and Analysis. Treasury committed to create an office that would "enhance the Department's access to Intelligence Community information and permit a reorganization and upgrading of the scope and capacities of Treasury's intelligence functions in light of the Nation's counter-terrorist and economic sanctions programs."

In hearings last year in the Banking Committee, we heard from various experts who noted a need for the Treasury to recapture enforcement capabilities. Given the unique status of Treasury with the financial services industry, I believe only you have the full responsibility, Mr. Secretary, for ensuring the integrity of the financial services industry. I am, therefore, disappointed that your vision for the revitalized role of Treasury has not been as robust as I would have liked. I see no plans for reorganization or the growth that we anticipated, especially in the enforcement area.

Your letter dated April 16 merely reiterates the agreements our staffs reached in November of 2003. You propose no real increase in staff and request no new funding in the budget submission. I expected more, but I trust that you will take this task as a priority. No task of this size can be accomplished without your direction, Mr. Secretary, and your vision.

We on this committee and on the Banking Committee stand ready to assist. We have prioritized and will continue to prioritize our oversight function to ensure that the American people are safe and the integrity of our Financial Services Industry is secure.

Mr. Secretary, I would be remiss if we did not discuss the Department of Treasury's $11.6 billion budget request for 2005, and

particularly the $10.7 billion request for the Internal Revenue Service (IRS). The IRS faces enormous problems, and I am especially concerned about the continuing failures in computer modernization.

Mr. Secretary, the IRS has spent $2.7 billion on the Business System Modernization (BSM) program and has yet to produce any real benefit to the taxpayer. In fact, the IRS is running late and is over-budget in all of seven core projects related to BSM. I am interested in hearing what oversight the Department of Treasury is performing to help the IRS put this program on track. Without modernization, the IRS will never be able to achieve meaningful improvements to taxpayer customer service or compliance.

Mr. Secretary, I listened with interest to your statements in the news on April the 15th about simplifying the Federal tax code. I believe that the complexity of the tax code is a large part of the problem at the IRS. Our tax code and its regulations total a staggering 54,000 pages: they are too complex, too confusing, and too costly to comply with.

Comprehensive reform of the tax code itself would go a long way to reducing tax fraud by making the process simpler and the system fairer for all taxpayers. A less complex tax code would provide fewer opportunities for cheaters and reduce the paperwork burden for all Americans. I look forward to working with you to reach this goal.

Mr. Secretary, I look forward to hearing your thoughts on the economy and also on the Treasury's budget request. I look forward to working with you on other issues that are important for the Nation.

Senator Murray.

STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you, Mr. Chairman.

I want to welcome Secretary Snow to our subcommittee. And this morning I want to focus on three issues: terrorist financing, outsourcing, and IRS debt collection.

Let me start with terrorist financing. Our government has certainly stepped up its efforts to stop the flow of money to terrorist organizations since September 11. Unfortunately, that is not saying much, given the attitudes of some in our government before September 11.

Richard Clarke, the former counter-terrorism official, documented these attitudes in his recent book "Against All Enemies." Clarke said, "I wanted to raise the profile of our efforts to combat terrorist financing, but found little interest." Clarke said that the President's economic advisor, Larry Lindsay, "had long argued for weakening U.S.'s anti-money-laundering laws" and Clarke said that former Treasury Secretary Paul O'Neill "was lukewarm at best towards the multilateral efforts to 'name and shame' foreign laundering havens."

Since then, we have taken some important steps, but I am concerned that we may still be "behind the curve" in areas such as enforcement, nontraditional banking, staff and resources, and communication.

Our country and our international partners have put new laws on the books, but we must do a better job of enforcing them. We cannot allow companies like Riggs Bank to shelter their clients by ignoring critical Federal requirements to report large and suspicious cash transactions, especially transactions involving foreign nationals and unknown charities.

Our money-laundering laws must be adhered to and enforced, and we must insist that Saudi Arabia and other nations follow through on their commitments to shut down suspect charities that are financing the recruiting of future terrorists and possibly terrorist attacks as well.

We also need to stay a step ahead of those who would harm us by looking beyond traditional banking. We can expect terrorists to act like drug smugglers. As we successfully close down their access to cash in one area, they will move to another and we have got to stay a step ahead. That means we must close down their operations of smuggling gold, cash, and diamonds across borders. We also need to get our hands around the "hawala" money transfer system. We have got to be able to distinguish between the legitimate transactions of immigrants who are sending money to their families back home and dangerous transactions that move cash into the hands of terrorists.

We also need to make sure that new government officials we've put in place have the resources, the staff, and communication to do their jobs effectively.

Recently we have expanded the portfolios of several Federal agencies. We've appointed new Under Secretaries, Deputy Under Secretaries and Assistant Secretaries. That is a fine start but we need to make sure that these offices actually have the staff and resources to succeed and we must avoid the communication problems that have plagued the CIA and the FBI.

Clearly, we have got a lot of work to do to stop the flow of money to terrorist organizations and that is one of the topics I will explore with the Secretary today.

I also want to talk about outsourcing. Secretary Snow has been outspoken in his belief that moving American jobs offshore serves to benefit the American economy in the long run. Mr. Chairman, I represent the most trade dependent State in the Nation, and I have a strong record of supporting international trade.

But I do not believe that expanding trade requires hundreds of thousands of American families to lose their jobs, their health care, and their dignity so that their employers can pursue cheaper labor elsewhere.

One recent survey suggests that we may be on the leading edge of an outsourcing tidal wave, especially in areas like information technology (IT). According to a recent survey of 182 companies conducted by DiamondCluster International, 86 percent plan to increase the use of offshore IT outsourcing firms in the next 12 months. That compares to just 32 percent of the companies that responded the same way just 2 years ago.

Those who defend outsourcing claim that the companies that are shipping jobs overseas today will increase their employment here in the United States down the road. That is little comfort to some-

one who has lost his job, particularly because his old job is not the one that will be coming back.

There is a real mismatch between the skills needed for the jobs that are moving overseas and the skills needed for the jobs that may be open in the future. For example, an increasing number of U.S. engineering jobs have been moved to India. Right now the unemployment rate for engineers in the United States is twice the national average. That is really hurting a lot of families.

There are fields where we have shortages like nursing, but I do not know how many engineers can go to school to become a nurse while they still have to feed their families. These mismatches are all around.

The factory worker who is laid off from a manufacturing company cannot turn around tomorrow and take a job at a drug company that looks for pharmacological researchers.

Simply put, the people who suffer from outsourcing today cannot move easily into available jobs. The skills they have today are not the ones that will be in demand tomorrow.

Fortunately, we do know how to help people move from yesterday's jobs into the jobs that are open today and the jobs that will be open tomorrow. The answer is our Nation's job training system. This is the time to invest in that system so it can help all of the people who have lost their jobs through no fault of their own. Unfortunately, the administration is moving in the wrong direction.

In addition to serving as the ranking member on this subcommittee, I also serve as the ranking member of the Employment Subcommittee in the Senate. I have analyzed in detail President Bush's proposal to increase job training, and here is the bottom line. His proposal does not add $1 to our Federal efforts to train our workforce. Not $1.

In fact, the President's budget cuts $300 million from existing assistance for workforce training. Even worse, those new cuts for 2005 come on top of more than $500 million in job training and employment service reductions that have been recommended since President Bush took office. In my book, those who defend outsourcing should be the biggest advocates of a real increase in job training for American workers who end up on the losing end of the international trade, and I want to explore that later this morning with Secretary Snow as well.

Finally, Mr. Chairman, I want to discuss my concerns over the Secretary's proposal to allow private contractors to collect unpaid tax debts owed to the IRS. This proposal is currently included in the FISC/ETI bill that will be debated again on the Senate floor in a few days. We all know that the IRS has done a very poor job of collecting unpaid tax debts. In fact, to my shock, it has become apparent that the IRS has not even collected unpaid taxes from several individuals who have been convicted in court of tax evasion. The Treasury Department should request sufficient funds so that IRS agents can collect those unpaid debts. But instead the Department has decided to invite the private sector to do the job. For anyone familiar with the Treasury Department's record on using contractors, it raises serious red flags about the privacy of individual taxpayers.

The Department's abominable record on ensuring that contractors protect the privacy of our citizens is not speculation. It is fact. A little more than a year ago the Treasury Inspector General for Tax Administration (TIGTA) did an audit and observed that the IRS has no assurance that its contractors completed the required background investigations of their employees.

Just last month, the Treasury Inspector General (IG) completed another audit that made it clear that the IRS continues to do a very poor job of monitoring the overall trustworthiness of its private contractors. According to the Inspector General, IRS contractors had "committed numerous security violations that placed IRS equipment and taxpayer data at risk."

In some cases, contractors blatantly circumvented IRS policies and procedures, even when the IRS's security personnel identified inappropriate practices. One disgruntled contractor employee planted a computer time bomb on an IRS system that would have destroyed sensitive taxpayer data. Another contractor connected an unsecured computer to the IRS network and cost the agency $1.5 million in downtime and cleanup costs to eliminate a virus introduced by that contractor.

The Treasury Department has given all sorts of verbal guarantees that taxpayers will not have their privacy compromised when private contractors start collecting tax debts from the public. But given the IRS's abysmal record in monitoring its own contractors, I am deeply concerned that these private collection agents will not respect the privacy of taxpayers.

I hope this subcommittee will insist on nothing less than the strictest privacy guarantees and assurances before we allow the IRS to allow private contractors into the Federal debt collection business.

Thank you very much, Mr. Chairman.

Senator SHELBY. Senator Bennett.

STATEMENT OF SENATOR ROBERT F. BENNETT

Senator BENNETT. Thank you, Mr. Chairman. This is the first time that I have served on the Treasury and General Government portion of this subcommittee. I have been involved in the Transportation portion. So I come to these issues, Secretary Snow, with less of a background than I do as the other issues that we have had.

I listened to Senator Murray talk about the IRS and, of course, one of the great frustrations that I have had while I have been in the Senate is the inability of the IRS to get on top of the technological revolution and take advantage of the increase in productivity that IT makes available to everybody else.

We all remember, and I cannot put a year on it out of my memory, but we remember the tremendous investment that the IRS made during the 1990s and came up totally empty-handed. I worked a little bit with that as Chairman of the Committee on the Year 2000 Problem and we were frustrated by the inability of the IRS to be as forward in their understanding of IT as some of the other departments.

So, like Senator Murray, I would like to hear from the Secretary as to where the IRS is today in trying to get their computers up

to speed and whether progress has been made from the unfortunate performance that existed in the 1990s.

I have often thought if this were a business, given the amount of information that is provided to the IRS electronically, the IRS ought to be able to figure the tax return and on the 15th of April send the taxpayer either a bill or a check and the taxpayer would not have to be involved in figuring out his own taxes at all.

But unfortunately, we are not at that point and I would hope that might be a goal that could be set for some point in the future, because with 1099s and W–2s and W–4s and K–1s and so on, all in the hands of the IRS to begin with, the computer system ought to be good enough that it could produce that sort of result.

So recognizing that the bulk of, if I read your testimony correctly, Mr. Secretary, the bulk of your $11.7 billion request is for the IRS. I think that is an area we could profitably spend some time talking about.

I thank the Secretary for his willingness to appear here and look forward to his testimony.

Senator SHELBY. Senator Dorgan.

STATEMENT OF SENATOR BYRON L. DORGAN

Senator DORGAN. Mr. Chairman, thank you very much.

I have another Appropriations Subcommittee hearing going on next-door, around the corner, so I will be going back and forth. I did read the Secretary's statement last evening and I do want to come back and ask some questions about a number of issues including, as he might expect, Cuban travel and the use of the Office of Foreign Assets Control (OFAC) to do what they have been doing recently.

I hope the Chairman will give me an opportunity to pursue that at some length because I think that is a very important topic.

Senator SHELBY. We will have a number of rounds.

Mr. Secretary, we welcome you again to the committee. Your testimony will be made part of the record in its entirety. You proceed as you wish.

STATEMENT OF SECRETARY JOHN SNOW

Secretary SNOW. Thank you very much, Mr. Chairman and Senator Murray, Senator Dorgan, Senator Bennett.

It is a great privilege to appear before you and have an opportunity to talk about Treasury, its major thrust, how it is functioning in this new post-Homeland Security environment, where so many of the former enforcement functions are no longer a part of Treasury. Treasury continues to have major responsibilities in the financial war on terror, as the Chairman pointed out.

As Senator Bennett pointed out, Treasury's budget is largely a function of the IRS. It is 90 percent of the total budget. The IRS is the biggest single management problem inside the Treasury Department. It is something that I try to spend a good deal of time on, now that we have a Deputy Secretary, Sam Bodman, who had been the Deputy Secretary at Commerce. In his role as chief operating officer of the Treasury Department, I have asked Sam to give particular attention to the IRS. There are a myriad of issues there

that we can talk about, some of which have already been alluded to in your questions.

A word on our budget, and I will be brief. It reflects increases in two areas basically. Everything else is either down or funded at the prior steady State levels.

One is IRS enforcement. Here we feel that there is need for more attention on enforcement. And the budget proposes adding a number of additional positions in the IRS focusing on the enforcement activities. Of the $300 million we are asking for additional enforcement money, two-thirds of it will go to corporations to deal with auditing of corporations to get at abusive tax schemes and tax shelters and high income people, and the marketing of tax shelters and abusive tax schemes to them.

The first area of increase is enforcement so that we get effective enforcement and better compliance. There seems to have been some erosion in that area over the last few years, and I think the IRS is doing a better job on respecting taxpayer rights, with taxpayer services, with treating taxpayers better, answering the phones better, giving better advice when calls come in. So the customer service side of the IRS has improved. Now we need to make equal improvements in the enforcement side.

The second broad area of increase, and Mr. Chairman, this goes precisely to the issue you raised with me in your opening comments and otherwise in our correspondence, is Treasury's role in the war on terror.

Our role, as we see it, is to lead the financial war on terror, to interdict the flows of funds, to be there as a guardian of the financial system of the United States so that the financial system is not used to move terrorist funds. And to enlist the finance ministers and central banks of the world at large to do the same thing, to create a broad coalition, a global coalition, in the financial war on terrorism.

What we know about terrorism is that it knows no borders. So if we are going to effectively deal with it, we have to enlist all of the world. And I think we have made very good progress on that score.

This weekend, the finance ministers of the world are in Washington for the International Monetary Fund (IMF) and World Bank and G–7 meetings. I have called a separate meeting of the finance ministers on the issue of global terrorism to make sure we are exchanging best practices and continuing to learn from each other and take appropriate actions.

So the second area where we have asked for a budget increase is fighting the financial war on terrorism, and I greatly appreciate, Mr. Chairman, your support and the support of other members of the committee in setting up the new office in Treasury which will be the focal point for our anti-terrorist funding activities.

The new Under Secretary will be responsible for the functioning office and the principal person in the United States Government, responsible day to day to think about how our financial system could be penetrated by terrorists to move money, with broad authority over the Office of Foreign Assets Control (OFAC) and Financial Crimes Enforcement Network (FinCEN) and the Bank Se-

crecy Act and the USA PATRIOT Act, and all those tools that Congress has made available to wage this war on terrorism.

The Office has a new Assistant Secretary, approved by the Congress last fiscal year, so that Treasury will now have access to its own intelligence gathering, an Assistant Secretary for Intelligence. I commend the Congress for recognizing that need in Treasury, to put a priority on financial intelligence so that this Assistant Secretary can continue to speak to the Federal Bureau of Investigation (FBI), speak to the National Security Advisor (NSA), speak to the Central Intelligence Agency (CIA), speak to the intergovernmental intelligence gatherers about the role of financial intelligence.

Everything else in the budget is basically static. I hope we will be able to satisfy you, Mr. Chairman. I know that it will be a long dialogue that we will have on this issue of Treasury playing its appropriate role.

Deputy Secretary Bodman will be up before the Banking Committee next week to elaborate on these points.

Finally, a word on the economy. A year ago, when I testified here, there were great questions about what course the American economy was on. You will recall at that time there was concern about the possibility of a double dip recession. There was concern about deflation.

I think it is safe to say we have turned the corner and have the economy on a very good path. And clearly the tax cuts that Congress approved last year lie at the very center of the changed circumstances of the American economy, with growth for this quarter forecasted to be between 4 percent and 5 percent, with growth in the last half of last year, after the tax cuts took effect, of over 6 percent, with jobs coming back, 308,000 jobs in March and over 500,000 for the first quarter.

PREPARED STATEMENT

Corporate spending is up. Exports are up. Retail sales are strong. Construction is strong. Housing is strong. The economy is on a good strong path and, again, I appreciate the role Congress played in making that possible with the Jobs and Growth Bill.

With that, Mr. Chairman, I thank you again for the chance to appear before you and look forward to responding to your questions.

[The statement follows:]

PREPARED STATEMENT OF JOHN SNOW

Chairman Shelby, Senator Murray, and Members of the committee, I appreciate the opportunity to appear before you today to discuss President Bush's fiscal year 2005 proposed budget for the Department of the Treasury.

The President's request for fiscal year 2005 of $11.7 billion for Treasury provides funding we need to support the core missions as identified in our new strategic plan—in promoting national prosperity through economic growth and job creation; maintaining public trust and confidence in our economic and financial systems; and ensuring the Treasury organization has the workforce, technology, and business practices to meet the Nation's needs effectively and efficiently. Two key strategic objectives are to collect Federal tax revenue when due through a fair and uniform application of the law and to disrupt and dismantle the financial infrastructure of terrorists, drug traffickers, and other criminals and isolate their support networks.

One historic change at Treasury in the past year has been the movement of most of the Department's law enforcement divisions—affecting some 30,000 employees—to the Department of Homeland Security and the Department of Justice. This

change has provided an opportunity for Treasury to refocus on its core missions as the Federal Government's economic policymaker, financial manager, and revenue collector. This puts us in a better position to fulfill our critical role in fighting the war on terrorist financing. In addition, the Department revised and completed a new strategic plan in September 2003. To complement this strategic planning initiative, the Department and many of the bureaus underwent a restructuring of their budget activities and programs—discontinuing enforcement programs which no longer fit into the Treasury strategic vision and developing new performance goals and measures focused on getting value for taxpayers. As a result of these efforts, our fiscal year 2005 request reflects significant reengineering and reprogramming to ensure efficient and effective use of our resources.

Mr. Chairman, we provided the Committee with a detailed breakdown and justification for President's fiscal year 2005 budget request for Treasury. I would like to take the opportunity today to point out some highlights of our request and then I'd be happy to take whatever questions you may have.

PROMOTING PROSPEROUS AND STABLE U.S. AND WORLD ECONOMIES

The aim of these strategic goals is to ensure that the United States and world economies perform at full economic potential. In order to perform at its full potential, the U.S. economy must increase its rate of growth and create new, high quality jobs for all Americans. Additionally, the legal and regulatory framework must support this growth by providing an environment where businesses and individuals can grow and prosper without being limited by unnecessary or obsolete rules and regulations. The Treasury Department and three of its bureaus, the Community Development Financial Institutions Fund, the Office of the Comptroller of Currency and the Office of Thrift Supervision play diverse roles in the domestic economy. From serving as the President's principal economic advisor to issuing tax refunds to millions of Americans, the Treasury has a significant influence on creating the conditions for economic prosperity in the United States. A prosperous world economy serves the United States in many ways. It creates markets for U.S. goods and services, and it promotes stability and cooperation among nations. For these reasons, the Department of the Treasury will work with other Federal agencies and offices to promote international economic growth and raise international standards of living through interaction with foreign governments and international financial institutions. Our budget requests $158.9 million to support these strategic goals.

MAINTAINING PUBLIC TRUST AND CONFIDENCE IN OUR ECONOMIC AND FINANCIAL SYSTEMS

Treasury's mission of managing the U.S. Government's finances effectively is the bulk of the President's fiscal year 2005 request for the Department. The budget request of $11 billion—the majority of which is for the Internal Revenue Service—will provide funds to ensure that the tax system is fair for all while maintaining high quality service to our taxpayers and ensuring compliance with the tax laws.

In past years, IRS's focus has been on improving customer service. We believe that we have been successful in that effort and are committed to further enhancing customer service for the vast majority of American taxpayers who do their best to pay their fair share. For those who do not, fundamental fairness requires that our enforcement efforts in fiscal year 2005 continue moving us towards a tax system in which everyone is complying with the tax laws. Our fiscal year 2005 request, which includes a net increase of $300 million, will focus our resources toward enforcement initiatives designed to curb abusive tax practices, end the proliferation of abusive tax shelters, improve methods of identifying tax fraud, identify and stop promoters of illegal tax schemes and scams, and increase the number and effectiveness of audits to ensure compliance with the tax laws. This request will allow the IRS to apply resources to areas where non-compliance proliferates: promotions of tax schemes, misuse of offshore accounts and trusts to hide income, abusive tax shelters, underreporting of income, and failure to file and pay large amounts of employment taxes.

The President's request also provides $285 million to continue our effort in modernizing the Nation's tax system through investments in technology. During the fall of 2003, the IRS performed comprehensive studies to review its modernization efforts. From these studies, the IRS has resized its modernization efforts to allow greater management focus and capacity on the most critical projects and initiatives. The IRS is also responding to these studies by increasing the business unit ownership of the projects and revising its relationships with the contractor and ensuring joint accountability. While the IRS has thus far failed to deliver several important projects with which taxpayers are not directly involved, it is important to note they have had some notable successes. The IRS has made progress on applications such

as improved telephone service and a suite of e-services to tax practitioners. For the first time, large businesses and corporations can electronically file. In addition, taxpayers can access refund and Advance Child Tax Credit information from the irs.gov website. The IRS's business systems modernization expenditure plan provides more detail on this request.

In addition, IRS will work to improve customer service by making filing easier; providing top quality service to taxpayers needing help with their return or account; and providing prompt, professional, improved taxpayer access and helpful treatment to taxpayers in cases where additional taxes may be due.

The provisions of the Trade Act of 2002 (Public Law 107–210) chartered the Treasury Department (through the IRS) with establishing and implementing a new health coverage tax credit program in 2003. This program provides a refundable tax credit to eligible individuals for the cost of qualified health insurance for both the individual and qualifying family members. The request provides $35 million to continue implementation and operation of the Health Insurance Tax Credit Program.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) was created when the Homeland Security Act of 2002 divided the Bureau of Alcohol, Tobacco and Firearms into two agencies. Our fiscal year 2005 request includes $81.9 million for TTB: $58.3 million to support the Collect the Revenue function, and $23.5 million to Protect the Public, both of which will facilitate their efforts in collecting $14.6 billion in revenue from the alcohol and tobacco industries and monitor alcohol beverages in the marketplace to detect contamination and adulterated products. Their focus this coming fiscal year is to promote voluntary compliance of existing regulations and to protect the consumer through efficient and effective service.

Key to the U.S. Government's management of financial systems is the Financial Management Service (FMS), whose mission is to provide central payment services to Federal program agencies, operate the Federal Government's collection and deposit systems, provide Government-wide accounting and reporting services, and manage the collection of delinquent debt. The fiscal year 2005 request of $231 million for FMS includes legislative proposals to improve and enhance opportunities to collect delinquent debt through FMS' debt collection program. The proposals would: eliminate the 10-year limitations period applicable to the offset of Federal non-tax payments to collect debt owed to Federal agencies; increase amounts levied from vendor payments (from 15 percent to 100 percent) to collect outstanding tax obligations; allow the Secretary of the Treasury to match information about persons owing delinquent debt to the Federal Government with information contained in the Department of Health and Human Service's National Directory of New Hires; and allow the offset of Federal tax refunds to collect delinquent State unemployment compensation overpayments.

The Bureau of the Public Debt (BPD) continues its management and improvement of Federal borrowing and debt accounting processes. BPD will provide vital support to the processing of applications and the operation of systems used for re-enforcing its mission of providing quality debt management services to financial institutions, individuals, foreign governments, and over 200 government trust funds.

The activities of the United States Mint and the Bureau of Engraving and Printing (BEP) are vital to the health of our Nation's economy. These agencies share the responsibility for ensuring that sufficient volumes of coin and currency are consistently available to carry out financial transactions in our economy. Treasury, Mint and BEP will deliver a study to Congress regarding options to merge and/or streamline operations by consolidating certain functions and sharing costs between the Mint and the BEP.

FIGHTING THE WAR ON TERROR AND SAFEGUARDING OUR FINANCIAL SYSTEMS

Our goals in preserving the integrity of U.S. financial systems include ensuring that the U.S. financial system and access to U.S. goods and services are closed to individuals, groups and nations that threaten U.S. vital interests, ensuring that these systems are kept free and open to legitimate users while excluding those who wish to use the system for illegal purposes, and ensuring that the financial systems will continue to operate without disruption from either natural disaster or manmade attacks. To support such efforts, the President has requested $250.9 million for fiscal year 2005.

The administration announced the creation of the Office of Terrorism and Financial Intelligence (TFI) within the Department of the Treasury on March 8, 2004. TFI will lead Treasury's efforts to sever the lines of financial support to international terrorists and will serve as a critical component of the administration's overall effort to keep America safe from terrorist plots.

The TFI, which will include Treasury's newly established Executive Office for Terrorist Financing and Financial Crime (EOTF/FC), will have policy oversight over the Financial Crimes Enforcement Network (FinCEN), the Office of Foreign Assets Control (OFAC), and the Treasury Executive Office for Asset Forfeiture (TEOAF). This will create a single lead office in Treasury for fighting the financial war on terror and combating financial crime, enforcing economic sanctions against rogue nations, and assisting in the ongoing hunt for Iraqi assets.

The Office of Foreign Assets Control (OFAC) is central to our efforts to disrupt financing of terrorist activities. Only days after September 11, 2001, OFAC drafted and implemented Executive Order 13224, which invoked Presidential authority contained in the International Emergency Economic Powers Act and froze the assets of 29 entities and individuals linked to Osama bin Laden and his al Qaeda network. Since then, OFAC research and investigation helped identify between 200 and 300 additional entities and individuals as Specially Designated Global Terrorists under the Order. Since September 2001, OFAC and our allies have frozen over $136 million in terrorist assets and vested $1.9 billion of frozen Iraqi assets.

The President's fiscal year 2005 request also includes $64.5 million for the Financial Crimes Enforcement Network (FinCEN) to enhance its ability to fight the war on terror and combat financial crimes such as money laundering. Its mission to safeguard the U.S. financial systems from the abuses imposed by criminals and terrorists and to assist law enforcement in the detection, investigation, disruption and prosecution of such illicit activity is accomplished through its statutory role as the administrator of the Bank Secrecy Act (31 C.F.R.) FinCEN issues and enforces regulations that require a wide gamut of financial institutions to implement anti-money laundering programs and report transactions that are indicative of money laundering, terrorist financing and other financial crimes, thus providing a wealth of information to assist law enforcement, both domestic and international, in pursuing such crimes. FinCEN also ensures that the information collected under these regulations is made fully accessible to law enforcement and the regulatory community in a secure manner and provides both tactical and strategic analysis to a variety of customers. In addition, FinCEN is the Financial Intelligence Unit (FIU) for the United States and has been central in the development of a consortium of FIU's around the globe that permits fast and effective sharing of financial intelligence on an international scale.

The IRS's Criminal Investigative Division (IRS-CI) also plays a key role in investigating financial crimes. The request supports the unique skills and expertise of IRS-CI agents in investigating tax fraud and financial crimes not only support tax compliance, but also benefit the war on terror and our efforts to root out financial crimes.

In addition, the Office of Critical Infrastructure Protection and Compliance Policy leads our efforts to safeguard the financial infrastructure. This Office works closely with the Department of Homeland Security, other Federal agencies, and the private sector to safeguard our infrastructure. That is essential, given that the majority of the critical financial infrastructure of the United States is owned and operated by the private sector. The financial system is the lifeblood of our economy and this Office leads our efforts to keep it safe.

ENSURING PROFESSIONALISM, EXCELLENCE, INTEGRITY AND ACCOUNTABILITY IN MANAGEMENT OF TREASURY

The President has requested $229.6 million for ensuring proper stewardship of the Department. Included in this request is $14.2 million for the Department's Office of Inspector General (OIG) and $129.1 million for the Inspector General for Tax Administration (TIGTA).

The 1988 amendments to the Inspector General Act of 1978 created the OIG to conduct audits and investigations relating to Treasury programs and operations; to promote economy and efficiency, and detect and prevent fraud and abuse, in such programs and operations; and to notify the Secretary and Congress of problems and deficiencies in such programs and operations.

The Internal Revenue Service Restructuring and Reform Act of 1998 created the Inspector General for Tax Administration (TIGTA) to oversee operations at the Internal Revenue Service (IRS). TIGTA promotes the public's confidence in the tax system by assisting the IRS in achieving its strategic goals, identifying and addressing its material weaknesses, and implementing the President's Management Agenda. Further, TIGTA undertakes investigative initiatives to protect the IRS against threats to systems and/or employees.

To maximize efficiencies and effectiveness, the administration has proposed to merge the Treasury Inspector General and the Treasury Inspector General for Tax

Administration into a new Inspector General office, called the Inspector General for Treasury. The new organization will have all of the same powers and authorities as its predecessors have under current law. We will work with the Congress to move this legislation forward.

Also included in this request is an increase of $10.8 million for a host of modernization activities of our systems including IT Governance, E-Government, operational security, and Treasury enterprise architecture.

FOUNDATION FOR SUCCESS—THE PRESIDENT'S MANAGEMENT AGENDA

As mentioned earlier, following the movement of the law enforcement bureaus to the Departments of Homeland Security and Justice, Treasury restructured and refocused its strategic goals and objectives based on the five initiatives of the President's Management Agenda (PMA). Treasury developed and issued its new Strategic Plan, which linked intricately with each of the five initiatives of the PMA. This new strategic vision, coupled with the efforts underway in the PMA, provides the mechanism and focus for continuous improvement throughout Treasury and its bureaus.

In fiscal year 2003, Treasury achieved many significant milestones in implementing the President's Management Agenda. Specific accomplishments included:

—In the past 18 months, Treasury has drafted the first-ever Department-wide Human Capital Strategic Plan, which addresses the Standards for Success as issued by the Office of Personnel Management (OPM) and the Office of Management and Budget (OMB). Treasury incorporated human capital into its strategic planning and budget formulation and execution processes, and the plan will guide future efforts in areas such as workforce and succession planning, diversity, performance management, and managerial accountability.

—In competitive sourcing, Treasury completed 3 full competitions, over 20 streamlined competitions, and currently has studies involving approximately 4,500 positions in various phases of completion.

—In budget and performance integration, Treasury revised the performance reporting requirement to facilitate review and assessment of bureaus' key performance data. Treasury also restructured some of the bureaus' budget activities to reflect alignment with the new strategic plan and the full cost of achieving results.

—Treasury also maintained its government-wide lead in accelerated financial reporting. The Department implemented a 3-day monthly close and successfully issued its fiscal year 2003 Performance and Accountability Report on November 14, 2003, 2½ months ahead of the official deadline.

Treasury will continue to work closely with OMB and other stakeholders to make improvements in implementing the initiatives set forth in the President's Management Agenda.

THE PRESIDENT'S SIX-POINT ECONOMIC GROWTH PLAN

At the beginning of my testimony I talked about what the Treasury Department does to support our strategic goal of encouraging a prosperous and stable U.S. economy. I would also like to talk about our efforts across the administration to promote economic growth as embodied by President's six-point plan for growth.

That includes making health care more affordable with costs more predictable.

We can do this by passing Association Health Plan legislation that would allow small businesses to pool together to purchase health coverage for workers at lower rates.

We also need to promote and expand the advantages of using health savings accounts . . . how they can give workers more control over their health insurance and costs.

And we've got to reduce frivolous and excessive lawsuits against doctors and hospitals. Baseless lawsuits, driven by lottery-minded attorneys, drive up health insurance costs for workers and businesses.

The need to reduce the lawsuit burden on our economy stretches beyond the area of health care. That's why President Bush has proposed, and the House has approved, measures that would allow more class action and mass tort lawsuits to be moved into Federal court—so that trial lawyers will have a harder time shopping for a favorable court.

These steps are the second key part of the President's pro-jobs, pro-growth plan.

Ensuring an affordable, reliable energy supply is a third part.

We must enact comprehensive national energy legislation to upgrade the Nation's electrical grid, promote energy efficiency, increase domestic energy production, and provide enhanced conservation efforts, all while protecting the environment.

Again, we need Congressional action: we ask that Congress pass legislation based on the President's energy plan.

Streamlining regulations and reporting requirements are another critical reform element that benefits small businesses, which represent the majority of new job creation: three out of every four net new jobs come from the small-business sector! Let's give them a break wherever we can so they're free to do what they do best: create those jobs.

Opening new markets for American products is another necessary step toward job creation. That's why President Bush recently signed into law new free trade agreements with Chile and Singapore that will enable U.S. companies to compete on a level playing field in these markets for the first time—and he will continue to work to open new markets for American products and services.

Finally, we've got to enable families and businesses to plan for the future with confidence.

That means making the President's tax relief permanent.

Rate reductions, the increase in the child tax credit and the new incentives for small-business investment—these will all expire in a few years. The accelerated rate reductions that took effect in 2003 will expire at the end of this year. Expiration dates are not acceptable—we want permanent relief.

The ability of American families and businesses to make financial decisions with confidence determines the future of our economy. And without permanent relief, incentives upon which they can count, we risk losing the momentum of the recovery and growth that we have experienced in recent months.

The tax relief is the key stimulus for increased capital formation, entrepreneurship and investment that cause true economic growth.

CONCLUSION

Mr. Chairman, I look forward to working with you, members of the Committee, and your staff to maximize Treasury's resources in the best interest of the American people and our country as we move into fiscal year 2005. I am hopeful that together we can work to make this Department a model for management and service to the American people.

Thank you again for the opportunity to present the Department's budget today. I would be pleased to answer your questions.

ECONOMY AND JOBS

Senator SHELBY. Thank you, Secretary Snow. You referenced economic growth. Last month, you stated 308,000 jobs were created. That was robust.

I have been told that up to 50 economists are predicting an average of about 180,000 new jobs a month for the next 6 or 7 months. Some months might be smaller and some months larger than others. That is good news. Do you believe that is going to happen?

Secretary SNOW. Senator, I have seen those estimates. I think they are well supported and well reasoned estimates. And yes, very definitely, I think this economy will produce lots of jobs in the months ahead.

Senator SHELBY. If we could create 1 million new jobs or so in the next 6 or 7 months, it would be good for America and good for workers, would it not?

Secretary SNOW. It would be tremendous. It is what always occurs in a recovery, and the very fact that additional jobs come on stream helps the recovery to gain even further momentum.

Senator SHELBY. Later today, in the Banking Committee, among other people, we will have Chairman Greenspan testify, and we will talk about the economy and the state of the banking community.

Are you concerned about inflation at all at this point?

Secretary SNOW. Mr. Chairman, not at this point I am not. I see the economy continuing to operate with lots of headroom to grow

in a non-inflationary way. We still have considerable unused capacity in our factory and manufacturing systems. Real wage rates have only begun to move up a little bit. We still have unemployment higher than it should be.

So we still have lots of unused resources in the economy that can be put to better use. And we live in this global economy where competition is ever present and affecting prices in the United States. And few executives who you talk to feel they have real pricing power.

No, I think we have a lot of headroom to grow without inflation rearing its head.

Senator SHELBY. Mr. Secretary, how important, in your judgment, is making the tax cuts permanent?

Secretary SNOW. Mr. Chairman, I think it is absolutely critical. I think the evidence is clear that the tax reductions that Congress enacted last year have made this strong recovery possible.

Senator SHELBY. It has put money in people's pockets, their money, has it not?

Secretary SNOW. That's what it is about.

Senator SHELBY. Let them keep the money they have earned.

Secretary SNOW. And when they keep the money they earn, good things happen. They do good things with it. They spend it. And as they spend it, then businesses around the country find that they need to replenish their inventories. Their shelves are coming down. And that leads to demand for their suppliers, and so on and so forth. So good things happen when people have more money to spend.

Senator SHELBY. Mr. Secretary, a lot of people have characterized the tax cuts that we pushed through, and I certainly voted for every one of them, as tax cuts for the rich. But I do not buy that. I believe that it was a tax cut for everybody who works, in a sense, and it also eliminated taxes on a great portion of people where they pay hardly anything. Is that correct?

Secretary SNOW. You are absolutely correct, Mr. Chairman.

TERRORIST FINANCING

Senator SHELBY. I want to discuss terrorist financing. In fiscal year 2004, the Congress provided $3.5 million more than the budget request to fund and establish the Executive Office for Terrorist Financing and Financial Crimes (EOTF/FC) at Treasury. Would you update us on the creation of that office and explain how that office will mesh with the Office of Terrorism and Financial Intelligence (TFI) that you are proposing to create?

Secretary SNOW. Yes, Mr. Chairman, and thank you for the opportunity to do that.

The Office of Terrorism and Financial Intelligence (TFI) is just now being set up. It will be headed by an Assistant Secretary who will be responsible for making sure that the Treasury Department has access to the intelligence being gathered across this government and across other governments, and has the intelligence it needs to carry out its role, its critical role.

So more priority on financial intelligence. There is lots of intelligence being gathered. We want to see more priority on the financial side.

Senator SHELBY. Is Treasury not central to all of this?

Secretary SNOW. I think Treasury is right at the center of it. It has to be.

Senator SHELBY. It is your obligation.

Secretary SNOW. It is our obligation. We have the authorities from the Executive Orders of the President, implementing the statutes that you have passed. Treasury has the expertise, knowledge of the financial systems of the United States, knowledge of the people in the financial system of the United States, and knowledge of the international financial system.

The office you mentioned will be headed by an Assistant Secretary for terrorist finance and will be responsible for giving broad policy direction to OFAC and FinCEN and overseeing the National Money Laundering Strategy (NMLS) and overseeing our relationship with the international institutions that are engaged in the global war on terrorist finance.

Senator SHELBY. Will Treasury share with the FBI and CIA and others, without impediment, the information that is central to terrorist financing?

Secretary SNOW. Absolutely.

Senator SHELBY. Because you notice with the 9/11 Commission and others, one of the problems is the lack of sharing information. If you do it begrudgingly, it is not timely and it does not work.

Secretary SNOW. Mr. Chairman, I will pledge that we will share the information that we gather. And by having a senior-level Senate confirmed person sitting at the table with the other intelligence gathering agencies, we will see that Treasury's priorities are given appropriate attention.

Senator SHELBY. How will this office interface with the Executive Office for Terrorist Financing and Financial Crimes and with the Bureaus at Treasury? Are you going to integrate this where we have some type of sharing or analysis center?

Secretary SNOW. Mr. Chairman, the two offices will be headed by a new Under Secretary. It was contemplated in the legislation Congress passed last fiscal year, for which I am very grateful. The Under Secretary will be the senior official in the United States Government on financial terrorism, will coordinate all the activities in Treasury, and be our point person. We will now have one person I can turn to and hold accountable for all of these activities. We have identified a first-rate individual to be the Under Secretary whose name I think will be released, or has very recently been released, for confirmation.

Senator SHELBY. With the new office, how will the Treasury function better than before?

Secretary SNOW. Yes, exactly. We did not have either the Under Secretary or the Assistant Secretary for Intelligence.

Senator SHELBY. Mr. Secretary, we all support resources and methods to fight terror financing because it goes to the heart of it. I am concerned that the Treasury may have abdicated, in certain areas, its statutory responsibility and missions relating to terror financing to other Federal agencies.

I am also concerned, Mr. Secretary, that in the void, other Federal agencies are establishing or enhancing capabilities that dupli-

cate what Treasury should be doing, and could lead to further interagency communication problems in the future.

COORDINATION WITH HOMELAND SECURITY

Besides establishing a new office, what is the Treasury Department doing that the Homeland Security Department does not in this regard?

Secretary SNOW. We coordinate very closely with Homeland Security. I can see why it might appear to be duplication. But in reality, we have different roles to play, different core functions.

Treasury's function is to play the lead in all relationships with financial institutions.

Senator SHELBY. The primary responsibility is Treasury's.

Secretary SNOW. Primary responsibility is Treasury's to play the lead in the money laundering, in the enforcement of the Bank Secrecy Act, in the bank and financial institutions knowing their customers, and in reaching out to all segments of the financial community. Now it is including jewelers and credit card companies and insurance companies—wherever money could be laundered or moved.

Senator SHELBY. On the Homeland Security web page, Secretary Ridge is quoted as saying "safeguarding the integrity of America's financial systems is a key part of Homeland Security."

It seems to me that that is Treasury's mission. Are we duplicating this? And if so, what we are what are we going to do about it?

Secretary SNOW. I think what Secretary Ridge has in mind, in saying what he said, is to underscore the role they have which is protection of a physical sort, physical protection. But Treasury's role is the financial war on terror.

But if a building is going to be penetrated by a terrorist, a bomb is going to be dropped, an explosive device is going to be detonated in a banking center, that would be properly their responsibility.

But if it is penetrating the financial system, if it is the flow of money through the system, if it is interdicting those flows, then Treasury clearly has the lead.

Senator SHELBY. Treasury is going to keep that lead, are you not?

Secretary SNOW. Absolutely.

Senator SHELBY. You are going to fight for your turf, I hope.

Secretary SNOW. We are going to play the role you have assigned us and the President has assigned us. Yes sir, Mr. Chairman.

Senator SHELBY. Senator Murray.

OUTSOURCING

Senator MURRAY. Thank you, Mr. Chairman.

Mr. Secretary, as I mentioned in my opening statement a recent private sector survey revealed that 86 percent of the companies questioned expect to expand the use of offshore IT outsourcing over the next 12 months. When that same question was asked of companies just 2 years ago the number was only 32 percent.

My home State of Washington has an extraordinary number of IT specialists who are now suffering as a result of this downturn in the industry. Is the Treasury Department monitoring this situa-

tion and the potentially explosive growth of outsourcing in certain select industries?

Secretary SNOW. Senator Murray, I have seen some studies on this and try and keep myself apprised to the extent I can in the area.

Unfortunately the data is not all that we would like it to be on that score and we get different analyses and different estimates. I think the Commerce Department and the Labor Department are in a better position to talk technically to what the data shows.

But what I have seen from the various surveys, Forrester Group I think is the one that is doing the study you are referring to, so far the effects have been relatively—that is relative to the total number of jobs that are being created in the United States economy. And the displacement rates are fairly small.

Senator MURRAY. What other industries do you think, besides IT, might experience this outsourcing?

Secretary SNOW. Well, I guess we have seen radiology outsourcing. I think Massachusetts General Hospital is getting X-rays read overseas. Medical, health care, service industries, I am told, and telecommunications.

Senator MURRAY. What is the Bush Administration doing to try and stem the fund of jobs that our country is losing?

Secretary SNOW. I think the best thing we can do, and of course we do not want to see any jobs lost anywhere, is to keep the American economy as vibrant and strong and creative as possible so that we are continuously creating as many new jobs, and good new jobs, jobs that point to careers, as we possibly can.

Senator MURRAY. It is fine for economists and policymakers to argue back and forth over whether our country gains or benefits from outsourcing, but one thing that really is forgotten in this debate a lot is the people and the families that have lost their jobs.

I recently read about a 40-year-old woman in Seattle whose name is Meara Bronstein. She worked at an IT job at a company called Watchmart Corporation. She worked there for 2 years. And one day she said that her entire department was informed that they would be laid off in a month. And worse, they were told they had to train their Indian replacements or lose their severance package.

She is still without work after 10 months and her unemployment benefits just ran out. These are her words, let me read them to you. She says "my life has changed drastically over my 10 months of unemployment. I have cashed in my 401(k), can no longer afford health insurance and can just barely pay the rest of the bills. I have even resorted to selling a number of my things on eBay to get money for essentials. I think that my biggest struggles throughout this experience are the constant feelings of powerlessness and paralysis. I did everything I could to succeed. I got a good education. I paid off big student loans. I worked hard at my job. But now I realize that it does not matter what I do to make myself a marketable employee if there are no policies in this country to protect our jobs from being sent overseas to someone who will work for 1/16 of the price. I cannot compete with that. You could say that I woke up from the American dream."

What you say, Mr. Secretary, to someone like that?

Secretary SNOW. Obviously, Senator, your heart goes out to anybody who finds themselves in those circumstances. Those are dreadful circumstances for anybody to find themselves in.

Two things I think we can say. One is that we live in the most dynamic economy in the world. We live in an economy that is continuously changing, an economy in which there is continual regeneration going on, which means displacement is continuously occurring. There are about 40 million new jobs created every year in the United States. And there are roughly 40 million people displaced from their old jobs. So we have this extraordinarily dynamic economy.

What I think we need to do, and it is why those tax cuts were so important, is continuously focus on making sure aggregate demand is large enough to support employment for everyone.

OUTSOURCING AND JOB DISPLACEMENT

Senator MURRAY. But if you are an IT person today, you cannot become a nurse tomorrow.

Secretary SNOW. I understand that, Senator. And the second part of the answer is we have to make sure, I think we have an obligation in an economy that is changing as fast as this one, because remember a lot of people are getting displaced not because of contracting out or foreign competition. They are getting displaced because of domestic competition.

We have to make sure that opportunities for skills development and retraining and education are widely available.

Senator MURRAY. So you would say investing in those are critical?

Secretary SNOW. Yes, I do. I think investing and making sure people have easy access to low-cost ways to acquire the skills to give them the jobs of the future is an obligation we must take on.

Senator MURRAY. What about bridges like unemployment compensation for people like that?

Secretary SNOW. Yes, absolutely there is a role for that.

Senator MURRAY. Mr. Secretary, one of the provisions that were included in last year's appropriations bill was a prohibition against using fiscal year 2004 funds to contract out any Federal job overseas. To my shock, the President's budget specifically requests that this provision be deleted from fiscal year 2005.

Mr. Secretary, could you cite for me some instances at the Treasury Department where you might work that is currently being conducted by Federal employees and send that work overseas?

Secretary SNOW. Senator, I am not aware of any.

Senator MURRAY. Then tell me why the President wants us to grant him authority to move Federal jobs overseas?

Secretary SNOW. Senator, I am not familiar with the background to that provision. I am sure somebody at OMB or DOD could talk about it better. I am just not knowledgeable enough to offer you a thoughtful opinion on that.

Senator MURRAY. But you have no jobs in your department that you——

Secretary SNOW. Not that I am aware of and I will check——

Senator MURRAY. So you would not object to us putting that provision in the bill?

Secretary SNOW. Well, there may be reasons beyond the Treasury Department. We are only a small part of this government. And there may be some compelling rationale in some other department for some access to that. But I am not aware of any at Treasury.

Senator MURRAY. I know a lot of the comments have gone back and forth over this issue about whether outsourcing American jobs is beneficial to the economy but there is a different question that surrounds this issue that I want to take a second to discuss with you. And that is the question of whether it is ethical and patriotic to send these American jobs overseas.

Many of the companies that are sending these jobs overseas, for the longest time benefited by being American companies. And they have benefited from being part of the most vibrant economy in the world. They have benefited from our substantial investments by us as taxpayers in our national defense, in our tax structure, in innovation and commitment of the American people.

We can disagree on the issue of whether it is good economics to ship the jobs overseas, but I still do want to ask you this today. Do you think these companies that have benefited from the American experience for so long and are now shipping American jobs overseas are operating in an ethical manner? Is there anything we or they owe these American workers?

Secretary SNOW. Senator, the management of America's companies have a fiduciary duty to their shareholders. And that fiduciary duty, which they must under the law take seriously, and when they do not, we get into things like the Enron scandals. They have a fiduciary duty to pursue the best interests of their owners and that means staying competitive and producing good products and producing them at low-cost.

So the first responsibility of management is in an ethical way to pursue the best interest of their shareholders.

Senator MURRAY. Over the best interests of taxpayers that have invested in investments that make them profitable today?

Secretary SNOW. I am not sure there is a conflict there, Senator. If American companies do not stay competitive, then they are going to have a hard time creating good American jobs and competing effectively, and of course a lot of competition comes from firms that are located outside the shores of the United States. If they cannot stay competitive with those enterprises, they are going to cede market share to them, cede revenues to them, and ultimately America's ability to create good jobs here with high standard of living will be eroded.

Senator MURRAY. Mr. Chairman, I am not sure I would agree but I know my time is up at this point. So I will move on and wait until my second round.

Senator SHELBY. Senator Bennett?

ACCESS TO OVERSEAS MARKETS

Senator BENNETT. Thank you, Mr. Chairman.

I do not want to go too deeply into this but I am stimulated by Senator Murray's questions. And my thoughts go to Dell Computer, a company that has been attacked for making a number of their purchases overseas. And they make a huge amount of sales overseas.

And at least the Dell management says if we were not able to buy at a world price the components that we put into Dell Computers, which are assembled in the United States and then shipped overseas, we would lose the American jobs that we now have. That is, we are indeed contributing to jobs overseas by purchasing overseas. But the people who assemble the Dell Computers, who run the company, who do the accounting, all of whom are American who work in America, would lose their jobs if we did not have access to the overseas markets, which access is controlled by our ability to purchase at lower prices.

I do not like the word "globalization" because I think it carries connotations with it that have taken on emotional baggage. I think the correct description of the world in which we live is a borderless economy. And the biggest, meanest, toughest competitors in the borderless economy are the Americans. So I do not want to pursue policies that would hurt America's ability to compete in the borderless economy because the net effect of that ultimately will be the destruction of more American jobs than those that are currently gone overseas.

TREASURY BUDGET INCREASE

But let us move on to the items that we are discussing here. You talk about your budget being essentially static, but the overall increase is 4.5 percent. The President is trying to hold discretionary spending at 4 percent. Homeland Security is going up substantially more than 4 percent. I am really asking questions that Chairman Stevens would be asking.

But as we look at the overall attempt on the part of the President to deal with the deficit by holding discretionary spending at a relatively low level, at the same time funding Homeland Security, increase funding for education and some of the other areas where he has gone well above the 4 percent. We have got to find less than 4 percent some other places.

I guess I am overly sensitive to this because as Chairman of the Agriculture Subcommittee, I find mine going negative. I would love to stay stable, but I am being pushed on the President's budget $500 million below last year, and last year was $1 billion below the year before.

So as I come to this subcommittee and see you going up a little, you say basically static. I would like you to highlight the areas where there are increases that take you to that 4.5 percent global number going up.

Secretary SNOW. The principal area where we are going up is IRS enforcement. That is over $300 million—it is about 10 percent of their enforcement budget increase. And that is to make sure we are enforcing the code fairly and effectively in some areas where questions have arisen, questions about tax schemes, fraudulent tax schemes, abusive tax schemes used by wealthy people, promoted by tax promoters to corporations and wealthy people.

There appears to be, according to statistics we have, a growing belief in the public that the code is not being effectively enforced and that people can get away with it. That is a serious issue of citizenship, and we cannot let that idea take hold.

And I think we are leaving a lot of money on the table.

RETURN ON INVESTMENT

Senator BENNETT. That was going to be my next question. Have you done any studies to see what the return on that investment might be? Could we look forward to recovering, by virtue of increased enforcement, enough money—it does not show up in the way we do it here on the appropriations—but looking at your level, would the Treasury have any possibility of recovering more money than the enforcement money coming in? In other words, get a significant return on that investment?

Secretary SNOW. Senator, I cannot prove it, but I think it is the case and I think it is worth trying.

Senator BENNETT. Are there any studies?

Secretary SNOW. There are studies that suggest, and these you have got all to take with a grain of salt, that there is a so-called tax gap of a couple hundred, $250 billion I have seen. We are asking for $300 million more in enforcement.

Senator BENNETT. Three hundred million dollars, not $300 billion?

Secretary SNOW. Yes, against a $250 billion tax gap.

I am alarmed about some of the tax schemes I see out there, and unless we can catch them in the bud, are going to erode the revenue line of the Federal Government. There are some really abusive practices out there that we have to get at. The budget here provides resources to go after those really abusive tax schemes.

I have asked the head of the IRS, a very able fellow named Mark Everson, to give me a report on what comes out of the $300 million so that when we go to OMB next year, and come before you, we are going to have some idea of that, and not just something we pull out of thin air.

I think right now while they do so—they call them ROI analyses, return on investment analyses. I think they are good efforts, but I would not bet the farm on them.

IRS INFORMATION TECHNOLOGY INVESTMENT

Senator BENNETT. Okay. And finally, I made reference to this in my opening statement.

What is the status of the entire IT effort in the IRS? The complete collapse that we saw in the 1990s, the effort of the last IRS Commissioner under the Clinton Administration—I am trying to remember his name.

Secretary SNOW. Charles Rossotti.

Senator BENNETT. Rossotti. He was a very impressive fellow, as he tried to get his arms around that and deal with that. What progress have we made on that in the intervening years?

Secretary SNOW. I think Commissioner Rossotti brought a tremendous amount of good management to the IRS and helped put it on a good path. But it is no secret that the IRS technology modernization has not been a model of success. And it has come in consistently over budget and behind the timelines. It may have been because our reach exceeded our grasp. We tried to take on too much.

This year's budget on the modernization side, the technology side, is pared back significantly. It is about $100 million, but fo-

cused on more discreet and deliverable outcomes. And it is getting intense management from IRS Commissioner Everson, from Deputy Secretary Bodman and from me, because we cannot afford not to have these systems proceed the way they were supposed to proceed, because they are the foundation for all of our tax collections.

I think of this, Senator, in terms of a first-rate credit card company. That first-rate credit card company knows how much you owe them. They know when you made your last payment. They know what the interest due is. They know how to get a hold of you. They have got all of your payment records. That is where we need to go. And the efforts that are underway are to put us in a position where in the future we will be a counterpart, the IRS, which is a scale that is way beyond any credit card company. But it would have that capability, closer to the capability you talked about in your opening statement.

Now there has been some real progress made. This year some 50 million Americans are going to do e-filing. That is made possible by these modernization systems. You can now go to IRS.gov, and hit "Where is my refund?", and get good information on how to go about getting the status of your refund. That is real progress from where we have been.

These e-services, including online tax identification numbers, are becoming more readily available. Some significant number of small businesses are now able to go online and file their taxes.

We are a long way from being where we need to be and I think the IRS is approaching this in a more realistic way, by taking smaller bites at the apple, and making sure that the bites are digestible.

Senator BENNETT. Thank you.

Senator SHELBY. Senator Dorgan.

OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

Senator DORGAN. Mr. Chairman, thank you very much.

First, Mr. Secretary, I said good things when the President selected you. I like you. I think that you are a good Secretary of the Treasury and I remain pleased that I supported your confirmation.

Secretary SNOW. Thank you, sir.

Senator DORGAN. Having said that, we disagree on some policy issues, as you might well imagine. And I do want to ask you some questions about fiscal policy because I was really intrigued by a couple of your answers, both to my colleague from Utah.

And incidentally, with respect to that subject, the question of a U.S. firm that moves overseas to sell back into the United States is a construct that is slightly different than the one the Senator from Utah posed. I would like to ask about that, as well.

But having said that, I want to ask you a series of questions that I asked Secretary O'Neill before he left, and it deals with travel to Cuba.

I am going to tell you something. I am embarrassed at the public policy of this country and furious with what is happening at OFAC. So I wanted to say nice things before I described to you my concern about this.

Let me hold up a couple of these charts, if I might. Let me hold this one up, first.

This woman is Joanie Scott. She traveled to Cuba 4½ years ago to distribute free Bibles and help organize a prayer group. Four years later she received a fine, just recently, from the U.S. Treasury Department for $10,000. She went to distribute free Bibles in Cuba.

Let me show you another one. This is Joan Sloate. She is 74, a grandmother. She is a senior Olympian bicyclist. She went to ride her bicycle in Cuba. And OFAC fined her and, in fact, has attempted to take her Social Security payments in satisfaction of the debt. So that is Joan Sloate. I have met Joan Sloate, but I do not know her well.

Let me describe another one. This is a group of Olympians and they are disabled. And they are out $8,000 in their attempt to travel to Cuba to participate in the team sports—the World Team Sports for Disabled Americans was abruptly cancelled despite the fact that they had been allowed to do that previously. It was abruptly canceled. They are out $8,000. Many of these athletes have lost the money they paid on non-refundable flights to Miami.

This is what is going on in OFAC. And there are more.

Doctors, incidentally, have just been told by OFAC that they cannot go to Cuba and lecture and train Cuban doctors because the physicians in this country who have been doing that, to lecture and train Cuban doctors, that is an export of services to Cuba and Treasury says they are prohibited from exporting a service such as teaching Cuban doctors such things as strokes and comas.

You were just in Miami. Asa Hutchinson was in Miami December 10. He gave a big old speech about this. And then you followed him in Miami on February 9, gave a big old speech, and both put out press releases about how you were cracking down on all of this.

And my understanding is that you are, at OFAC and also in Transportation Security and Homeland Security, you are working with Customs agents and OFAC on all direct flights from Cuba from Miami, JFK, Los Angeles, hundreds of aircraft, tens of thousands of passengers—I am now quoting you—and the agents are being extremely meticulous.

So apparently the results of that so far, as reported by Homeland Security, 215 of 45,000 travelers were suspected of attempting to vacation—that is a pretty serious crime. Two hundred eighty alcohol and tobacco violations were uncovered. Actually this was almost exclusively a small amount of cigars. Forty-two narcotic seizures, and these all involved prescription drugs, not heroine for example. And one hazardous material violation, which appears to have been carbon dioxide for adding fizz to seltzer water.

So we are trying to track terrorists in this country and you have an organization called OFAC. I used to chair this subcommittee and I asked hard questions of Secretary O'Neill. I do not see any excuse for one person at OFAC to be doing what they are now doing.

I know you are required to do it because the President and the White House and others are sending you to Miami to give speeches and ramp up this enforcement.

OFAC RESOURCES

But I am going to tell you something. I am going to offer again an amendment to strike the money for the people that you have got doing this. You know and I know that the issue of travel to Cuba, eliminating the travel restriction, would pass easily in both the House and the Senate. And trying to slap Fidel Castro around, which is probably a pretty good thing to do in my judgment, but doing so by injuring the right and the freedom of the American people to travel is an outrage. Fining somebody who is distributing free Bibles in Cuba is a shame.

So Mr. Secretary, what I would like to do, I am sorry you had to listen to a lecture about that but it is the only opportunity I have.

I am going to ask you to identify for me, in a submission to this subcommittee, the amount of resources that OFAC is now using, the number of people, the number of dollars, the amount of time to engage in this approach, to chase women who are distributing free Bibles in Cuba, to chase retired women who are bicycling in Cuba, to try to stop doctors who would teach Cuban doctors about stroke and comas and so on.

And then I will tell you that I will be asking if we can have an amendment and have a vote on the amendment about whether that is an effective and an appropriate use of resources.

It would be unfair for me not to allow you to respond, to give the standard response to this. But Mr. Secretary, go ahead.

Secretary SNOW. Thank you, Senator.

I know how strongly you feel on this issue, from our correspondence.

What I would say is that in those areas that you elaborated, humanitarian aid, education, travel, medicine, religious efforts, my understanding is that licenses are available and the problem is that people are going without getting the appropriate licenses. Maybe we need to do a better job of simply making clear that people can go if they have the appropriate licenses.

I hope OFAC, and I am going to check on this when I get back to Treasury, is putting appropriate resources into making available knowledge of when such travel is appropriate pursuant to the appropriate license.

[The information follows:]

RESOURCE INFORMATION

OFAC's Salaries and Expenses for fiscal year 2004 enacted budget is $21.726 million and 138 full time equivalent (FTE) level. Currently, the total amount of funds directly attributable to the Cuba sanctions regime is $3.3 million. OFAC has the equivalent of 21 FTEs who work on a wide variety of Cuban embargo matters, including travel-related matters. Supervisory personnel are also actively involved in the process.

LICENSING INFORMATION RESOURCES

Treasury's Office of Foreign Assets Control (OFAC) has taken measures to make information available to the public concerning the U.S. policy with respect to travel to Cuba. They have published a brochure entitled "Cuba: What You Need to Know About the Embargo," which is available through their fax-on-demand service and on their Internet website at www.treas.gov/ofac, that provide information in lay terms. This brochure summarizes the most salient features of the sanctions program, including the travel provisions. There is also a separate two-page brochure, in both

English and Spanish, covering just the travel restrictions and licensing provisions. There are also approximately 200 travel and carrier service providers authorized to engage in transactions with Cuba to make travel arrangements for licensed travelers. OFAC's Miami office provides training and ongoing guidance to the service providers who pass on information about U.S. Government requirements for travel to Cuba.

Last year, OFAC's Licensing Division issued "Comprehensive Guidelines for License Applications to Engage in Travel-Related Transactions Involving Cuba" which is available on OFAC's website. The Application Guidelines have an introduction discussing the policy surrounding travel to Cuba, including statutory restrictions limiting travel licensing to 12 categories of activities, information on what is covered under each licensable category of travel, and information to applicants of what information should be furnished in the application in order to receive a license. For each category of travel, the Application Guidelines provide examples of activities that are licensable and not licensable in order to give applicants an idea of what would be appropriately within the scope of current U.S. policy with respect to travel to Cuba. The Licensing Division also has information in the travel advisory on Cuba that the State Department makes available in its travel advisory system where information is provided to the public covering most countries of the world.

Senator DORGAN. Mr. Secretary, in fact it is not the case that those activities are acceptable and approved by the Treasury Department. I mentioned to you the circumstance of the disabled athletes. They were specifically denied the opportunity to travel, despite the fact that they had been allowed to travel previously.

I mentioned that the physicians, who have previously gone to Cuba to teach and to lecture, are now told that constitutes the delivery of a service to Cuba, which is not legal and therefore will not be allowed.

So my point to you is, while I think most people believe this travel research is being administered reasonably, it is not the case that humanitarian activities, educational activities, medical activities and others is routinely excepted.

There is in this administration, both at the State Department and in other areas and at OFAC, and it is trumpeted in press releases from your office as well as Asa Hutchinson and Homeland Security, that there is this crackdown.

And the other point of it is that we have apparently people checking every passenger on every plane. And I am going to spend a little time trying to determine whether we are doing quite as much to try to keep terrorists out of the country as we are to try to keep a few cigars out of the country. I do not know quite how I will get to all of that.

My only point to you this, I hope you will look into that because I think you have an understanding that is different than is actually occurring with respect to OFAC.

But my point is I think this policy is bad policy and things have changed dramatically in the crackdown with respect to trying to injure the American people who in many cases—the young woman who took Bibles to Cuba did so 4½ years ago. She did not have the foggiest idea she needed a license. So she apparently made a mistake, the mistake of taking free Bibles to distribute in Cuba. Now she is being slapped with a $10,000 fine.

Mr. Chairman, I had indicated that I wanted to ask a couple of questions about fiscal policy. I will wait for another round, if that is appropriate.

PUBLIC POLICY ON TAX CODE

Senator SHELBY. Okay, thank you, Senator Dorgan.

Secretary Snow, let me offer a comment to your exchange with Senator Murray a few minutes ago. I think there is a big difference, and I would hope that you would agree with me, about the fiduciary duty that an executive of a company owes to the stockholders. We know who owns the companies: the stockholders own the companies. Management does not own companies. And they did have a duty, I totally agree, to enhance profits to make money. That is why they are created, primarily.

But making public policy is a totally different thing from that responsibility. I think you are dealing with apples and oranges.

If we have a tax policy that encourages our companies to go overseas, I think that is bad public policy. I understand we have to trade. We have got to trade; it is a two-way street.

I would like to see us make public policy in our tax code that would encourage people to invest here rather than overseas, as I think do most people. I do not know how you feel about that, but that is my own observation.

Secretary SNOW. Senator, we have incorporated in this year's proposals that we have sent to the Congress, some efforts to deal with tax havens, with the interest stripping provisions which create the juice in the transactions that take firms to these tax havens, and so on. So I agree broadly with what you say, that the tax code certainly should not encourage that sort of activity.

COORDINATION WITH HOMELAND SECURITY

Senator SHELBY. I want to touch again on Homeland Security. I am looking at a statement sent out by the Department of Homeland Security, by Secretary Ridge.

Among other things, he said under the SHARE program, which is the Systematic Homeland Approach to Reducing Exploitation Program, officials from ICE will be joined by the Secret Service to jointly conduct semiannual meetings with the executive members of the financial and trade communities impacted by money-laundering, identity theft and other financial crimes to share data on specific investigative outcomes from investigations into money-laundering, identity theft, and other financial crimes.

Now, you are not ceding any of your jurisdiction to Homeland Security by what they do? You are trying to coordinate with them—is there not a difference here?

Secretary SNOW. Absolutely, and we coordinate very closely through intergovernmental task forces. And I think the roles really are well understood.

Our primacy comes with respect to the national money-laundering strategy. It comes with respect to enforcing the various provisions of the Bank Secrecy Act and the executive order dealing with terrorist finance.

Senator SHELBY. Also, from your statutory authority over the financial institutions.

Secretary SNOW. And the statutory authority over financial institutions. And that Treasury chairs the President's Working Group on Financial Institutions which is the Federal Reserve and the Se-

curities and Exchange Commission (SEC) Chair and the head of the Commodities Futures Trading Commission. And where necessary, we will share information with—and desirable—with the Department of Homeland Security (DHS). But their role is really different. Ours is more the broad policy, implementing those statutes and executive orders, interdicting the flow of money, and making sure that banks know their customers. Making sure that the information is being shared, and that we get through our databanks at FinCEN, with local, State and other Federal authorities.

DHS has an important role to play, but it is a different role.

EARNED INCOME TAX CREDIT (EITC)

Senator SHELBY. Mr. Secretary, I want to discuss the Earned Income Tax Credit (EITC) for just a minute. We have been told by the IRS Commissioner last year that there are a lot of erroneous and fraudulent EITC claims that are estimated to cost the government between $8 billion and $10 billion annually.

We all want people who would qualify for this benefit to get it. But where you are duplicating the benefits, it seems to me that the IRS and Treasury are in dire need of some kind of systems reform to be able to check who is doing what.

You referenced some of the financial institutions. If it were American Express or any of these credit card companies, they certainly would cross-reference everything. I cannot imagine them letting happen what is happening with EITC claims.

Are you interested in more money to go after cheats and fraudulent things? Heck yes, and we want to make sure you do it. But you are sitting on tons of money if you would do your job properly. Not just you, but others at the Department.

And if we are losing $8 billion to $10 billion a year because of fraud or fraudulent and erroneous claims, something is wrong, big time. And we are talking about billions, not hundreds of millions.

Secretary SNOW. Senator, there is something wrong here.

Senator SHELBY. What are you going to do about it?

Secretary SNOW. We are engaged in some pilot projects right now to try to figure out what to do about it, to be honest with you, because we do not have all the answers readily at hand.

Senator SHELBY. Have you thought about outsourcing this? Private-sector banks that do this every day are getting consultants in there. We can not afford to wait 2 years from now for answers and have the same rate of fradulent and erroneous claims that you had 2 years ago.

Secretary SNOW. I think we can fix this, but this is an extraordinarily complex program where——

Senator SHELBY. But complexity does not mean you cannot run it with integrity.

Secretary SNOW. We can run it and we will. The key to it is getting eligibility criteria well-established so the people who are eligible get the payments.

Senator SHELBY. Absolutely.

Secretary SNOW. And those who are not do not. And unfortunately, these error rates are just extraordinary.

Senator SHELBY. Let us stop a minute.

How are you going to come about with the eligibility criteria that you need?

Secretary SNOW. By getting databases that tell us when two people not living in the same household are claiming the same child. And that is happening.

Senator SHELBY. Looks like a computer or good software system could do this for you. That is what we have been told.

Secretary SNOW. We are doing pilot projects right now to try and get at that very problem. A lot of the cost of this program, and it is a shame for the eligible participants who were properly getting the checks, is we do an extraordinary amount of post-audits and burden people who are properly getting the monies with post-audits and are sending checks to a lot of people who do not deserve the checks.

I do not know whether it is fraud as much—there is probably some in this.

Senator SHELBY. But it is wrong.

Secretary SNOW. It is just wrong. It is errors—mistakes and errors.

Senator SHELBY. Let us say it is not fraud, but it is erroneous and the people mean well. You need the criteria to separate what is the real from the apparent, do you not?

Secretary SNOW. Yes, we do.

Senator SHELBY. And how are you going to do this? I know I heard last year that you had a pilot program. I may have heard it the year before.

But these erroneous payments and so on could have cost the Treasury $100 billion. That is not chicken feed.

Secretary SNOW. You mean over a 10-year period or something?

Senator SHELBY. Yes, sir. It is nothing to ignore.

Secretary SNOW. We owe you an answer. We owe the American taxpayers an answer on this.

TAX CODE DEFINITIONS

Senator SHELBY. I think you owe the American taxpayer an answer.

Secretary SNOW. For certain, we owe the American taxpayers an answer.

One thing is getting a uniform definition of a child. Apparently in the code today, one of the complexities is we have six, I am told, different definitions of a child. If we could settle on one definition of a child.

Filing status is an issue. What is the filing—is that person really the head of the household and the parent or not? When various people are claiming the child as their dependent. So getting the databases fixed.

Senator SHELBY. Looks to me like a good software program is needed to keep you from paying the EITC benefit here and from paying it there for the same child. It looks like you could find that the government is allowing someone in Alabama to claim EITC and someone else in Illinois or somewhere else for the identical benefit. And especially with the enormous amounts of money involved, I do not understand why you would not want to eliminate these erroneous and fraudulent payments.

Secretary SNOW. This program does involve tens of millions of Americans.

Senator SHELBY. We understand what it involves.

Secretary SNOW. Which adds to the complexity.

Senator SHELBY. But what is right and honest is right and honest, is it not?

Secretary SNOW. It is, and to make it right and honest, we need the systems in it at the front end of the EITC program rather than what happens today, which is an awful lot of checking and rechecking and checking and rechecking.

ADMINISTRATION OF EITC

Senator SHELBY. Mr. Secretary, who administers the EITC program?

Secretary SNOW. It is administered by the IRS.

Senator SHELBY. The Internal Revenue Service. The Internal Revenue Service is part of Treasury, is that correct?

Secretary SNOW. Yes, it is.

Senator SHELBY. So the buck stops here with the Commissioner of the Internal Revenue Service.

Secretary SNOW. That is right. And the Commissioner of the Internal Revenue has pledged to me that this issue is getting his full attention, that he is on top of these pilot projects. In fact, he made the decision last year to modify the pilot projects and not put into place the fixes on the EITC before we had the real results back.

I think this is as complex as it is is a little baffling, but it involves the fact that there are just so many claimants in an environment that it is so hard to really manage, with definitions of child that are not uniform, with poor information about dependents and who can claim dependents, poor information about actual parentage. We have got a real data collection and management problem here.

But there are three pilot projects going after the major components of the problem.

Senator SHELBY. I hope that we hear good news down the road to stop all people who are either fraudulent or erroneously filing things with the IRS.

Senator Murray.

Senator MURRAY. Thank you, Mr. Chairman.

Let us just not forget that there is another side to the EITC issue which is many, many poor taxpayers who do not know they are eligible who we are not giving their payments to. And that is part of the error rate that we do not want to lose in this.

Secretary SNOW. Senator, I agree with you. That is a part of the whole problem.

PRIVATE COLLECTION AGENCIES

Senator SHELBY. We do not want to hurt anybody.

Senator MURRAY. Mr. Secretary, as I talked about in my opening statement, IRS has proposed the use of private debt collectors to collect tax debts. And as I said, I am really uneasy about this proposal because of the abysmal record of the IRS in protecting the privacy of taxpayers.

In fact, when the IRS tried the use of private collection agencies in a pilot a couple of years ago, it was just fraught with problems. Then, in February of 2003, the IG noted the extraordinarily lax record of IRS in administering background checks for IRS contractors, including contractors that have access to sensitive tax data.

And then just last month the IG found that contractors committed numerous security violations that placed IRS equipment and taxpayer data at risk. In some, cases contractors blatantly circumvented IRS policies and procedures, even when security personnel identified inappropriate practices.

For example, one disgruntled contractor employee planted a computer time bomb on a computer system that would have destroyed sensitive taxpayer data. And another contractor employee connected an unsecured computer to the IRS computer network, which permitted the introduction of a virus into the IRS computer system costing $1.5 million in downtime and cleanup costs.

Mr. Secretary, given the fact that some of these findings were published just last month, why should we believe that the IRS is in a position to protect taxpayer information and privacy when they hand over the responsibility to collect tax debts to private contractors?

Secretary SNOW. Senator, I would agree with you that the prior experience with the private collection agencies did not go well. It was not a success. It was not as well-planned, as well thought out, as well structured as it should have been.

I think we have learned a lot of lessons from that prior experience that will be applied here if Congress authorizes IRS to go forward with the private collection agencies.

We are acutely aware of the protection of the taxpayer rights, the private collection agencies would have no enforcement power. They would go through intensive training about their role, which is not enforcement but just collection. They would go through intensive training on their legal responsibilities to taxpayers, including protection of confidentiality of taxpayer information.

This is really an effort on the part of the IRS to free up highly trained IRS auditors and examiners to do more complex work and use the collection agencies for what you might call the low hanging fruit. That is, calling people up, notifying them, reminding them that they have got an overdue tax bill, but not bringing any enforcement action of any kind.

The thought here is that a lot of people, if they are notified that they have an overdue tax bill and somebody calls them up and pays some attention to them, they are compliant and they would therefore be prepared to make their appropriate payments. These are paid immediately or with some installment plan.

PROTECTION OF TAXPAYER RIGHTS

Senator MURRAY. Mr. Secretary, I want to see what specific steps have been taken and what specific steps will be taken to protect privacy and to protect individual taxpayer data before I think this committee should move forward in moving in some kind of direction like that. I think that is extremely critical.

Secretary SNOW. Senator, I agree with you. I think it is absolutely critical that taxpayer rights be protected here and our pro-

posal would mandate that the IRS monitor the activities of these private collection agencies closely, monitor their performance and deal——

Senator MURRAY. Monitoring is after-the-fact.

Secretary SNOW [continuing]. Appropriately with it. There is the prior training. There would be intensive training, and there would be continuous monitoring. And then there would be penalties for those who hopefully——

Senator MURRAY. If somebody has already planted a computer time bomb, monitoring is not going to do anything but show you that it has happened.

Secretary SNOW. Senator, there is a big opportunity here to help collect some overdue monies using these resources that will not cost the Federal Government anything. And we are very sensitive to the issues you are talking about and we will go to great lengths to see that, as I say, the confidentiality and the information is protected and that taxpayer rights are fully protected.

TERRORIST USE OF CHARITY ORGANIZATIONS

Senator MURRAY. I will be following this issue very closely because I am deeply concerned about that, but my time is limited and I do want to ask you about funneling cash to terrorist organizations, as I also mentioned in my opening statement.

As you know, our government has linked some 23 charitable organizations with the al Qaeda network. And it has been a longstanding practice for terrorist organizations around the globe to use charitable giving as an avenue for their resources.

There appear to be some continuing disagreements between our government and the governments of the European Union as to which charities should be designated as being associated with these terrorist organizations. A number of international charities that are listed by the United States have not been listed by the European nations.

Do you believe the nations of Europe attach a significant amount of importance and commitment to combat terrorist funding?

Secretary SNOW. Senator, I think we have made a lot of progress, but not enough. I think there needs to be more focus on the issue you are talking about here. I do not buy the distinction that some countries make between funding for a charity that goes for charitable purposes and funding to a charity that ends up going for terrorist purposes.

Our policy is that if a charity is getting funding that goes for terrorist purposes, we designate that charity, as we have done on a number of occasions where urging other countries who are part of this FATF, the Financial Action Task Force, on Terrorist Finance to do the same. We have made progress in some places, not total progress in others.

DESIGNATION OF CHARITIES

Senator MURRAY. Which ones have we made progress with and which ones do we need to make progress with?

Secretary SNOW. We have made actually a lot of progress on the whole subject. In the last several months, with Saudi Arabia, we have named any number of Al-Haramain branch offices around the

world. And I can give you a full listing of all the designations. But there are a number of designations of charities now that have occurred.

In Europe, there is some reluctance to designate a charity in its totality. Money is money, and money that goes into a charitable organization is fungible with money that is used for good purposes and terrorist purposes.

[The information follows:]

DESIGNATION INFORMATION

Not all of the charities designated by the United States are linked to al Qaida. Those that are have been submitted to the United Nations 1267 Sanctions Committee, where most have now been added to their consolidated list. Several others, however, were designated by the United States solely because of their ties to Hamas, e.g., the U.S.-based Holy Land Foundation for Relief and Development, the Al Aqsa Foundation, and the five mostly-European based charities designated by the United States last August.

To the extent a person or entity is designated by the United Nations because of its ties to al Qaida, the Taliban, or Usama bin Ladin, the mechanism within the European Union automatically triggers designation by the E.U. Clearinghouse (requiring all member countries to freeze the assets of the designated entity).

The U.N./Clearinghouse-linked process does not capture the U.S. designations of charities that are tied to HAMAS or Hizballah. Designation by the E.U. Clearinghouse without a U.N. designation requires unanimous consent. Absent a Clearinghouse decision, many E.U. countries do not have independent national authority to freeze assets, others lack the political will to take unilateral action.

The European Union's decision last September to designate Hamas as a terrorist group in its entirety represents an important first step towards our position. We continue to push them on implementing this decision by designating Hamas charities operating in Europe. As of this date, the European Union has not designated any of the Hamas-affiliated charities designated by the United States.

As a government, we are approaching this issue from many levels. We have made clear our position on Hamas, and other such terrorist groups, to our partners around the world. We are beginning to see a "sea change" of the European attitude on this matter, based in large part on the U.S. efforts to change attitudes and policies.

Part of these efforts include aggressive education on the requirements of UNSCR 1373, which requires all member countries to respond with actions to freeze assets when presented with credible information from another country that the individual/entity to be designated has been providing support to terrorists and terrorist organizations. This is also one of the requirements adopted by the Financial Action Task Force. Accomplishing this task will require a change in the E.U. Clearinghouse process and/or countries enacting separate authority to designate independent of the European Union and having the political will to use such authority.

Senator MURRAY. But what about Indonesia and Pakistan?

Secretary SNOW. When I was in Indonesia, we designated JI. I will get you a complete list of all these designations, but more need to come.

But it is interesting that Saudi Arabia has taken the steps that they have taken.

Senator MURRAY. Are you satisfied that they are actually enforcing the new restrictions that they have put in place?

Secretary SNOW. I think they are. Yes, I do. I think they take this very seriously. And of course, Al-Haramain is to them what the United Way is to us. It is their major charity. So good important progress is being made, but I think the distinction that some countries make between the good functions of charities and the terrorist functions of charities is an artificial and false distinction.

Senator MURRAY. Thank you, Mr. Secretary. And I know my time is limited. I need to go to another committee, as well.

I would like to submit my other questions for the record.

Senator SHELBY. Without objection, it will be ordered.

Also along those lines, Senator Dorgan has a number of questions, Mr. Secretary, that he would submit for the record.

Secretary SNOW. I would be happy to respond, Mr. Chairman.

Senator SHELBY. I also have a number of questions that I will submit for the record. You usually are very prompt in answering, and we appreciate that.

Mr. Secretary, what are your thoughts on Chinese currency? We have talked about that privately. We have both been to Beijing to talk with them about floating their currency, or at least within a more realistic band as to its real worth. They are buying a lot of the commodities of the world. Commodities have gone up in price. Not just steel scrap, of which they are buying a lot, but ore, metals, you name it. So they are going to have a problem there.

Do you have any observations on that?

Secretary SNOW. Well, I do, Mr. Chairman. I thank you for raising the question and giving me an opportunity to discuss it with you and compliment you on the good work you did on your mission last fall.

Senator SHELBY. We think they heard us, but they did not change anything, at least then, did they?

Secretary SNOW. I think the fact that they hear us is important and I think what we are saying is being listened to. They have committed again to move towards flexibility in the currency. They are taking a number of steps to prepare the way to do that, going after the bad loans in the banking system, taking steps to widen the amount of funds that can be brought in and out of the country, relaxing capital controls, putting in place a strong bank regulator, allowing non-Chinese firms to buy bad loans and take them off the government books which is important as we did back with the RTC, with the savings-and-loan crisis, advice we gave them and suggested they might want to study our savings-and-loan experience.

Senator SHELBY. But will that reoccur, though, as long as they have state-owned industries and state-owned banks making loans to state-owned industries which are not making any money because of the political equation?

Secretary SNOW. Mr. Chairman, that is the root problem, that is the root issue. And they understand that and are working to see that the capital that goes into the banking system goes to support real liable private enterprises and withdrawing more and more from the state enterprises.

I think that is the course they are on because they recognize that capital going to the state enterprises is not getting the return for the Chinese people that capital going into the private enterprises is. And it is perpetuating the problem.

Now they have an awful lot of people working in those state enterprises, and their dilemma is to create the jobs.

ADDITIONAL COMMITTEE QUESTIONS

Senator SHELBY. They have got a political problem there.

Secretary SNOW. They have got a political problem.

We appointed last week Ambassador Speltz, who is our representative to the Asian Development Bank, to be the Treasury's Personal Representative to the Chinese government on these currency and financial market issues. And it was well received by the Chinese.

Treasury has an ongoing, very productive, dialogue with China. A technical team is just back from China where we interacted with the Chinese on a whole range of financial market issues.

[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 RICHARD C. SHELBY

DEPARTMENTAL OFFICES

Question. Please update the committee on the status of hiring for initiatives that were funded in Fiscal Year 2004 Transportation-Treasury Appropriations bill.

Answer. The Executive Office for Terrorist Financing and Financial Crimes hired 11 of its 14 positions; International Affairs has hired 1 of its 10 positions and made offers for the remaining 9 positions.

Question. In fiscal year 2004, the Departmental Offices received $2.285 million to hire 19 positions for the Office of Terrorist Financing and Financial Crimes and $2.73 million to hire 10 positions for International Affairs. Please provide a financial plan for each of these initiatives and the hiring status of these positions, including the types of positions and responsibilities devoted to these new FTEs.

Answer. The financial plans are shown below:

FINANCIAL PLAN FOR FISCAL YEAR 2004 EXECUTIVE OFFICE FOR TERRORIST FINANCING AND FINANCIAL CRIMES

[In thousands of dollars]

Budget Object Class	Amount	Status
Salaries	1,622	The Conference Report limits the office to 14 FTE of which 11 have been hired and the remaining 3 will be on board by the end of the fiscal year.
Benefits	260	
Travel	100	
Rent, Utilities	25	
Other Services[1]	263	
Supplies	9	
Equipment	6	
Total	2,285	

[1] Includes SEAT Management computer equipment and software as well as security reviews/clearances.

Type of Positions:
—Deputy Assistant Secretary (1)
—Director, Money Laundering and Financial Crimes Policy (1)
—Senior Policy Analyst (1)
—Financial Crimes Specialist (3)
—Senior Advisor (2)
—Terrorist Financing Specialist (1)
—Program Analyst (3)
—Review Analyst and Schedule Coordinator (1)
—Clerk (1)

However, it should be noted that the fiscal year 2004 bill provided for 14 positions, not 19.

FINANCIAL PLAN FOR FISCAL YEAR 2004 INTERNATIONAL AFFAIRS INITIATIVE

[In thousands of dollars]

Budget Object Class	Amount	Status
Salaries	961	The 10 positions are International Economists. Of the 10, 1 position has been filled and offers have been made to qualified individuals to fill the other 9.
Benefits	215	
Travel	200	
Rent, Utilities, Misc.	100	
Other Services[1]	1,233	
Supplies	7	
Equipment	14	
Total	2,730	

[1] Includes SEAT Management computer equipment/software, training, translation services, security review/clearances, and other services.

Question. How many FTE are currently working in the Office of Terrorist Financing?

Answer. Currently, there are 11 FTEs in the Executive Office for Terrorist Financing and Financial Crimes.

Question. Please provide the justifications and the methodology for determining the business strategy adjustments included in the fiscal year 2005 budgets of the Fiscal Bureaus.

Answer. Treasury encourages its bureaus to review program performance for opportunities to redirect resources from obsolete and low performing programs to those which are mandatory or higher priority.

The fiscal year 2005 budget request reflects these efforts for two of Treasury's bureaus which identified business strategy adjustments as follows:

—The Financial Management Service request includes a reduction of $5.163 million. It is proposed that these costs will be reimbursed through the Debt Collection Program.

—The Bureau of Public Debt request includes a $967,000 reduction as a result of withdrawal of the Series HH bonds.

Question. A large portion of the Law Enforcement function was transferred from Treasury to Homeland Security and Justice in fiscal year 2003. Please define the Department's current role in the area of Law Enforcement.

Answer. Treasury still plays an important role in law enforcement—our expertise, data, and resources are crucial for following the money and stopping financial crimes, including money laundering, terrorist financing, and tax-related fraud. Treasury is responsible for administering the Bank Secrecy Act, including many of the provisions in the USA PATRIOT Act. It also has the authority to employ Geographic Targeting Orders (31 USC 5326) to attack money laundering systems domestically, and to employ USA PATRIOT Act Section 311 "special measures" for foreign financial threats. A description of Treasury's Law Enforcement function by office follows:

—Internal Revenue Service-Criminal Investigation Division (IRS–CI) is a crucial player investigation of criminal tax-related offenses and in the areas of money laundering and terrorist financing. IRS–CI has demonstrated its expertise by identifying, tracing and attacking the laundering of drug and other criminal enterprise proceeds, and assisting in the government's anti-terrorist financing investigations.

—Treasury Inspector General for Tax Administration (TIGTA) is responsible for oversight of IRS operations and investigation of criminal assaults and threats against IRS facilities, personnel, and infrastructure. TIGTA plays an integral role in Treasury's liaison with the FBI Joint Terrorism Task Force and other Federal entities that share intelligence relating to threats.

—Financial Crimes Enforcement Network (FinCEN) is the keeper of Bank Secrecy Act data, and serves as an information hub for the law enforcement community, working directly with law enforcement to provide support in the field.

—The Office of Foreign Assets Control (OFAC) works directly with the law enforcement community—such as the former Customs bureau and the FBI—to ensure the application of the criminal law to those violating U.S. sanctions.

—The Treasury Executive Office of Asset Forfeiture (TEOAF) manages asset forfeiture funds for the Treasury Department and the Department of Homeland Security. Treasury uses this responsibility to provide resources to law enforcement for key projects and initiatives that combat crime.

Question. The fiscal year 2005 budget requests $20.3 million to complete the Treasury Building and Annex Repair and Restoration project. When is the scheduled completion date?

Answer. The anticipated final completion date is December 2005. Phases 1 and 2 have been completed and Phase 3 is on schedule to be completed by August 2004. Phase 4 (final phase) has begun and all construction activities are planned for completion by December 2005. This completion date assumes the availability of the $7 million withheld from the fiscal year 2004 appropriation until further committee approval and full funding of the fiscal year 2005 budget request of $20.3 million.

Question. Will this be the last year that an appropriation is necessary for this account?

Answer. Yes, fiscal year 2005 will be the last year that we request funding for the TBARR account. However, some critical repairs to the Main Treasury building have been deferred or cancelled in order to meet the December 2005 deadline with no additional resources. It is anticipated that additional funding will be required in future years to complete these critical repairs and other deferred maintenance projects in the Main Treasury and Annex buildings. This funding will not be requested under the TBARR account but as on-going maintenance and replacement expenses through the Salaries and Expenses, no-year, Repairs and Improvements account.

Question. The fiscal year 2005 budget request includes $1.9 million for the establishment of an Office of Emergency Preparedness. What will be the responsibilities of this new office? What office carried out this function in the past? Were there any appropriated expenses for this function/office in fiscal year 2004 and prior years?

Answer. During this current fiscal year, the Department of Treasury recognized the importance of a more focused effort to establish and maintain viable and executable plans (in accordance with Presidential Decision Directive (PDD) 67, "Enduring Constitutional Government" and Executive Order (EO) 12656, "Assignment of Emergency Preparedness Responsibilities"), to ensure the continuity of its essential functions during any conceivable emergency condition—especially conditions denigrating or eliminating Treasury's ability to operate from its downtown locations. More specifically, the Department of Treasury's Office of Emergency Preparedness (OEP) will be responsible for improving the operating capabilities in a number of critical areas listed below:

—Treasury Emergency Management Center Operations;
—Continuity of Operations (COOP) Planning, Operations, and Alternate Operating Facility;
—Continuity of Government (COG) Planning, Operations, and Alternate Operating Facility;
—Emergency Management Policy and Guidance;
—Treasury Emergency Preparedness Test, Training & Exercise (TT&E) Program;
—Coordination and Oversight of Treasury Bureau Emergency Management Programs;
—Treasury Headquarters Evacuation and Shelter-in-Place Planning and Operations.

The function of National Security Emergency Preparedness was previously in the Office of Security and Continuity Planning, in the Office of the Chief Information Officer. There were no expenses for this office in fiscal year 2003 and prior; however, we expect to obligate $177,000 in fiscal year 2004.

Question. A large part of the Treasury request for Departmental Offices is related to reimbursing the Secret Service $2.4 million for protective service. Is the USSS the only force available to provide this protection? What were the costs related to this activity in fiscal year 2004?

Answer. The USSS provides protection to the Secretary of the Treasury. In fiscal year 2004, the United States Secret Service (USSS) and the Department of the Treasury signed a Memorandum of Understanding whereby the Department of the Treasury would reimburse USSS for only the travel costs incurred protecting the Secretary, which were estimated at $1.2 million. Starting in fiscal year 2005, the Department of the Treasury will reimburse the USSS for the full cost of protecting the Secretary of the Treasury (including personnel compensation and overtime pay), currently estimated at $2.5 million.

Question. How was the amount of $2.4 million derived (please provide detail)? With the payment by the Treasury Department of such expense, what is the likelihood that the USSS will begin to charge the Department for other costs associated with protection of the White House Complex that Treasury is a part of?

Answer. On March 4, 2003, the President of the United States issued a memorandum to the Secretary of Homeland Security directing the USSS to continue providing physical protection for the Secretary of the Treasury. The funding estimates

for providing this security were prepared by the USSS and a copy is provided below. We do not anticipate other additional costs associated with the protection of the Secretary of the Treasury. In addition to the protection provided by the USSS for the Secretary of the Treasury, the USSS also protects the Treasury Headquarters Building located to the east of the White House. Since the USSS is mandated by statute to protect the buildings in the White House complex, it has no authority to request reimbursement from the Department of the Treasury for protection of that building.

Department of Homeland Security
United States Secret Service
Annual cost of protecting the Secretary of the Treasury

	FY 2002 Actual	FY 2003 Projected	FY 2004 Estimated
Annual Expenses			
Personnel Compensation (includes LEAP)	$ 740,413	$ 764,832	$ 779,973
LEAP	185,103	191,208	194,993
Overtime	332,838	335,000	340,000
Personnel Benefits	292,001	305,933	311,989
Travel and Transportation of Persons	1,058,079	750,000	800,000
Rent, Communication and Utilities	29,869	30,000	30,000
Other Services	39,914	35,000	35,000
Supplies and Materials	2,744	20	500
Equipment			
TOTAL	$ 2,690,961	$ 2,411,992	$ 2,492,455
One-time Costs			
Equipment			
Vehicle (dedicated to protectee)	$ 24,809		
Grand TOTAL	$ 2,715,770	$ 2,411,992	$ 2,492,455

Question. Has the analysis and proposal of this budget request included a cost analysis of other Government Building Security operations to determine that this is the best and most cost effective alternative for the Department?

Answer. A cost analysis of other protective services was not performed because the Secret Service has traditionally protected the Secretary of the Treasury.

Question. Does the budget proposal cover all costs that USSS can charge the department in fiscal year 2005?

Answer. The Department anticipates the fiscal year 2005 cost will reflect increases for salaries, benefits and inflation. The USSS has not notified the Department of any other increases in fiscal year 2005.

Question. Do other agencies pay the USSS for fulfilling their protective mission?

Answer. Currently, the Secretaries of Homeland Security and Treasury are the only Federal agency heads who receive USSS protection. Since the USSS is part of the Department of Homeland Security, it provides physical protection to the Secretary of Homeland Security without reimbursement. Because the USSS is no longer a component of the Department of the Treasury, it is reimbursed for the cost of physical protection of the Secretary of the Treasury.

Question. Please provide the total program costs for implementing and running HR Connect. With well over $200 million invested, is Treasury getting the value promised from this investment?

Answer. Yes, Treasury is getting the value promised from its investment in HR Connect. The web-enabled system, now operational in all but one Treasury bureau, has the ability to replace the more than 100 paper-intensive, bureau-unique systems that cost more than $23 million annually to maintain. Of the 30 features envisioned for the system, 20 have been implemented, 6 are being developed now, and 4 have been subsumed by other efforts. In addition, the centralized system has provided

Treasury with enterprise-wide reporting and sophisticated HR management tools. Unforeseen benefits have resulted, as well. The system has elevated Treasury's e-Government compliance level, and OPM has nominated HR Connect as one of four "Best in Breed" interoperable common HR solutions.

Question. Is this system providing savings? If so, please provide the savings achieved since the program became operational.

Answer. Significant savings have been realized with HR Connect. To date, quantitative benefits have been captured in three distinct categories: $7.8 million in productivity savings, $17.9 million in reduction of 222 staff from the HR organization, and $2 million annual operational savings through legacy systems retirement. (Productivity savings are attributable to time saved by line organizations, or non-HR staff. The HR Connect Program Office (HRCPO) anticipates that the saved time will not result in reduction of line staff, but rather in re-direction of staff to other mission critical activities.) In subsequent years, additional savings are anticipated. In fiscal year 2005, HRCPO estimates $10.0 million in productivity savings, $33.9 million in staff reductions, and $12.4 million in legacy savings. Additional staff reductions are expected throughout the 15-year program lifecycle, for a total staff reduction and redirection savings of $633.1 million. Legacy savings attributable to HR Connect should total $116 million by fiscal year 2012.

Question. What is the yearly cost to maintain this system?

Answer. The system requires approximately $20 million annually for operations and maintenance, excluding staffing costs. Technology refreshes and system upgrades will be conducted every 3 years for an additional cost of approximately $3 to $5 million.

Question. Are all Treasury bureaus connected to this system?

Answer. Eleven of Treasury's 12 bureaus have deployed and are operating HR Connect, except the Office of Thrift Supervision (OTS), which must convert to HR Connect's required e-Payroll provider, the National Finance Center (NFC), before deploying HR Connect. OTS is contemplating a delay in NFC conversion until April 2005, and deployment of HR Connect will follow shortly thereafter. Additionally, two former Treasury bureaus continue to operate HR Connect, despite a divestiture that moved them to other agencies. Those bureaus are Alcohol, Tobacco, Firearms, and Explosives, now in the Department of Justice, and the United States Secret Service, now in the Department of Homeland Security.

Question. What is the annual cost of each bureau to run this system?

Answer. During HR Connect's development and deployment phase, the primary source of program funding has been Congressional contributions to the DSCIP fund. In fiscal year 2005, the HRCPO requested approximately $17.5 million from Congress to fund the program's transition year to full operations and maintenance mode. Based on current estimates and new program requirements, which include the implementation of an ePerformance module to support the SES Pay for Performance initiative, the HRCPO predicts an additional $3 million will be needed in fiscal year 2005. Funding for this gap will be requested from the bureaus based on their proportionate share as presented in the table below.

HRCPO is also recommending that, as an enterprise-wide solution, Treasury continue to request Congressional funding for program operations in the out years. If the recommendation is approved, the bureaus will not incur operations and maintenance costs for HR Connect in fiscal year 2006. If the recommendation is not approved, then the bureaus will contribute their proportionate share of the annual costs as presented below:

Bureau	Est. # of Accts	Bureau % Usage	FY 2005	FY 2006
Treasury Bureaus				
Alcohol and Tobacco Tax and Trade	443	0.31%	$9,353	$60,898
Comptroller of the Currency	2,791	1.96%	$58,926	$383,673
Departmental Offices	1,319	0.93%	$27,848	$181,320
Engraving & Printing	2,521	1.77%	$53,225	$346,557
Financial Management Service	2,207	1.55%	$46,596	$303,392
Internal Revenue Service	115,715	81.44%	$2,443,066	$15,907,115
Mint	2,317	1.63%	$48,918	$318,513
Office of the Inspector General	94	0.07%	$1,985	$12,922
OTS	913	0.64%	$19,276	$125,508
Public Debt	1,857	1.31%	$39,206	$255,278
FINCEN	247	0.17%	$5,215	$33,955
TIGTA	904	0.64%	$19,086	$124,271
HR Connect Customers				
ATFE	4,700	3.31%	$99,230	$646,100
USSS	6,066	4.27%	$128,070	$833,881
	142,094	**100.00%**	**$3,000,000**	**$19,533,384**

Question. The budget request includes $1 million for a Turkey Financing facility. What will this facility provide?

Answer. The Emergency Wartime Supplemental Act signed by the President on April 16, 2003 includes $1 billion in appropriations and authorization for up to $8.5 billion in loans to Turkey to help protect its economy from shocks from the war in Iraq and to maintain economic stability in a key regional ally. Treasury estimates that it will cost the Office of International Affairs an additional $1 million to continue to administer the Turkey Financing Facility.

Question. Is this a one-time item or will it require funding over a number of years?

Answer. The Facility anticipates making disbursements during fiscal year 2005 and fiscal year 2006, but this depends on when the Turkish government ratifies the Financial Agreement. Since disbursements from the Facility could be imminent and the work demand is front-loaded, Treasury has already received $1 million from the $1 billion appropriated under the Economic Support Fund (ESF) in the fiscal year 2003 Emergency Wartime Supplemental for Turkey to cover expenses for fiscal year 2004.

Question. The Department's budget includes over $5 million in E-gov initiatives. Please describe Treasury's initiatives.

Answer. Treasury believes in the importance of E-government initiatives and has developed partnerships with industry and other Federal agencies to improve its interactions with citizens, businesses, and other Federal, State, and local government entities through the use of the Internet. Treasury is the lead agency for two E-government initiatives: Internal Revenue Service Free File and Expanded Electronic Tax Products for Businesses. The budget request for fiscal year 2005 is for the following initiatives:

—*Business Gateway*.—The Small Business Administration (SBA) is the lead agency. This initiative will create a single business gateway portal to reduce the burden on businesses by making it easy to find, understand, and comply with Federal laws and regulations. Treasury assists the SBA with consolidation and synchronization of Federal paperwork requirements. Small businesses will be able to submit all of their information electronically to the Federal Government which then can be shared securely across Federal agencies.

—*E-Authentication*.—The General Services Administration (GSA) is the lead agency. Treasury's Chief Information Officer (CIO) is the Chairperson for the Executive Steering committee. This initiative will minimize the burden on businesses, public, and government when obtaining online services. It is designed to provide the trusted and secure infrastructure—gateway, confirming the identity of electronic transaction participants. This initiative will enable Treasury to offer enterprise-wide applications with different assurance levels.

—*E-Records Management*.—The National Archives and Records Administration (NARA) is the lead agency. This initiative will enable Treasury to increase the percentage of eligible data archived/preserved electronically. Unified guidance

will provide consistency in implementing E-records management applications. It will also improve Treasury's ability to access/retrieve records.

—*E-Rulemaking*.—The Environmental Protection Agency (EPA) is the lead agency. This initiative will enable citizens to search for agency rules from any desktop computer, and to post remarks online. E-Rulemaking will help Treasury and other agencies integrate their applications into the government-wide system. This will allow for a more citizen centric approach to the regulatory process by providing more centralized online access to regulatory material via Regulations.gov.

—*E-Training*.—The Office of Personnel Management (OPM) is the lead agency. This initiative creates a premier E-training environment that supports development of the Federal workforce through simplified, one-stop access to high quality E-training products and services, advancing the accomplishment of agency missions.

—*E-Travel*.—The General Services Administration (GSA) is the lead agency. This initiative will improve the internal efficiency, administrative performance, and regulatory compliance relative to travel. Redundant and stovepipe travel management systems will be eliminated through a buy-once/use many shared services approach. Therefore, capital investment, operations, and maintenance costs for travel management services will be minimized. Treasury will use this to bring world-class travel management and superior customer service to the Federal travel process.

—*Integrated Acquisition Environment (IAE)*.—The General Services Administration (GSA) is the lead agency. This initiative will reduce the burden for vendors doing business with the Federal Government. Achieve cost savings through consolidated vendor information, procurement data systems, use of common processes and reduce the cycle time of the procurement process. Treasury will benefit from the integration of IAE applications into Intra-governmental Transactions Exchange and the accessibility it will have to vendors.

The following chart provides a summary of the Department's contributions for these E-government initiatives. Of the $7.5 million shown, $5.5 million will be paid from the Department-Wide Systems and Capital Investment Program (DSCIP) and the remainder from bureau appropriations. Departmental contributions to the Federal E-government initiatives listed above are in compliance with the President's Management Agenda to eliminate redundant systems, use improved Internet-based technology to make it easy for citizens and businesses to interact with the government, save taxpayer dollars, and streamline citizen-to-government communications.

TREASURY CONTRIBUTIONS FOR E-GOVERNMENT INITIATIVES

Initiative	Fiscal Year 2003 Treasury Actuals	Fiscal Year 2004 Treasury Actuals	Fiscal Year 2005 President's Request
Business Gateway	$0	$0	$2,500,000
E-Authentication	3,178,572	377,000	393,000
EHRI	0	0	0
E-Rulemaking	100,000	775,000	885,000
E-Training	0	2,630,000	2,200,000
E-Travel	0	0	988,832
Expanding Electronic Tax Products	0	3,200,000	0
Grants.gov	0	0	0
Integrated Acquisition Environment	557,205	443,280	394,593
IRS Free File	0	0	0
E-Records Management	0	0	100,000
Totals	3,835,777	7,425,280	7,461,425

Question. What benefits are these initiatives providing to the Department?

Answer. The President's Management Agenda (PMA) set the stage for Treasury to build upon its goal of simplifying and unifying IT efforts to optimize services. Treasury's involvement in these initiatives is based on benefits projected by the Managing Partners to each participating agency by providing an enterprise-wide application, elimination duplicative services, management of processes, and timely and responsive service to all citizens. The Managing Partners of each initiative can provide specific details on the costs savings to be realized overall by undertaking each initiative.

Question. Does any of the funding relate to initiatives outside the Department of the Treasury?

Answer. The funding request of over $5 million represents Treasury's contribution to these E-government initiatives. Treasury is partnering with these agencies to support of the President's Management Agenda (PMA). As one of the five pillars of the PMA, E-government is statutorily supported by the E-government Act, Clinger-Cohen Act, the Government Paper Elimination Act, and other legislation seeking to streamline electronic transactions and placing the Federal Government at citizens' fingertips through the use of digital technologies.

Question. Please provide an update of the activities of the Office of Critical Infrastructure.

Answer. The financial infrastructure of the United States is extremely resilient. It has been tested time and again by hurricanes, black outs, and terrorist attacks. Leaders within government and the private sector are continually enhancing the resilience of this financial infrastructure. Americans and, indeed, the world can have confidence that the financial infrastructure of the United States is better prepared than ever to handle man-made or natural disruptions.

In the event of an increase in the threat level, the Department of the Treasury communicates regularly with the other Federal financial regulators regarding the situation and whether additional actions are necessary. In addition to these communications, Treasury and other Federal and State financial regulators, working in close cooperation with the Department of Homeland Security and the private sector, have:

—Identified the payments, custodial, clearing, exchange, banking, trading, and other financial institutions that are most critical to our financial infrastructure.

—Arranged for expert assessments of physical and cyber-vulnerabilities in critical financial institutions.

—Arranged for critical financial institutions to have access to priority telecommunications services—both land-based and wireless—to help their voice and data communications get through during times of crisis.

—Assisted in coordinating the protective response of State and local authorities with critical financial institutions.

—Arranged for additional physical protection of critical financial institutions, consistent with available protective resources and the available threat information.

—Established systems and procedures that enable the Federal financial regulators to communicate among themselves and with the private sector during times of crisis as well as in advance to mitigate risks to the financial infrastructure.

—Promoted industry measures that maintain crucial financial communications among private sector participants.

—Conducted numerous tests, drills, and exercises to ensure that back up systems work and to ensure that financial professionals know what to do in times of either a heightened alert or an actual attack.

—Worked with the Financial Services Information Sharing and Analysis Center (FS–ISAC) to develop a more inclusive next-generation FS–ISAC business model that embraces all elements of the financial sector. The Treasury also acquired nearly $2 million in services from the FS–ISAC, which had the added benefit of making the next-generation FS–ISAC a reality. This next-generation FS–ISAC now delivers integrated physical and cyber alert information to Treasury and to thousands of financial institutions and provides a secure, confidential platform to help financial institutions respond to potential or actual disruptions.

—Issued updated guidance on business continuity planning, including benchmarks for systemically critical payments and clearing organizations.

—Enhanced the security of the government's critical financial functions, including: borrowing money; making payments—including social security payments; and raising revenue through the Internal Revenue Service.

—Documented lessons learned by consumers, financial institutions, and government agencies in fighting the recent, dramatic rise in phishing attacks so that other consumers, financial institutions, and agencies could benefit from their experience.

—Established a plan for working with the telecommunications, energy, information technology, and transportation sectors to address vulnerabilities introduced into the financial sector by interdependencies with these other sectors.

—At the customer level, through the Office of Critical Infrastructure Protection, the Treasury leads administration efforts to improve policies and efforts to improve the security of personal financial information, particularly through efforts to fight identity theft. The Fair and Accurate Credit Transactions Act of 2003,

and its implementation this year, are examples of how the Treasury has worked closely with Congress in this effort.

In addition to these government activities, the private sector, with encouragement from and in cooperation with the Treasury, has taken important actions to protect the critical financial infrastructure. For example, the private sector has:

—Greatly reduced single points of failure in the telecommunications infrastructure that supports the most critical financial institutions by, for example, establishing private, self-healing fiber-optic telecommunications circuits over alternative pathways.

—Established improved business continuity plans.

—Developed security guidelines for institutions of different sizes and locations to follow in response to changing threat levels.

—Created new backup facilities at greater distance from their primary operations centers.

—In many cases, geographically dispersed executive and operational leadership.

Question. Please provide an update to the committee on the Department's efforts to meet its staffing divestiture goals as they relate to the final FTE transfers to the Department of Homeland Security.

Answer. For a complete response, please see the attached report (as required by House Report 108–243) that the Department submitted to the Congress on June 3, 2004.

[CLERK'S NOTE.—The documents referred to have been retained in Committee files.]

Question. The committee viewed the additional funding of 60 positions in fiscal year 2004 as stopgap funding during the transition of deployment of personnel from Treasury to the new Homeland Security Department. The Treasury Department's fiscal year 2005 budget proposes permanent funding in the Departmental Offices base for the foreseeable future. The committee had requested a report on the status of reducing the remaining FTE, which were not reduced by the beginning of fiscal year 2004 as planned. What is the status of this important report?

Answer. The report was submitted to the House and Senate Appropriations committees on June 3, 2004.

Question. Is the original goal of transferring 226 FTE to Homeland no longer valid?

Answer. For a complete response, please see the attached report (as required by Senate Report 108–146) that the Department submitted to the Congress on June 3, 2004.

[CLERK'S NOTE.—The documents referred to have been retained in Committee files.]

Question. Has DHS communicated that they can now operate at the lower level and will require no further transfers from Treasury?

Answer. DHS has not communicated the need for additional resources.

Question. Has Treasury sought any technical assistance in reviewing its secure IT systems from any private entity or government agency? What entity or agency? What is the status of the review? If the review is concluded, what corrective actions were taken? What has Treasury done to address the concerns raised by the IG related to Departmental Offices computer system vulnerabilities?

Answer. The Department of the Treasury has sought and received technical and administrative assistance from private entities. Booz Allen Hamilton, Inc. (BAH) and SRA International, Inc. have performed FISMA/Critical Infrastructure Protection (CIP) reviews of the security practices at the Departmental Offices (DO). Based on initial reviews, Treasury has already completed, or is in the process of completing, the following:

—Conducted appropriate IT security training and awareness sessions.

—Implemented applicable security policies and compliance programs.

—Established a DO Computer Security Incident Response Center (CSIRC), reporting to Treasury's CSIRC.

—Assessing and validating DO system applications inventory and conducting associated risk assessments and Certification and Accreditations (C&As), as necessary.

Question. Does the Department have a fully operational COOP plan? Does the Department have what it needs to implement and operate their plan?

Answer. The Department does have a fully operational COOP plan; however, there are still improvements required as identified in last year's GAO audit. In addition, as a result of lessons learned from the most recent FEMA exercise, Forward Challenge 2004, Treasury has identified other areas that require attention and improvement. For instance, Treasury still needs more robust communications for inter-

operability at the alternate sites to support its essential functions for COOP as stated in the GAO audit and the Federal Preparedness Circular (FPC) 65.

Question. Please explain the policy, procedures and specific processes that Treasury applies to oversee and manage the Departmental Offices' resources (both FTE and dollars), including the salaries and expenses, DSCIP, and TBARR accounts.

Answer. DO's Office of Financial Management prepares monthly reports for all appropriations that track both funding balances and FTE utilization. These reports are provided to the Assistant Secretary for Management, as well as office officials so that they can monitor their spending and make program decisions based on accounting reports. In addition, policies and procedures are in place for internal control purposes. At present, Management staff is reviewing, and updating as needed, all Departmental Office Orders and policies. We are also working with our policy offices to ensure that key department-wide directives are current. Our goal is to provide clear, transparent documentation and guidance to support optimal performance and decentralized oversight where possible—working together with all DO offices to maintain and observe proper financial and budgetary controls.

DSCIP

Question. How much does Treasury currently spend on Information Assurance? What IT security and functionality issues will the request in fiscal year 2005 provide that currently do not exist?

Answer. Treasury supports internal cyber Critical Infrastructure Protection (CIP), bureau Federal Information Security Management Act (FISMA) program reviews, President's Management Agenda (PMA), and Public Key Infrastructure (PKI) policy management through the Department-wide Systems and Capital Investment programs (DSCIP) account. The $1 million requested for Information Assurance in fiscal year 2005 will build on the work being done in these areas to specifically address the assurance of secure internet communications with the Department, preventing cyber attacks and protecting against identity theft in key information systems.

The fiscal year 2005 request provides for an automated Department-wide Patch Management and Verification Process. Treasury currently utilizes manual intensive processes to address its computer vulnerabilities from a reactive mode. The fiscal year 2005 request will be used to support the planning and implementation of this network security functionality as well as asset identification, protection and interdependency analysis.

Question. The fiscal year 2005 budget requests $1 million for Operational Security. How was this program funded in the past? What added functionality will $1 million provide? Please provide the committee a detailed breakout and a spending plan for this request.

Answer. The fiscal year 2005 funding request of $1 million provides for the implementation of a cohesive and comprehensive Security program for Treasury's Headquarters offices, including the Office of the Secretary and Policy Offices. Treasury's Headquarters offices have been without a formal IT security program for a number of years. This has been described by the Treasury Inspector General as a continuing material weakness and must be addressed.

Efforts to address security training and awareness are a priority. The request of $1 million will provide for the following:

—Issuance of policy and procedures ($100,000)
—Certification and Accreditation of applicable systems (19 Systems—$300,000)
—Project management ($100,000)
—Compliance monitoring ($150,000)
—Security Engineering and Network Services support ($350,000)

Question. The budget requests $1 million for Treasury Enterprise Architecture. Please provide a detailed justification for this request.

Answer. The request for $1 million is required to develop, validate, and begin implementation of a Treasury Enterprise Architecture (EA) management system. This funding requirement covers three functional areas in moving the Treasury EA to the end state "To Be" structure:

—*Enterprise Solutions—$500,000.*—Development of the business case and management plans for the implementation of the "To Be" consolidated infrastructure and Enterprise Architecture. It also includes contractor support to work with Treasury Bureaus in the identification of three to four enterprise solutions where Treasury can gain efficiencies. Currently, Treasury has identified office automation, telecommunications, and infrastructure as focus areas for possible cost avoidance/savings. Funding provided in this area will allow Treasury to "drill down" in each of these areas in the development of the EA.

—*Reusable Components—$300,000.*—Funding is required for contractor support to identify and capitalize on opportunities to achieve economies of scale and leverage the collective buying power of the Department. Several Treasury Bureaus support the President's Management Agenda e-Government initiatives; however, managing IT activities from an enterprise level requires refinement and streamlining with the Federal e-Government managing partner. Bureaus are funding investments that overlap with one or more of the 24 Federal e-Government Initiatives to which the Department is already contributing. This requested funding supports the development of three to four reusable service components business cases and plans for implementation, transition plans, standard profiles, and elimination of duplicated e-Government services.

—*Federal EA (FEA) Reference Models—$200,000.*—Funding is required for contractor support to develop the OMB FEA reference models. The FEA is constructed through a collection of interrelated "reference models" designed to facilitate agency analysis and the identification of duplicative investments, gaps, and opportunities for collaboration within and across the Federal Government. The models are the Performance Reference Model (PRM), the Business Reference Model (BRM), the Service Reference Model (SRM) and the Data and Information Reference Model (DRM). Completing these models facilitated the improvement in the Treasury Capital Investment Program. The data from these reference models will be incorporated into our portfolio management system. Development of these model works to ensure that the budget is allocated per Treasury priorities and key initiatives during the IT portfolio management process.

OFFICE OF TERRORISM AND FINANCIAL INTELLIGENCE

Question. Please provide a detailed breakout of the total numbers of FTEs available to the organization, including all appropriated and non-appropriated funds from Departmental Offices, any other Treasury bureau funding, and any funding from another Federal agency that supports this office.

Answer. Complete details of total FTE have not yet been finalized; however, Treasury anticipates that the Office of Terrorism and Financial Intelligence will oversee a staff of approximately 203 employees. These FTEs are our current estimate; however, the numbers could change once the leadership is in place. With the exception of staff detailed from the Financial Crimes Enforcement Network (FinCEN), no bureau funding will be used to fund this office, nor will other Federal agencies fund this office. This organization will consist primarily of pre-existing offices that include the Executive Office for Terrorist Financing and Financial Crimes (EOTF/FC), the Treasury Executive Office of Asset Forfeiture (TEOAF), Office of Foreign Assets Control (OFAC), the Financial Crimes Enforcement Network (FinCEN) and the Office of Intelligence Support (OIS). The fiscal year 2005 FTE breakdown for those offices that will fall under the TFI umbrella is as follows:

Office	FTE
Under Secretary [1]	8
TFI (includes EOTF/FC and OIS) [1]	58
TEOAF	17
OFAC	120
Subtotal Departmental Offices	203
FinCEN [2]	292
TOTAL	495

[1] Includes funding and FTE request from the Deputy Secretary that is currently under consideration by the Appropriations Committees.
[2] FinCEN's 292 FTE include 1 reimbursable.

Question. Will the redirection of scarce resources from OFAC and FinCEN affect those organizations' ability to accomplish actual work fighting the war on terrorism?

Answer. The small number of detailees from OFAC and FinCEN should have a minimal effect on those agencies' ability to accomplish their missions. Indeed, the detailing of these officers should yield closer coordination among OIA and OFAC and FinCEN, ensuring that the Department focuses on its highest priorities and allows it to move scarce resources across priority targets.

Question. Deputy Secretary Bodman indicated in his testimony before the Senate Banking Committee that the Department will provide up to $2 million from other areas to fund this office in fiscal year 2004. Please provide a detailed breakout of where these resources will be derived from.

Answer. Since October 2003, many offices have experienced attrition and the dollars saved during the process of filling those positions will be used to start up this new office. Offices with the employee turnover that generated the funds are:

Office	Salary Savings Generated from Turnover
Executive Direction Offices	$324,000
Tax Policy	270,000
Domestic Finance	112,000
Economic Policy	182,000
International Affairs	518,000
Treasury-Wide Management and Administration	575,000
Total	1,981,000

Question. In Treasury's press release of March 8, the Department announced the creation of the Office of Terrorism and Financial Intelligence. How will the Department fund this office? When?

Answer. Start-up costs in fiscal year 2004 will be derived from salary savings in offices that have experienced employee turnover since the beginning of the fiscal year and a hiring freeze which has been in place since May. Once approved by the committee, funding will be programmed to the office on an as-needed basis, which will occur as the new office is staffed.

Question. The fiscal year 2005 request does not provide funding for this new office. How much will it cost to staff and run this office in fiscal year 2005?

Answer. The estimated additional cost for staffing and running this new office is approximately $4.6 million.

Question. What is the vision for this office in 2 years? In 5 years?

Answer. The establishment of TFI will bring together Treasury's intelligence, regulatory, law enforcement, sanctions, and policy components, and enhance Treasury's efforts. As well, the new Office of Intelligence and Analysis (OIA) will address one of the longstanding issues identified in the Department of the Treasury, which is a lack of an integrated intelligence function that supports the Department and is linked directly into the Intelligence Community. Two primary functions are provided with the addition of OIA.

The Department of the Treasury needs actionable intelligence that can be used to exercise its legal authorities under all or portions of such acts as the International Emergency Economic Powers Act (IEEPA), USA PATRIOT Act, the Bank Secrecy Act, the Drug Kingpin Act, and Trading with the Enemy Act. Analytical products from the intelligence community are largely intended to inform policymakers rather than taking action. They also tend to be highly classified, whereas Treasury often needs to use the lowest classification possible to use such material openly to press foreign governments or in evidentiary packages.

OIA will also provide intelligence support to other senior Treasury officials on a wide range of other international economic and political issues of concern to the Department. Subsuming the functions of the current Office of Intelligence Support, OIA will continue to review incoming raw and finished intelligence from other agencies, and then select relevant items for senior officials. The intelligence advisors will also drive collection by drafting requirements for the intelligence agencies to ensure that Treasury's information needs are met. Moreover, they will continue to serve in a liaison capacity with the intelligence community and represent the Department in various intelligence-related activities.

The Treasury Department is following a staged approach in the creation of TFI. This will ensure that the office will be able to work towards its short term goals while strengthening its capabilities and accomplishing its mission over the long term.

Question. What specifically will this office do that is not already being done by the United States Government?

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Question. What enhanced ability will this office give the Department?

Answer. The creation of TFI will increase Treasury's efforts in several ways. The combined use of intelligence and financial data is the best way to detect how terrorists are exploiting the financial system and to design methods to stop them. By coordinating Treasury's intelligence functions and capabilities, TFI will benefit from enhanced analytical capabilities, as well as additional expertise and technology. Second, the USA PATRIOT Act gave the Department important new tools to detect and prevent the abuse of our financial system by terrorists and other criminals. TFI will coordinate Treasury's aggressive effort to enforce these regulations. Third, we have forged a strong international coalition to combat terrorist financing. The ongoing, cooperative efforts between the United States and our international partners are at unprecedented levels. The unified structure will promote a robust international engagement and allow us to intensify outreach to our counterparts in other countries. Finally, having a single office is the best way to ensure accountability and achieve results for this essential mission.

Question. What functionality will this provide the U.S. Government that does not currently exist?

Answer. The establishment of TFI will bring together Treasury's intelligence, regulatory, law enforcement, sanctions, and policy components, and enhance Treasury's efforts. As well, the new Office of Intelligence and Analysis (OIA) will address one of the longstanding issues identified in the Department of the Treasury, which is a lack of an integrated intelligence function that supports the Department and is linked directly into the Intelligence Community. Two primary functions are provided with the addition of OIA.

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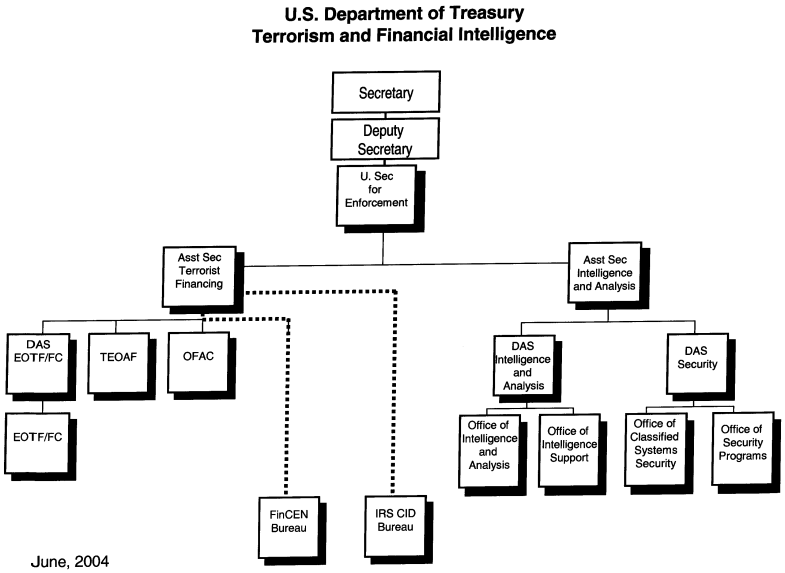
Question. Please provide an organizational chart for the proposed office.

Answer. Please see the attached organizational chart.



Question. Please provide the committee with the number of detailees from OFAC, FinCEN and other agencies that are expected to support the new office.

Answer. To date, the Office of Intelligence Analysis has two employees detailed from OFAC, two detailed from FinCEN, and one detailed from CIA. Additional detailees have not yet been determined.

Question. When will the detailees be returned to their parent agencies?

Answer. They are currently on a 6-month detail. We will review the arrangement after the 6-month period is over. They can either renew their detail agreement or return to their home agencies.

Question. Who will have day to day oversight of these employees?

Answer. Those four officers are supervised by the Deputy Assistant Secretary for Intelligence and Analysis.

Question. How many FTE and budget resources will be realigned from Departmental offices (excluding OFAC)?

Answer. Approximately 27 FTEs will be realigned from DO in fiscal year 2005.

Question. What other offices within the Department will be merged into this new structure?

Answer. This structure will include the Executive Office for Terrorist Financing and Financial Crimes (EOTF/FC), the Treasury Executive Office of Asset Forfeiture (TEOAF), Office of Foreign Assets Control (OFAC), and the Office of Intelligence Support (OIS). There is always the possibility that other resources and synergies within Treasury can be found to amplify the efforts of TFI.

Question. If this office is critical, will the Department send up a budget amendment to realign its internal resources to fund this new office?

Answer. The administration does not intend to send up a budget amendment. In order to provide our perspective on the appropriate fiscal year 2005 funding levels, on June 25, 2004, the Treasury Department submitted a revised funding structure reflecting changes made to the DO account that can be viewed as an amendment to the Budget Justifications that we submitted to the committee in February 2004.

Question. How many FTEs, funded or detailed, are proposed to work in this office by the end of fiscal year 2004? Please break out the numbers between the responsibilities of the two assistant secretaries.

Answer. By the end of the fiscal year, the Department hopes to have 191 employees in the new office. The estimated breakdown is as follows:

Office	FTE
Under Secretary	6
TFI (includes EOTFFC and OIS)	48
OFAC	120
TEOAF	17
Subtotal Departmental Offices	191
FinCEN	292
Total	483

Question. Please provide a detailed explanation of the roles and responsibilities of each of the new assistant secretaries.

Answer. The Office of the Assistant Secretary for Intelligence and Analysis (OIA) will be responsible for developing a robust analytical capability on terrorist financing. The office will draft actionable intelligence to support Treasury's efforts to exercise its legal authorities, including the USA PATRIOT Act, the International Emergency Economic Powers Act (IEEPA), the Drug Kingpin Act, the Bank Secrecy Act, and Trading with the Enemy Act. It will provide intelligence support to other senior Treasury officials on a wide range of international economic and political issues of concern to the Department. The Assistant Secretary for Intelligence and Analysis will serve as the Senior Official of the Intelligence Community (SOIC) and represent the Department in intelligence community fora, such as the National Foreign Intelligence Board committees and the Community Management Staff. Moreover, the Assistant Secretary will be responsible for managing the Department's security functions, including information security, personnel security, industrial security, physical security, and counterintelligence.

The overall purpose of OIA is to ensure that the Treasury Department properly exploits the vast pools of financial data already collected by the Department and combines that data with the relevant intelligence collected by the intelligence community to create strategic and actionable financial intelligence and analysis to support Treasury's mission and authorities. For example, this analysis will be used to designate individuals under Presidential Executive Orders, target corrupt foreign financial institutions under Section 311 of the USA PATRIOT Act, guide regulatory policies and compliance, and direct strategic international engagement to set appropriate standards to safeguard the international financial system. OIA's priorities include identifying and attacking the financial infrastructure of terrorist groups; identifying and addressing vulnerabilities that may be exploited by terrorists and criminals in domestic and international financial systems; and promoting stronger relationships with our partners in the United States and around the world. A key long-term goal will be to ensure Treasury's full integration into the intelligence community, and ensure that the Secretary's economic and financial responsibilities are supported fully by the intelligence community.

OIA is already responding to Treasury's urgent short-term needs. A small team of analysts has already begun to closely monitor and review current intelligence threat reporting. These analysts sit together in secure space in the Main Treasury building and ensure that Treasury can track, analyze possible financial angles, and then refer their analysis to relevant Treasury and U.S. government components for appropriate action. In the near term, the Treasury Department plans to develop its analytical capability through OIA in untapped areas, such as strategic targeting of terrorist financial networks as well as analyzing trends and patterns and non-traditional targets such as hawalas and couriers.

The Office of the Assistant Secretary for Terrorist Financing (OTF) builds on the functions that have been underway at Treasury over the past year by developing, organizing, and implementing U.S. government strategies to combat terrorist financing and financial crime, both internationally and domestically. This office is the pol-

icy and outreach apparatus for the Treasury Department on the issues of terrorist financing, money laundering, financial crime, and sanctions. The Assistant Secretary is responsible for coordinating with other elements of the U.S. government, including law enforcement, and for working with the Federal regulatory agencies, both those within the Treasury Department such as the OCC and OTS and those outside such as the Federal Reserve, SEC and CFTC to ensure effective supervision for BSA and USA PATRIOT Act compliance.

OTF will be the primary office responsible for formulating Treasury Department counter-terrorist financing and anti-money laundering policies and implementing Treasury's related regulatory, sanctions, and enforcement programs and authorities. These functions include the administration, implementation, and enforcement of Presidential Executive Orders, in particular, those related to the freezing of terrorist assets, as well as the administration and safeguarding of the Bank Secrecy Act, as expanded by the USA PATRIOT Act.

In addition, OTF is responsible for integrating FinCEN, OFAC and TEOAF into these efforts. FinCEN provides a government-wide, multi-source intelligence and analytical network designed to support money laundering and other financial crime investigations, and it ensures the quality of the information it administers through outreach and regulatory action performed in the course of its administration of the BSA. OFAC has long administered and enforced economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries, foreign terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction. TEOAF provides oversight and management of Treasury's nationwide forfeiture program and the Treasury Forfeiture Fund. OTF also works in close partnership with IRS–CI to enforce terrorist financing, money laundering, and BSA laws.

OTF leads and coordinates the U.S. representation at international bodies dedicated to fighting terrorist financing and financial crime such as the Financial Action Task Force (FATF) and increases our multilateral and bilateral efforts in this field. This office creates global solutions to evolving international problems, attack financial crime and safeguard the financial system by advancing international standards, conduct assessments, provide technical assistance, and apply protective countermeasures against high-risk foreign jurisdictions and financial institutions. Bilaterally, OTF works with foreign finance ministries—such as the Russian Finance Ministry—to craft strategies to jointly attack terrorist financing both globally and within specific regions, and with foreign financial intelligence units to establish special channels of information exchange.

Question. Has the Department detailed FTE or expended funds from the Office of Foreign Assets Control? If there is a legal opinion related to this action, please provide such to the committee.

Answer. As noted above, the Department has detailed two officers from OFAC. Treasury asked its attorneys to review the draft documentation for establishing the non-reimbursable details of two OFAC employees to the Office of Intelligence and Analysis in the Departmental Offices for a period of up to 6 months. That documentation explained that the two employees would provide OFAC with relevant financial intelligence, targets and leads that would be the basis for further analytical work to be performed by OFAC, and that this work directly furthers OFAC's mission by permitting the analysts to assist in the coordination of financial intelligence research and analysis on a Department-wide basis. On the basis of this information, the attorneys expressed no legal objection to the details. No formal legal opinion was issued.

Question. Will all intelligence related to terrorist financing resident in the CIA, FBI, and Homeland Security become a part of this office? If not, why not?

Answer. The Office of Intelligence and Analysis will draw intelligence reporting from the CIA, FBI, and DHS to produce its own analytical products in support of Treasury's mission. It is also in daily contact with its interagency counterparts regarding threat reporting and other counterterrorism issues.

Question. How will the functions of this office differ from the Foreign Terror Asset Tracking Group (FTAT–G)?

Answer. We are in the process of evaluating how OIA and the FTAT–G will interact to ensure no overlap arises.

Question. How will it differ from the Terror Threat Integration Center (T–TIC)?

Answer. TTIC has the primary responsibility in the United States for terrorism threat analysis and is responsible for the day-to-day terrorism analysis provided to the President and senior policymakers. OIA differs from TTIC in that it will focus primarily on the financial angle of counterterrorism issues. It will also specifically support Treasury's authorities and its relations with foreign counterparts.

Question. Who will be the lead agency in overseas technical assistance that assists countries in learning about how to stop terrorists from using financial systems?

Answer. The Treasury Department will continue to provide technical assistance to countries around the world to help build anti-money laundering and counter-terrorist financing capacity. The State Department leads the coordination of terrorist financing-related training efforts with the interagency Terrorist Financing Working Group (TFWG). The Treasury Department participates actively in TFWG.

Question. Regarding intelligence gathering efforts, if the Department is currently obtaining intelligence on these issues, how it is being used to accomplish its mission?

Answer. The Treasury Department uses intelligence for several purposes. Most significantly, we use the information to develop the legal basis to impose economic sanctions, ranging from a designation to designate a primary money laundering concern under Section 311 of the USA PATRIOT Act to action under E.O. 13224. Intelligence information is used to develop strategic direction, e.g., determining countries that are vulnerable to exploitation by terrorists and, therefore, priorities for technical assistance or diplomatic outreach.

Within the Treasury Department, it can be used to designate a terrorist or narcotrafficker and it may be used to support an action for failure to comply with a designation, e.g., information may be provided to the FBI to support an investigation for providing support to a designated party—a criminal violation. It can be used to determine a primary money laundering concern or shared with a State or local law enforcement agency investigating a drug crime. It may be used by the Office of Critical Infrastructure Protection and Compliance Policy to evaluate a threat to the Treasury. Moreover, it may be used by the Office of the Under Secretary for Domestic Finance to identify vulnerabilities within the financial services industry's critical infrastructure that could be exploited. And, as previously discussed, it may be used by my senior staff and me as background for bilaterals with our foreign government colleagues.

Question. Is this information coming from the intelligence community and law enforcement?

Answer. Treasury receives information from the intelligence community and law enforcement, but also from our own analysis of information provided directly to Treasury under the Bank Secrecy Act, e.g., Suspicious Activity Reports (SARs) filed with the Financial Crimes Enforcement Network.

Question. What intelligence is Treasury providing that the Intelligence Community does not already have access to?

Answer. Information from the Bank Secrecy Act, such as Suspicious Activity Reports, and OFAC-related information from the banking community is managed by Treasury and is available to the intelligence community. The discussion of specific information available to the intelligence community is best left for a classified forum.

TERRORIST FINANCING

Question. Is Treasury considered the finance ministry of the U.S. Government?

Answer. Yes.

Question. Who has primary jurisdiction over financial intelligence?

Answer. No one agency has primary jurisdiction over financial intelligence. Different agencies use financial intelligence to support their specific missions. For example, the intelligence and law enforcement agencies use their collection and analysis on terrorist financing to support their operations. While consolidating financial intelligence into one agency could enhance accountability for outcomes under the statutes that Treasury enforces, other agencies will need the function to support their own missions.

Question. Should Treasury be the home of the financial intelligence units in the U.S. Government?

Answer. The term "financial intelligence unit" is a term-of-art that refers to the entity within a government that is responsible for receiving, analyzing, and disseminating information derived from suspicious activity reports and other money laundering-related reports from the financial sector. The Financial Crimes Enforcement Network (FinCEN) serves as the financial intelligence unit for the United States. FinCEN is an integral part of the Department of the Treasury and substantially benefits from Treasury's unique relationship with the financial community, the law enforcement community and the regulatory community.

Question. Who is the Federal Government's lead agency in the war on terrorist financing?

Answer. There is no one agency that is the lead agency in the war on terrorist financing. Each participating agency has a unique mission. The Treasury Department has the lead in safeguarding the integrity of the United States and international financial systems—including from abuse by terrorists and those who support them.

Treasury has expertise throughout the Department that stretches across the entire anti-money laundering/counter-terrorist financing (AML/CTF) spectrum and allows it to deal with complicated issues associated with the movement of money and assets in the United States and international financial system. All of these components give Treasury the necessary broad perspective to create and implement strategies to safeguard the financial system against abuse.

In its role safeguarding the financial systems both home and abroad, the Treasury Department utilizes numerous capabilities:

Sanctions and Administrative Powers.—Treasury wields a broad range of powerful economic sanctions and administrative powers to attack various forms of financial crime, including E.O. 13224 and Section 311 of the USA PATRIOT Act.

Law Enforcement and Law Enforcement Support.—Treasury combats various forms of financial crime through the direct law enforcement actions of IRS–CI and the law enforcement support provided by FinCEN and Treasury's regulatory authorities.

Financial Regulation and Supervision.—FinCEN administers the Bank Secrecy Act and issues and enforces AML/CTF regulations. Treasury further maintains close contact with the Federal financial supervisors—including the Treasury Department's Office of the Comptroller of the Currency and Office of Thrift Supervision—with the goal of ensuring that these regulations are being implemented consistently throughout the financial sectors. In addition, OFAC administers and enforces the various economic sanctions and restrictions imposed by statute and under the Secretary's delegated IEEPA authority.

International Initiatives.—The Treasury Department is part of and has access to an extensive international network of Finance Ministries and Finance Ministry-related bodies such as the Financial Action Task Force (FATF) and various FATF-Style Regional Bodies, the International Monetary Fund (IMF), the World Bank, the G–7, and various multilateral development banks. In addition, Treasury is the critical facilitator for the international relationship between financial intelligence units organized through the Egmont Group.

Private Sector Outreach.—As a result of our traditional role in safeguarding the financial system, Treasury has developed a unique partnership with the private sector. Through outreach programs such as the Bank Secrecy Act Advisory Group (BSAAG) and other regulatory and educational seminars and programs, Treasury maintains a close relationship with U.S. financial institutions to ensure a smooth exchange of information related to money laundering and terrorist financing. Treasury also maintains a close dialogue with the charitable sector to help it address its vulnerabilities to terrorist financing.

The Office of Terrorism and Financial Intelligence (TFI) brings together Treasury's intelligence, regulatory, law enforcement, sanctions, and policy components, and enhances Treasury's efforts in combating terrorist financing and financial crime. TFI will work in coordination with its partners in the interagency community to ensure that its efforts complement and augment the important initiatives already underway.

Question. What other agencies or departments are engaged in Treasury-related functions in terrorist financing?

Answer. Treasury works with many agencies on terrorist-financing matters. In fact, E.O. 13224 requires Treasury to consult with the Department of Justice, Department of State, and Department of Homeland Security in making designation decisions. Treasury also ensures that our activities are part of a coordinated government approach. To that end, we also work with the Central Intelligence Agency, Department of Defense, and National Security Agency.

Question. What is the cost and how much duplication is created when other agencies and departments engage in Treasury's responsibilities?

Answer. Each agency brings its own expertise, jurisdictions, and capabilities to the tasks at large. This expertise is used to the advantage of our overall efforts in the war against terrorist financing. As long as there is effective coordination and collaboration, we maximize efficiency and minimize cost and duplication.

Question. If there were a consolidation into one unit, would that allow the different agencies to focus on their core responsibilities and save resources to do more against terrorism?

Answer. Treasury has no reason to believe that other agencies are not currently focusing on their core responsibilities.

Question. Why was Treasury removed as the lead of the President's Coordinating Committee on terrorist financing?

Answer. Reflecting the high importance that the White House places on this issue, the National Security Council (NSC) currently chairs the Policy Coordinating Committee (PCC) on Terrorist Financing. Treasury continues to play an important role on the PCC. The purpose of the PCC has always been to coordinate the policy direction and actions of the U.S. Government related to terrorist financing. As chair, we may have had administrative responsibilities and shared a useful tool in this campaign. As chair, we often found ourselves driving the process by our readiness to take one action—forcing discussion on other options that, on many occasions, were more appropriate for the government to pursue. As a participant, we continue to bring a useful tool to the campaign and, as before, find ourselves fostering discussions through our readiness to act, but being responsive to other methods for accomplishing the ultimate goal—severing the link between a source of money and some willing and able to commit an act of terrorism.

Question. Should Treasury be the lead on all matters related to terror financing?

Answer. The Treasury Department has the lead in safeguarding the integrity of the United States and international financial systems—including from abuse by terrorists and those who support them.

Treasury has expertise throughout the Department that stretches across the entire anti-money laundering/counter-terrorist financing (AML/CTF) spectrum and allows it to deal with complicated issues associated with the movement of money and assets in the United States and international financial system. All of these components give Treasury the necessary broad perspective to create and implement strategies to safeguard the financial system against abuse.

In its role safeguarding the financial systems both home and abroad, the Treasury Department utilizes numerous capabilities:

Sanctions and Administrative Powers.—Treasury wields a broad range of powerful economic sanctions and administrative powers to attack various forms of financial crime, including E.O. 13224 and Section 311 of the USA PATRIOT Act.

Law Enforcement and Law Enforcement Support.—Treasury combats various forms of financial crime through the direct law enforcement actions of IRS–CI and the law enforcement support provided by FinCEN and Treasury's regulatory authorities.

Financial Regulation and Supervision.—FinCEN administers the Bank Secrecy Act and issues and enforces AML/CTF regulations. Treasury further maintains close contact with the Federal financial supervisors—including the Treasury Department's Office of the Comptroller of the Currency and Office of Thrift Supervision—with the goal of ensuring that these regulations are being implemented consistently throughout the financial sectors. In addition, OFAC administers and enforces the various economic sanctions and restrictions imposed by statute and under the Secretary's delegated IEEPA authority.

International Initiatives.—The Treasury Department is part of and has access to an extensive international network of Finance Ministries and Finance Ministry-related bodies such as the Financial Action Task Force (FATF) and various FATF-Style Regional Bodies, the International Monetary Fund (IMF), the World Bank, the G–7, and various multilateral development banks. In addition, Treasury is the critical facilitator for the international relationship between financial intelligence units organized through the Egmont Group.

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The Office of Terrorism and Financial Intelligence (TFI) brings together Treasury's intelligence, regulatory, law enforcement, sanctions, and policy components, and enhances Treasury's efforts in combating terrorist financing and financial crime. TFI will work with its partners in the interagency community to ensure that its efforts complement and augment the important initiatives already underway.

Treasury has a central role to play in the overall fight against terrorist financing due to our unique responsibilities and position within the government and with respect to the financial sector. Of course, many agencies have important roles to play and have the lead in their specific areas of expertise. The FBI, for example, has the lead in terrorist financing investigations. This does not diminish from Treasury's role or responsibilities.

Question. Has Treasury's role on the PCC for Terrorist Financing changed since being replaced as the chair?

Answer. Treasury continues to play an important role on the PCC. The purpose of the PCC has always been to coordinate the policy direction and actions of the U.S. government related to terrorist financing. As chair, we may have had administrative responsibilities and shared a useful tool in this campaign. As chair, we often found ourselves driving the process by our readiness to take one action—forcing discussion on other options that, on many occasions, were more appropriate for the government to pursue. As a participant, we continue to bring a useful tool to the campaign and, as before, find ourselves fostering discussions through our readiness to act, but being responsive to other methods for accomplishing the ultimate goal—severing the link between a source of money and some willing and able to commit an act of terrorism.

Question. The Secretary indicated in his testimony before the subcommittee that there are clear lines of responsibility between Treasury and Homeland. Please provide a detailed description of the responsibilities of both Departments as they relate specifically to terrorist financing. Please include any Memorandum of Understanding or relevant documents for the record. Please also differentiate the role of Cornerstone from the Department's role.

Answer. The most fundamental responsibility of the Treasury Department is the safeguarding of the soundness and integrity of the United States and international financial systems. Treasury meets this responsibility through a wide range of programs, ranging from domestic regulatory actions to far-reaching international initiatives through the International Monetary Fund, participation in multilateral groups such as the Financial Action Task Force and the World Bank. Each of these programs benefits from the historic, deep and ongoing relationship that Treasury maintains with the U.S. financial community and our support for law enforcement investigative initiatives through financial powers unique to the Department of the Treasury.

Of course, a vital component of our overall efforts is the protection of the U.S. financial system from abuse by terrorist financiers, money launderers and other financial criminals. Central to these efforts are such Treasury components as the Executive Office for Terrorist Financing and Financial Crimes (EOTF/FC), Office of Foreign Assets Control (OFAC), Financial Crimes Enforcement Network (FinCEN), the Treasury Executive Office of Asset Forfeiture (TEOAF) and the Office of Critical Infrastructure Protection and Compliance Policy, and will soon include the newly-established Office of Terrorism and Financial Intelligence. Each of these offices works closely with the U.S. law enforcement community—including the FBI, DEA, IRS–CI, U.S. Secret Service, U.S. Postal Inspection Service, and the Bureau of Immigration and Customs Enforcement (ICE)—to ensure that criminals seeking to use and abuse the U.S. financial system are identified and brought to justice.

FinCEN, as the administrator of the Bank Secrecy Act, ensures that information reported under that act is provided to law enforcement agencies such as the Bureau of Immigration and Customs Enforcement (ICE). In addition to making the fruits of this activity available to law enforcement, FinCEN also uses its analytical resources to mine the data to support existing law enforcement cases on request, as well as to proactively identify potential new cases for law enforcement. FinCEN provides guidance to industry to ensure that its regulatory efforts are directed at law enforcement concerns, and takes enforcement action as necessary to ensure that its regulations are being followed. In addition, FinCEN publishes a number of analytical products to help law enforcement understand the financial system and follow the money, and to help the financial industry improve its monitoring and reporting of suspicious activity. Finally, in the international context, FinCEN's relationship with its counterpart financial intelligence units provides tremendous information where funds are flowing into or out of the United States, and are available for appropriate use by ICE as well as all Federal law enforcement investigating financial crimes. A large portion of FinCEN's budget is devoted to developing and supporting its systems and analytical tools to assist and complement the financial investigatory effort of programs such as Cornerstone, which Treasury welcomes. We look forward to a continued close cooperation with ICE in our efforts to combat financial crimes.

Question. The Bureau of Immigration and Customs Enforcement (BICE) administers the Systematic Homeland Approach to Reducing Exploitation program (SHARE) where BICE will be joined by U.S. Secret Service to jointly conduct semi-annual meetings with members of the banking and trade communities impacted by money laundering, identity theft and other financial crime. There is no mention of Treasury in the DHS press announcement or on the web page.

Does Treasury participate in these meetings? If so, please provide the materials presented in the last meeting to the private sector.

Answer. We understand from DHS that there have been no meetings to date under the SHARE auspices.

Question. Why is BICE taking the lead when it comes to dealing with financial institutions? Isn't this Treasury's role? What information is DHS providing that Treasury doesn't?

Answer. The Treasury Department has the lead in protecting the integrity of the U.S. financial sector and in dealing with financial institutions. Treasury would welcome efforts by DHS to provide the financial community with information related to DHS enforcement issues. For example, the Secret Service plays an important role in the investigation of counterfeiting U.S. currency, credit card fraud and identity theft.

Question. Does FinCEN deliver BSA data to BICE? Is it a gross data transfer? Does BICE have data mining software that is similar to what FinCEN was created to do? If so, what functionality for the financial industry is FinCEN providing?

Answer. Under a legacy process in place when certain ICE agents were employees of the U.S. Customs Service and part of Treasury, FinCEN provided a direct download of BSA data into the Treasury Enforcement Communications System (TECS), which is now administered by the Department of Homeland Security. We are not familiar with ICE's current data mining tools.

FinCEN, as administrator of the BSA and as mandated in Section 361 of the USA PATRIOT Act, has the responsibility for communicating with the financial industry about BSA matters. In meeting this obligation, FinCEN:

—Participates in numerous conferences and seminars being held throughout the year across the country;
—Participates in compliance training workshops;
—Chairs and conducts regular meetings with the BSA Advisory Group and its subcommittees;
—Interacts on a daily basis with bank officials throughout the country regarding various aspects of BSA compliance;
—Conducts customer surveys;
—Produces publications such as the The Suspicious Activity Review, a semi-annual publication providing feedback and guidance to financial institutions on BSA reporting and anti-money laundering requirements; and
—Provides interaction with the financial institutions through its Regulatory Help Line, which handles more than 5,000 calls a year, and through website postings of regulations, guidance, comment letters and other regulatory-related materials.

Question. This sounds virtually identical to the mission of FinCEN and the Treasury Department. How are the two roles different?

Answer. The missions are quite distinct. FinCEN is responsible for administering the Bank Secrecy Act. In that role, FinCEN is ultimately responsible for the collection, maintenance, analysis and dissemination of information collected under that Act. FinCEN has a statutory mandate to provide feedback to the industry. FinCEN provides guidance to the financial industry to ensure that its regulatory efforts are directed at law enforcement concerns, and takes enforcement action as necessary to ensure that its regulations are being followed. In addition, FinCEN publishes a number of analytical products to help law enforcement understand the financial system and follow the money, and to help the financial industry improve its monitoring and reporting of suspicious activity. Finally, in the international context, FinCEN is the United States financial intelligence unit and is responsible for the Egmont secure web, providing the Egmont Group, an international collection of financial intelligence entities charged with the collection and analysis of financial information to help prevent money laundering and other illicit finance, with the ability to communicate with one another via secure e-mail, posting and assessing information regarding trends, analytical tools, and technological developments. Currently, 76 of the 94 countries are connected to the Egmont Secure Web. In this area, FinCEN is unique in that it supports all of U.S. law enforcement and assists all international Egmont partners.

Question. What provisions of the National Money Laundering Strategy does Treasury enforce?

Answer. The National Money Laundering Strategy is not an enforcement document, but rather a document setting forth the President's overarching goals in a variety of areas to identify and combat money laundering, terrorist financing and other financial crimes.

Question. Is this strategy essential to coordinating the government goals to fight money laundering?

Answer. The Department believes that the requirement of drafting a national Strategy has been beneficial in that it has required the principal U.S. government

anti-money laundering and anti-terrorist financing regulators and law enforcement investigators and prosecutors, as well as the intelligence community to discuss overarching goals and directions, as well as to identify trends and emerging threats. The resulting Strategies reflect those interagency discussions.

Question. Has the administration transmitted a reauthorization proposal to Congress regarding the National Money Laundering Strategy?

Answer. I am not aware of a formal submission.

Question. The Secretary also indicated in his testimony that the Treasury Department is the lead agency for interdicting the flows of terrorist financing in the financial system and that Homeland Security is only responsible for the protecting the physical structures, but not the financial system itself.

Is there any written understanding between the Department of Homeland Security and the Department of the Treasury that clearly delineates the roles of the two agencies?

Answer. There are no written procedures delineating respective roles.

Question. Is there an MOU or other document between Justice and Treasury that defines the roles and missions of each Department in terrorist financing? Please provide a copy of any written understandings.

Answer. I am not aware of an MOU.

Question. The Memorandum of Understanding between the Justice Department and Homeland Security Department that establishes the Federal Bureau of Investigation as the lead in all terrorist financing investigations. What is the role of Treasury in investigating terrorist financing investigations? Why is the Department excluded from an MOU where Treasury has a major stake in the decisions being made?

Answer. The MOU referenced was necessary to provide clarity of jurisdiction so as to ensure proper coordination of law enforcement investigations of terrorist financing. The Treasury Department's law enforcement and support entities (IRS–CID, FinCEN, and OFAC) support the FBI-led Joint Terrorism Task Forces (JTTFs) on terrorist financing investigations. We see no need for Treasury to have been a signatory to an MOU allocating responsibility for domestic operational investigations of terrorist financing between the FBI and ICE.

Question. Who is the agency primarily responsible for safeguarding the integrity of America's financial systems?

Answer. The most fundamental responsibility of the Treasury Department is the safeguarding of the soundness and integrity of the United States and international financial systems. Treasury meets this responsibility through a wide range of programs, ranging from domestic regulatory actions to far-reaching international initiatives through the International Monetary Fund, participation in multilateral groups such as the Financial Action Task Force and the World Bank. Each of these programs benefits from the historic, deep and ongoing relationship that Treasury maintains with the U.S. financial community and our support for law enforcement investigative initiatives through financial powers unique to the Department of the Treasury. Although other agencies have primacy in the regulation of specific sectors of the U.S. financial system, no other agency has this overarching responsibility.

Of course, a vital component of our overall efforts is the protection of the U.S. financial system from abuse by terrorist financiers, money launderers and other financial criminals. Central to these efforts are such Treasury components as the Executive Office for Terrorist Financing and Financial Crimes (EOTF/FC), Office of Foreign Assets Control (OFAC), Financial Crimes Enforcement Network (FinCEN), the Treasury Executive Office of Asset Forfeiture (TEOAF) and the Office of Critical Infrastructure Protection and Compliance Policy, and will soon include the newly-established Office of Terrorism and Financial Intelligence. Each of these offices works closely with the U.S. law enforcement community—including the FBI, DEA, IRS–CI, U.S. Secret Service, U.S. Postal Inspection Service, and ICE—to ensure that criminals seeking to use and abuse the U.S. financial system are identified and brought to justice.

FinCEN, as the administrator of the Bank Secrecy Act, ensures that information reported under that act is provided to law enforcement agencies such as the Bureau of Immigration and Customs Enforcement. In addition to making the fruits of this activity available to law enforcement, FinCEN also uses its analytical resources to mine the data to support existing law enforcement cases on request, as well as to proactively identify potential new cases for law enforcement. FinCEN provides guidance to industry to ensure that its regulatory efforts are directed at law enforcement concerns, and takes enforcement action as necessary to ensure that its regulations are being followed. In addition, FinCEN publishes a number of analytical products to help law enforcement understand the financial system and follow the money, and to help the financial industry improve its monitoring and reporting of suspicious ac-

tivity. Finally, in the international context, FinCEN's relationship with its counterpart financial intelligence units provides tremendous information where funds are flowing into or out of the United States, and are available for appropriate use by ICE as well as all Federal law enforcement investigating financial crimes. A large portion of FinCEN's budget is devoted to developing and supporting its systems and analytical tools to assist and complement the financial investigatory effort of programs such as Cornerstone, which Treasury welcomes. We look forward to a continued close cooperation with ICE in our efforts to combat financial crimes.

Question. What agency is ultimately responsible for fighting the financial war on terrorism?

Answer. Several agencies work together in fighting the financial war on terrorism. The Treasury Department has the lead in safeguarding the integrity of the United States and international financial systems—including from abuse by terrorists and those who support them.

Treasury has expertise throughout the Department that stretches across the entire anti-money laundering/counter-terrorist financing (AML/CTF) spectrum and allows it to deal with complicated issues associated with the movement of money and assets in the United States and international financial system. All of these components give Treasury the necessary broad perspective to create and implement strategies to safeguard the financial system against abuse.

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Treasury has a central role to play in the overall fight against terrorist financing due to our unique responsibilities and position within the government and with respect to the financial sector. Of course, many agencies have important roles to play and have the lead in their specific areas of expertise. The FBI, for example, has the lead in terrorist financing investigations. This does not diminish from Treasury's role or responsibilities.

Question. Is all information shared with Treasury from the Foreign Terror Asset Tracking Group (FTAT–G)?

Answer. With respect to FTAT–G, the purpose of that entity is to provide a forum where the various agencies with what can be described as proprietary information

can work together, each bringing their separate "databases" of information to bear on tracking assets. This information is used to develop reports that are used by decision-makers. Treasury has participated in the FTAT–G and, as a result, has had an opportunity to review and comment on working drafts and receives copies of all the final reports they prepare.

Question. Does the Terror Threat Integration Center (T–TIC) clear all of its terrorist financing information with the Department?

Answer. With respect to the TTIC, Treasury will become a party to the MOU authorizing the sharing of appropriate threat information. Treasury components will identify what, if any, information it may have covered by the MOU and will share.

Question. With Treasury being the lead agency on terrorist financing, does all terror financing intelligence and investigations come through the Department? How? Does the Treasury Department coordinate these actions? How?

Answer. All terrorist financing investigations do not come through the Department of the Treasury, nor should they. Just like OFAC designations, criminal investigation and prosecution are tools available to the United States in its war against the financing of terror. The Department, through its participation on the PCC, shares and receives information needed to make informed decisions concerning which anti-terrorist financing tools to apply in given circumstances.

Question. Does the Department direct the actions or the resources that other agencies spend to fight terror financing?

Answer. Treasury does not have the authority to direct the resources of other agencies.

Question. Does the Department have any input on the resources that Homeland spends on Cornerstone, as an example?

Answer. No.

Question. According to the testimony of numerous witnesses, there seems to be a considerable amount of duplication in the Federal Government on the issue of terror financing. What agency is making the resource decisions in spending by Department on the amounts spent on terror financing? Does Treasury have any input in this process?

Answer. The Office of Management and Budget (OMB) coordinates spending decisions. Treasury, like all agencies, works with OMB on those decisions.

Question. Should there be an evaluation of the coordination and actions of these financial intelligence units? Is any agency doing this?

Answer. There are existing fora for coordinating the actions of our financial intelligence functions. The National Security Council (NSC) oversees this coordination. We continuously work with the NSC and OMB to maximize our efforts developing financial intelligence and will continue to do so in the future. Treasury is always studying how we can best improve our efforts to meet our responsibilities, both within this agency and in cooperation with our sister agencies.

The term "financial intelligence unit" is a term-of-art that refers to the entity within a government that is responsible for receiving, analyzing, and disseminating information derived from suspicious activity reports and other money laundering-related reports from the financial sector. The Financial Crimes Enforcement Network (FinCEN) serves as the financial intelligence unit for the United States. FinCEN is an integral part of the Department of the Treasury and substantially benefits from Treasury's unique relationship with the financial community, the law enforcement community and the regulatory community.

Question. If the resources were provided, could Treasury enforce its responsibilities under the Patriot Act, allowing the other agencies to focus on their core missions?

Answer. The Treasury Department believes that it is meeting its current USA PATRIOT Act responsibilities, but there is always more we can do. We have no reason to believe that other agencies are not focusing on their "core missions."

Question. What resources would be necessary?

Answer. The Treasury Department believes that it is meeting its current USA PATRIOT Act responsibilities, but there is always more we can do. We have no reason to believe that other agencies are not focusing on their "core missions."

Question. How will Treasury enforce the provisions of the USA PATRIOT Act it is responsible for?

Answer. Different components of the Department have differing "enforcement" responsibilities under both the BSA and the USA PATRIOT Act. For example, by virtue of a delegation order from the Secretary of the Treasury and an organic statute passed as part of the USA PATRIOT Act, FinCEN is charged with the responsibility of administering the regulatory regime of the BSA. In this capacity, among other things, FinCEN issues regulations and accompanying interpretive guidance; collects, analyzes and maintains the reports and information filed by financial institutions

pursuant to BSA regulations; makes those reports and information available to law enforcement and regulators; and ensures financial institution compliance with the regulations through enforcement actions. The USA PATRIOT Act both refined and extended FinCEN's focus in carrying out these responsibilities.

Amendments to the BSA by the USA PATRIOT Act sharpened FinCEN's responsibilities relating to the management of BSA information. For example, FinCEN designed and implemented the Patriot Act Communications System to provide a platform for electronically capturing at least 90 percent of all BSA reports, and built information sharing and dissemination systems required under Section 314. FinCEN is also undertaking the "BSA Direct" initiative to significantly upgrade mandated requirements to ensure that it secures this sensitive information and that it audits its use; that it "networks" disparate agencies accessing the information to ensure more robust investigation and to ensure that investigations do not overlap; and to collect and provide feedback and other information to the entities reporting the information—the financial industry—so that reporting can be better and more relevant for law enforcement.

The USA PATRIOT Act also extended FinCEN's regulatory responsibilities by accelerating expansion of BSA coverage to a broad range of new industries. Generally FinCEN's role involves such things as providing prompt BSA interpretive guidance to examiners, policy makers and the financial service industries, and ensuring the consistent application of the BSA regulations across industry lines, most notably through the rule making process and subsequent guidance. While FinCEN is responsible for ensuring compliance with the BSA regulatory regime, FinCEN does not itself examine financial institutions for compliance. Instead, FinCEN taps the resources and expertise of other Federal agencies and self-regulatory organizations by delegating to these agencies the responsibility for conducting compliance exams.

FinCEN does have an important role in supporting the examination regime created through these delegations. To enhance this role, FinCEN will create a new program office devoted solely to the BSA examination function. The new structure will consolidate all examination support functions and better enable FinCEN to provide the necessary support to regulatory agencies conducting BSA compliance exams. As an initial priority, FinCEN plans to focus on assisting the IRS in its examination function, particularly in light of the new regulations that FinCEN has and will issue to bring thousands of additional businesses under the BSA anti-money laundering program provision.

Since coordination among the functional regulators is essential for improving the overall compliance process, FinCEN will be working through the Bank Secrecy Act Advisory Group to identify, in coordination with the regulatory agencies, ways in which we can identify common compliance deficiencies, provide feedback and guidance to examiners, collaborate on a continuing basis on examination procedures, and engage in joint examiner training.

As part of our investigation of the current BSA regulatory system's ability to enforce industry compliance with provisions of the BSA, FinCEN is pursuing a number of initiatives to improve such compliance through enforcement and other actions, including: creating a new Examination Program Office; dedicating analytical resources to compliance support and examination targeting; allocating resources to provide interpretive guidance to examiners; reviewing enforcement referral guidelines and reporting requirements to FinCEN; and focusing on compliance by money service businesses.

FinCEN is also exploring ideas for enhanced coordination among the Federal regulators. These ideas include: identifying common compliance deficiencies; enhancing collaboration on examination procedures; and encouraging more joint examiner training. Treasury will work closely with FinCEN and the Federal regulators to develop these ideas and others as our investigation into the effectiveness of the current BSA compliance and enforcement system progresses.

Finally, FinCEN retains the authority to pursue civil enforcement actions against financial institutions for egregious non-compliance with the BSA and the implementing regulations. Under the BSA, FinCEN is empowered to assess civil monetary penalties against, or require corrective action by, a financial institution committing negligent or willful violations.

The IRS also has large BSA and USA PATRIOT Act enforcement responsibilities, both civilly and criminally. In addition to its primary jurisdiction, which is set forth in Title 26 of the United States Code (Internal Revenue Code), IRS–CI also has investigative jurisdiction involving other financial-related statutes. Beginning in 1970, Congress enacted a number of laws that led to greater participation by CI in the financial investigative environment. The Currency and Foreign Transactions Reporting Act of 1970 (Bank Secrecy Act); The Comprehensive Crime Control Act of 1984; The Anti-Drug Abuse Acts of 1986 and 1988; Crime Control Act of 1990; The An-

nunzio-Wylie Anti-Money Laundering Act of 1992; The Money Laundering Suppression Act of 1994; The Antiterrorism and Effective Death Penalty Act of 1996; The Health Insurance Portability and Accountability Act of 1996; and the USA PATRIOT Act of 2001 all developed and refined the existing anti-money laundering and anti-terrorism laws under Titles 31 and 18 of the United States Code.

Additionally, IRC, Section 6050 I, requires anyone involved in a trade or business, except financial institutions, to report currency received for goods or services in excess of $10,000 on a Form 8300.

The combination of tax, money laundering and Bank Secrecy Act statutes enables IRS to identify and investigate tax evasion cases involving legal and illegal income sources. Ultimately, this versatility leverages IRS's ability to be a major contributor to many important national law enforcement priorities.

Responsibility for ensuring compliance with the BSA and USA PATRIOT Act of all non-banking and financial institutions not otherwise subject to examination by another Federal functional regulator i.e., Money Service Businesses (MSBs), casinos and credit unions was delegated to the IRS by the Department of Treasury in December 1992. Under the delegation, IRS is responsible for three elements of compliance—the identification of MSBs, educational outreach to all three types of organizations, and the examination of these entities suspected of noncompliance. The IRS performs these compliance functions along with its criminal enforcement role.

The processing and warehousing of BSA documents into the Currency Banking and Retrieval System (CBRS), including FBARs[1], CTRs[2], 8300s[3] and SARs[4], are also the responsibility of the IRS. All documents entered into the CBRS (approximately 14 million annually) are made available to other law enforcement and regulatory agencies in addition to IRS. However, the IRS is the largest user of the CBRS.

To meet its obligations under 31 CFR 103.57(b) and Treasury Delegation Order 15–41 IRS ensures that certain financial institutions (FIs) are in compliance with their recordkeeping and reporting requirements under the Bank Secrecy Act.

This is accomplished by a balanced civil and criminal program that includes:

—identifying financial institutions (FIs) under IRS jurisdiction,

—identifying those FIs that are actively involved in or facilitate money laundering and seek ways to end this activity,

—conducting BSA compliance examinations to identify or uncover potential areas of noncompliance, money laundering trends, patterns, schemes, and forwarding the information for use in enhancing the National Anti-Money Laundering Strategy,

—an aggressive effort to assist FIs for which IRS has jurisdiction in understanding their role in combating money laundering and to voluntarily meet their obligations under the BSA,

—actively participating in coordinated multi-agency anti-money laundering initiatives such as GTOs, HIDTAs, HIFCAs, and SAR Review Teams designed to disrupt and dismantle money laundering organizations,

—securing information on currency transactions which should have been reported or recorded and make available to law enforcement and other interested parties,

—utilizing and evaluating various currency transaction reports as authorized for tax compliance activities.

IRS's civil and criminal outreach efforts include State, and national associations affiliated with financial services industries. IRS provides keynote speakers, conducts seminars and provides educational programs relating to check cashers, bankers, tax practitioners, fraud examiners, corporate security personnel and bank security officers. This outreach and our efforts to contact money service businesses is a significant part of our program to identify and educate MSBs regarding their requirements to register their business with both the State and Federal Government.

IRS has approximately 350 civil examiners assigned to the anti-money laundering program. These examiners are currently conducting 5,576 examinations. In addition to the examination of non-banking financial institutions (NBFI), civil examiners also conduct reviews for compliance with the currency reporting requirements of Section 6050I of the Internal Revenue Code. As of March 31, 2004, the IRS NBFI database

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[1] Foreign Bank & Financial Account Report (FBAR).

[2] Currency Transaction Report—(CTR) FinCEN Form 104 and FinCEN Form 103 (filed by casinos).

[3] Report of Cash Payments Over $10,000 Received in a Trade or Business (IRS and FinCEN form 8300).

[4] Suspicious Activity Reports (SARs)—filed by financial institutions when there is suspicious activity, as determined by the financial institution.

reflected over 88,000 potential NBFIs. From September 30, 2000 through May 2004, IRS has closed 13,288 examinations and conducted 5,940 registration examinations.

On June 3, 2004, the Comptroller of the Currency testified before the Senate Committee on Banking, Housing and Urban Affairs, and detailed the actions OCC is taking under both the BSA and USA PATRIOT Act to ensure anti-money laundering compliance. That testimony is available on the Department of the Treasury's web site.

Question. Would the consolidation of financial intelligence into one Federal agency make the government more accountable for outcomes under the statutes that Treasury enforces?

Answer. Different agencies use financial intelligence to support their specific missions. For example, the intelligence and law enforcement agencies use their collection and analysis on terrorist financing to support their operations. While consolidating financial intelligence into one agency could enhance accountability for outcomes under the statutes that Treasury enforces, other agencies will need the function to support their own missions.

Question. On the Bureau of Immigration and Customs Enforcement (BICE) webpage is the following description of their role in terrorist financing:

"Cornerstone is ICE's premier financial crime program that seeks to identify vulnerabilities in financial systems through which criminals launder their illicit proceeds, bring the criminals to justice, eliminate the vulnerabilities, and develop a working partnership with industry representatives to share information and close industry-wide security gaps that could be exploited by money launderers and other criminal organizations. 'Safeguarding the integrity of America's financial systems is a key part of homeland security,' said Secretary Ridge. Criminal organizations are seeking new ways to finance their operations, and the Department of Homeland Security is moving aggressively to identify vulnerabilities within U.S. financial systems that could be exploited to those ends."

Describe in detail Treasury's role in the BICE program described above.

Answer. ICE is a law enforcement bureau within the Department of Homeland Security. We regard Operation Cornerstone as primarily a law enforcement investigative initiative of that bureau, and therefore have little involvement. That said, Operation Cornerstone does have a private sector outreach component, and Treasury is taking steps to ensure that this aspect of Cornerstone is coordinated with overall financial community outreach, a responsibility with which Treasury clearly is charged. Treasury's primary mechanism for such outreach is the Bank Secrecy Act Advisory Group (BSAAG), which is chaired by FinCEN.

Question. Was Cornerstone a coordinated effort with Treasury? What is Treasury's role?

Answer. As noted above, we regard Operation Cornerstone as primarily a law enforcement investigative initiative of that bureau, and therefore have had little involvement. That said, Operation Cornerstone does have a private sector outreach component, and Treasury is taking steps to ensure that this aspect of Cornerstone is coordinated with overall financial community outreach, a responsibility with which Treasury clearly is charged. Treasury's primary mechanism for such outreach is the Bank Secrecy Act Advisory Group (BSAAG), which is chaired by FinCEN.

Question. Does Cornerstone share all of their money laundering and terrorist financing information with the Treasury Department?

Answer. Operational law enforcement matters properly are handled by law enforcement agency or agencies, or joint task forces that are investigating the specific activities involved. It would not be appropriate for all information relating to such investigative operations to be shared with the Treasury Department.

That said, DHS, DOJ and Treasury do routinely share new and developing money laundering trends and methodologies information to ensure that their enforcement and prosecutorial efforts stay abreast of the activities of the criminals. As to terrorist financing information, ICE has merged all of its terrorist financing activities into the FBI's Terrorist Financing Operations Section (TFOS). Additionally, Treasury, through IRS–CI, is an active participant in DOJ's JTTF, along with ICE and other law enforcement agencies.

Question. How is this different from FinCEN's mission and also the mission of the Office of Critical Infrastructure? Please be specific.

Answer. FinCEN is responsible for administering the Bank Secrecy Act. In that role, FinCEN is ultimately responsible for the collection, maintenance, analysis and dissemination of information collected under that Act. FinCEN has a statutory mandate to provide feedback to the industry. FinCEN provides guidance to industry to ensure that its regulatory efforts are directed at law enforcement concerns, and takes enforcement action as necessary to ensure that its regulations are being fol-

lowed. FinCEN's primary mechanism for private sector outreach is the Bank Secrecy Act Advisory Group. In addition, FinCEN publishes a number of analytical products to help law enforcement understand the financial system and follow the money, and to help the financial industry improve its monitoring and reporting of suspicious activity. Finally, in the international context, FinCEN is the U.S. financial intelligence unit and is responsible for the Egmont secure web, providing the Egmont Group, an international collection of financial intelligence entities charged with the collection and analysis of financial information to help prevent money laundering and other illicit finance, with the ability to communicate with one another via secure e-mail, posting and assessing information regarding trends, analytical tools, and technological developments. Currently, 76 of the 94 countries are connected to the Egmont Secure Web.

The Office of Critical Infrastructure Protection and Compliance Policy works with the financial services sector and regulators on behalf of the Department in the area of critical infrastructure protection for the financial services sector. The Department is the agency of the U.S. government responsible for coordinating the development of policies to reduce vulnerabilities and increase resilience for the Nation's financial services sector critical infrastructure. This office develops policy formulations intended to increase the resilience of private sector financial services firms. The office also supports the Assistant Secretary for Financial Institutions, who chairs the Financial and Banking Information Infrastructure Committee, a grouping of Federal and State financial regulators that focuses on the resilience and integrity of financial sector infrastructure. Moreover, this office supports Treasury policymakers concerning the development of policies regarding information sharing, the protection of personal financial information, and remittances.

Question. This seems to be not only complimentary of the Treasury mission; it seems to be the Treasury mission. Why is the Federal Government funding two different agencies in two Executive Branch Departments to do the same job?

Answer. We view the Cornerstone initiative as complimentary and not as duplicative. The most fundamental responsibility of the Treasury Department is the safeguarding of the soundness and integrity of the U.S. and international financial systems. Treasury meets this responsibility through a wide range of programs, ranging from domestic regulatory actions to far-reaching international initiatives through the International Monetary Fund, participation in multilateral groups such as the Financial Action Task Force and the World Bank. Each of these programs benefits from the historic, deep and ongoing relationship that Treasury maintains with the U.S. financial community and our support for law enforcement investigative initiatives through financial powers unique to the Department of the Treasury.[5]

Of course, a vital component of our overall efforts is the protection of the U.S. financial system from abuse by terrorist financiers, money launderers and other financial criminals. Central to these efforts are such Treasury components as the Executive Office for Terrorist Financing and Financial Crimes (EOTF/FC), Office of Foreign Assets Control (OFAC), Financial Crimes Enforcement Network (FinCEN), the Treasury Executive Office of Asset Forfeiture (TEOAF) and the Office of Critical Infrastructure Protection and Compliance Policy, and will soon include the newly-established Office of Terrorism and Financial Intelligence. Each of these offices works closely with the U.S. law enforcement community—including the FBI, DEA, IRS–CID, U.S. Secret Service, U.S. Postal Inspection Service, and ICE—to ensure that criminals seeking to use and abuse the U.S. financial system are identified and brought to justice.

FinCEN, as the administrator of the Bank Secrecy Act, ensures that information reported under that act is provided to law enforcement agencies such as the Bureau of Immigration and Customs Enforcement (ICE). In addition to making the fruits of this activity available to law enforcement, FinCEN also uses its analytical resources to mine the data to support existing law enforcement cases on request, as well as to proactively identify potential new cases for law enforcement. FinCEN provides guidance to industry to ensure that its regulatory efforts are directed at law enforcement concerns, and takes enforcement action as necessary to ensure that its regulations are being followed. In addition, FinCEN publishes a number of analytical products to help law enforcement understand the financial system and follow the money, and to help the financial industry improve its monitoring and reporting of suspicious activity. Finally, in the international context, FinCEN's relationship

[5] For example, the most important tool in the United States arsenal to attack systemic money laundering is the Geographic Targeting Order (31 U.S.C. § 5326) by and through which financial industry reporting can be reduced and more finely honed. In the international realm, use of PATRIOT Act Section 311 (31 U.S.C. § 5318A) to target "primary money laundering jurisdictions, accounts, financial institutions and others is a very potent weapon".

with its counterpart financial intelligence units provides tremendous information where funds are flowing in to or out of the United States, and are available for appropriate use by ICE as well as all Federal law enforcement investigating financial crimes. A large portion of FinCEN's budget is devoted to developing and supporting its systems and analytical tools to assist and complement the financial investigatory effort of programs such as Cornerstone, which Treasury welcomes. We look forward to a continued close cooperation with ICE in our efforts to combat financial crimes.

Question. Considering that ICE and FBI have financial intelligence units with hundreds of staff devoted to financial intelligence, why should Treasury still be considered as the lead agency?

Answer. The Treasury Department has the lead in safeguarding the integrity of the U.S. and international financial systems—including from abuse by terrorists and those who support them.

Treasury has expertise throughout the Department that stretches across the entire anti-money laundering/counter-terrorist financing (AML/CTF) spectrum and allows it to deal with complicated issues associated with the movement of money and assets in the United States and international financial system. All of these components give Treasury the necessary broad perspective to create and implement strategies to safeguard the financial system against abuse.

In its role safeguarding the financial systems both home and abroad, the Treasury Department utilizes numerous capabilities:

Sanctions and Administrative Powers.—Treasury wields a broad range of powerful economic sanctions and administrative powers to attack various forms of financial crime, including E.O. 13224 and Section 311 of the USA PATRIOT Act.

Law Enforcement and Law Enforcement Support.—Treasury combats various forms of financial crime through the direct law enforcement actions of IRS–CI and the law enforcement support provided by FinCEN and Treasury's regulatory authorities.

Financial Regulation and Supervision.—FinCEN administers the Bank Secrecy Act and issues and enforces AML/CTF regulations. Treasury further maintains close contact with the Federal financial supervisors—including the Treasury Department's Office of the Comptroller of the Currency and Office of Thrift Supervision—with the goal of ensuring that these regulations are being implemented consistently throughout the financial sectors. In addition, OFAC administers and enforces the various economic sanctions and restrictions imposed by statute and under the Secretary's delegated IEEPA authority.

International Initiatives.—The Treasury Department is part of and has access to an extensive international network of Finance Ministries and Finance Ministry-related bodies such as the Financial Action Task Force (FATF) and various FATF-Style Regional Bodies, the International Monetary Fund (IMF), the World Bank, the G–7, and various multilateral banks. In addition, Treasury is the critical facilitator for the international relationship between financial intelligence units organized through the Egmont Group.

Private Sector Outreach.—As a result of our traditional role in safeguarding the financial system, Treasury has developed a unique partnership with the private sector. Through outreach programs such as the Bank Secrecy Act Advisory Group (BSAAG) and other regulatory and educational seminars and programs, Treasury maintains a close relationship with U.S. financial institutions to ensure a smooth exchange of information related to money laundering and terrorist financing. Treasury also maintains a close dialogue with the charitable sector to help it address its vulnerabilities to terrorist financing.

The Office of Terrorism and Financial Intelligence (TFI) brings together Treasury's intelligence, regulatory, law enforcement, sanctions, and policy components, and enhances Treasury's efforts in combating terrorist financing and financial crime. TFI will work in coordination with its partners in the interagency community to ensure that its efforts complement and augment the important initiatives already underway.

Treasury has a central role to play in the overall fight against terrorist financing due to our unique responsibilities and position within the government and with respect to the financial sector. Of course, many agencies have important roles to play and have the lead in their specific areas of expertise. The FBI, for example, has the lead in terrorist financing investigations. This does not diminish from Treasury's role or responsibilities.

FINCEN

Question. Please provide a detailed description of what BSA Direct will provide in functionality to FinCEN.

Answer. The BSA Direct initiative encompasses systems and processes that will significantly alter the way Bank Secrecy Act information is provided to law enforcement and the regulators that access the information. It will provide those entities, including FinCEN, with state of the art data search tools in a robust user-friendly environment. Users will be able to search Bank Secrecy Act information faster and better, and will be able to do more with the data than they currently can. Eventually, sophisticated data mining, geographic and other analytic tools will be added to the environment, which will add to the value of the Bank Secrecy Act information. Finally, the initiative will help free FinCEN analytic resources to focus on more complex and strategic analysis of the financing of terror, money laundering and other illicit finance. To better understand the specific functionality this initiative will provide to FinCEN, it is important to understand the way Bank Secrecy Act information is currently managed, analyzed and disseminated.

FinCEN is the delegated administrator of the Bank Secrecy Act, a regulatory statute designed to deter, prevent and address money laundering and illicit finance, including the financing of terrorism. The keystone of the Bank Secrecy Act is a reporting regime under which financial institutions report to the Federal Government certain information—large cash transactions or suspicious activity. Over 13 million Bank Secrecy Act reports are filed each year by more than 200,000 U.S. financial institutions, providing invaluable information to detect and prevent financial crimes. FinCEN is responsible for ensuring that information is collected, securely housed, analyzed and shared with law enforcement. Amendments to the Bank Secrecy Act by the USA PATRIOT Act sharpened FinCEN's responsibilities relating to this information. Among other things, FinCEN is responsible for securing this sensitive information and auditing its use; networking with disparate agencies accessing the information to ensure more robust investigation and ensuring that investigations do not overlap; and collecting and providing feedback and other information to the entities reporting the information—the financial industry—so that reporting can be better and more relevant for law enforcement.

Currently, under a legacy process that predates FinCEN, Bank Secrecy Act reports are collected by the Internal Revenue Service's Detroit Computing Center and are housed in an IBM IDMS mainframe environment incorporating 12 hierarchical databases. Most persons access the data through a "gateway" connection. While the IRS is currently converting the data to a "DB2" relational format, the data on the mainframe system in Detroit is not currently kept in a relational database, so search capabilities are limited for persons and entities that access Bank Secrecy Act information through that system. Because of the limitations of this system, FinCEN devotes a significant portion of its analytic resources to data retrieval for many of its law enforcement customers. As a result of this system, FinCEN downloads a duplicate copy of the Bank Secrecy Act database every night to other systems and into programs that provide relational data mining and analytical capabilities.

FinCEN is not the only entity that downloads all or part of the Bank Secrecy Act data from the Detroit Computing Center. Under legacy arrangements that pre-date FinCEN's current leadership, Suspicious Activity Reports (SARs) filed by depository institutions are downloaded directly from the IRS's Detroit Computing Center to the Federal Bureau of Investigation and United States Secret Service. Bank Secrecy Act information is also downloaded to the Treasury Enforcement Communications System (TECS), which was maintained by the former U.S. Customs Service and is now maintained by the Department of Homeland Security (DHS). Agencies with access to TECS (e.g., DHS's Immigration and Customs Enforcement, DHS's Customs and Border Protection, DOJ's Bureau of Alcohol, Tobacco, Firearms and Explosives, etc.) generally access Bank Secrecy Act information through that system. FinCEN has a limited ability to network the use of the data by those who download it since it is entirely dependent on manual feedback on the use of the data, which is difficult to obtain. Moreover, auditing the use of the data is far more difficult since it depends on manual reviews combined with the tracking system in place at the independent system. Simply put, currently FinCEN cannot fully meet any of its statutory responsibilities relating to the data utilizing the current system and processes in place.

The systems and processes contemplated in the BSA Direct initiative will allow FinCEN to not only meet these responsibilities, but will provide law enforcement, regulators and FinCEN a modern, user-friendly environment to mine and analyze BSA data. The heart of the BSA Direct initiative is a secure data warehouse to consolidate the Bank Secrecy Act information into a single, integrated data set. Users will have a flexible and robust query system accessible through an intuitive web-based interface. This system will provide access, including secure web access, to Bank Secrecy Act information with capabilities that allow end users to perform ad hoc as well as pre-defined queries and reporting. Users will gain easier, faster data

access and enhanced ability to query and analyze Bank Secrecy Act information, and FinCEN will have tools to control and audit the use of this sensitive information, network with agencies that are using the data, and provide better feedback to the financial industry about the use of the data, which will lead to more relevant reporting.

The full scope and detail of the functionality will be more fully determined as a result of the user requirements analyses in the first months of the project. However, the following examples identify the types of capabilities that BSA Direct will afford FinCEN and its customers that they presently do not have:

—The automated capability for FinCEN to control and audit the use of all persons accessing Bank Secrecy Act information.

—The capability, through an alert system, for FinCEN to "network" all users of Bank Secrecy Act information that "hit" the same data, or appear to be analyzing the same information.

—The capability to analyze law enforcement's use of the data to provide meaningful feedback to the financial industry, which will result in better reporting.

—The capability to develop sophisticated filer profiles for financial industry members to help FinCEN and the regulators target entities for compliance examinations as well as the ability to be notified automatically by the system when there is a significant filing anomaly.

—An intuitive interface to enable users to query data with little or no training, and with strong, context-sensitive on-line help.

—Users will be able to keep and view a list of their prior queries.

—Managers in organizations will be better able to audit and manage the use of the data by their subordinate users.

—Users will be able to schedule a particular query to re-run on a schedule set by the user.

—Users will be able to customize query output, i.e., define what columns of information are displayed, rearrange the order of the columns, and then save that order as a personal default view.

—Users will have the ability to sort, filter, and aggregate columns of data.

—Users will be able to run "batch queries," e.g., social security numbers from all bankruptcy filings 6 months ago against all Bank Secrecy Act filings in the last year.

—Users will be able to create customized queries and reports.

—A geographic mapping tool will provide information to show the geographic significance of Bank Secrecy Act data.

—Users will have the capability to pre-schedule queries and receive reports on a timetable scheduled by users.

—Users will be able to download results into popular formats, e.g., Word, Excel, Analysts Notebook, etc.

Question. Please provide the cost and schedule, as well as an assessment of the technical risk of development, for BSA Direct for fiscal year 2005 and for future fiscal years.

Answer. The Request for Proposals (RFP) for BSA Direct (full and open competition) was released in February 2004. FinCEN is currently in the final stages of evaluating the proposals received in response to the RFP. Because the BSA Direct RFP clearly specifies that the offerors must utilize standards based methodology (SEI-CMM level 2 or higher) and use open standards, COTS products, and because the underlying data warehousing technology is relatively mature, technical risk is minimized. Risk management is a key component of the project management.

FinCEN has submitted a Cost and Schedule Milestones chart for BSA Direct (as submitted to the Office of Management and Budget in December 2003) below. The costs in this chart were based upon estimates provided by the Mitre Corporation, which FinCEN engaged to help evaluate the project. It is important to note that these are only estimates based on Mitre's study. FinCEN will be pleased to provide the committee with a much more accurate cost picture for this project once a contract for the system is awarded.

COST AND SCHEDULE GOALS: ORIGINAL BASELINE FOR A PHASE/SEGMENT/MODULE OF PROJECT (INVESTMENT)

Description	Planned					
	Schedule		Duration		Planned Cost (BCWS)	Funding Agency
	Start Date	End Date	Days	Hrs.		
1. Program Administration Costs, excludes FTE.	09/01/2003	03/13/2004	194	.....	$225,000	FinCEN
2. Project Management, excludes FTE.	04/05/2004	09/30/2005	543	.....	$1,006,000	Department of Treasury
3. BSA Direct Proof of Concept (POC) Development.	10/02/2003	03/12/2004	162	.....	$393,000	Treasury
4. BSA Direct System Development and Construction.	04/05/2004	06/10/2005	431	.....	$4,278,000	Treasury
4.1 Requirements Definition and Analysis.	04/05/2004	08/20/2004	137	.....	$531,000	Treasury
4.2 System Design	06/14/2004	10/29/2004	137	.....	$398,000	Treasury
4.3 System Design Review	10/18/2004	11/05/2004	18	.....	$40,000	Treasury
4.4 System Development Environment Setup.	07/05/2004	08/13/2004	39	.....	$80,000	Treasury
4.5. System Development & Construction.	09/06/2004	03/18/2005	193	.....	$929,000	Treasury
4.6 Data Conversion, Transformation, & Migration.	06/14/2004	09/30/2004	108	.....	$744,000	Treasury
4.7. System/Integration/Test Environment.	09/27/2004	11/05/2004	30	.....	$80,000	Treasury
4.8. Usability/Component Functional Testing.	01/24/2005	04/15/2005	81	.....	$239,000	Treasury
4.9. System/Integration/Testing.	03/21/2005	06/10/2005	81	.....	$372,000	Treasury
4.10. Integration with other systems.	03/21/2005	06/10/2005	81	.....	$465,000	Treasury
4.11. Lease costs hardware and software.	04/05/2004	06/10/2005	431	.....	$400,000	Treasury
5. BSA Direct Deployment and Rollout.	06/28/2004	09/16/2005	445	.....	$1,675,000	Treasury
5.1. Deployment and Rollout Strategy Planning.	06/28/2004	09/17/2004	81	.....	$239,000	Treasury
5.2. Acceptance/Production Ready Testing.	05/02/2005	07/08/2005	67	.....	$398,000	Treasury
5.3. Production System Deployment & Rollout.	05/02/2005	09/16/2005	137	.....	$531,000	Treasury
5.4. User Training and Transition.	06/06/2005	08/26/2005	81	.....	$372,000	Treasury
5.5. Lease costs hardware and software.	06/02/2005	09/30/2005	120	.....	$135,000	Treasury
6. BSA Direct Operations and Maintenance.	10/01/2005	09/30/2006	364	.....	$2,500,00	FinCEN
PROJECT TOTAL	09/01/2003	09/30/2006	1,125	.....	$10,077,000	

Question. If full funding were provided, when will the system be complete?

Answer. With full funding, the FinCEN basic system contemplated by BSA Direct system will be operational and available to users by October 2005. It is anticipated that FinCEN will continue to enhance the basic functionality of the system in future years. The goal at this point is to get the basic foundation of the system up and running as quickly as possible.

Question. If BSA Direct were fully funded, what functionality would that provide FinCEN that it currently does not have?

Answer. The full scope and detail of the functionality will be more fully determined as a result of the user requirements analyses in the first months of the project. However, the following examples identify the types of capabilities that BSA Direct will afford FinCEN and its customers that they presently do not have:

—The automated capability for FinCEN to control and audit the use of all persons accessing Bank Secrecy Act information.

—The capability, through an alert system, for FinCEN to "network" all users of Bank Secrecy Act information that "hit" the same data, or appear to be analyzing the same information.
—The capability to analyze law enforcement's use of the data to provide meaningful feedback to the financial industry, which will result in better reporting.
—The capability to develop sophisticated filer profiles for financial industry members to help FinCEN and the regulators target entities for compliance examinations as well as the ability to be notified automatically by the system when there is a significant filing anomaly.
—An intuitive interface to enable users to query data with little or no training, and with strong, context-sensitive on-line help.
—Users will be able to keep and view a list of their prior queries.
—Managers in organizations will be better able to audit and manage the use of the data by their subordinate users.
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—Users will be able to create customized queries and reports.
—A geographic mapping tool will provide information to show the geographic significance of Bank Secrecy Act data.
—Users will have the capability to pre-schedule queries and receive reports on a timetable scheduled by users.
—Users will be able to download results into popular formats, e.g., Word, Excel, Analysts Notebook, etc.

Question. Is BSA Direct on schedule?

Answer. Each of the offerors has committed to deliver BSA Direct by October 14, 2005, or sooner. This is a 2-week delay from our initial schedule.

Question. What will it cost to complete the system?

Answer. FinCEN has submitted a Cost and Schedule Milestones chart for BSA Direct (as submitted to the Office of Management and Budget in December 2003) below. The costs in this chart were based upon estimates provided by the Mitre Corporation, which FinCEN engaged to help evaluate the project. It is important to note that these are only estimates based on Mitre's study. FinCEN will be pleased to provide the committee with a much more accurate cost picture for this project once a contract for the system is awarded.

COST AND SCHEDULE GOALS: ORIGINAL BASELINE FOR A PHASE/SEGMENT/MODULE OF PROJECT (INVESTMENT)

Description	Planned					
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4.6 Data Conversion, Transformation, & Migration.	06/14/2004	09/30/2004	108	.....	$744,000	Treasury

COST AND SCHEDULE GOALS: ORIGINAL BASELINE FOR A PHASE/SEGMENT/MODULE OF PROJECT (INVESTMENT)—Continued

Description	Planned					
	Schedule		Duration		Planned Cost (BCWS)	Funding Agency
	Start Date	End Date	Days	Hrs.		
4.7. System/Integration/Test Environment.	09/27/2004	11/05/2004	30	.....	$80,000	Treasury
4.8. Usability/Component Functional Testing.	01/24/2005	04/15/2005	81	.....	$239,000	Treasury
4.9. System/Integration/Testing.	03/21/2005	06/10/2005	81	.....	$372,000	Treasury
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6. BSA Direct Operations and Maintenance.	10/01/2005	09/30/2006	364	.....	$2,500,00	FinCEN
PROJECT TOTAL	09/01/2003	09/30/2006	1,125	.....	$10,077,000	

Question. How is FinCEN providing information to the law enforcement entities that it serves?

Answer. FinCEN provides analytic products—both tactical and strategic—to appropriate law enforcement customers. FinCEN also administers a process under Section 314 of the USA PATRIOT Act that permits law enforcement to submit requests to financial institutions for transactional and account information in certain cases. A particular institution indicates whether it has such information and that information is provided to law enforcement. FinCEN also maintains some general information for law enforcement on its public web-site and will provide more and better information to law enforcement through BSA Direct.

FinCEN also provides access to Bank Secrecy Act data. Legacy processes and inadequate data retrieval capabilities currently result in this data being provided to Federal, State and local law enforcement in several ways:

—Through direct case support from a FinCEN analyst.

—Through "Platform" support, whereby law enforcement agencies may send personnel to FinCEN to use its technical and analytical resources to work their agency's respective cases on an as needed basis.

—Through "Gateway," which provides direct, dial-in access to Bank Secrecy Data housed at the IRS's Detroit Computing Center.

—To certain entities, through wholesale direct downloads of all or part of the Bank Secrecy Act data from the Detroit Computing Center. Direct downloads are currently provided to:

  —The Federal Bureau of Investigation and United States Secret Service receive wholesale downloads of suspicious activity reports filed by depository institutions.

  —A wholesale download of all Bank Secrecy Act information is made into the Treasury Enforcement Communications System (TECS). TECS, which was previously administered by the former U.S. Customs Service, is now administered by the Department of Homeland Security. Various law enforcement entities have access to TECS.

Question. Is FinCEN sending law enforcement wholesale data or does it screen requests through its system?

Answer. FinCEN provides wholesale data to the following Federal law enforcement agencies: the Federal Bureau of Investigation and the United States Secret Service receive downloads of Suspicious Activity Reports (SARs) filed by depository institutions. In addition, a wholesale download of all Bank Secrecy Act information is made into the Treasury Enforcement Communication System (TECS) which is now administered by the Department of Homeland Security. All other requests are thoroughly screened.

Question. Is FinCEN doing gross data information transfers to the Bureau of Immigration and Customs Enforcement and the Federal Bureau of Investigation without any directed analysis or query from them?

Answer. Yes. The BSA Direct initiative encompasses systems and processes that will significantly alter the way Bank Secrecy Act information is provided to law enforcement and the regulators that access the information. It will provide those entities, including FinCEN, with state of the art data search tools in a robust user-friendly environment. Users will be able to search Bank Secrecy Act information faster and better, and will be able to do more with the data than they currently can. Eventually, sophisticated data mining, geographic and other analytic tools will be added to the environment, which will add to the value of the Bank Secrecy Act information. Finally, the initiative will help free FinCEN analytic resources to focus on more complex and strategic analysis of the financing of terror, money laundering and other illicit finance. To better understand the specific functionality this initiative will provide to FinCEN, it is important to understand the way Bank Secrecy Act information is currently managed, analyzed and disseminated.

FinCEN is the delegated administrator of the Bank Secrecy Act, a regulatory statute designed to deter, prevent and address money laundering and illicit finance, including the financing of terrorism. The keystone of the Bank Secrecy Act is a reporting regime under which financial institutions report to the Federal Government certain information—large cash transactions or suspicious activity. Over 13 million Bank Secrecy Act reports are filed each year by more than 200,000 U.S. financial institutions, providing invaluable information to detect and prevent financial crimes. FinCEN is responsible for ensuring that information is collected, securely housed, analyzed and shared with law enforcement. Amendments to the Bank Secrecy Act by the USA PATRIOT Act sharpened FinCEN's responsibilities relating to this information. Among other things, FinCEN is responsible for securing this sensitive information and auditing its use; networking with disparate agencies accessing the information to ensure more robust investigation and ensuring that investigations do not overlap; and collecting and providing feedback and other information to the entities reporting the information—the financial industry—so that reporting can be better and more relevant for law enforcement.

Currently, under a legacy process that predates FinCEN, Bank Secrecy Act reports are collected by the Internal Revenue Service's Detroit Computing Center and are housed in an IBM IDMS mainframe environment incorporating 12 hierarchical databases. Most persons access the data through a "gateway" connection. While the IRS is currently converting the data to a "DB2" relational format, the data on the mainframe system in Detroit is not currently kept in a relational database, so search capabilities are limited for persons and entities that access Bank Secrecy Act information through that system. Because of the limitations of this system, FinCEN devotes a significant portion of its analytic resources to data retrieval for many of its law enforcement customers. As a result of this system, FinCEN downloads a duplicate copy of the Bank Secrecy Act database every night to other systems and into programs that provide relational data mining and analytical capabilities.

FinCEN is not the only entity that downloads all or part of the Bank Secrecy Act data from the Detroit Computing Center. Under legacy arrangements that pre-date FinCEN's current leadership, Suspicious Activity Reports (SARs) filed by depository institutions are downloaded directly from the IRS's Detroit Computing Center to the Federal Bureau of Investigation and United States Secret Service. Bank Secrecy Act information is also downloaded to the Treasury Enforcement Communications System (TECS), which was maintained by the former U.S. Customs Service and is now maintained by the Department of Homeland Security (DHS). Agencies with access to TECS (e.g., DHS's Immigration and Customs Enforcement, DHS's Customs and Border Protection, DOJ's Bureau of Alcohol, Tobacco, Firearms and Explosives, etc.) generally access Bank Secrecy Act information through that system. FinCEN has a limited ability to network the use of the data by those who download it since it is entirely dependent on manual feedback on the use of the data, which is difficult to obtain. Moreover, auditing the use of the data is far more difficult since it depends on manual reviews combined with the tracking system in place at the independent system. Simply put, currently FinCEN cannot fully meet any of its statu-

tory responsibilities relating to the data utilizing the current system and processes in place.

The systems and processes contemplated in the BSA Direct initiative will allow FinCEN to not only meet these responsibilities, but will provide law enforcement, regulators and FinCEN a modern, user-friendly environment to mine and analyze BSA data. The heart of the BSA Direct initiative is a secure data warehouse to consolidate the Bank Secrecy Act information into a single, integrated data set. Users will have a flexible and robust query system accessible through an intuitive web-based interface. This system will provide access, including secure web access, to Bank Secrecy Act information with capabilities that allow end users to perform ad hoc as well as pre-defined queries and reporting. Users will gain easier, faster data access and enhanced ability to query and analyze Bank Secrecy Act information, and FinCEN will have tools to control and audit the use of this sensitive information, network with agencies that are using the data, and provide better feedback to the financial industry about the use of the data, which will lead to more relevant reporting. FinCEN provides analytic products—both tactical and strategic—to appropriate law enforcement customers. FinCEN also administers a process under Section 314 of the USA PATRIOT Act that permits law enforcement to submit requests to financial institutions for transactional and account information in certain cases. A particular institution indicates whether it has such information and that information is provided to law enforcement. FinCEN also maintains some general information for law enforcement on its public web-site and will provide more and better information to law enforcement through BSA Direct.

FinCEN also provides access to Bank Secrecy Act data. Legacy processes and inadequate data retrieval capabilities currently result in this data being provided to Federal, State and local law enforcement in several ways:

—Through direct case support from a FinCEN analyst.

—Through "Platform" support, whereby law enforcement agencies may send personnel to FinCEN to use its technical and analytical resources to work their agency's respective cases on an as needed basis.

—Through "Gateway," which provides direct, dial-in access to Bank Secrecy Data housed at the IRS's Detroit Computing Center.

—To certain entities, through wholesale direct downloads of all or part of the Bank Secrecy Act data from the Detroit Computing Center. Direct downloads are currently provided to:

  —The Federal Bureau of Investigation and United States Secret Service receive wholesale downloads of suspicious activity reports filed by depository institutions.

  —A wholesale download of all Bank Secrecy Act information is made into the Treasury Enforcement Communications System (TECS). TECS, which was previously administered by the former U.S. Customs Service, is now administered by the Department of Homeland Security. Various law enforcement entities have access to TECS.

Question. Is this how the law requires the system to work?

Answer. The Bank Secrecy Act, as amended by the USA PATRIOT Act, does not specify any particular method or limitation on the delivery of Bank Secrecy Act information. The Bank Secrecy Act requires that the purpose of any request for information must be for an authorized purpose—criminal, tax, regulatory or intelligence activities relating to terrorism. Section 361 of the USA PATRIOT Act requires FinCEN to maintain a government-wide data access network with access in accordance with applicable legal requirements, and further requires FinCEN to develop appropriate standards and guidelines governing who is to be given access, what limits are to be imposed on the use of the information, and how the exercise of constitutional rights is to be protected.

In accordance with these statutory mandates, FinCEN grants access only for purposes authorized by the Bank Secrecy Act (criminal, tax, regulatory, intelligence activity directed at counter-terrorism) and strictly controls dissemination of the information contained in the reports. FinCEN has met this statutory mandate in the creation of the "Gateway" system by entering into agreements for access and establishing the capability to monitor and audit each query. Currently, FinCEN does not have the capability to audit entities that receive wholesale downloads of data, which is one reason why FinCEN is placing such a high priority on the development of BSA Direct. The BSA Direct initiative encompasses systems and processes that will significantly alter the way Bank Secrecy Act information is provided to law enforcement and the regulators that access the information. It will provide those entities, including FinCEN, with state of the art data search tools in a robust user-friendly environment. Users will be able to search Bank Secrecy Act information faster and better, and will be able to do more with the data than they currently can. Eventu-

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The full scope and detail of the functionality will be more fully determined as a result of the user requirements analyses in the first months of the project. However, the following examples identify the types of capabilities that BSA Direct will afford FinCEN and its customers that they presently do not have:

—The automated capability for FinCEN to control and audit the use of all persons accessing Bank Secrecy Act information.

—The capability, through an alert system, for FinCEN to "network" all users of Bank Secrecy Act information that "hit" the same data, or appear to be analyzing the same information.

—The capability to analyze law enforcement's use of the data to provide meaningful feedback to the financial industry, which will result in better reporting.

—The capability to develop sophisticated filer profiles for financial industry members to help FinCEN and the regulators target entities for compliance examinations as well as the ability to be notified automatically by the system when there is a significant filing anomaly.

—An intuitive interface to enable users to query data with little or no training, and with strong, context-sensitive on-line help.

—Users will be able to keep and view a list of their prior queries.

—Managers in organizations will be better able to audit and manage the use of the data by their subordinate users.

—Users will be able to schedule a particular query to re-run on a schedule set by the user.

—Users will be able to customize query output, i.e., define what columns of information are displayed, rearrange the order of the columns, and then save that order as a personal default view.

—Users will have the ability to sort, filter, and aggregate columns of data.

—Users will be able to run "batch queries," e.g., social security numbers from all bankruptcy filings 6 months ago against all Bank Secrecy Act filings in the last year.

—Users will be able to create customized queries and reports.

—A geographic mapping tool will provide information to show the geographic significance of Bank Secrecy Act data.

—Users will have the capability to pre-schedule queries and receive reports on a timetable scheduled by users.

—Users will be able to download results into popular formats, e.g., Word, Excel, Analysts Notebook, etc.

Question. How does FinCEN audit information requested if there is no formal request and delivery system?

Answer. The Bank Secrecy Act, as amended by the USA PATRIOT Act, does not specify any particular method or limitation on the delivery of Bank Secrecy Act information. The Bank Secrecy Act requires that the purpose of any request for information must be for an authorized purpose—criminal, tax, regulatory or intelligence activities relating to terrorism. Section 361 of the USA PATRIOT Act requires FinCEN to maintain a government-wide data access network with access in accordance with applicable legal requirements, and further requires FinCEN to develop appropriate standards and guidelines governing who is to be given access, what limits are to be imposed on the use of the information, and how the exercise of constitutional rights is to be protected.

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—Users will have the capability to pre-schedule queries and receive reports on a timetable scheduled by users.
—Users will be able to download results into popular formats, e.g., Word, Excel, Analysts Notebook, etc.

Question. Does this raise privacy concerns?

Answer. While FinCEN is not providing these few law enforcement entities with information to which they are not entitled or couldn't otherwise receive, the fact remains that FinCEN is very limited in its ability to audit the use or guarantee the security of this information. Important privacy interests associated with Bank Secrecy Act information will be better protected once BSA Direct is built and implemented.

Question. There are currently at least five other financial intelligence units in the Federal government outside of Treasury that download Bank Secrecy Act data wholesale from FinCEN. If FinCEN is just the delivery system for BSA data, what is its role other than to be a library? What analytics are occurring at FinCEN that are not occurring at the Bureau of Immigration and Customs Enforcement, the Federal Bureau of Investigation, the Central Intelligence Agency, or the United States Secret Service? If everyone has these databases with all the Bank Secrecy Act data, what is the value added by FinCEN?

Answer. While the provision of Bank Secrecy Act information to law enforcement is a key aspect to FinCEN's mission, FinCEN is much more than a library. It has been and continues to be a source of unequaled analytic expertise on financial information, particularly information reported under the Bank Secrecy Act. It is recognized throughout the world for its expertise in studying and exploiting financial information.

Other law enforcement agencies have come to recognize the importance of exploiting financial information—a fact that is at least, in part, attributable to FinCEN's work. From our point of view, the proliferation of financial analytical units in law enforcement agencies is a good thing. It means that exploitation of financial information, which is a key element to defining and dismantling criminal and terrorist organizations, will continue to grow. It also means that FinCEN will be freer to focus its analytic resources on niche areas as well as tactical and strategic analytical projects that are more sophisticated. As for the niche areas, FinCEN has unique responsibilities that differentiate it from any other entity working with financial data:

—*Helping Financial Institutions to understand, assess and address the risk of money laundering, the financing of terror and other illicit finance.*—FinCEN is the administrator of the Bank Secrecy Act. It is uniquely positioned, and required by statute, to provide feedback to the financial industry about the use of this data. FinCEN will focus on providing information to the financial industry that will enable it to better target those issues and organizations for reporting. This will result in better and more relevant reporting for law enforcement,

and will fulfill an important mandate of the USA PATRIOT Act to establish a communication channel between the government and private industry.

—*Leveraging FinCEN's counterpart financial intelligence units around the world*.—FinCEN is in the forefront of international efforts to develop new Financial Intelligence Units (FIUs) and enhance the capabilities of existing FIUs. FinCEN is also a founding member of the Egmont Group, an informal organization of 84 financial intelligence units around the world that share tactical and strategic financial information for the benefit of law enforcement and other competent authorities. Furthermore, the Egmont Group's Secure Website offers member FIUs the ability to rapidly share and broadly disseminate such information. FinCEN will focus analytic effort on supporting those relationships and making the financial intelligence units more productive and relevant in addressing what is a global problem.

—*Focusing FinCEN analytic effort on the Strategic*.—FinCEN will also focus much of its analytic resources on strategic projects. Strategic studies of new financial industry products and trends, methods of illicit finance, and ways to address systemic weaknesses that lead to financial crime. FinCEN will also engage more in predictive analysis—trying to predict where the next problems will arise in the financial system.

Addressing these three issues does not mean that FinCEN will not participate in traditional tactical analysis in support of law enforcement, but as law enforcement agencies add analytical units to support their missions, FinCEN will be able to better focus on these important niche areas.

Question. FinCEN issues regulations under Title 31 related to the Bank Secrecy Act and the Patriot Act. Please provide a detailed description of the joint training that occurs between FinCEN and the Internal Revenue Service related to the intricacies of those regulations, especially when dealing with the financial community.

Answer. FinCEN has worked extensively with the IRS SB/SE Taxpayer Education and Communication (TEC) organization to conduct joint training of IRS examiners. FinCEN has conducted joint training of IRS examiners on various Title 31 and Patriot Act requirements at the last two IRS Examiner training classes, held in Seattle and in Indianapolis. FinCEN will be conducting training at an upcoming meeting of IRS supervisory level personnel who have Bank Secrecy Act examination responsibility. In addition, FinCEN is working with IRS to revise the IRS IRM Manual that guides the conduct of Bank Secrecy Act examinations, and is used as a training template for its Bank Secrecy Act examiners as well.

The cooperation between FinCEN and IRS on Bank Secrecy Act training extends to seminars conducted for the financial community as well. FinCEN works with the IRS SB/SE TEC to coordinate the content of presentations given by the IRS to provide education and outreach to the financial industries it is delegated to regulate. For example, FinCEN and IRS gave presentations to the Money Transmitter Regulators Association (MTRA) conference, an annual forum attended by money transmitters, their service providers, and State regulators in September 2003 on MSB registration and Suspicious Activity Report (SARs) requirements and issues.

Going forward, FinCEN will continue to use tools such as the Anti Money Laundering monthly contact report provided by IRS TEC, which provides information on upcoming outreach opportunities, to coordinate and supervise the delivery of education on Title 31 and Patriot Act requirements to the financial community.

Question. The costs of implementing Bank Secrecy Act are significant to the financial industry. Who is responsible for communicating with the financial industry to explain what their data is being used for?

Answer. FinCEN, as administrator of the Bank Secrecy Act and as mandated in Section 361 of the USA PATRIOT Act, is responsible for communicating with the financial industry. While this is an important aspect of FinCEN's mission, it also leverages the assets of the Federal functional bank regulators, the Securities Exchange Commission, the Commodity Futures Trading Commission, and the Internal Revenue Service to help with this effort.

Question. Does Treasury meet with the financial community to explain trends or the means of exploitation of the financial system?

Answer. Treasury's FinCEN interacts extensively with the financial community through many different venues such as:

—Participation in numerous conferences and seminars being held throughout the year across the country;

—Participation in compliance training workshops;

—Regular meetings with the Bank Secrecy Act Advisory Group and its subcommittees;

—Daily interaction with bank officials throughout the country regarding various aspects of Bank Secrecy Act compliance;

—Customer Surveys;
—Publications such as The Suspicious Activity Review intended to provide feedback and guidance to financial institutions on Bank Secrecy Act reporting and anti money laundering requirements; and,
—Website interaction through posting of regulations, guidance, comment letters and other regulatory-related materials.

Question. Does Treasury investigate recent money laundering arrests to determine how criminals are evolving to exploit the U.S. financial system? Does Treasury or FinCEN send people to every major money laundering sting to determine how the organization was set up and how it exploited the financial system? This information could then be given to the financial community to alert it to recent trends. Does this activity occur? If not, should it?

Answer. FinCEN directly communicates with law enforcement on a daily basis to obtain current information on money laundering cases. Information received from this dialogue helps FinCEN better understand money laundering and terrorist financing. While FinCEN does not have a specific program directed at debriefing money laundering sting operations, as a practical matter, it captures much of this information through its on-going dialogue with law enforcement.

Question. How many cases were analyzed in calendar year 2003 and how much of that information was passed to the financial community? Has the financial community been surveyed to see if the information was helpful?

Answer. In fiscal year 2003 (FinCEN statistics are kept by fiscal year), FinCEN provided support for approximately 5,000 requests received from law enforcement. In the majority of these cases, FinCEN helped retrieve Bank Secrecy Act information. FinCEN's new leadership has recognized the need to keep better statistics to better capture the work that FinCEN is accomplishing.

FinCEN, independent of providing analytical support to law enforcement, conducts analysis of the Bank Secrecy Act information to identify trends and patterns. Some of this information is published semiannually in the Suspicious Activity Review—Trends, Tips & Issues. As mentioned above, this Review is produced based on continuing dialogue and close collaboration among our Nation's financial institutions, law enforcement officials and regulatory agencies in order to provide meaningful information regarding the preparation, use and value of suspicious activity reports filed by financial institutions. Each issue of this publication contains a Feedback Form for the financial industry to complete and return to FinCEN and the feedback FinCEN has received has been constructive and generally quite positive. To date, FinCEN has not surveyed the financial industry to determine satisfaction with FinCEN feedback, although that is something FinCEN's new leadership is considering establishing as a benchmark.

Question. FinCEN's budget declares a 12.7 percent increase for fighting terrorism. How is this number obtained? Looking at the administration's budget submission in detail, the real increase is 2.7 percent, or $1.53 million, to fight the war on terror.

—Mandatory cost increases equal $1.76 million.
—Program cost annualization for fiscal year 2004 new initiatives equals $1.52 million.
—Transfer from the IRS for BSA work that is already done equals $2.5 million.

Answer. The 12.7 percent increase was calculated by adding the cost of program increases ($1.533 million), program annualizations ($1.522 million), cost increases ($1.716 million), and the transfer from the Internal Revenue Service for the BSA Direct System ($2.5 million)—totaling an overall increase of $7.271 million over fiscal year 2004.

Question. What types of outreach programs does FinCEN have with the financial community?

Answer. FinCEN is in daily contact with the financial industries it helps regulate. First, and perhaps most importantly, through the process created pursuant to Section 314(a) of the USA PATRIOT Act, FinCEN now routinely contacts thousands of financial institutions to relay important information from law enforcement about individuals and entities that may be relevant to terrorism or significant money laundering investigations. FinCEN plans to expand this process and begin sharing information with the financial community that will enable industry reports to be more relevant. Also, FinCEN has encouraged the voluntary sharing of information between certain financial institutions related to possible terrorism or money laundering by implementing regulations under Section 314(b) of the USA PATRIOT Act.

Since September 2001, FinCEN has maintained a hotline for financial institutions to voluntarily report suspected terrorist financing activity. FinCEN then expedites this information to appropriate law enforcement agencies. Since inception of this hotline, FinCEN has referred more than 850 tips to law enforcement.

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—Participation in compliance training workshops;
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—Website interaction through posting of regulations, guidance, comment letters and other regulatory-related materials.

Question. Has FinCEN done any surveys or interviews with the financial community to better understand what their needs and concerns are?

Answer. Yes. For example, when FinCEN adopted its rule requiring money services businesses to register, FinCEN conducted an extensive industry outreach program, including conducting focus groups, sending surveys and holding meetings with individual companies, trade associations, State regulators, and law enforcement to discuss implementation of the rule and solicit input on guidance. FinCEN also developed reference and guidance products, including posters, "take-one" cards, Quick Reference Guides on Bank Secrecy Act and suspicious activity reporting, an Anti-Money Laundering Prevention Guide, a suspicious activity reporting training video, and an interactive CD–ROM for MSBs. All of these materials are free and available to the public through FinCEN's website at www.msb.gov.

In another example, FinCEN conducted a survey of financial institutions filing Currency Transaction Reports (CTRs) in order to produce a report to Congress in 2002 as required by the USA PATRIOT Act. That report sought to analyze financial institutions' use of exemptions from the CTR filing requirement.

MINT/BEP MERGER PROPOSAL

Question. Please provide a detailed accounting of how the study to merge the Mint and BEP was funded.

Answer. The cost, which was funded using Interagency Agreements, was evenly split between the Mint and the Bureau of Engraving and Printing.

Question. How many phases are there to this contract to study a merger?

Answer. Three phases were identified in the Request for Proposal:

—1. Develop a business case;
—2. Facilitate in developing a short and long-term approach; and
—3. Advise on preparation of report roll-out.

The first phase was to identify efficiencies and develop the business case to support those efficiencies identified in the study. Under the second phase, the government has exercised its option to have LMI's continued assistance in the analysis of the options. The government also has an option to have LMI assist in preparing the report to OMB.

Question. What accounts were used at the BEP and the Mint to pay for the study?

Answer. The study was funded through the BEP revolving fund and the Mint Public Enterprise Fund. The actual costs were charged to the line items—consulting services provided by a non-government entity. Both the Mint and the BEP allocate resources to assess changing market conditions and management improvements.

Question. Does Treasury believe that this is a proper use of the funds in these accounts?

Answer. The Treasury Department continues to look for taxpayer savings and efficiencies in all its bureaus. Due to changing market conditions, review of the Treasury Department's structure is necessary to best serve the public. By studying the structure of the U.S. Mint and Bureau of Engraving and Printing, the Treasury Department ensures effective use of taxpayer resources.

Question. Please provide the parameters provided to the contractor to conduct the study.

Answer. The Request for Proposal (RFP) outlined the parameters and was provided to IBM, Booz Allen Hamilton, and LMI. The RFP provided to these three bidders is attached.

DOX-04-0058

PRICING SCHEDULE

The contractor shall furnish all labor, materials, supplies, services and supervision necessary for consulting services to study Mint/BEP efficiencies. The contractor shall perform the services as set forth in the attached Statement of Work (SOW).

The Government will award a single order resulting from this Statement of Work to the responsible offeror whose offer, conforming to the Statement of Work will provide the best overall value/benefit to the Government based on a combination of management approach, experience of proposed key personnel, past performance and price.

Along with this pricing schedule, offerors shall also furnish a copy of their GSA Schedule prices from which their pricing was obtained.

Offerors shall propose a price for each of the four line items listed below and as described in Section 2.1 of the SOW. Line Items 0001 and 0002 shall be priced on a fixed price basis. Line Items 0003 and 0004 shall be priced on a labor hour basis. Offerors shall provide a breakdown of the labor categories and labor rates to be used to complete these two line items. Prices for Line Items 0003 and 0004 shall be based on 200 hours.

LINE ITEM NO.	DESCRIPTION	PRICE
0001	Facilities	$ 164,257.00
0002	Operations	$ 134,143.00
0003	Assist Treasury Senior Management (Labor Hour – provide labor categories & rates)	NTE $ 14,008.00
0004	Integrate findings from Finance & Legislative Issues (Labor Hour – provide labor categories & rates)	NTE $ 12,862.00
	TOTAL PRICE	$325,270.00

DOX-04-0058

BUREAU OF ENGRAVING AND PRINTING
STATEMENT OF WORK
CONSULTING SERVICES TO STUDY
BEP-MINT MERGER OPTIONS

1.0 GENERAL INFORMATION

The Department of the Treasury has a requirement for a contractor to provide consulting services to study Mint/BEP efficiencies. Treasury needs to address OMB expectations on Mint/BEP that were raised in the OMB FY 2005 Budget passback. Treasury's goal is to have an overview document outlining potential cost savings associated with Mint/BEP efficiencies to circulate to members of Congress and their staff by July 1, 2004.

2.0 SCOPE OF WORK

Treasury seeks to address OMB concerns with an inclusive approach that stresses augmenting the business case for Mint/BEP efficiencies with a discussion of legislative barriers and within the context of current "good government" initiatives.

Treasury wants to be responsive to OMB expectations. Treasury is seeking a contractor to develop options to improve the effectiveness and efficiency of both organizations, which will include the analysis of advantages/disadvantages and cost savings when combining, consolidating, streamlining and/or modernizing some of the operations, locations and headquarters of both organizations.

2.1 Tasks

The contractor shall develop and analyze the following:

1) Facilities – the degree to which BEP and MINT can obtain economies, efficiencies and savings through modernization and/or co-location of facilities and other best practice options. This analysis is to include alternative uses for facilities that may remain open after optimization/co-location of facilities.

2) Operations – which corporate functions and operational components can yield savings and optimized organization through shared services, co-location, and /or other best practice options. Should space/locations remain open after optimization, include alternative use analysis for these

locations.

3) (Optional Task) Assist Treasury senior management in analyzing/ranking the facilities and operations findings

4) (Optional Task) Integrate findings from Finance and Legislative Issues review into the July report to OMB.

2.2 Treasury Support

Treasury staff will support the effort and take the lead on assessing:

1) Finance – conduct a review and develop an understanding of MINT/BEP authorities, how they receive funding and what laws and regulations govern their management and operation. Develop understanding on how these laws, regulations and authorities impact potentially attractive business case options for realizing savings, efficiencies and effectiveness.

2) Legislative Issues – Review and understand the legislative issues that arise from the Facilities and Operations options that are developed. Document these issues for each option. Each option will have differing requirements for legislation ranging from no legislative changes to changes to the enabling legislation for both entities.

3.0 SMALL BUSINESSES

It is also important to Treasury that small business be an integral part of our decision process. Treasury, for this contract, is establishing a goal of 15% of the work going to small business. The contractor shall outline the role of the small business in the "Management Approach" section of the evaluation factors.

4.0 DELIVERABLES

4.1 Deliverables Description

Unless specified otherwise, all deliverables shall be provided to the COTR in electronic format (Word and/or Excel).

Deliverables for this requirement are as follows:

Kick-Off Meeting	NLT one week after award
1st Draft	NLT one month after award
Final Draft	NLT two months after award
Optional – Integrate all tasks	
Optional – Prepare OMB Recommendation	

5.0 MILESTONES

The contractor shall adhere to the following milestones for this requirement.

a. Pre-proposal conference – 2/19/04
b. Proposal due – 2/25/04
c. Oral Presentation – 2/26/04

6.0 PRE-PROPOSAL CONFERENCE

Contractor shall be required to attend a Pre-Proposal Conference which has been scheduled for Thursday, February 19, 2004. Contractors will be notified of time and place of conference at a later date.

7.0 PERIOD OF PERFORMANCE

This project will operate within an extremely tight time frame. As noted above, the President's Budget for 2004 has directed that this study shall be completed, including all necessary review and coordination by July 1, 2004. The period of performance for receipt of the final draft shall from date of contract award to two months after the date of contract award. It may be necessary for the contractor to provide the services listed in the Optional Tasks, (Section 2.1) above, beyond the Government's receipt of the final draft. The period of performance for the Optional Tasks is unknown at this time.

8.0 GOVERNMENT FURNISHED MATERIALS/PROPERTY

The Government shall provide to the contractor the following:

1. Treasury 5 Year Strategic Plan
2. Budget in Brief
3. BEP and MINT FY 2005 Budget Documents and Annual Reports
4. BEP Facilities Study – July 1998
5. Coin and Currency (Security) GAO Study, July 2003
6. Coin and Currency Production GAO Study, June 1007

9.0 CONTRACTOR FURNISHED MATERIALS/PROPERTY

The Contractor shall provide the computer hardware and software, as well as other materials and supplies necessary to complete the work listed above, as well as the reports described in this SOW.

10.0 SPECIAL CONTRACT REQUIREMENTS

The following Department of the Treasury Acquisition Regulation (DTAR) contract clauses are hereby incorporated in full text:

10.1 1052.201-70 Contracting Officer's Technical Representative (COTR) Designation And Authority (SEP 1997)

The Contracting Officer's Technical Representative (COTR) is

Jim Sullivan
Department of the Treasury
675 15th Street, Room 6133
Washington, DC 20220
Phone (202) 622-9395
Fax (202)
Electronic Mail: james.sullivan@do.treas.gov

Performance of the work under this contract shall be subject to the technical direction of the Contracting Officer's Technical Representative. The term "technical direction" is defined to include, without limitation, the following:

a. Directions to the Contractor which redirect the contract effort, shift work emphasis between work areas or tasks, require the pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish contractual statements of work.

b. Provision of information to the Contractor which assists in the interpretation of drawings, specifications or technical portions of the work description.

c. Review and, where required by contract, approval of technical reports, drawings, specifications or technical information to be delivered by the Contractor to the Government under the contract.

Technical direction must be within the general scope of work stated in the contract. The COTR does not have the authority to, and may not, issue any technical direction which: (1) constitutes the assignment of any additional work outside the general scope of the contract; (2) in any manner causes an increase or decrease in the total contract cost, or time required for the contract

performance or (3) changes any of the expressed terms, conditions or specifications of the contract.

All technical directions shall be issued in writing by the COTR or shall be confirmed by him/her in writing within 5 working days after issuance unless otherwise specified herein.

The Contractor shall proceed promptly with the performance of technical directions duly issued by the COTR in the manner prescribed by this article and within his/her authority under the provisions of this article.

If, in the opinion of the Contractor, any instruction or direction issued by the COTR is within one of the categories as defined in (1) through (3) above, the Contractor shall not proceed, but shall notify the Contracting Officer, in writing, within 5 working days after receipt of any such instruction or direction and shall request the Contracting Officer to modify the contract accordingly. Upon receiving such notification from the Contractor, the Contracting Officer shall issue an appropriate contract modification or advise the Contractor, in writing, that, in his/her opinion, the technical direction is within the scope of this article and does not constitute a change. The Contractor shall thereupon proceed immediately with the direction given. A failure of the parties to agree upon the nature of the instruction or direction, or upon the contract action to be taken with respect thereto, shall be subject to the provisions of the contract clause entitled Contract Terms and Conditions–Commercial Items, FAR 52.212-4(d).

10.2 Security Requirements (SEP 2002)

The Contractor shall ensure that all applicable personnel working on this project, including subcontractors, meet the following security requirements for contractors to protect against unauthorized disclosure of Sensitive But Unclassified (SBU) data. SBU data include but are not limited to, information that is protected from disclosure by the Confidential Information Protection and Statistical Efficiency Act of 2002, Pub. L. 107-347, 116 Stat. 2962, codified at 44 U.S.C. 3501, note ("the Act"). (See Section 16.0, CONFIDENTIALITY.)

1) All applicable personnel shall be United States citizens or have lawful permanent resident status.

2) All applicable personnel shall be subject to a National Agency Check, Law and Credit (NACLC) investigation in accordance with the Department of the Treasury Security Manual (TD P 71-10). Applicable personnel shall not begin working on this Contract until all security forms have been properly completed and submitted to the Contracting Officer's Technical Representative for processing, as follows:

a) Completed fingerprint cards
b) Non-disclosure Agreement
c) Fair Credit Reporting Act Release
d) SF 85-P, "Questionnaire for Public Trust Positions"

3) Applicable personnel shall wear Treasury issued identification badges when working in Government facilities.

Applicable personnel who undergo NACLC investigations that reveal, but are not limited to, the following, may be unacceptable under this contract: conviction of a felony, a crime of violence or a serious misdemeanor; a record of arrests for continuing offenses; or failure to file or pay Federal income tax. The Government reserves the right to determine if a Contractor employee assigned to a task shall continue with the task. The Contractor shall agree to remove the person assigned within one day of official notification by the Government and provide a replacement within five days. New hires or substitutions of personnel are subject to the NACLC investigation requirement.

10.3 Billing Address

Contractor will be provided complete billing address at a later date.
The billing address for this Delivery Order is as follows:

Department of the Treasury
Office of Financial Management
ATTN: Angela Brown
1500 Pennsylvania Avenue, NW
650 15th Street, NW, Metropolitan Square
6th Floor, Room 6031
Washington, DC 20220
Phone: (202) 622-1032

10.4 Required Central Contractor Registration – Existing Contracts (JAN 2002)

The United States Department of the Treasury has adopted the Department of Defense's Central Contractor Registration database as its database for Contractor information. (This clause does not apply to the Treasury Bureau known as the Comptroller of the Currency.) Accordingly, the following requirements apply to this contract.

(a) Definitions. As used in this clause --

(1) "Central Contractor Registration (CCR) database" means the primary Department of Defense (DoD) repository for contractor information required for the conduct of business with DoD.

(2) "Data Universal Number System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.

(3) "Data Universal Numbering System+4 (DUNS+4) number" means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned by a parent (controlling) business concern. This 4-digit suffix may be assigned at the discretion of the parent business concern for such purposes as identifying sub-units or affiliates of the parent business concern.

(4) "Registered in the CCR database" means that all mandatory information, including the DUNS number or the DUNS+4, if applicable, is in the CCR database; the DUNS number has been validated; and all edits have been successfully completed.

(b) (1) The Contractor agrees to register in the CCR database within 15 calendar days of the date of this modification (see Block 16c, Date Signed, on the SF30).

(2) During performance and through final payment of the contract, the Contractor further agrees that (a) it will remain registered in the CCR database and (b) it will maintain its vendor record in the CCR with current, complete and accurate data.

(3) The Contractor agrees that, after registering in the CCR database, it shall provide notification of its registration to the contracting officer along with its DUNS number or, if applicable, its DUNS+4 number. The Contractor shall provide this confirmation within the 15 calendar day registration period specified in paragraph (b)(1) above.

(4) Lack of registration in the CCR database will make the Contractor ineligible to receive payments under the contract and may make the Contractor ineligible for contract renewal.

(5) DoD has established a goal of registering an applicant in the CCR database within 48 hours after receipt of a complete and accurate application via the Internet. However, registration of an applicant submitting an application through a method other than the Internet may take up to 30 days. Therefore, the Contractor should consider applying for registration immediately.

(c) The Contractor is responsible for the accuracy and completeness of the data within the CCR, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to confirm on an annual basis that its information in the CCR database is accurate and complete.

(d) Following the Contractor's initial registration in CCR and receipt of any Treasury Department (excluding the Comptroller of the Currency) award of a contract, purchase order, delivery order, task order, basic agreement, basic ordering agreement, or blanket purchase agreement, the Contractor must directly notify the Contracting Officer of any of its changed mandatory business data in CCR within three business days of the change. (See the CCR Handbook at www.ccr.gov for the current mandatory registration data fields, or contact the CCR Assistance Center at 888-227-2423 or 616-961-4725.)

(e) Contractors may obtain information on registration and annual confirmation requirements via the Internet at http://www.ccr.gov, from the Defense Electronic Business Program Office (Defense e-Business) at contact.ccr@us.pwcglobal.com, from the CCR Assistance Center at 888-227-2423 or 616-961-4725, from the Defense Logistic Information Service at dlis_support@dlis.dla.mil.

(f) Contractors such as some consultants and sole proprietorships that are small firms that would otherwise have no use for a Dun & Bradstreet (D&B) number, may use an alternative D&B registration method. If needing a D&B number principally for CCR registration, such a Contractor should call D&B toll-free at 800/333-0505, and clearly state that it is a very small business and simply needs a DUNS number for the purpose of CCR registration.

11.0 DESIGNATION OF GOVERNMENT CONTRACT SPECIALIST

Tammy M. McLeod, Contract Specialist, Procurement Services Division, has been assigned to administer the contractual aspects of this contract. Changes in the Statement of Work, contract cost, price, quantity, quality or delivery schedule shall be made only by the Contracting Officer by a properly executed modification. All correspondence that in any way concerns the terms or conditions of this contract shall be submitted directly to the Contract Specialist at the following address:
Department of the Treasury
Procurement Services Division
1500 Pennsylvania Avenue
1425 New York Ave., NW, 2nd Fl., Suite 2100

Attention: Tammy M. McLeod
Washington, DC 20220
Telephone Number – (202) 622-3862
FAX Number – (202) 622-4721

12.0 CONTRACT CLAUSES

12.1 52.252-2 Clauses Incorporated By Reference (FEB 1998)

All applicable contract clauses contained in the contractor's GSA Schedule contract are hereby incorporated into this delivery order by reference.

This delivery order incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also the full text of a clause may be accessed electronically at this/these address(es): www.arnet.gov or http://farsite.hil.af.mil/.

52.202-01 DEFINITIONS (DEC 2001)
52.203-03 GRATUITIES (APR 1984)
52.203-05 COVENANT AGAINST CONTINGENT FEES (APR 1984)
52.203-07 ANTI-KICKBACK PROCEDURES (JUL 1995)
52.203-08 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)
52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)
52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 2003)
52.204-04 PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)
52.204-06 DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (OCT 2003)
52.209-06 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTION WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUL 1995)
52.219-08 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2000)
52.222-03 CONVICT LABOR (JUN 2003)
52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)
52.222-26 EQUAL OPPORTUNITY (APR 2002)
52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA AND OTHER ELIGIBLE VETERANS (DEC 2001)
52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)
52.222-37 EMPLOYMENT REPORTS ON DISABLED VETERANS, VETERANS OF THE VIETNAM ERA AND OTHER ELIGIBLE

	VETERANS (DEC 2001)
52.223-06	DRUG-FREE WORKPLACE (MAY 2001)
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (DEC 2003)
52.227-14	RIGHTS IN DATA-GENERAL (JUN 1987)
52.229-01	STATE AND LOCAL TAXES (APR 1984)
52.232-01	PAYMENTS (APR 1984)
52.232-07	PAYMENTS UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS (DEC 2002)
52.232-09	LIMITATION ON WITHHOLDING OF PAYMENTS (APR 1984)
52.232-17	INTEREST (JUN 1996)
52.232-23	ASSIGNMENT OF CLAIMS (JAN 1986)
52.232-25	PROMPT PAYMENT (OCT 2003)
52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER—CENTRAL CONTRACTOR REGISTRATION (OCT 2003)
52.233-01	DISPUTES (JUL 2002)
52.233-03	PROTEST AFTER AWARD (AUG 1996) – ALTERNATE 1 (JUN 1985)
52.237-03	CONTINUITY OF SERVICES (JAN 1991)
52.242-13	BANKRUPTCY (JUL 1995)
52.243-01	CHANGES – FIXED PRICE (AUG 1987)
52.243-03	CHANGES—TIME-AND-MATERIALS OR LABOR-HOURS (SEP 2000)
52.245-02	GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS) (JUN 2003)
52.245-05	GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS)(DEVIATION)(JAN 1986)
52.246-04	INSPECTION OF SERVICES – FIXED PRICE (AUG 1996)
52.246-06	INSPECTION—TIME-AND-MATERIALS AND LABOR-HOUR (MAY 2001)
52.248-01	VALUE ENGINEERING (FEB 2000)
52.249-02	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) (SEP 1996)
52.249-06	TERMINATION (COST-REIMBURSEMENT) (SEP 1996) ALTERNATE IV (SEP 1996)
52.249-08	DEFAULT (FIXED-PRICE SUPPLY AND SERVICES) (APR 1984)
52.249-14	EXCUSABLE DELAYS (APR 1984)
52.253-01	COMPUTER GENERATED FORMS (JAN 1991)

13.0 PROPOSAL SUBMISSION

Offerors shall submit five (5) copies of their written proposal along with five (5) copies of all briefing slides to be used during the oral presentation to the Government. Offerors are limited to no more than five (5) written pages (not including the resumes and past performance information) in their proposal submittal. The key focus for the Evaluation Team will be on the information provided during the oral presentations in relation to the evaluation factors listed below. The contractor shall separate the Management Approach, Experience of Proposed Key Personnel and Past Performance information from the Price information.

14.0 EVALUATION FACTORS

The Government will evaluate the contractor's offers for (1) Management Approach, (2) Experience of Proposed Key Personnel (3) Past Performance and (4) Price. The Government will evaluate the non-price factors of Management Approach, Experience of Proposed Personnel and Past Performance separately from price. Price will not be point rated. Experience of Proposed Key Personnel is considered to be more important than Management Approach and Past Performance. Management Approach is considered to be more important than Past Performance. All non-price factors, considered separately, are more important than Price.

14.1 Management Approach

The offeror shall outline their management approach for the following:

a. Understanding the requirement
b. Ability to meet timeframes with a quality product
c. Role of small business

14.2 Experience of Proposed Key Personnel

The offeror shall outline their experience in proposed key personnel for the following:

a. Cost Modeling
b. Government Management Improvement Efforts
c. Redevelopment of excess plant capacity/office space
d. OMB/Congressional budget issues

e. Role of the firm in government efficiency/consolidation efforts

14.3 Past Performance

Offerors shall submit to the Government three (3) references (company name and address, phone number and point of contact) for similar work as mentioned in this Statement of Work. This work must be currently active or completed within the last five (5) years. Contractors shall identify recently completed, similar projects with similar requirements that the Contractor has performed for other Federal agencies. Contractors are also encouraged to identify recently completed, similar projects undertaken for businesses in the private sector. The Government will evaluate how well the offeror performed the work described by contacting the references cited.

14.4 Price

The Government shall evaluate offers for award purposes based on prices shown in their GSA Schedule which should be submitted along with their proposal. The Government reserves the right to seek further price reduction from the schedule prices. Price alone will not be the determining factor. Proposed prices will not be point-scored in the evaluation process.

15.0 ORAL PRESENTATIONS

a. The key focus of the Evaluation Team will be on the information provided during the oral presentations with respect to the information outlined in the evaluation factors listed above. The offeror will also be responsible for providing the Government with an oral presentation of their Management Approach, Experience of Proposed Key Personnel and Past Performance. The information provided from the contractor during the oral presentations will factor in when Management Approach, Experience of Proposed Key Personnel and Past Performance are rated.

b. Location of Oral Presentations: The oral presentations will be conducted at the Department of the Treasury in Washington, DC 20220. The contractors will be notified of the exact location at a later date. Costs (travel, time, etc.) for the oral presentations will be at the offeror's own expense and offerors shall not be entitled to reimbursement of any expenses associated with same.

c. Date of Oral Presentations: It is anticipated that oral presentations will take place on February 26, 2004. Offerors will be notified of the exact time of the oral presentations.

d. Media Requirements for Oral Presentations: The Government will provide an overhead projector and screen, if necessary. The offeror will provide other necessary equipment. Submissions of video tapes or other forms of media

containing the presentation, in lieu of the actual in-person oral presentation itself, will not be authorized and proposals predicated upon same will be rejected. The Government reserves the right to videotape offeror's oral presentations. Copies of these video tapes will not be provided to the offerors.

e. Documentation Limitations for Oral Presentations: Offerors may use written materials to supplement the oral presentation. These materials shall be limited to copies of the offeror's briefing slides and/or presentation notes only, and are to be provided on the day of the scheduled oral presentation. The Government will not consider nor evaluate written materials that do not fall within these limitations. However, offerors may refer to written materials previously submitted as part of the offeror's proposal. A copy of these written materials shall be provided to the Government at the time of the offeror's oral presentation.

f. Time Restriction for Oral Presentations: Each offeror will have a maximum of ninety (90) minutes to make its oral presentation to the Government. An additional period of up to one (1) hour for Government questions and answers will then follow. The purpose of this question and answer session is to clarify the offeror's proposal to ensure complete understanding by the Government. These questions and answers shall not constitute discussions; and the offeror shall not be afforded an opportunity to revise/modify its proposal in any way as a consequence thereof.

g. Content of Oral Presentations: The oral presentation shall present the offeror's understanding of the Government's requirements. Additionally, the oral presentation shall address the offeror's Management Approach, Experience of Proposed Key Personnel and Past and Past Performance. The information presented during the oral presentation will be used by the Government in conjunction with the written proposal to evaluate the offeror's proposal. Offerors shall also discuss their proposed schedule of deliverables. Price shall not be a part of the oral proposals. Offerors shall determine the structure of their oral presentation, ensuring, however, that the requested information is fully and clearly addressed in the presentation.

h. Offeror's Oral Presentation Team

For the purpose of the oral presentation, the offeror shall utilize their proposed Project Manager and other individuals knowledgeable in the information to be presented during the oral presentation, including the projects referenced and included in the offeror's proposal. The number of the offeror's representatives shall be limited to no more than five (5). Individuals not directly involved in the oral presentation shall not attend.

16.0 BASIS OF AWARD

The Government will award a single order resulting from this Statement of Work to the responsible offeror whose offer, conforming to the Statement of Work will

provide the best overall value/benefit to the Government based on a combination of management approach, experience of key personnel, past performance and price.

The Government will make paired comparisons among offerors who submit acceptable offers until the offeror who represents the best overall value has been determined. This methodology is consistent with the best value source selection tradeoff process recognized under FAR 15.101-1. This process permits the Government to consider award to other than the lowest priced offeror or to other than the highest non-price factors rated offeror.

17.0 AWARD WITHOUT DISCUSSION

Offerors are reminded that FAR 52.212-1(g) provides that the Government intends to evaluate proposals and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)).

OMB CONTROL NO.S 1505-0080 & 1505-0081

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE	OF	PAGES
	1		1

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)
A001	02/13/2004		N/A

6. ISSUED BY CODE

Department of the Treasury
Procurement Services Division
1500 Pennsylvania Ave., NW
1425 New York Avenue, NW, 2nd Floor, Suite 2100
Washington, DC 20220

7. ADMINISTERED BY (If other than Item 6) CODE

SAME AS BLOCK #6

8. NAME AND ADDRESS OF CONTRACTOR (No. Street, county, State and ZIP Code)

LMI
ATTN: Bill Moeller
2000 Corporate Ridge
McLean, VA 22101-7805

FACILITY CODE

(4) X

9A. AMENDMENT OF SOLICITATION NO.
A-04-0001

9B. DATED (SEE ITEM 11)
2/11/2004

10A. MODIFICATION OF CONTRACT/ORDER NO.

10B. DATED (SEE ITEM 13)

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended, X is not extended.
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:(a) By completing Items 8 and 15 and returning one (1) copy of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS - PRIOR TO THE HOUR AND DATA SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

(4)

A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.

B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).

C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:

D. OTHER Specify type of modification and authority)

E. IMPORTANT: Contractor ___ is not ___ is required to sign this document and return ___ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

1. This is Amendment No. A001 to Solicitation No. A-04-0001 for the Mint/BEP efficiencies requirement.
2. The deliverables under Section 4.1 of the Statement of Work are hereby revised to read as follows:

Kick-Off Meeting	NLT one week after award
1st Draft	NLT one month after award
Final Draft	NLT two months after award
Optional – Integrate all tasks	
Optional – Prepare OMB Recommendations	

15A. NAME AND TITLE OF SIGNER (Type or print)

Tammy M. McLeod, Contracting Officer

15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)		BY /s/ (Signature of Contracting Officer)	

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE

PAGE 1 OF 2 PAGES

2. AMENDMENT/MODIFICATION NO.: A002

3. EFFECTIVE DATE: 02/18/2004

4. REQUISITION/PURCHASE REQ. NO.:

5. PROJECT NO. (If applicable):

6. ISSUED BY — CODE

Department of the Treasury
Procurement Services Division
1500 Pennsylvania Ave., NW
1425 New York Avenue, NW, 2nd Floor, Suite 2100
Washington, DC 20220

7. ADMINISTERED BY (If other than Item 6) — CODE

SAME AS BLOCK #6

8. NAME AND ADDRESS OF CONTRACTOR (No. Street, county, State and ZIP Code)

LMI
ATTN: Bill Moeller
2000 Corporate Ridge
McLean, VA 22101-7805

FACILITY CODE

(4) X

9A. AMENDMENT OF SOLICITATION NO.: A-04-0001

9B. DATED (SEE ITEM 11): 2/11/2004

10A. MODIFICATION OF CONTRACT/ORDER NO.:

10B. DATED (SEE ITEM 13):

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended; X is not extended.
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:(a) By completing Items 8 and 15 and returning one (1) copy of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS - PRIOR TO THE HOUR AND DATA SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and data specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS,
IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

(4)

A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.

B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).

C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:

D. OTHER Specify type of modification and authority)

E. IMPORTANT: Contractor ___ is not ___ is required to sign this document and return ____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

SEE ATTACHED

15A. NAME AND TITLE OF SIGNER (Type or print): Tammy M. McLeod, Contracting Officer

15B. CONTRACTOR/OFFEROR — (Signature of person authorized to sign)

15C. DATE SIGNED

16B. UNITED STATES OF AMERICA — BY /s/ (Signature of Contracting Officer)

16C. DATE SIGNED

NSN 7540-01-152-8070
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Prescribed by GSA
FAR (48 CFR) 53.243

A. This is Amendment No. A002 to Solicitation No. A-04-0001 for Consulting Services for Mint/BEP Efficiencies.

B. The following questions and answers are provided in response to the Request for Proposal which was issued on February 11, 2004.

1. Q: Please confirm the period of performance is 2 months for CLIN 0001 and CLIN 0002.

   A: The final draft is due two months after the date of contract award.

2. Q: What is the period of performance for CLIN 0003 and CLIN 0004?

   A: Treasury must meet OMB expectations for Mint/BEP of a report to Congress by July 1, 2004. We do not anticipate any work after that report is submitted.

3. Q: May the contractor present an alternative timeline for the deliverables as a part of their technical approach, if the delivery of the Final Draft meets the Treasury timeline?

   A: Treasury is open to alternative timelines provided the final report meets our timeline.

4. Q: What is the expected award date?

   A: Treasury expects to award as quickly as possible after oral presentations. This is a top priority.

5. Q: Given the short period of performance, would the government consider eliminating the small business goal?

   A: Treasury believes small business expertise offsets any coordination issues that may arise given the short periods of performance.

6. Q: What portions of the Mint/BEP portfolios will be included in this study? National Capitol Region only? National facilities portfolio?

   A: All physical aspects in Washington and in the field are to be included.

Mint/BEP Efficiencies
Solicitation No. A-04-0001
Amendment No. A002
Page 3 of 3

7. Q: How many facility locations are involved? Where are they located? What is the square footage associated with these facilities?

A: Mint has a DC headquarters and field facilities in Denver, San Francisco, West Point and Philadelphia. The Bureau's Western Currency facility is located in Fort Worth, TX. The Washington facility (Annex and Main Buildings) are located in Washington, DC. In addition, the Bureau leases a warehouse in Landover, MD for storage. The approximate square footage for each of these facilities is: Western Currency Facility – 690,000 sq.ft. ; Main Building - 890,000 sq.ft.; Annex Building - 510,000 sq.ft.; and Landover Warehouse - 265,000 sq.ft.

8. Q: Which functions are housed in these facilities (i.e. - office space, retail, storage/warehousing, production, etc.)?

A: Mint's field facilities are primarily stand alone production facilities with limited warehousing and storage capability. Mint's administrative, marketing and distribution functions are handled in Washington. Consumer (numismatic) fulfillment is handled by an outside vendor. The Bureau's Western Currency Facility in primarily a manufacturing plant dedicated to currency production. It does include administrative space, but administrative functions are centralized in Washington. The Washington buildings house both administrative and manufacturing functions. The Washington and Fort Worth facilities both include a public tour and small store selling Bureau-related items.

9. Q: Will information (i.e. - facility name, location data, square footage, number of occupants, ownership data, lease/occupancy agreement abstracts, cost data, building systems data, etc.) about the facilities portfolio be provided to the contractor in a database format? In another electronic format?

A: While Treasury is not sure what is meant by "database format", we have that information and it will be provided.

10. Q: Are building floor plans available in an electronic format?

A: Due to Security regulations, we cannot provide electronic copies of the building plans.

C. The attached information concerning the Mint and BEP Unions is hereby incorporated into the Statement of Work for subject solicitation.

D. The proposal due date remains **Wednesday, February 25, 2004 by 12:00 p.m., EST**.

Question. What underlying data was used in the study to determine whether a merger was cost effective?

Answer. Documents reviewed as part of the study included:

—The Treasury 5-year Strategic Plan
—Budget in Brief
—BEP and Mint 2005 Budget Documents and Annual Reports
—BEP Facilities Study—July 1998
—Coin and Currency (Security) GAO Study, July 2003
—1987 Consolidation Study

These documents were supplemented with additional data such as BEP/Mint historical costs, industry standards, OMB Circular A–94, OPM guidelines and the DOD Cost Factor Handbook.

The study drew guidance from management theory, in both the public and private sectors, and from an empirical perspective using best practices in the manufacturing industry.

Question. Has OMB or Treasury sought comments from the potentially impacted agencies?

Answer. The BEP and the Mint have both been involved in the effort from the beginning. They helped draft the scope of work, select the winning contractor, assist in the data gathering, and commented freely on each report reiteration.

OMB has monitored progress on the effort, but will not seek comments until it receives the report on July 1, 2004.

Question. Has the Federal Reserve been asked to comment on the effects of a proposed merger? If not, should Treasury initiate a discussion?

Answer. Treasury views the Federal Reserve as a key stakeholder. Senior officials at the Federal Reserve have been interviewed and their suggestions have been incorporated into the process. The Federal Reserve is also being updated on progress.

Question. Prior to the merger of any systems or services, would the Department intend to seek Congressional approval? Does it require legislation?

Answer. We will not pursue any of those options without a full consultation with Congress and, in fact, Treasury will not call for any merger of any system or function prior to the end of the 108th Congress.

It is still too early in the process to predict if or when legislation might be necessary.

Question. When will the first phase of the study be completed?

Answer. The first phase concluded with LMI's May 2004 assessment of the financial implications of the options open to Treasury.

Question. Will there be any merger of any system or functions prior to the end of the year?

Answer. Treasury will not call for any merger of any system or function prior to the end of the 108th Congress.

Question. The purpose of most mergers is to create efficiencies and save taxpayer dollars. Previous studies conducted by the GAO and the Treasury IG found that only 4–5 percent of the workforces of the two agencies "overlapped". Moreover, the study surmised that since the agencies' production plants are located in 5 different locations, there was little likelihood that production lines could be streamlined. What has changed recently to nullify the findings of the GAO and the IG reports?

Answer. The Treasury Department continues to look for taxpayer savings and efficiencies in all its bureaus. Due to changing market conditions, a review of the Treasury Department's structure is necessary to best serve the public. By studying the structure of the U.S. Mint and Bureau of Engraving and Printing, the Treasury Department ensures effective use of taxpayer resources.

Question. The committee understands that a rough draft of the merger report was supposed to be submitted on April 16 with the final report to be delivered on May 4. What is the status of this report? Will any actions be taken prior to Congress having adequate time to review the report and determine whether the correct measurements were used to justify any possible consolidation?

Answer. The document produced by LMI was designed to assess the potential for taxpayer savings and efficiencies. The April 16 and May 4 dates were the dates initially proposed by Treasury in the Request for Proposal (RFP). These dates were negotiable. LMI's report was delivered on time and is currently being assessed. The initial schedule to deliver this report to OMB on July 1 is still on track. We will not pursue any plan without a full consultation with Congress and, in fact, Treasury will not call for any merger of any system or function during the 108th Congress.

Question. The cost of the initial stage of this study was estimated to exceed $400,000. Under what authority was this money spent? Was Congress consulted prior to spending money on a study that has already undergone two extensive reviews?

Answer. The United States Mint Public Enterprise Fund (PEF) statute (31 U.S.C. § 5136) provides the authority to spend the Mint's portion of the expenses.

Public Law 81–656, which created the Bureau of Engraving and Printing Fund, provides for funding without fiscal year limitation for all expenses of operating and maintaining the Bureau. This would include studies such as the Mint-BEP study, which is focused on ensuring cost effective and efficient operations.

The study was announced in the President's Budget, which was sent to the Congress in early February. However, Congress was not specifically consulted prior to expending the funds for the study. This study is simply an effort to ensure the American people that Treasury is keeping up with changing technologies and market conditions. We will not pursue any of those options without a full consultation with Congress and, in fact, Treasury will not call for any merger of any system or function during the 108th Congress.

Question. Will the study consider putting the Mint and BEP under the Federal Reserve?

Answer. The study has assessed that option.

Question. What is the future of the penny? What will happen to the Mint's production once the cost of the penny is more than 1 cent to produce? With the decline in coin usage and the accelerating cost of the penny, what plans does the Mint have to cut its manufacturing costs?

Answer. 31 U.S.C. § 5112 requires the minting and issuance of a three-quarter-inch diameter 1 cent coin composed of copper and zinc. The United States Mint will continue to mint and issue 1 cent coins pursuant to this statutory mandate. The United States Mint is committed to keeping production costs as low as possible.

The United States Mint will produce pennies to fulfill all Federal Reserve Bank orders. Current forecasts suggest there will be demand of about 7.3 billion pennies in fiscal year 2004 from the Federal Reserve Banks.

The United States Mint has taken several cost reduction steps. First, the total number of employees at the United States Mint has fallen from approximately 2,900 in fiscal year 2000 to 2,132 today, saving significant personnel costs. The United States Mint currently has a rigorous review ongoing, consisting of more than 10 task forces that are examining opportunities to streamline and reduce costs in an effort to enhance overall taxpayer value. Also, the United States Mint is examining ways to lower its direct production cost by incorporating additional automation and lean manufacturing concepts on the production lines. Finally, the agency is engaged in ongoing research to determine the feasibility of less expensive materials that could be used for coins without having an effect on their quality and utility. Congressional action would be required before changes could be made to the composition of most denominations.

Question. How many dollar coins remain in the Mint's vaults? What is the estimated cost of this storage?

Answer. The United States Mint is currently storing 262.6 million Golden Dollars. The United States Mint's coin inventory is stored in United States Mint facilities in Denver and Philadelphia, as well as Federal Reserve Banks in Phoenix, AZ and Helena, MT. The Golden Dollar is stored as part of the overall coin inventory at these locations at no additional incremental cost to the government.

Question. How many sites does the Mint occupy in the Washington Metropolitan area? Please identify the use, location, amount of square footage, and cost for each of these locations.

Answer. The United States Mint currently occupies two buildings in Washington, DC, both of which are used for administrative purposes. The total United States Mint occupied square footage in the Washington Metropolitan area is 237,273 square feet at an annual net cost to the bureau of $8,682,427.

The first building, 801 9th Street, has a total of 232,000 square feet, of which the United States Mint occupies 163,079 square feet and subleases the remaining 68,921 square feet to the Internal Revenue Service, the Treasury Executive Institute, and the United States Marshals Service. The total annual rent expense of this building is $7,790,560. The United States Mint receives $2,314,367 in rent payments from our sublet tenants, for a net total annual rent expense of $5,476,193.

At the second building, 799 9th Street, the United States Mint rents a total of 149,647 square feet, occupies 74,194 square feet, and subleases the remaining 75,453 square feet to the Customs Service and the Bureau of Public Debt. The United States Mint does not lease the entire building; the General Services Administration, however, leases out other parts of this building to other Federal agencies. The United States Mint's total annual rent expense for its part of this building is $6,486,176. The United States Mint receives $3,279,942 in rent payments from our sublet tenants, for a net total annual rent expense of $3,206,234.

Note.—The United States Mint also rents a small (about 100 square feet) sales kiosk within Washington DC's Union Station at an annual cost of $78,000, operated by one or two sales clerks during business hours.

Question. In 1997, the GAO testified before the Congress on the issue of a BEP-Mint merger. At that time the GAO was unable to conclude that a merger would save as much money as the cost of consolidation. Does Treasury have any new information that would discredit or invalidate the GAO findings?

Answer. Treasury's study is still ongoing. The study will incorporate the 1997 GAO findings and account for changed market conditions.

Question. Prior estimates of implementation costs for merging the basic functions of the Mint-BEP were calculated to exceed $50,000,000 and could plausibly reach $100,000,000. When will the merger study be complete? Will it provide detailed cost estimates on a basic merger? Would it provide the costs of any proposed merger of production lines? Because of the concerns involved in the costs and the futures for these two organizations will the Treasury Department fully consult with the Congress prior to consolidation of any functions?

Answer. The study will provide detailed cost estimates of the options under consideration.

We will not pursue any of those options without a full consultation with Congress and, in fact, Treasury will not call for any merger of any system or function during the 108th Congress.

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Question. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) was transferred to the Department of Justice, including IT services that support for the newly formed Alcohol and Tobacco Tax and Trade Bureau (TTB) at Treasury. Are the IT services for TTB provided by ATF? If so, why are these services still being provided by an agency of the Department of Justice?

Answer. When ATF was split, all IT infrastructures (servers, storage systems, desktop computers, laptop computers, network equipment, etc.) remained with ATF. It was intended that pending funding costs for moving TTB to Treasury hardware and support, ATF would continue to provide IT support. TTB has taken some steps toward transition off of ATF support. TTB is currently moving all accounting, procurement, travel, property, and personnel applications to the Treasury Bureau of Public Debt (BPD).

ATF currently provides the IT equipment and services for TTB that directly require an IT infrastructure. TTB has assumed the IT functions that can be performed without IT equipment (i.e. IT Security Policy, Capital Planning, and Enterprise Architecture). ATF provides all servers, network equipment and desktop/laptop equipment as well as all office productivity software. ATF provides services that include hosting and supporting all of TTB's custom business applications and office automation applications, TTB's computer security operations, TTB's network connectivity and client (desktop/laptop/peripheral) equipment support.

On April 29, 2004, ATF provided formal notification that they will no longer support TTB after fiscal year 2005.

Question. There is a Memorandum of Understanding (MOU) between TTB and ATF. Will the MOU between TTB and ATF be in effect for fiscal year 2005?

Answer. Yes, although not as many services will be included. For a number of non-IT areas, ATF has advised TTB that they intend to discontinue servicing TTB in fiscal year 2005 (see answer below). In the IT area, TTB has moved some services to BPD, as noted above.

Question. What are the services provided under the MOU and what is the cost attached to the MOU?

Answer. The current negotiated MOU with ATF for fiscal year 2004 is for $13.7 million and is comprised of two principal components, the IT services at $9.5 million and non-IT administrative support services at $4.2 million.

The IT services covered under the MOU include the following:

—Custom Business Application and Office Application hosting and support
—Network and Phones equipment and support
—Customer Equipment and Support (desktops/laptops/peripherals)
—Software Maintenance of Custom Business Applications
—Configuration Management

The current non-IT administrative support services covered under the (MOU) are as follows:

—Legal services (assisting with one old EEO case and two Merit Systems Protection Board cases from fiscal year 2003)
—Peer support
—Emergency management services*
—Document services*
—Space management*
—Protective programs (finishing existing project)*
—Science and technology (This will continue for years because of shared laboratory facilities.)

ATF has informed us they will not provide IT services or within most of the non-IT areas noted above with an asterisk (*).

TTB has elected to move the following administrative support services to Bureau of Public Debt's Administrative Resource Center, a Treasury operation, to provide optimal efficiency and effectiveness in the delivery of those services to our program operations:

—Acquisition and material management (BPD for supplemental services)
—Financial management (BPD for 2005)
—Personnel services and personnel security (BPD beginning June 2004)
—Training and professional development (supplemented by BPD).

Question. How long do you anticipate ATF charging TTB for services rendered and is it necessary for TTB to rely on ATF for these services?

Answer. As indicated above, ATF will continue services in some areas as we continue to seek means to secure or provide these services independent of ATF; however, we organized our Bureau to provide services to our customers and as such the FTE distribution is very streamlined in the area of internal services. We will rely on the reimbursable agreement with BPD for several areas of service. In the meantime, we continue to research the most economical and efficient ways to secure these services. Our major issue at this time is the IT services that ATF currently provides; they have advised us in writing that they will no longer service us after fiscal year 2005 in that area.

It is necessary for these services to continue until TTB can transition the functions serviced at ATF to an alternate provider, including time to implement the transition after funding is provided.

Question. TTB has the Tax Audit Division that is responsible for auditing taxpayers for compliance with the Internal Revenue Code and other laws and regulations. What strides has TTB made with the Tax Audit Division?

Answer. TTB Tax Audit was first established in late fiscal year 2003 as part of TTB's strategic plan to collect the revenue that is rightfully due from the alcohol, tobacco, and firearms and ammunitions industries. The division was established to provide a systematic approach to safeguard over $14 billion in annual revenue collected by TTB.

The mission of the Tax Audit Division (TAD) is to promote voluntary compliance in the payment of excise taxes that TTB administers and to verify that such payment was made. The TAD also ensures compliance with the laws and regulations relating to revenue collection. TTB Tax Audit uses a risk-based approach to target non-compliant industry members. TTB's goal in 2004 is to establish a baseline for measuring tax revenue audited in a 5 to 6 year period and the industry compliance rate (percentage of taxpayers audited with no material findings, thereby validating the amount of tax paid was accurate and rightfully due). Based upon these findings, TTB will determine its follow up audit strategy.

TTB's accomplishments in fiscal year 2004 as they relate to Tax Audit include:

—Established 10 field offices covering the U.S. territory.

—Recruited and hired 70 auditors. The average auditor has 10 years of previous audit experience and holds one audit certification such as CPA license.

—Established a formal industry-training program. Seventy-five percent of the workforce has been trained in three or more industries (tobacco, distilled spirits plants, beer, wine, manufacture of non-beverage products, and firearms).

—Implemented an automated audit documentation tool to facilitate a standard audit approach and create efficiencies.

—Developed an audit workplan scheduling 110 taxpayers for review in 2004.

—As of May 24, 10 audits have been completed and 55 are underway.

Initial audit findings have resulted in $872,000 in additional revenue due to TTB.

Question. What is the status regarding flavored malt beverages and beers?

Answer. TTB has reviewed and analyzed the approximately 16,000 comments to Notice No. 4 concerning flavored malt beverages. At this time we are in the closing stages of evaluating the comments and we are discussing the comments with the Department of the Treasury.

Question. Has the hiring process been streamlined or improved in the past year?

Answer. Under the MOU, all human resource recruitment services were provided by ATF during fiscal year 2004; however, TTB just negotiated an agreement with the Bureau of Public Debt Administrative Resource Center (BPD ARC), to provide all TTB's human resource services for the bureau, including staff recruitment. This enhancement begins June 13, 2004. We believe this change in service provider will improve the recruitment process and streamline the paperwork, while allowing the bureau to attract highly skilled and qualified applicants for our vacancies.

Question. Will TTB reach its FTE ceiling of 559 this year?

Answer. TTB will not reach its FTE utilization ceiling of 559 this year. The bureau FTE ceiling of 559 includes 15 positions for Puerto Rico, which is a Reimbursable program, and 544 direct FTE funded positions. As of the most recent pay period, TTB has 509 staff on board, including 13 in Puerto Rico, and TTB will make every effort to reach the 559 targeted staffing levels by the end of this fiscal year. TTB's recruitment strategy as outlined with BPD ARC is very aggressive, and TTB is hopeful that the targeted staffing level can be reached. Their goal is to have a full staffing complement to begin the fiscal year 2005 fiscal year, but FTE utilization may only reach 504.

QUESTION SUBMITTED BY SENATOR ROBERT F. BENNETT

Question. In 2002 Treasury officials advised the Open World Leadership Center on the legislation needed to clarify and obtain authority to invest the Center's Trust Funds (and similarly the Stennis Center and Madison Fellowships) in special par value obligations. Such investment is a necessary and desirable protection of appropriated funds provided to OWLC by the Congress as "no year" funding in annual appropriations. The OWLC has requested that they be allowed to invest a portion of their trust in a special Treasury par value obligation. This request is being reviewed by the Office of the Asst General Counsel for Banking & Finance in Treasury Headquarters. I understand that Treasury is concerned whether, under the rules of statutory construction, the new conditions for issuing special obligations to the Stennis Center also apply to the OWLC. Please provide an update on the status of this request.

Answer. The Treasury Department has recently advised the Library of Congress (which manages the Open World trust fund) that amounts in the Open World trust fund may now be invested in par value Treasury specials.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

NEWLY-CREATED JOBS WILL NOT GO TO THOSE WHO ARE BEING LAID-OFF/JOB TRAINING

Question. As I mentioned in my opening statement, it is fine to point out that some of the same companies that are shipping American jobs overseas might also create jobs here in the United States in the future. But we also need to recognize that the people who are having their jobs sent overseas are not the ones that are likely to get the new jobs those companies are creating here at home.

For many Americans who are trained in one partfield and have supported their families on that same job for decades, the decision to move that job overseas represents the beginning of a long period of heartbreak and financial ruin.

Mr. Secretary, do you agree that the job descriptions and skill requirements of the new positions that are likely to be created in the United States in the future are not the same as those for the jobs that companies are currently shipping overseas?

Answer. It's true that many new jobs in our economy require new skills and education. Those new skills and education are one of the sources of our rising standard of living. That is why the President has made improving our Federal job training programs a priority. New jobs demanding new skills are always appearing. A quarter of all Americans are working in jobs that weren't even in the Census Bureau's occupation list in 1967.

The U.S. labor market is always changing, and is one of the most resilient and flexible labor markets in the world. One aspect of that flexibility is the high rate of job changes as employers and employees continually adjust to changing business needs and personnel requirements. Data from the Bureau of Labor Statistics (BLS) Job Opening and Labor Turnover Survey (JOLTS) suggests that there are more than 1 million new hires each week. In March 2004, there were 4.5 million new hires and about 4.1 million separations, and JOLTS reports that on the last day of March, there were about 3.1 million job openings available. The President is committed to ensuring workers have the skills necessary to obtain those jobs.

Question. I mentioned earlier that the President's new job training proposal does not add $1 to his budget request for job training. In fact under his proposal, the amount of money going to community colleges for all job training purposes will actually decline. For the last 3 years, the Bush Administration has requested half a billion dollars in cuts in job training.

Mr. Secretary, what does the Bush Administration have to offer the manufacturing worker or the software engineer or the call center worker whose job is being sent overseas?

Answer. The President's goal is to increase job growth in this country while making sure workers have the skills necessary to access those jobs. Over the past 9 months, 1.4 million new jobs have been created. The tax cuts, which were proposed by the President and passed by the Congress in 2001 and 2003, played a vital role in creating a strong growth environment. During the last 3 years, the administration's tax reductions have been successful—first, in keeping the recent economic slowdown from worsening substantially in the face of terrorist attacks, corporate malfeasance, and wars in Afghanistan and Iraq, and secondly, in promoting a solid economic recovery and enhancing job prospects.

Our econometric work suggests that without the tax cuts, more than 2 million fewer Americans would have been working by the end of last year and the unemployment rate would have been more than 1 percentage point higher.

To ensure workers have the skills necessary to obtain these new jobs, the President's Fiscal Year 2005 Budget provides $23 billion for job training and employment assistance, including Pell Grants used by students at technical and 2-year post-secondary schools. This funding level is $500 million (2.3 percent) more than in 2004 and $2.5 billion (12.5 percent more than in 2001).

Moreover, the President has proposed reforming the major Workforce Investment Act grant programs to double the number of workers who receive job training. These reforms will maximize the available Federal dollars going to train workers by eliminating unnecessary overhead costs, reducing expenditures on overhead by $300 million. His Jobs for the 21st Century initiative includes a $250 million proposal to help America's community colleges train 100,000 additional workers for industries that are creating the most new jobs.

Finally, the President has proposed a $50 million Personal Reemployment Accounts pilot program to help unemployed workers who have the hardest time finding jobs get back to work. These flexible accounts, which would be in addition to unemployment compensation, would allow certain unemployed workers to purchase the training, child care, transportation, or other reemployment services they need to return to work. They would be allowed to keep unused amounts as a "reemployment bonus" if they become employed quickly. The administration is pleased that the House passed H.R. 444, the Worker Reemployment Accounts Act, on June 3 to authorize this pilot program under the Workforce Investment Act and urges the Senate to act on this important legislation for America's workers.

Question. What do you expect these people to do to try and maintain their level of income, their health insurance, and their ability to feed their families?

Answer. Whatever the cause, loss of jobs is taken very seriously by this administration. First and foremost, the administration believes that the best way to help workers who are competing in the global marketplace is to keep economic growth strong at home, to help make American companies more competitive, and to make America the best place in the world to do business. Recent employment gains show that our program is working. Employment has increased more than 1.4 million in the past 9 months and initial claims for State unemployment insurance benefits have fallen 20 percent from a year earlier.

As with any transition, an evolving economy can produce dislocations for individuals and communities in the short term. The administration is committed to helping these workers find good jobs at good wages as quickly as possible.

Our primary responsibility is to keep the economy growing. Maintaining and increasing economic growth is the key to increasing the number of good jobs in the economy, making it easier for people who have lost their jobs to find new and better ones.

The President has proposed several new measures to help prepare Americans for the rapidly changing and increasingly global workplace. His Jobs for the 21st Century initiative includes more than $500 million to help prepare U.S. workers to take advantage of the better skilled, higher-paying jobs of the future, including $250 million in proposed funding targeted to community colleges to train workers for industries that are creating the most new jobs.

COMPETITIVE SOURCING

Question. What is the status of all the competitive sourcing studies that have been undertaken at IRS? Please include year, area, and result.

Answer. The following list summarizes the status of IRS Competitive Sourcing studies:

Architects and Engineers (10 FTE)

Streamline competition resulted in in-house award. No savings were achieved. The in-house team was the most efficient.

Area Distribution Centers (500 FTE in Bloomington, IL; Rancho Cordova, CA; Richmond, VA)

The three Area Distribution Centers distribute tax forms, instructions and publications to taxpayers and internal use documents to IRS employees. A standard competition with award decision is scheduled for June 28, 2004.

Expected Saving and Benefits.—Consolidation of activities and geographic locations resulting in the release of commercial space, revised operational processes and procedures to gain efficiencies, new information system, reduced staff and increased managerial span of control.

Anticipated Return on Investment (fiscal year 2005–fiscal year 2009).—$22 million.

Building Delegations or Operation and Maintenance (O&M) of Delegated Buildings (100 FTE in Covington, Fresno, Austin, Ogden, Philadelphia, and Headquarters)

O&M are those functions identified in the Building Delegation Agreements between the General Services Administration (GSA) and the IRS. These services include responsibilities to operate and maintain building systems (electrical, HVAC, control systems, etc).

A standard competition with solicitation release is scheduled for June 2004.

Expected Saving and Benefits.—Revised operational processes and procedures to gain efficiencies; reduced staff; and increased managerial span of control.

Anticipated Return on Investment (fiscal year 2006–fiscal year 2010).—$3.9 million.

Mail Rooms (70 FTE)

Mailroom services functions include all aspects of the delivery of mail from full service delivery to mail stop or desktop to self-service mailrooms where customers pick up their own mail. The IRS made a decision to divide the study among headquarters, nationwide "stand alone sites" and campuses. The IRS plans to use public-private competition to improve operations.

A direct conversion is in progress.

Fully Implemented.—Denver, CO; Detroit, MI; Plantation, FL; Detroit Computing Center, MI; Houston (Leland), TX; Laguna Niguel, CA; Oklahoma City, OK; and San Francisco, CA.

Partially Implemented.—Washington, DC; New Carrollton, MD.

Scheduled for Implementation.—Cincinnati, OH; Jacksonville, FL (5/17); and Nashville, TN.

Implementation Not Scheduled.—Atlanta, GA; Baltimore, MD; Boston, MA; Buffalo, NY; Dallas, TX; Greensboro, NC; Hartford, CT; Houston (Alliance), TX; Indianapolis, IN; Los Angeles, CA; Milwaukee, WI; New Orleans, LA; Oakland, CA; Philadelphia, PA; Phoenix, AZ; Richmond, VA; Chicago, IL; Springfield, NJ; St. Louis, MO; St. Paul, MN.

Anticipated Return on Investment (fiscal year 2005–fiscal year 2009).—$399,000.

Campus Operations (Information Technology) (350 FTE in Ogden, UT; Atlanta, GA; Brookhaven, NY; Andover, MA; Cincinnati, OH; Fresno, CA; Austin, TX; Memphis TN; Kansas City, MO; Philadelphia, PA)

This functional area provides the Information Systems (IS) computer operations at the ten IRS Campus facilities. The positions include computer operators, production controllers, tape librarians, computer specialists, and clerks. A standard competition with award decision is scheduled for July 2004.

Expected Saving and Benefits.—Revised operational processes and procedures to gain efficiencies; reduced staff; and increased managerial span of control.

Anticipated Return on Investment (fiscal year 2005–fiscal year 2009).—$12.7 million.

Logistics Support (formerly Warehouse and Transportation) (160 FTE in Andover, MA; Philadelphia, PA; Brookhaven, NY; Atlanta, GA; Covington, KY; Austin, TX; Kansas City, MO; Ogden, UT; Fresno, CA; Memphis, TN)

This functional area provides warehousing and transportation, mainly at the 10 campus sites. This activity includes positions such as material handlers, warehouseman, motor vehicle operators, laborers, and clerks. A standard competition with Performance Work Statement development is underway.

Expected Saving and Benefits.—Revised operational processes and procedures to gain efficiencies, release of leased space, reduced staff and increase of managerial span of control.

Anticipated Return on Investment (fiscal year 2006–fiscal year 2010).—$4.8 million.

Campus Files Activity (1,458 FTE in Austin, TX; Andover, MA; Philadelphia, PA; Brookhaven, NY; Cincinnati, OH; Memphis, TN; Atlanta, GA; Kansas City, MO; Ogden, UT; Fresno, CA)

This functional area receives, controls, shelves and maintains all returns/documents for retention and retirement. They retrieve documents as requested by customer organizations. Liaison work is critical with the Federal Records Centers for final retention of documents. The work is routine and does not involve making complex determinations or present unique fact patterns. A standard competition with solicitation release is scheduled for the fourth quarter of 2004.

Expected Saving and Benefits.—Revised operational processes and procedures to gain efficiencies; reduced staff; and increased managerial span of control.

Anticipated Return on Investment (fiscal year 2006–fiscal year 2010).—$22 million.

Learning and Education (617 FTE Service-wide)

This functional area is responsible for determining service-wide and division-level professional training requirements, developing training plans and curriculum, evaluating the effectiveness of training, and performing a broad spectrum of program administration.

A standard competition with Performance Work Statement development is underway.

Expected Saving and Benefits.—Consolidation of activities, revision of operational processes and procedures to gain efficiencies, implementation of learning content management and learning management systems, reduction of staff and increased managerial span of control.

Anticipated Return on Investment (fiscal year 2006–fiscal year 2010).—$25 million.

Note.—Return on investment includes cost of conducting competition and transition/separation costs. The IRS calculated savings through fiscal year 2009.

The following highlights IRS Business Case Analysis/Feasibility Studies:

Tax Law Telephone

This is a preliminary feasibility assessment of having a vendor provide tax law telephone assistance. After the completion of the preliminary feasibility assessment, the IRS will make a decision as to whether to go forward with the competition.

Fuel Compliance Activity (140 FTE Service-wide)

This function area monitors 1,400 terminals, all fuel wholesalers, thousands of retail motor fuel outlets, and U.S. border crossings. Additionally, these personnel are charged with conducting periodic inspections of on-road vehicles on highways throughout the country.

IT Support (Service-wide)

This is identification and development of sourcing strategy to identify candidate public-private competition activities.

Question. How much money has been spent on these competitions? Since the competitions are not budgeted for, where has the money come from?

Answer. Competitive Sourcing Competition Costs (Travel, training, staffing, expert contractor support (PWS, Most Efficient Organization, Independent Review)—does not reflect transition/separation costs):

—Fiscal year 2003—$5.0 million;

—Fiscal year 2004—$6.3 million.

It has been difficult to finance the Competitive Sourcing Program since the IRS does not know the outcomes in advance, the exact level of savings are yet to be determined, and it takes time to realize these savings. The IRS had to internally realign. However, the investments made today in public-private competitions show a return on investment usually within 2–3 years (includes payment of transition costs—voluntary early retirement, voluntary separation incentive, etc.). At that time, the IRS plans to reinvest the savings to fund future competitions and cover transition costs. The IRS proposes to fund $9.1 million in the fiscal year 2005 budget for the Competitive Sourcing program by reinvesting resources freed up through productivity savings.

PROGRESS ON STEMMING THE USE OF CHARITIES TO FUNNEL CASH TO TERRORIST ORGANIZATIONS

Question. Our government has linked some 23 charitable organizations with the Al Qaeda network. It has been a longstanding practice for terrorist organizations around the globe to use charitable giving as an avenue for illicit resources. There appear to be some continuing disagreements between our government and the governments of the European Union as to which charities should be designated as being associated with terrorist organizations. A number of international charities that are listed by the United States have not been listed by European nations.

Why can't the United States and Europe agree over which charities are financing terrorism?

Answer. One of the primary differences between the United States and the European Union (E.U.) on the issue of terrorism and terrorist financing is the fact that the European Union has not traditionally treated non-al Qaeda terrorist groups, such as Hamas and Hizballah, in the same way that the United States treats them. The European Union has an efficient process for designating al Qaeda-related enti-

ties that have been designated by the U.N. 1267 Sanctions Committee. Under their system, action on an organization or individual by the U.N. 1267 Sanctions Committee is a sufficient legal basis for the European Union to designate that same organization or individual. The European Union's designation system for non-al Qaeda groups (i.e., for groups designated pursuant to U.N. Security Council Resolution (UNSCR) 1373), however, suffers from a lack of efficiency and effectiveness. This has resulted in delays and gaps in the European Union's designation on several non-al Qaeda-related entities.

One significant example of this problem is the European Union's failure to act swiftly and effectively with respect to Hamas. It is beyond question that funding to Hamas and other terrorist groups must be stopped, and the United States does not accept any artificial distinctions that some Europeans have in the past drawn between the so-called "military" and the so-called "socio-political" wings of Hamas or other terrorist groups. Hamas leaders themselves have publicly acknowledged this distinction is one without a difference. The conclusion is supported by the fungibility of funds. Money allocated to the humanitarian works of Hamas charities makes available for terrorist activity the Hamas funds that otherwise would have gone to those humanitarian purposes. Moreover, the United States believes that the funds raised by Hamas-related charities are used to finance the organization and ultimately fuel terrorist activities. For example, it is clear that Hamas uses its humanitarian operations to recruit militants and secure support for their activities among local communities and populace.

To that end, the United States has designated charities that have provided support to Hamas. We have made clear our position on Hamas, and other such terrorist groups, to our partners around the world. We are beginning to see a "sea change" of the European attitude on this matter, based in large part on the U.S. efforts to change attitudes and policies. The European Union's decision in September 2003 to designate Hamas in its entirety as a terrorist group represents an important first. Due to inefficiencies within the E.U. designation process, however, this overarching designation has not always resulted in the designation of individual European charities that are funding Hamas. We therefore must continue to encourage the European Union to implement their decision by designating Hamas charities operating in Europe. Recently there have been encouraging signs from certain E.U. members. Last year, the Dutch government froze the assets of the Al Aqsa Foundation, a European charity supporting Hamas. The German government shut down the offices of the Al Aqsa Foundation in their country, and the Danish government took actions against certain individuals operating Al Aqsa in Denmark.

The United States will continue to work with our E.U. counterparts, both by urging action and by keeping channels of communication open to share evidence supporting a complete designation of these terrorist groups.

Question. Have you seen a demonstrable increase in the level of the effort on the part of European nations in going after terrorist financing since the Madrid bombings?

Answer. Yes. The European Union's attention to the threat of terrorist financing has increased since the Madrid bombings. This renewed dedication is articulated in the European Union's Declaration on Combating Terrorism, which was issued on March 24, 2004, just 2 weeks after the Madrid bombings and by the accompanying appointment of Gijs de Vries to the newly created position of E.U. Counter-Terrorism Coordinator.

Question. What concrete changes have you seen since the Madrid bombings?

Answer. As noted above, immediately following the Madrid bombings, the European Union issued a Declaration on Combating Terrorism and appointed Mr. de Vries as the counter-terrorism coordinator. Mr. de Vries has articulated an aggressive agenda and has visited the United States to consult with key U.S. counter-terrorism officials. We are hopeful that the establishment of this position will enhance E.U. effectiveness in combating terrorist financing.

Question. In your view, which European nations have done the most in combating terrorist financing and which have the longest way to go?

Answer. The State Department's recently issued annual report on "Patterns of Global Terrorism 2003" includes a country-by-country discussion of actions by European countries in fighting terrorist financing. Treasury concurs with that assessment and refers the committee to that document for more information about country-specific activity.

Question. After some considerable pressure from Congress and the General Accounting Office, the IRS has finally published guidance to the States on how they can help regulate and monitor charitable organizations in this country that may be funneling money to terrorists.

Do you believe that the States have done all they can monitor charitable organizations that may be funneling money to terrorists?

Answer. States have an obligation to ensure the integrity of charities. They are the ground-level watchdog of charities and we rely on them to fulfill that function. They do not always, however, have the ability to effectively monitor global organizations. That is where the resources of not only the U.S. government, but the capabilities of umbrella organizations within the philanthropic community become critical.

Question. Do you believe States have the kind of resources that are necessary to do this job adequately?

Answer. I am not in a position to comment on the type or level of resources applied by each State to address the abuse of charities by terrorist financiers. I note, however, that we are engaged in a campaign to enhance their resources through cooperation. The first step was an outreach event recently held by the Treasury Department, with the focus being a discussion of the voluntary best practices against abuse of charities by terrorist financiers, previously published by Treasury. One of the significant results of this meeting was a decision to create an "advisory group" on charities. This group will serve as a resource and provide a forum that not only includes the States and the U.S. government, but also includes representatives from charities (large and small) and watchdog organizations.

HAS PROGRESS IN SAUDI ARABIA TRIGGERED PROGRESS IN OTHER ARAB NATIONS?

Question. Mr. Secretary, you traveled to Saudi Arabia back in September. Your agency has heaped praise on the Saudi government for enacting a significant number of new laws and regulations to prohibit the free flow of money to terrorist organizations in that country. But, as I noted in my opening statement, there is a difference between putting the laws on the books and actually enforcing them.

Do you believe the Saudis have actually cut off the flow of money in a significant way between their suspect charitable organizations and terrorist groups?

Answer. The Saudi Arabian government has taken decisive steps to curb the flow of terrorist money and we are hopeful that there will be further developments. Recognizing the significant role of charitable giving (zakat) in the Kingdom, this is a monumental task that not only requires legal and regulatory changes, but also a change in mindset among the population. The Saudis, who have now become victims of terrorism, appear to be committed to taking decisive action to address this problem. Even so, we continue to work with the Saudi government and other countries around the world to do more, faster and more aggressively.

The most fundamental challenge facing the Kingdom is defusing the radical extremism that facilitates support and recruitment for radical Islamist terrorist organizations like al Qaeda. The Saudi efforts to deal with this issue are important to ensure that militant religious extremism does not provide a platform for terrorists from which they can justify and launch their terrible actions.

The Saudi government must fully implement and enforce the comprehensive measures it has enacted to ensure charities, hawalas, and their formal financial systems are not abused for terrorist purposes. Recently, Saudi Arabia took concrete steps to do just that. On June 2, 2004, the United States and Saudi Arabia jointly designated five branches of the Saudi-based charity, the Al Haramain Foundation (AHF), and at the same time Saudi Arabia announced its intention to dissolve AHF in its entirety and merge its remaining operations and assets into the newly-established Saudi National Commission for Charitable Work Abroad. Saudi Arabia announced that this new entity will be subject to strict financial transparency, will be subject to legal oversight and will operate according to clear policies, so as to ensure that charitable funds intended to help the needy are not misused.

Question. Has the improved level of effort on the part of Saudi Arabia elicited similar responses by other Islamic nations?

Answer. We have been working closely with many Islamic nations since the events of September 11 and have seen continued progress in their anti-terrorist financing efforts. There has been ongoing work and cooperation on fighting terrorist financing since September 11, given the real threat that al Qaeda poses to many countries, particularly those in the Middle East. Gulf Countries such as Kuwait and the United Arab Emirates (UAE) have been cooperative in responding to decisions by the U.N. 1267 Sanctions Committee and have taken important steps to address issues like regulation of charities and hawalas. Other countries have been victims of terrorism and have taken important steps to address that issue. For example, we have worked closely with Algeria, which has a secular government, to support their anti-terrorist financing efforts.

Significant steps that are still needed include further action on cross-border currency transactions, wire transfers, and effective oversight of alternative payment

systems such as hawalas. We are encouraging regional discussions on these issues and continue to advance progress on these issues in the Middle East and around the world.

Question. What about the United Arab Emirates (UAE)?

Answer. The UAE Government has made many positive reforms to their anti-money laundering program. Further, it has cracked down on potential vulnerabilities in the financial markets and is cooperating in the international effort to prevent money laundering, particularly by terrorists and their supporters. In 2002, the UAE, in partnership with the United States, blocked the assets of more than 150 named terrorist entities, including significant assets in the UAE belonging to Al-Barakat. The Central Bank (CB) of the UAE has frozen a total of $3.13 million in 18 bank accounts in the UAE between September 11, 2001 and March 2004.

Additionally, the UAE has recognized the importance and threat of hawala, and other alternative remittance systems, and they have made efforts to address the particular vulnerabilities from a lack of oversight and regulation of this sector. New regulations to improve oversight of the hawala system were implemented in 2002, and the CB now supervises 61 hawala brokers, which—like other financial institutions in the UAE—are now required to submit the names and addresses of transferors and beneficiaries involved in transfers to the CB and to complete suspicious transaction reports. The new attention on hawala is encouraging more people to use regulated exchange houses in the UAE. Traders in Dubai's Central Souk (Market) have stated that hawala exchange rates are now only 3 percent cheaper than formal exchange houses, persuading many to use the formal banking network. In May 2002, the UAE hosted an International Conference on Hawala attended by over 300 delegates from 58 countries. The conference concluded with the issuance of "The Abu Dhabi Declaration on Hawala," which calls for the establishment of a sound mechanism to regulate hawala, including, but not limited to the recommendation that countries adopt the 40 Recommendations on money laundering and 8 Special Recommendations on terrorist financing of the Financial Action Task Force (FATF). In April 2004, they held a second international conference on hawala reaffirming their commitment to the regulation of alternative remittance systems.

UAE has also just established the Anti-Money Laundering and Suspicious Case Unit (AMLSCU), located within the Central Bank, which functions as that nation's Financial Intelligence Unit (FIU). In June 2004, they co-hosted the South Asia Conference on Money Laundering with FinCEN, the U.S. FIU, further showing their commitment to combating money laundering and terrorist financing—especially on a regional basis.

Question. Have you seen any improved level of cooperation from the UAE?

Answer. Yes. The UAE Government has made many positive reforms to their anti-money laundering program. Further, it has cracked down on potential vulnerabilities in the financial markets and is cooperating in the international effort to prevent money laundering, particularly by terrorists and their supporters. In 2002, the UAE worked in partnership with the United States to block terrorist financing, and froze the assets of more than 150 named terrorist entities, including significant assets in the UAE belonging to Al-Barakat. The Central Bank (CB) of the UAE has frozen a total of $3.13 million in 18 bank accounts in the UAE between September 11, 2001 and March 2004.

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WILL TREASURY BAN NON-COOPERATING NATIONS FROM THE BANKING SECTOR?

Question. Mr. Secretary, the Patriot Act gave you a new power to designate certain individual foreign jurisdictions or financial institutions as being "primary money laundering concerns" of the United States. To date, you have done this in the case of Burma, briefly in the case of the Ukraine, and in the case of the small country of Nauru. You can use this power under the Patriot Act to go so far as to cut those countries off from the U.S. financial sector.

Mr. Secretary are you considering expanding the use of this tool in terms of pushing foreign nations to improve their efforts in the area of combating terrorist financing?

Answer. The Treasury Department is committed to employing the tools given to us in Section 311 of the Patriot Act effectively and aggressively. As you note in your question, Treasury has already used this authority to designate the jurisdictions of Ukraine, Nauru and Burma, and two individual Burmese banks, all based on money laundering concerns. Additionally, the Treasury Department has designated the Commercial Bank of Syria and its Lebanese subsidiary under Section 311 based on a variety of issues, including terrorist financing concerns. In the cases of Ukraine, Nauru, and Burma, the designations have proved effect in pushing the foreign governments to improve their anti-money laundering efforts. It is our hope and expectation that the Syrian-related designation will prove effective as well.

Moving forward, Treasury will continue to safeguard the U.S. financial system by identifying and designating appropriate targets under Section 311, including those that pose risks related to terrorist financing.

Question. Which nations would you identify as having the most work to do to bring their level of effort up to a level that you would consider acceptable?

Answer. All countries should be constantly striving to improve their efforts in the fight against terrorist financing. Some countries have steps that they should take to improve the underlying structure of the counter-terrorist financing legal and regulatory systems. Others have these systems in place and need to focus on effective implementation. The State Department's recently issued annual report on "Patterns of Global Terrorism 2003" includes a country-by-country discussion of actions in fighting terrorist financing. Treasury concurs with that assessment and refers the committee to that document for more information about country-specific activity.

IS TREASURY REQUESTING ENOUGH FOOT SOLDIERS IN THE WAR ON TERRORIST FINANCING?

Question. Many critics have observed that your agency's efforts to combat terrorist financing are spread over too many offices with little or no coordination between the Office of Foreign Asset Control, the IRS, the Financial Crimes Enforcement Network and other parts of the Treasury Department. As such, I commend your decision to create the new Office of Terrorism and Financial Intelligence within the Department to coordinate all of these efforts. The leaders of the Senate Finance Committee—both Chairman Grassley and Senator Baucus—have commented in a letter to the President that your new initiative seems to be "heavy on generals and light on soldiers." Also, it was recently revealed that, in developing President Bush's budget request for 2005, a request by the IRS to increase the number of criminal financial investigators working on terrorist financing by 50 percent was rejected.

Are you sure that the amount of money that you have requested will supply enough resources to boost the number of foot soldiers that can follow up on leads and disseminate information to have the maximum impact in combating terrorism?

Answer. Over the last year, we have made substantial progress in coordinating the activities of the Office of Foreign Assets Control (OFAC), the IRS-Criminal Investigation Division (IRS–CI) and the Financial Crimes Enforcement Network (FinCEN) through the leadership of Deputy Assistant Secretary Juan Zarate and the Executive Office for Terrorist Financing and Financial Crimes (EOTF/FC). With the creation of the Office of Terrorism and Financial Intelligence (TFI), we are taking the final step of fully integrating the intelligence functions and resources of the Treasury Department into this effort. Initially, we are focusing on ensuring we are using what resources we have as effectively as possible. As part of this, we are exploring all options, e.g., exploiting the expertise and resources of existing Treasury bureaus and offices, not just for intelligence or law enforcement purposes, but also looking at regulatory actions. But before we turn to the solution of adding more peo-

ple, we are ensuring we clearly know what is necessary—whether expertise, personnel, technology, or legal authorities.

Question. How do you respond to the criticism that your new initiative is too top heavy and doesn't provide enough people to follow up on every potential lead?

Answer. The key to this new structure is the combination of our resources as well as the elevation of the status of these efforts within the Treasury Department and the U.S. Government. Both elements are essential to making the Office of Terrorism and Financial Intelligence (TFI) function well. Thus, we will be creating necessary efficiencies both within Treasury and in the U.S. Government to ensure we are maximizing our efforts. This is a team effort, not just within Treasury, but within the government. As we create this new office, we need expertise and leadership that will not only maximize the resources we have within Treasury, but also the resources within the government that contribute to this effort.

WILL THE BUDGET BOOST ACTUALLY IMPROVE FINANCIAL CRIMES NETWORK ENFORCEMENT'S (FINCEN'S) PERFORMANCE?

Question. Your Financial Crimes Enforcement Network, or FinCEN, is charged with collecting and disseminating information on all questionable financial transactions that are reported by the banking sector. This agency has been subjected to a lot of criticism because of outdated technology and the long delays between the time questionable transactions are reported and the time they can be accessed by law enforcement agencies. Your budget seeks a 13 percent boost in funding for FinCEN this year.

If we approve this request, will we see demonstrable improvement in the amount of time it takes from when your agency takes receipt of this information to when it is available to the Federal and State agencies that are actually investigating and prosecuting these crimes?

Answer. Yes. Electronic filing from institutions is the best way to ensure faster provision of Bank Secrecy Act (BSA) information after it is received. An amount of $3.238 million of this budget request is for program costs associated with the various mandates of the USA PATRIOT Act, and one of these mandates is to build a system that would permit the electronic filing of Bank Secrecy Act reports. The system built by FinCEN—the Patriot Act Communications System—has been operational since June 2002. Some of this request will be used to enhance this system's reliability and to develop tools that FinCEN believes will result in greater usage by industry.

FinCEN has also requested $1.354 million and two FTEs for program increases to expand law enforcement's access to Bank Secrecy Act information through the online access system known as Gateway. This will broaden electronic access to this information among law enforcement.

Finally, FinCEN's BSA Direct initiative—a program critical to FinCEN's ability to provide law enforcement access to timely information—will improve law enforcement's access to the critical Bank Secrecy Act data by integrating the data into a consolidated, modern data warehouse. BSA Direct will include sophisticated query and reporting tools. Law enforcement and regulatory agencies will gain easier data access and enhanced ability to query and analyze the Bank Secrecy Act reports. These improvements are expected to lead to increased use of the Bank Secrecy Act data and will permit FinCEN to achieve its statutory obligations to control access and audit access to this sensitive information, provide FinCEN with the ability to network agencies with overlapping investigations, and will help FinCEN provide feedback and better communicate with the financial industry.

Question. The so-called "hawala" network is considered one of the prime ways in which terrorist organizations have been able to move money across borders without a paper trail. These networks are used for legitimate money transfers from immigrant families to their families back home. A blue ribbon task force on terrorist financing recommended that your Financial Crimes Enforcement Network register these operations in this country and require them, like banks, to report suspicious financial transactions.

Has any progress been made toward that goal by your Financial Crimes Enforcement Network?

Answer. To date, approximately 18,000 money service businesses have registered with FinCEN. It is unclear, however, how many of these entities are informal value transfer systems such as hawalas, hundi, fei ch'ien and others. Although there is a clear requirement for informal value transfer systems to register with FinCEN as a money services business, the registration does not distinguish these systems from other money service businesses. Failure to register can result in a Federal felony conviction.

FinCEN is working closely with the Internal Revenue Service (IRS), the agency with delegated responsibility to examine these businesses for Bank Secrecy Act compliance, to look for ways to identify these informal value transfer systems and bring them into compliance. FinCEN and the IRS are also focusing outreach and education efforts in communities where these informal systems are popular. Finally, FinCEN is working closely with law enforcement to identify those persons and entities that may be operating outside the bounds of the law.

Question. Should we expect any progress this year?

Answer. Yes. A central focus of FinCEN's new leadership is to improve registration and compliance by money service businesses. FinCEN is developing a comprehensive plan aimed at increasing registration and otherwise improving money service business compliance with Bank Secrecy Act regulations. Steps that FinCEN is already taking include:

—Obtaining better information on the size and nature of components of the money service business industry—including informal value transfer systems—to better ascertain the scope of education and outreach necessary and focus compliance resources on those sectors of the industry that critically need to be addressed;

—Coordinating with State regulators and Trade Associations to identify potential registrants and provide education and outreach;

—Conducting analysis of the Bank Secrecy Act reports for leads on locating money service business identified by other financial institutions as unregistered, non-compliant or engaged in suspicious activity. FinCEN will then point the IRS or law enforcement to those entities for action.

—Improving the registration form and regulatory requirements to simplify the registration and filing process, reduce filer error and improve quality of the data provided by filers.

TREASURY'S TERRORIST FINANCING INITIATIVE NEEDS DEADLINES AND MILESTONES

Question. Mr. Secretary, a variety of oversight agencies, including the GAO and others have criticized your national money laundering strategy and other elements of the war on terrorist financing because they tend to lack milestones and deadlines. You are now standing up a new office of Terrorism and Financial Intelligence within the Treasury Department to improve coordination between all of the agencies within your department that work on this important effort.

Do you think it is reasonable to have the new head of this office submit a comprehensive series of department-wide deadlines and milestones for each of the elements of your war on terrorist financing?

Answer. Treasury and the Executive Office for Terrorist Financing and Financial Crimes already use measures or milestones to help mark and guide our efforts in the areas of terrorist financing and financial crime. These have been incorporated into Treasury's comprehensive strategic plan, which is attached. Elements of this plan specifically focus on terrorist financing and financial crimes.

The ultimate goal of our efforts is to detect, deter and disrupt terrorist activity by cutting off access to sources of funds and systems. The most valuable way to measure our success in this effort is often intelligence information that suggests to us the impact we are having on the terrorist organization that we are targeting. This information is often anecdotal. Recognizing that we are dealing with a nefarious and clandestine network about which it is hard to obtain hard facts on cash flows, we have tried to identify other measures on how to evaluate success.

Question. How soon do you think you would be in a position to submit this to the committee?

Answer. A copy of Treasury's strategic plan is attached, and we will continue to develop adequate measures to help monitor our efforts.

[CLERK'S NOTE.—A copy of this document has been retained in Committee files.]

ARE THERE MORE RIGGS BANKS OUT THERE?

Question. Mr. Secretary, one of the last acts of the Clinton Administration was to issue a new money laundering guidance that specifically addressed requirements of financial institutions to monitor the financial transactions of senior foreign political figures. A lot of attention has been paid in the press to the possibility that Riggs Bank, here in the District of Columbia, knowingly violated those procedures since they do so much business with the Foreign Diplomatic Corps.

How widespread do you believe the problem is?

Answer. We have no reason to believe that the industry as a whole is not complying with the Bank Secrecy Act (BSA) requirements, although we recognize that we may need to improve coordination and enhance regulatory oversight.

Question. Are there other financial institutions besides Riggs Banks that are currently under investigation for failing to monitor the transactions of foreign government officials and foreign diplomats?

Answer. It would be inappropriate to comment on current investigations. However, at any given time, banks are examined by their functional Federal regulator for compliance with the Bank Secrecy Act (BSA). In fact, Federal bank regulators have explicit BSA examination cycles for institutions under their supervision. If an institution is found not to be in compliance with its requirements under the BSA, appropriate measures are taken to ensure full investigation and appropriate resolution of the matter.

Question. To what extent do you believe that the transactions that were not reported by Riggs Bank or others are in fact directly attributable to terrorist financing?

Answer. FinCEN is not in a position to confirm or deny the possibility that Riggs Bank facilitated terrorist financing. The transactions identified as suspicious were referred to law enforcement, as is our standard procedure for all such reporting for any financial institution.

Question. Have we established any direct links between actual terrorist groups and some of the transactions that have been discussed in the press?

Answer. FinCEN has no factual basis for concluding that the transactions not reported by Riggs Bank involved the financing of terrorism, and the transactions identified as suspicious were referred to law enforcement for possible investigation.

WHAT ACCOMPLISHMENTS ARE HOPED FOR IN NEXT G–8 SUMMIT?

Question. Mr. Secretary, exactly 7 weeks from today, President Bush will host the Sea Island G–8 Summit in Georgia. The theme of the summit is "Freedom, Prosperity and Security", and the efforts of the international community in fighting terrorism are on the agenda.

Can you specify for us what specific accomplishments in the area of combating terrorist financing are you hoping to bring about at the next G–8 summit?

Answer. The G–8 heads of state have provided crucial leadership to the international coalition against terrorist finance, which met in June 2004 at the Sea Island Summit. They have charged the G–7 Finance Ministers with the lead operational role in these efforts, and the Finance Ministers have reported to Heads at the end of last year about their accomplishments and their plans for this year, which included work on cash couriers, alternative remittance systems, and making asset freezing regimes more effective. They have also continued to implement the heads' charge to undertake outreach efforts to countries outside the G–7 by hosting meetings with key finance ministers and central bank governors in September 2003 (Dubai) and April 2004 (Washington, DC).

IRS STAFFING REDUCTIONS

Question. In January, IRS announced plans to reorganize.

What is the status of the reorganization? Please list current and proposed reductions by number of employees, type of work performed, center location including State, and date of reduction or proposed reduction.

Answer. In January, the Internal Revenue Service (IRS) announced changes designed to create operational efficiencies that will ultimately allow the IRS to re-direct the savings towards approximately 2,200 new enforcement positions. These changes include: Income Tax Returns Processing, Consolidation of Back Office Operations, and Reduction of Agency Overhead. Below are the specific details of each initiative, in turn.

Income Tax Returns Processing.—The IRS is gaining efficiency from the increase in e-filed returns and the drop in the more labor-intensive paper filings. Since 1990, the number of returns filed electronically has grown from 4 million to 60 million in 2004, reducing the need for employees to enter the data manually. It is expected that in 2005 over half of the returns received by IRS will be electronically filed. Some time ago, after realizing ten centers would not be needed to process tax returns, IRS developed a plan that would, over time, reduce the number of centers processing paper returns. The IRS Brookhaven center stopped processing paper returns in September 2003. In January, the IRS announced the second step in this process. The IRS Memphis center will stop processing paper returns in October 2005. At the Memphis location, about 2,200 employees currently process tax returns. Almost 2,000 of these employees are either seasonal employees or employees hired under a limited-term appointment. The IRS Philadelphia center is scheduled to stop processing paper returns in 2007, and the Andover center will be scheduled after

Philadelphia, depending on experiences with the other locations. IRS has taken steps in Philadelphia to limit the impact on career employees.

Consolidation of Back Office Operations.—For approximately 3 years, the IRS studied the reengineering of two administrative case management operations: case processing and insolvency operations. Case processing employees are responsible for a variety of back-office administrative tasks in support of examination and collection casework, such as processing cases, computer research and inventory controls. The insolvency organization protects the government's interests by ensuring that the government's claim in bankruptcy proceedings receives the highest possible priority relative to other creditors.

The case processing initiative involves more than 1,200 employees in over 80 locations. The insolvency initiative involves more than 300 employees in more than 50 locations. IRS is currently examining the impacts on each State, but will work to minimize the impact on employees by providing the maximum opportunities possible in affected areas.

The current structure of these two operations is a vestige of the old IRS structure prior to the reorganization mandated by the IRS Reform and Restructuring Act of 1998. Under this structure, many of the posts of duty have very few employees; indeed, some locations have only one employee performing case processing or insolvency work. As a result, we have minimal ability to respond to peak demand or manage workload; and employees have little opportunity to develop specialized skills or advance their careers. In addition, this widely dispersed geographic structure results in a variety of non-standard processes and makes quality review difficult.

The new operational structure builds on existing processes currently being performed at IRS campuses; provides economies of scale and standardization; allows the creation of a quality review unit; offers staffing flexibility; and creates space savings due to shift work. Specifically, Case Processing operations will be centralized at four campuses (Cincinnati, Memphis, Ogden, and Philadelphia), and a new function will be created to support the redesigned organization through help-desk support, technical assistance and quality review. Insolvency operations will be realigned across clerical, paraprofessional and professional staff. The clerical and paraprofessional staff will be consolidated in Philadelphia. (Approximately 900 Insolvency Specialists and Advisors will remain in field offices.)

Even after taking into account costs such as severance, hiring, training, salary cost differentials, and infrastructure, we expect these initiatives to yield savings in excess of $300 million over the next 10 years. These savings will allow us to redirect the equivalent of 350 to 425 full-time employees to front line tax law enforcement over the next 3 to 5 years.

Reduction of Agency Overhead.—The IRS has studied human resources and other support functions to identify staff efficiencies and determine the proper size of these activities. Streamlining and centralization of these functions will generate annual savings of approximately 750 staff years, primarily two initiatives in the human resource area: Personnel Field Services and Transaction Processing Centers. The staff reductions are expected to occur in late 2005. IRS is in the process of finalizing these plans and will announce the details as they are able.

—*Personnel Field Services*.—The Personnel Field Services provides internal and external staffing support for the IRS business units, and administers over 30 benefit and work life programs. This initiative will take advantage of new technologies, such as a new automated Personnel system, HR Connect, mandated for use throughout Treasury and CareerConnector, as well as improved business processes and consolidation to create efficiency gains. Through this initiative, we will consolidate the Employment operations organizationally and geographically, producing economies of scale and improved operations, and yielding substantial support resource savings. Employment services will be consolidated in locations to support on-site campus operations.

—*Transactional Processing Centers*.—Transactional Processing Centers (TPCs) process payroll and timekeeping for the IRS. Currently, these operations are located at nine sites, each of which have a timekeeping, payroll, and employee inquiry function. As we implement HR Connect, we anticipate a 50 percent decrease in workload at the TPCs. The TPC consolidation is also part of a larger process of integrating the staff of the Employee Resource Center (which handles all administrative inquiries from Service employees) and the TPCs. Since about one-third of the administrative inquiries concern payroll, integration of these functions will permit us to answer more inquiries on first contact.

Question. What is the rationale for these reductions?

Answer. As noted above, in January, the Internal Revenue Service (IRS) announced changes designed to create operational efficiencies that will ultimately

allow the IRS to re-direct the savings towards approximately 2,200 new enforcement positions. These changes include: Income Tax Returns Processing, Consolidation of Back Office Operations, and Reduction of Agency Overhead. Below are the specific details of each initiative, in turn.

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Question. What kind of hires will occur as a result of the reorganization?

Answer. The savings from the reorganization initiatives will ultimately be re-directed towards approximately 2,200 new enforcement positions. The case processing and insolvency initiative will result in the creation of positions in Cincinnati, Memphis, Ogden and Philadelphia. Case processing operations will be centralized at four campuses and a new function will be created to support the redesigned organization through help-desk support, technical assistance and quality review. Insolvency operations will be realigned across clerical, paraprofessional and professional staff. The clerical and paraprofessional staff will be consolidated in Philadelphia. (Approximately 900 Insolvency Specialists and Advisors will remain in field offices.)

The reduction in agency overhead will fund expected efficiencies of $18 million directed by the administration in the IRS's fiscal year 2005 budget.

IRS returns processing savings anticipated in fiscal year 2005 are approximately $6 million and 147 FTE. These savings, along with $105 million additional savings will be reapplied as follows:

Reinvestment	Millions of Dollars	FTE
Curb Egregious Noncompliance	31.4	293
Select High Risk Cases for Examination	6.0	.....
Embedded Quality	1.6	26
Consolidation—Case Processing	13.7	80
Consolidation—Insolvency	2.1	15
Combat Corporate Abusive Tax Schemes	5.0	34
Leverage/Enhance Special Agent Productivity	2.5	28
Standardize CLMC Training Rooms	0.5	.....
IRS Reorganization Transition	5.0	.....
Service-wide Competitive Sourcing	9.1	.....
MITS Reorganization Transition	34.0	236
Total	110.9	712

Downstream rent savings will be used to reduce rent deficits, allowing IRS to protect enforcement initiatives.

IRS ENFORCEMENT INCREASE

Question. Mr. Snow, at our recent hearing with IRS Commissioner Everson, we heard about the unbudgeted-for costs at IRS and how funding that was to be used for enforcement, instead went to help pay for these unbudgeted costs such as pay, postage and rent.

Can you give us the same commitment that Commissioner Everson did, that every dollar that this subcommittee provides for enforcement for this year and next year actually be spent on enforcement activities?

Answer. Yes, if the Congress provides the requested enforcement funds, the committee can count on those funds going toward enforcement.

The only caveat is, as noted by Commissioner Everson when he testified before the committee, is a government-wide rescission or similar device is enacted, we will take them across the board and that may affect the total enforcement resource level as it will affect all of the other IRS accounts.

Question. Also, Mr. Secretary, we have been told by IRS that for the past 3 years, enforcement has been declining at IRS. Now, IRS is changing its focus and making enforcement a top priority.

Why has it taken 3 years for the IRS to stem the reduction in enforcement activities?

Answer. The decline in enforcement activities was driven by concurrent declines in frontline enforcement personnel and implementation of significant process changes required to respond to the mandates of the Restructuring and Reform Act of 1998. From fiscal year 1996 to fiscal year 2003, the combined FTE for revenue agents, revenue officers and criminal investigators declined by 27 percent. During this period, IRS placed an increased emphasis on improving taxpayer service, often to the detriment of enforcement. Despite this, enforcement outputs increased in 2003 across all major programs. IRS expects these increases to continue in 2004 with additional hires and continued roll-out of reengineered processes. The fiscal year 2005 budget seeks to further restore IRS to a balanced program emphasizing both service and enforcement.

OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

Question. Recently, OFAC provided supplemental budgetary information to the Appropriations Committee outlining six areas of focus relating to Executive Orders, followed by two significant efforts on joint task force actions.

Please provide for the record how many FTEs or employee hours—whichever is more applicable—are allocated for the above-mentioned areas.

Answer.

Executive Order [1]	FTE
President's Financial War on Terrorism (E.O. 13224)	30.443
Charities and Regulatory Strategy/Financial War on Terrorism (E.O. 13224)	2.930
Blocking Saddam's Misappropriated Assets (E.O. 13315)	5.820
Western Balkans Executive Order (E.O. 13219)	1.070
Kingpin Act Program	9.095
SDNT—Colombian Cartels Program	[2] 7.045
Total	56.403

[1] These numbers are estimates based on current workload and allocation of resources to meet these needs. As workload demands change, the numbers will fluctuate as well. Numbers in these tables include allocation of resources for program implementation and support.
[2] Includes Operation Dynasty and Operation Panama Express.

Question. What are the remaining FTEs or employee hours allocated to?

Answer.

Programs [1]	FTE
Afghanistan/Taliban	0.69
Cuba	21.43
Iran	13.62
Iraq	5.43
Libya	5.06
North Korea	0.34
Sudan	4.1
Syria	0.75
Burma	0.021
Liberia	2.06
Zimbabwe	0.58
Haiti	0.045
Other Programs	6.971
Program Support	9.61
Total	70.707

[1] These numbers are estimates based on current workload and allocation of resources to meet these needs. As workload demands change, the numbers will fluctuate as well. Numbers in these tables include allocation of resources for program implementation and support.

Question. Please list for the record, how many FTEs and employee hours are dedicated to administering and enforcing the restrictions on travel to Cuba.

Answer. Cuba, because of its proximity and distinctive relationship with the United States, has a unique and critical sanction program which receives strict attention. OFAC has the equivalent of 21.43 FTEs who administer, oversee and enforce the Cuba program, including the travel embargo and remittance restrictions. These FTEs focus on a full range of OFAC services required for the administration of the program, including licensing, enforcement, supervision and other important aspects of the embargo. Of the 21.43 FTEs, approximately half are devoted to proc-

essing travel-related license requests, which include family, educational, humanitarian, religious, professional, journalistic, governmental, and other types of travel.

Question. How has this differed from FTEs and hours spent during each of the past 5 years?

Answer. Departmental Offices' financial management reporting system does not have the capability of allocating the number of employees dedicated to administering and enforcing the restrictions on travel to Cuba over the past 5 years. The financial reporting system reflects the total number of employees, authorized, onboard, and project FTE usage.

Question. How does the fiscal year 2005 budget request allocate resources for this purpose?

Answer. The fiscal year 2005 budget request allocates resources for this purpose based on the current FTE level (21.43 FTEs). It is anticipated that this FTE level will remain approximately the same.

PROPOSED MERGER OF THE U.S. MINT AND THE BUREAU OF ENGRAVING AND PRINTING

Question. Mr. Secretary, in March, the Treasury Department hired a consulting company to study ways to merge the U.S. Mint and the Bureau of Engraving and Printing (BEP). This is not a new idea and is one that has been studied by GAO in 1997, by the National Performance Review in 1995, and by the Treasury Inspector General in 1987. In all cases, the idea of a merger was rejected as impractical and potentially costly. Despite these facts, the decision was made to pay for a new study at a cost that will exceed $400,000. I have been told that this study will not make a recommendation, that it is only a 60-day study that will simply provide options.

Is this a wise use of taxpayer dollars when the idea has already been rejected on three separate occasions?

Answer. The Treasury Department continues to look for taxpayer savings and efficiencies in all its bureaus. Due to changing market conditions, review of the Treasury Department's structure is necessary to best serve the public. By studying the structure of the U.S. Mint and Bureau of Engraving and Printing, the Treasury Department ensures effective use of taxpayer resources.

Question. Is this expenditure reflected as a line-item in the Fiscal Year 2005 President's Budget? If not, why not?

Answer. The expenditure is not a line item in the President's Fiscal Year 2005 Budget. The U.S. Mint and the Bureau of Engraving and Printing allocate resources for efficiency assessments they believe necessary. The specifics of these studies are not always known when the budget is formulated.

Question. Who at the Treasury Department made the decision to hire the consultant?

Answer. The Secretary directed senior officials at the Bureau of Engraving and Printing and the U.S. Mint to work with his staff. These efforts at the Department are run out of the Office of the Assistant Secretary for Management.

Question. Why wasn't this an open competition? Only three firms were considered off the GSA schedule. Who were they and what factors led to the winner's selection over the other two?

Answer. This was an open competition. The Department complied with the requirements for full and open competition by obtaining three experienced companies from the GSA Schedule. IBM, Logistic Management Institute (LMI), and Booz Allen Hamilton are prominent and respected firms in this field.

LMI was selected because the contracting officer determined the firm submitted the best proposal based on their:

—*1. Management Approach.*—This includes "Understanding of the Requirement" and "Demonstrated Ability to Meet Timeframes with Quality Products"

—*2. Experience of Proposed Personnel in Cost Modeling, Government Management Improvement Efforts, Redevelopment of Excess Plant Capacity/Office Space, and OMB/Congressional Budget Issues*

—*3. Past Performance.*—Includes the proposed individuals and the firm.

Question. Why is this study being rushed in 60 days in order to provide information for the fiscal year 2006 budget cycle? This is not a new issue. Why is it imperative to cut corners and go to unnecessary expense for this proposal?

Answer. The study was designed to be completed in approximately 60 days in order for Treasury to consider an inclusive approach that assesses the possible impact of changing market conditions. This inclusive approach calls for augmenting the business case for BEP/Mint efficiencies within the context of current "good government" initiatives.

While the issue is not new, the environment (impact of E-Commerce on demand and 9/11 impact on security) has changed since the prior studies.

We believe this timeframe was reasonable for the assessment and is a necessary expense and integral to implementing our approach for the study.

Question. Will you provide your assurance, Mr. Secretary, that from this point further, the Treasury Department will not expend any additional funding to implement a Mint-BEP merger until such a time that this committee and the Congress provide its approval?

Answer. We will not pursue any of these options without a full consultation with Congress and, in fact, Treasury will not call for any merger of any system or function during the 108th Congress.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

Question. Congress included in the Fiscal Year 2004 Consolidated Appropriations bill, enacted as Public Law 108–199, on January 23, 2004, language that directs the administration to negotiate a solution to the World Trade Organization's (WTO) ruling against the Continued Dumping and Subsidy Offset Act. When will the United States present its negotiating position on this matter to the WTO?

Answer. In accordance with the Appropriations bill language, the United States filed and presented a formal paper in the World Trade Organization (WTO) Negotiating Group on Rules for its meeting the week of April 26, 2004, raising the issue of the right of WTO Members to distribute monies collected from antidumping and countervailing duties. That paper is publicly available on the WTO website (www.wto.org), under the document designation TN/RL/W/153.

It should be noted that the November 2001 Doha Ministerial Declaration mandate for the WTO Rules Group calls for an initial phase of issue identification before any negotiations over specific changes. Given this Doha mandate, it has been U.S. practice with respect to all the issues we have raised thus far in the Rules negotiations to begin with a submission identifying the issue generally, and we followed this practice in our paper with respect to this issue as well.

Question. In report language accompanying the Fiscal Year 2004 Consolidated Appropriations bill, enacted as Public Law 108–199, Congress directed the administration to report to the Senate Appropriations Committee every 60 days on the progress of these negotiations.

Can you explain why the first report was not provided to the Appropriations Committee 60 days from enactment of the Consolidated Appropriations bill, meaning on or about March 23, 2004? Can you confirm that the next report will be provided 60 days from March 23, 2004?

Answer. The United States Trade Representative (USTR) is working to schedule a briefing with Senate Appropriations Committee staff to report on this issue as soon as it can be arranged.

Question. The Bush Administration currently does not pursue trade remedies under the U.S. countervailing duty law against non-market economies like China, even though: (1) the United States negotiated subsidy disciplines with China as part of its accession to the WTO; (2) the United States has worked to see that China participates in the ongoing OECD steel subsidy negotiations; and (3) USTR reports that various agricultural industries are experiencing ongoing export subsidies by China. Can you tell me whether the administration is reexamining this issue? If not, why not?

Answer. The Department of Commerce has informed us that it does not currently apply the countervailing duty (CVD) law to non-market economies (NMEs), a practice upheld in 1984 by the Court of Appeals for the Federal Circuit in Georgetown Steel Corp. v. United States. In that case, the Court affirmed Commerce's view of NMEs as devoid of the kinds of market benchmarks necessary to identify a subsidy. The Court also relied on Congress's 1974 effort to address unfairly traded NME exports through the AD law by enacting the factors-of-production methodology. Commerce has re-affirmed Georgetown many times, most recently in the 1997 preamble to the post-URAA CVD regulations. Congress enacted substantial amendments to the CVD law in 1988 and 1994 without disturbing Commerce's practice in this area.

The Commerce Department recognizes that the reasoning underlying the Georgetown decision may not apply to China today to the extent that it did 20 years ago. However, applying the CVD law to NMEs would raise complex issues of policy and methodology, including implications for antidumping policy and practice. Any such shift away from 20 years of trade practice should therefore only be implemented after careful consideration and review.

Question. The U.S. Bureau of Customs and Border Protection (CBP) issued a report in March, which revealed that at least $130 million in import duties were uncollected in fiscal year 2004, primarily in cases involving imports from the People's Republic of China. Several weeks ago CBP Commissioner Bonner suggested that an interagency task force had been launched specifically to ensure that antidumping duties, including those imposed on Chinese imports, are properly assessed and collected by the U.S. government.

Please advise as to whether U.S. Treasury Department officials are involved in this task force and, if they are, provide specific information regarding what they plan do to solve this problem.

Answer. Assessment and collection of duties, including antidumping duties, have been delegated to the Department of Homeland Security pursuant to the Homeland Security Act. Treasury Department and CBP officials have, nevertheless, discussed the issue of how to ensure that antidumping duties are properly assessed and collected. Treasury officials, however, are not involved in the particular work group to which you are referring, which involves CBP and Department of Commerce staff. CBP has informed us that it currently has in place trade strategies that focus specifically on antidumping/countervailing duty and revenue. Each of these plans has a multi-office working group responsible for the development, oversight and evaluation of the plans. These plans have already developed and implemented a number of actions that address dumping as a whole and by inclusion, China. These actions include identification and clean up of outstanding dumping entries, increased operational oversight of the dumping process, development of improved mechanisms to ensure and monitor adequate bonding of dumping entries, and improved communication with the Department of Commerce.

QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

Question. I'm very concerned about the finding in a recently-released U.S. General Accounting Office (GAO) report. The GAO report found that a majority of foreign-based and U.S.-based companies pay absolutely no Federal income taxes each year despite doing trillions of dollars of business here. There is compelling evidence that many multinational companies are using transfer pricing to shift their U.S.-earned profits abroad to tax-haven countries. And the "arm's length" pricing enforcement methodology that has been advocated by the Treasury Department—and applied by the IRS—is simply not putting a stop to this blatant tax gimmickry. Repeated attempts by the United States to make the current "arm's length" system work over the past decade have failed.

At what point will this administration decide that it's time to finally abandon its "arm's length" pricing approach and develop a more effective way to administer and enforce our tax laws with respect to firms that operate across national borders?

Answer. The arm's length standard provides a clear, consistent principle for dividing the income of a multinational enterprise among the countries where it operates. The policy is neutral in its treatment of companies within a multinational group versus independent companies and thus does not favor one form of business organization over the other. These positive features have contributed to the broad acceptance of the arm's length standard as the international standard for determining the income of multinational enterprises.

Another compelling reason to continue with the arm's length standard is because it represents the best way to deal with related party transactions under today's economic circumstances. The conditions that make formulary apportionment possible at the State level do not exist at the international level. Internationally there are neither common accounting standards nor common approaches for measuring income. Moreover, there is no umbrella framework or organization comparable to the Federal income tax or the Internal Revenue Service. Unless countries were to adopt a common accounting system and some sort of international body were to be established with authority to examine the worldwide financial statements of all multinational companies, it would not be feasible to abandon the internationally-accepted arm's length approach in favor of global formulary apportionment.

The Treasury Department continues working to improve the administration of the arm's length standard and to build upon the advances made in the last 15 years. The Treasury Department is devoting significant resources to ensuring that the transfer pricing regulations are up-to-date and reach appropriate results consistent with the arm's length standard. This effort includes appropriate revisions of the applicable regulations as well as an administrative compliance initiative that is being directed by the Internal Revenue Service.

Question. The administrative problems associated with the current "arm's length" pricing methodology are well-documented. A number of prominent tax experts share my view that U.S. tax avoidance by sophisticated multinational firms has been perpetuated, in large part, by the Treasury Department's blind allegiance to this antiquated tax enforcement method.

I think we should replace the "arm's length" pricing method with an objective, formula-based approach for apportioning the world-wide income of related companies. This approach would be similar to the system that States have used successfully for decades to allocate the overall income of corporations among the States in which they operate. A formulary method avoids many of the problems caused by the overly subjective and factually-sensitive nature of intercompany sale pricing under the "arm's length" standard.

What do you believe are the major impediments, if any, to the United States moving to a formula method for apportioning the world-wide income of related companies? If there are impediments, what steps do you think would be needed to overcome them?

Answer. The United States could not implement a global formulary apportionment regime unilaterally. The implementation of a global formulary apportionment regime would require substantial international coordination and consensus on predetermined formulae. Thus, a significant number of steps would need to be taken if a global formulary apportionment regime were to be implemented.

First, significant changes to our longstanding statutory and regulatory rules would be required.

Second, reconsideration of the entire U.S. network of bilateral income tax treaties would be necessary. If global formulary apportionment were to be implemented, it would be necessary to ensure that U.S. income tax treaties require or permit the use of such apportionment to determine the taxable income of multinational enterprises. The U.S. network of bilateral income tax treaties is the means by which we reach agreement with our treaty partners on the rules and mechanisms for avoiding double taxation and preventing tax evasion. Each bilateral income tax treaty represents a negotiated balance of the two countries' interests and is necessarily tailored to the two countries' particular circumstances. Current U.S. income tax treaties contain articles pursuant to which each country applies the arm's length standard in transfer pricing matters.

Third, and perhaps most significantly, a consensus regarding the implementation and administration of a global formulary apportionment regime would have to be reached among all of our major trading partners at a minimum. As a longer term matter, a consensus would need to be reached among all countries. Absent such an international consensus, there would be double or multiple taxation of the same income (and also the potential for income to escape taxation altogether). The likelihood that American companies would be subjected to double taxation would be very high if the United States were to attempt to implement a formulary apportionment system without such an international consensus.

Formulary apportionment would require international consensus on the following basic items as a starting point: (1) how to measure the global tax base, including a common accounting system; (2) how to define the scope of the worldwide unitary business subject to the formulary apportionment; (3) the factors to be used to apportion the tax base; (4) how to measure and weight the apportionment factors; (5) how to address the potential for distorting the results under the formula by artificially shifting the factors; and (6) how to address the particularly complex questions relating to intangible property. In addition, proper implementation of a global formulary apportionment system would require establishment of some sort of international body that would have to be vested with the authority to examine the worldwide financial statements of all multinational companies and to which the United States (and other countries) would have to cede the ability to define taxable income.

This summary description of steps that would be required for implementation of a global formulary apportionment regime provides some insight into why the arm's length standard has become the international standard for dividing the income of a multinational enterprise among the countries where it operates. The arm's length standard provides a clear and consistent principle which is grounded in economics and to which all countries can agree. The fact that the arm's length standard is grounded in the underlying economics of the transactions has made it possible to develop an international consensus in favor of the arm's length standard among countries with very different economic interests.

SUBCOMMITTEE RECESS

Senator SHELBY. Mr. Secretary, appreciate your leadership and look forward to continuing to work with you.

Thanks for your appearance today.

Secretary SNOW. Thank you, Mr. Chairman.

Senator SHELBY. This concludes the subcommittee hearing.

[Whereupon, at 11:40 a.m., Tuesday, April 10, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2005

THURSDAY, APRIL 22, 2004

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

The subcommittee met at 10:02 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Richard C. Shelby (chairman) presiding.

Present: Senators Shelby, Stevens, Murray, and Dorgan.

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

STATEMENT OF MARION C. BLAKEY, ADMINISTRATOR

Senator SHELBY. The subcommittee will come to order. Today we welcome Ms. Marion Blakey, the Administrator of the Federal Aviation Administration, and Mr. Ken Mead, the Inspector General of the Department of Transportation. I thank you both for being here this morning. I look forward to our discussion.

Madam Administrator, your agency and the aviation industry are to be commended for operating the safest aviation system in the world. The 3-year average for fatal commercial accidents is at an all-time low.

Obviously no mission is more important than the Federal Aviation Administration and we should strive to improve upon this impressive safety record. I look forward to hearing from our witnesses what additional steps can be taken to improve the safety of our airways.

The FAA and the aviation industry face other challenges, as well. Our current fiscal constraints require us to make choices between priorities and programs. We are at a critical juncture in the modernization and operation of our air traffic control system. After almost a decade of vigorously growing budgets, we are faced this year with a budget request and a budget environment that would seem to indicate that tough choices will have to be made at the FAA.

Mr. Mead's written statement points out that FAA has not been accustomed to operating within a budget-constrained environment and that changing the organizational culture to accept budget constraints will be a challenge. Yet when I look at the FAA budget request I am struck that the choices made in this budget request are

remarkably similar to the choices of the past. The agency's operations account grows by 5 percent while funding for facilities and new air traffic control equipment is squeezed. When other Federal agencies are facing 1.5 percent growth, I find it astonishing that a request for 5 percent growth is viewed as constrained.

Madam Administrator, you are to be commended again for your commitment to slow the growth rate in the FAA's operational costs and in your efforts at personnel reform. Clearly we have a long way to go to bring the FAA's operational cost growth into line with the budget realities that we are likely to face for the next several years. While you have all the legal authority to implement virtually any reform you can imagine, true personnel reform is elusive and remains exceptionally difficult at the FAA.

PAY PERFORMANCE

Your effort to link pay and performance is a step in the right direction. I note that you have had mixed success in tying pay raises to meeting performance goals. It is ironic that the controllers did not participate in this linkage between raises and performances last year, even though one of the three organizational goals that FAA missed was air traffic control operational errors.

Administrator Blakey, tying pay to performance is appropriate, I believe, and overdue. While your action last year was only a step on a path toward linking pay and performance, I commend you for taking this necessary first step. I look forward to hearing what further steps you plan to make.

I also want to mention your efforts to restructure air traffic services and research and acquisition offices into a performance-based organization called the Air Traffic Organization. If this structure is properly implemented, it will instill personal accountability throughout the FAA. On the other hand, if the ATO is implemented incorrectly, it will only add another layer of bureaucratic structure to an already dysfunctional organization.

PROBLEMS WITH MODERNIZATION

I believe that we must improve FAA's workforce productivity if we are to achieve any type of meaningful budgetary savings. A major contributor to improving productivity should come through making the right investments in modernization of the National Airspace System. Yet when I review the facilities and equipment budget, I am disappointed that this is where the cuts to the FAA budget have been taken. I am concerned that the lion's share of the remaining facilities and equipment funding is poured into the same money pits that consumes a disproportionate amount of our capital funding, including the Wide Area Augmentation System (WAAS) and Advanced Technologies and Oceanic Procedures (ATOP).

Further, I am increasingly concerned with the En Route Automation Modernization procurement to replace the aging Host system. The funding profile for ERAM is unrealistically aggressive; the program structure is unnecessarily complex; and the procurement strategy virtually guarantees substantial cost growth, schedule slippage, and questionable outcomes. I am interested in hearing from the Inspector General, his suggestions for minimizing the risk associated with this program.

We may be coming to the realization that the FAA is not capable of developing realistic cost estimates and schedules for major acquisition and development programs. We may also need to determine what steps to take to protect the taxpayer from what the Inspector General characterizes as historical "cost growth, schedule slips, and shortfalls in performance."

What concerns me most about the statement is the implication that cost growth, schedule slippage, and performance shortfalls are expected and seem to have become part of the FAA culture. The FAA's failure to cost-effectively modernize and redesign the National Airspace System is only matched in spending and failure by the IRS's on-going failed attempts to modernize its computer system.

FLIGHT DELAYS

The Bureau of Transportation Statistics recently published its monthly analysis of airline on-time statistics and causes of flight delays. The 6-month analysis shows that almost half of flight delays are caused by insufficient infrastructure or failures of the National Airspace System itself. I believe this data underscores the primary issue facing the FAA in this budget request: are we making the right decisions to address constraints in the system, enhance safety, and improve efficiency, or are we failing to question our assumptions and merely following the same programs, procurements and pitfalls that the FAA has slavishly adhered to in prior budgets? It is an important question to ask and an even more important question to honestly answer. I hope we can get some of these answers here today.

Senator Murray.

STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you, Mr. Chairman. I am glad you have called this meeting this morning to focus specifically on the needs and challenges facing the Federal Aviation Administration.

The President's budget for fiscal year 2005 proposes to effectively freeze overall funding for the Transportation Department at the level of $58.7 billion. However, within that proposed freeze are selected increases and corresponding cuts. The largest single cut of any agency within the Transportation Department is roughly the $400 million that President Bush wants to cut from the FAA's efforts to modernize our air traffic control system. Frankly, I was dismayed when I learned of the President's planned retrenchment in aviation investment.

As a long-standing member of this subcommittee, I know well that there have been several problems that have beset the FAA's efforts to modernize the equipment that keeps the National Airspace System operating each day. As the Inspector General will tell us this morning, certain programs continue to encounter significant cost overruns and schedule delays.

But in my mind, the solution to these problems is not the wholesale disinvestment that is proposed by the President. While a lot of attention has been focused on the $400 million cut proposed for 2005, a little known fact is that President Bush's multi-year budget anticipates even further cuts will be made in the FAA's procure-

ment budget in the future. For 2006, the Bush Administration intends to cut air traffic control modernization by an additional $61 million. Taken together, under the President's proposal total funding for air traffic control modernization over the 4-year period covered by the Vision–100 Aviation Authorization Bill that the President just signed a few months ago would be more than $2.3 billion less than the level authorized in that bill.

What is even more perplexing is that the Bush budget proposes that modernization funding stay almost $2 billion below the level that President Bush himself proposed in his own Aviation Reauthorization Bill. Finally, under the Bush budget, funding for aviation modernization would be almost $1.3 billion lower than the level we would achieve if we just froze modernization funding at the current level.

This is truly harsh treatment. It seems no sooner did the President sign the Vision–100 bill than he turned his back on it. His wholesale retrenchment will mean that the flying public will have to wait even longer to see the woefully outdated Air Traffic Control System brought up to modern standards.

My principal concern with the President's decision to disinvest in aviation is what it means for the future of aviation and America's leadership in aviation. After leading the world in aviation for its first 100 years, I have to wonder whether the President is now creating an opportunity for Europeans or others to control the next 100 years. When you look at many of the modernization projects that have been eliminated from the budget to accommodate the President's proposed cuts, many of them were designed to bring the cutting edge of technology into our air traffic control system to make our aviation system safer and more efficient.

Just last week I had the opportunity of visiting the Air Traffic Management enterprise at the Boeing Company in my home State of Washington. They are making great strides in developing plans for the next generation, satellite-based air traffic control regime. These are the kinds of initiatives in which we must continue to invest if we are to stay ahead of our foreign competitors and lead the way in aviation. Leadership means having a plan that addresses the future, not just a plan to survive day to day with inadequate staff and outdated equipment.

One case in point is the situation we find ourselves in with our air traffic controllers. Today the number of air traffic controllers at our 24 en route centers is 747 controllers—10 percent less than the level called for under the FAA's own staffing standard. Some of these facilities are currently staffed as much as 30 percent below the level called for under the FAA's staffing standard.

The Inspector General will testify to us that the FAA is going to need to take great care in planning for what is expected to be a wave of controller retirements potentially bringing the number of available air traffic controllers for these facilities to an even lower level. The FAA needs the kind of resources to implement a plan that is focused on the future to ensure that as air traffic continues to grow there will be a steady stream of fully trained controllers to manage our air space so that our system can continue to be the safest in the world.

AIRCRAFT MAINTENANCE

Another case in point is the area of aircraft maintenance. The Inspector General will testify that the FAA has real deficiencies in its inspection oversight of maintenance activities that were formerly executed by the air carriers themselves but are now commonly contracted out to third parties. On January 8 of last year, a US Airways Express plane crashed while taking off at Charlotte, North Carolina, resulting in 21 fatalities. The NTSB's investigation of this crash revealed that the cause was partially related to defective maintenance by a third-party contractor.

We need to have an FAA that is sufficiently focused on the future so that its inspectors are ahead of the industry trends, not playing catch-up.

Mr. Chairman, we have an obligation to keep this agency focused on the future, even if the President's budget wants to focus them solely on survival from day-to-day. I hope this subcommittee will not allow our Nation to lose its leadership in aviation and undermine the progress we have made in ensuring that our aviation system remains the safest in the world.

Thank you very much, Mr. Chairman.

Senator SHELBY. Senator Dorgan.

STATEMENT OF SENATOR BYRON L. DORGAN

Senator DORGAN. Mr. Chairman, thank you. I am sorry I was delayed. My understanding is that we have not yet had the statement by the witnesses; is that correct?

Senator SHELBY. We have not. This is the opening statements of Senators.

Senator DORGAN. I will be very brief. I do have some questions for the FAA Administrator.

This is obviously a big job. We are threatened in this country with the prospect of terrorists that want to kill innocent Americans and we know that they have used airplanes to do that. The FAA has had a big job even notwithstanding terrorism but add terrorism to the issue and it is significant.

I think the airline industry has had plenty of struggles in recent years and our country and our economy depends on a commercial airline network that works and that is safe and provides reliable transportation. We have gone through a series of things over many years of crowding and delays and passenger issues and then the terrorist attacks and the shutdown of that industry, so I think Administrator Blakey has her plate full and I appreciate the work she does.

I do want to say this. I am concerned again about the recommendation in the President's budget to cut funding for essential air services by half, more than half, in fact. I think it is a serious mistake. I remain concerned about the prospect of contracting out or privatization of certain air traffic control functions, and I will talk about that with the Administrator.

Mr. Mead, thank you for the continuing work you do. You have been, I think, very important to the work that we have done on the Commerce Committee on many issues and important to the work

in the Appropriations Committee, so thank you very much for being here, as well.

I will then hear the testimony and then ask questions, Mr. Chairman.

PREPARED STATEMENT OF SENATOR RICHARD J. DURBIN

Senator SHELBY. Thank you, Senator Dorgan. Senator Durbin has submitted a prepared statement which will also be included in the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR RICHARD J. DURBIN

Chairman Shelby, Senator Murray, thank you for holding this important hearing today on the fiscal year 2005 budget for the Federal Aviation Adminstration (FAA).

I'd like to begin by welcoming FAA Administrator Marion Blakey and Inspector General Ken Mead back to the committee for today's hearing. I look forward to your testimony.

This morning, I'd like to briefly touch on a few issues of importance to my home State of Illinois.

Administrator Blakey, I want to thank you and the Federal Aviation Administration (FAA) for your continuing support of the Chicago O'Hare modernization project. I'm told the City of Chicago and the FAA are working well together and that a project office has been opened and a time line established. As you know, this project remains a high priority for me and it is vitally important to our national aviation system.

It's my understanding that the FAA will begin the Environmental Impact Statement (EIS) process in February 2005 and will endeavor to have a signed EIS Record of Decision by September 2005. I hope this project will remain on schedule. I encourage both the FAA and the City of Chicago to keep working together to develop the roadmap for this project. The positive impact that O'Hare modernization will have on the region and the national aviation system is simply too important to delay.

The O'Hare modernization project is the long-term solution to chronic congestion and delays at the airport. However, in the interim we need to pursue operational changes—better and more efficient technology and procedures as well as flight operations.

Yesterday, Secretary Mineta announced an additional 2.5 percent voluntary flight reduction by both American and United Airlines at Chicago O'Hare during peak travel times. This follows a 5 percent voluntary flight reduction in January, designed to help relieve aviation congestion and flight delays at the "World's Busiest Airport." I was pleased to join you and the Secretary in pushing for a temporary, voluntary reduction of flights during the peak hours at O'Hare.

However, I want to ensure that these flight reductions do not disproportionately affect smaller communities, like Downstate Illinois. I look forward to reviewing the data on this initiative and working with you and the airlines.

Finally, I would like to ask you to look into two Chicago Airport System projects that were included in the fiscal year 2004 Omnibus Appropriations conference report (Transportation-Treasury title), at my request. First, $4 million for various improvements at Midway Airport related to capacity expansion. And $1.5 million for CAT II/III instrumentation for Runways 27L and 27R at O'Hare. It is my understanding that this funding has not yet been released by the FAA. I hope you can help resolve any outstanding issues on these projects within the FAA in the near future.

Thank you, Mr. Chairman.

Senator SHELBY. Both of your written statements will be made part of the hearing record in their entireties. You may proceed as you wish. We will start with you, Ms. Blakey.

STATEMENT OF MARION C. BLAKEY

Ms. BLAKEY. Thank you, Chairman Shelby. And I do appreciate, Senator Murray, all of the leadership that the Senate is exercising in this area, and I do want to thank you, Senator Dorgan, for all

of your attention to aviation. We have had some good conversations, and it has been very helpful from my standpoint.

It is a pleasure to appear before you today to represent the men and the women of the Federal Aviation Administration. I am also proud to be following Secretary Mineta, who I know appeared before you last month.

Let me take a moment if I could, also, to recognize our Inspector General. Ken Mead and his staff have worked very closely with us over the last year and we do appreciate their work to help us address a number of difficult issues. We also appreciate their commitment to helping us improve the way we do business.

Last year I testified before this committee for the first time as the Administrator of the FAA. I told you then that I had witnessed the best the agency has to offer, operating the best aviation system in the world safely and efficiently; major advances in modernization, capacity and, of course, safety. But I also told you that the FAA has not achieved its full potential. It had not become the performance-based organization that it could be, that Congress intended it to be, and I said we could do better.

FLIGHT PLAN

I am happy to say that we are doing better, Mr. Chairman. In the past year we have made changes that will fundamentally alter the way the agency operates. First, we began tracking goals, programs and spending through our Flight Plan, the agency's blueprint for action through 2008. For the first time in FAA history, our business plan is tied directly to our budget. The Flight Plan is making the FAA more businesslike, more performance-driven, more customer-centered, and more accountable.

And for the first time, each FAA organization now has its own individual business plan that is linked to the Flight Plan, costed out, and built into a performance tracking system that our senior management regularly reviews. In fact, we get together, all of us, once a month to look at this to see how we are doing—are we hitting our numbers or not? And we post this on the FAA website so everyone can see the status of our reviews.

The chart next to me shows you the kind of information that we are making publicly available. It is a very simple, very accessible, red, yellow, and green system. It shows how we are doing on things like decreasing runway incursions, increasing our airport arrival efficiency rate, and bringing in our critical acquisitions on schedule and on budget, as I understand this committee has concern about.

We list all 30 targets in the Flight Plan and you can see the progress we are making on them. For example, if you are on the website and you click on that top red bar there, what you are going to see is our general aviation accident data. And, as you can see, we are currently in danger of missing our target in this area. At the same time, we are well on our way to meeting our goal on another one of the bars up there, of reducing the most serious operational errors by 15 percent, thanks to the very hard work of our controllers. You can see the details of it again on this kind of chart. We are providing this information to anyone who needs it.

AIR TRAFFIC ORGANIZATION

Just this past year we launched a new Air Traffic Organization to eliminate bureaucratic stovepipes and provide more cost-efficient services for our customers. We hired our Chief Operating Officer from the private sector. This had been a major goal from a congressional standpoint and certainly one we shared. I would therefore like to introduce Russ Chew, our new COO, behind us. Russ is really building the tactical engine that is going to help us become more bottom-line-focused.

CHIEF FINANCIAL OFFICER (CFO)

Just weeks ago we hired a new Chief Financial Officer (CFO) and I would like to introduce Ramesh Punwani, who is the former CFO of Travelocity, TWA, and Pan Am, so we have wonderful experience that we are drawing on.

Across the agency we are implementing the tools that will allow us to operate more like a business. We have cost accounting in two of our lines of business and several support organizations. By the end of this fiscal year the remaining lines of businesses for the FAA will have cost accounting up and running.

COST ACCOUNTING

Now as an example of cost accounting, I think you will find this interesting. The chart next to me shows a breakdown of the FAA's hourly cost of providing en route services to individual aircraft. We have not been able to do this before. It is currently $139 per hour. With this data, the FAA can now understand the cost of providing services and identify better ways to drive those costs down.

On the other chart we have broken down the cost by facilities, again en route services, and while there are very legitimate differences between facilities, you can learn a lot by looking at those that are operating at a lower cost per flight hour. So again this illustrates what we are trying to do.

Mr. Chairman, cost control is a priority, and I assure you we are working on reducing the increases in those operating costs that you talked about.

AIR TRAFFIC MOU'S

Now in response to concerns regarding the air traffic control memoranda of understanding, we have implemented a strict new internal process of reviewing all labor agreements. We are also working to improve our performance-based pay systems by strengthening our employees' incentives to perform.

PAY-FOR-PERFORMANCE

Within the last year we increased the percentage of our employees under pay-for-performance from 35 percent of the workforce to 75 percent of the workforce. Our sick leave, workers comp, overtime costs, yes, the FAA's costs are among the highest in government and we are aggressively working to manage those costs.

SAFETY

While we are striving to control our costs and operate more like a business, safety always remains the FAA's top priority. I am pleased to announce that the Nation's commercial fatal accident rate is at an all-time low—.022 fatal accidents per 100,000 departures. This chart, I think, really tells an amazing story. Admittedly, .022 is a difficult number to comprehend, so what does it mean? I thought one of the best examples of this was articulated by Dr. Arnold Barnett, who is Professor of Management Science at MIT. He puts it this way. Pick a random flight every day. You will fly 21,000 years before you are involved with a fatal crash.

This year we made good progress in bringing new technology on line that will improve safety. Just take, for example, required navigation performance or RNP, a revolutionary approach that will move the United States from a ground-based navigation system to one located within the aircraft itself. Saves time, avoids delays for the traveling public, improves safety, and improves the environment. What is not to like? And because the equipment is already located on board many of our aircraft, it saves the airlines, the government, and the traveling public money.

REPAIR STATIONS

In addition to improving safety through modernization, we are sharpening our focus on airline maintenance. Again that was a focus of Senator Murray's discussion this morning. We are looking very hard at repair stations, both here and abroad. We have enhanced our new oversight programs for stations that perform outsourced maintenance work. In January, in fact, we implemented sweeping revisions to repair station rules. It gives us more surveillance authority, tougher standards for contract maintenance, and mandates FAA-approved training programs for these workers.

CAPACITY

Finally let me turn to capacity. Our budget requests $3.9 billion to expand capacity and improve mobility within the Nation's aviation system. As we return to full capacity, we are taking immediate and direct steps to avert a repeat of the delay-ridden summer of 2000. We remember it all too well. We forecast a return to pre-9/11 traffic levels by 2006.

Less than a month ago we convened a Growth Without Gridlock Conference that Russ Chew and his team put together that was a first-of-its-kind meeting of industry, decision-makers and government to see what we could do. Together, this group agreed to new procedures, including express lanes. Those essentially give us a way of streamlining our structure in the sky. We also agreed to a policy that would impose minor delays at strategic airports occasionally in order to avert massive delays across the Nation.

So I am confident that these kinds of efforts are going to lay an important foundation to greater capacity without diminished efficiency.

PREPARED STATEMENT

So in closing, let me just emphasize we are working hard to manage the FAA. We are changing the agency structure, with a major shift to customer service and performance-focused organization.

So with that, thank you, and I look forward to your questions.

[The statement follows:]

PREPARED STATEMENT OF MARION C. BLAKEY

Mr. Chairman, Senator Murray, and the distinguished members of this committee, thank you for the opportunity to be here this afternoon. I'm pleased to be following Secretary Mineta's appearance before you last month and proud to be here representing the men and women of the Federal Aviation Administration, which operates an aviation system that is second to none in safety, complexity, and system efficiency.

Your message to the FAA last year was both clear and direct: The FAA needs to operate more like a bottom-line business. We need to pay greater attention to delivering high performance and cost-efficient programs, and we need to show where we can save and redirect resources to higher priorities.

These are very tough economic times for aviation, and we must exercise care and caution with the taxpayer's dollar. In the past year, the FAA has implemented several changes that will streamline our operations, much in the same way a private sector corporation would respond to a changing economy. From the way we deploy equipment to the way we compensate our employees, we are working to make better use of the monies appropriated to us. While we still have a ways to go, in the past year, we achieved 75 percent of our performance goals, including on-time arrival, exposure to noise, airport daily arrival capacity, and airport arrival efficiency rate. The agency also is on track to meet our performance goal of an 80 percent reduction in fatal commercial accidents by 2008. The 3-year average for fatal commercial accidents is at an all-time low.

THE FAA'S FLIGHT PLAN, 2004–2008

Step one for the agency was to put in place a strategy for setting goals and achieving them. We call it our "Flight Plan," modeled after the specific routes a pilot follows from takeoff to touchdown. It is the FAA's business plan—a blueprint for action through 2008. What's more, for the first time in the history of the FAA, the plan is tied directly to our budget. The leadership of the Secretary of Transportation has made this possible. Mr. Mineta has provided the Department of Transportation and this agency with a strategic direction that has translated into results for the taxpayer.

The Flight Plan commits the FAA to four broad goals: increased safety, greater capacity, increased U.S. international leadership, and organizational excellence. The plan will make the FAA more business-like, more performance-based, more customer-centered, and more accountable. It is dynamic, adaptable, and cost-driven.

For the first time, as part of our Flight Plan, each FAA organization now has its own individual business plan. Each of these plans is linked to the Flight Plan, costed out, and tied to the budget. Our business plan goals have been built into a performance-based tracking system that we post to the FAA web site. It lists each of the goals, performance targets, who's responsible, and the status of each. Using this data, the senior management team conducts a monthly half-day review of agency performance. This effort represents a first for the FAA and is proving itself to be time well spent and money well invested. When associated with other cost and performance data, this information lets us see, clearly and precisely, the true cost of a program. All the FAA lines of business are also implementing cost accounting tools and practices.

SAFETY

Secretary Mineta has made it clear: there is no effort more important to the Department of Transportation than improving safety, and our budget reflects that commitment. Out of a total request of $13.97 billion, almost two-thirds—about $8.8 billion—is dedicated to improving or maintaining the safety of aviation. The Flight Plan lays out an aggressive safety agenda. It supports further progress on reducing the commercial and general aviation fatal accident rate and on reducing the numbers of runway incursions, operational errors, and HAZMAT incidents. It also establishes five new safety goals: reducing accidents in Alaska; decreasing cabin injuries

from turbulence; preventing commercial space launch accidents; completing implementation of a safety management system; and developing a single, composite safety index. The overarching goal is to measure and achieve the lowest possible accident rate, while constantly enhancing safety.

Already this year, we have made headway by bringing new technology online. We are implementing a revolutionary new technology: required navigational performance (RNP). Pilots and controllers use "RNP" in areas where terrain can make it difficult or impossible to locate traditional navigational aids, such as an instrument landing system. In Juneau, Alaska, an unforgiving landscape and brutal weather conditions make arrivals difficult. RNP enables Alaska Airlines to make smoother arrivals. According to Alaska Airlines, this saves them $3 million per year. I have had the privilege of flying an RNP approach into Juneau firsthand. Controllers and pilots agree: RNP works.

From a technological standpoint, RNP combines the precision information from satellite, airborne, and ground-based navigational equipment into new procedures that enable the pilot to touch down at a precise point on the runway. Its use allows for lower minima, enabling pilots to land at airports that would previously have been unavailable in bad weather. Much like computer software, there is no RNP to hold in your hands, but its benefits are without question. RNP enhances safety. It saves time and avoids delays for the traveling public. This will help improve the environment. Because the equipment is already onboard the aircraft, additional savings will be realized as well.

We remain equally committed to reducing the number of accidents overall, not just those where fatalities or injuries occur. We successfully installed the Airport Movement Area Safety System at 34 airports. ASDE-X is a similar success story. Designed to increase airport safety by enhancing controller awareness, this surveillance system detects potential conflicts on runways and taxiways. It depicts aircraft and vehicle position with location information overlaid on a color map showing the area. The first operational site was commissioned last fall. Almost two dozen will be delivered by the end of 2005.

Our budget request includes $243 million to continue the Enroute Automation Modernization, or ERAM. This is a critical program that replaces obsolete hardware and software of the main host computer system that is the backbone of en route operations. This level of funding is vital to accomplishing our baseline schedule. I'm happy to report that ERAM is progressing well. For example, one of the precursors to deploying ERAM just went operational on February 25, more than one month ahead of schedule. Another major milestone—the first major software deliverable—was completed on time in December. However, we do not underestimate the magnitude of this undertaking. But we have the right team, the right approach, and a single-minded focus to bring this program in on time and within budget.

In February, FAA alerted the airlines and aircraft manufacturers to the possibility of an equipment change based on the FAA's consideration of new regulations, whose object would be to reduce fuel tank explosions. Years before, prospects seemed dim for a cost-effective solution. Experts said it couldn't be done, but an FAA researcher devised an inexpensive process to prevent fuel tank explosions. The process replaces the oxygen inside the empty fuel tank with nitrogen, an inert gas that will not explode. Statistics and research show that this, combined with our efforts to remove ignition sources, will pretty much close the book on fuel tank explosions for the U.S. fleet. Boeing already is moving ahead to implement this technology aboard its airliners, although the FAA is several months away from making a decision on proposing new regulation.

We're also successful in deploying equipment to decrease the effects of bad weather on aviation. Controllers, managers, and airlines use our integrated terminal weather system—ITWS—for real-time situational weather information that not only reduces weather-induced delays and diversions, but also avoids wind shear. We already have installed this system at Atlanta, Miami, Kansas City, Houston, St. Louis, Chicago and Washington, DC. ITWS is currently being rebaselined; we will provide you with our fiscal year 2005 plans for deploying additional systems soon.

In addition, we are sharpening our focus on airline maintenance. The FAA relies on almost 3,400 inspectors, 20 percent more than were onboard at the time of the ValuJet accident, to ensure airlines meet safety obligations. Over the last few years, we trained our inspectors to work smarter in response to industry changes. We continue to emphasize risk assessment and trend analysis to identify lapses. This approach targets our surveillance to where it produces the greatest safety benefit. Staying out in front of the cause—prevention—is still the best way to stop an accident.

We're focusing on repair stations, both here and abroad. We're enhancing new oversight programs for stations that perform "outsourced" maintenance work. In

January, we implemented sweeping revisions to repair station rules. This gives us more surveillance authority, tougher standards for contract maintenance, and mandates FAA-approved training programs for workers.

CAPACITY

While safety is our primary concern, we're also committed to expanding capacity throughout the aviation system—both in the air and on the ground. The budget requests $3.9 billion to expand capacity and improve mobility within the Nation's aviation system. This request supports expansion of capacity on the ground with new runways, as well as the continued deployment of new technologies for increasing the efficiency of the existing system.

We forecast a return to pre-9/11 traffic levels by 2006, and we are taking steps to be ready. 2003 was a banner year for new runways—at Houston, Miami, Denver, and Orlando—four of our busiest airports. In each case, we reduced congestion problems at the specific location, as well as providing relief to the overall system. We are well aware that new runways are important at smaller airports, too. That's why our reauthorization legislation gives small airports more flexibility for capital improvements.

Our Flight Plan commits us to improving overall capacity at the Nation's top 35 airports by 30 percent, over a 10-year period; redesigning the airspace of eight major metropolitan areas (New York, Philadelphia, Washington/Baltimore, Boston, San Francisco, Chicago, Atlanta, and Los Angeles Basin); addressing environmental issues; improving traffic efficiencies; and reducing airline delays. As you know, if any of our major airports are suffering from congestion, the whole system can be dramatically affected. Airport expansion and enhancements are extremely challenging. But when it comes to finding a solution, nothing can be ruled out—even building new airports.

As we increase capacity, we must ensure environmental responsibility. The budget requests $571.6 million to support environmental stewardship for noise mitigation, fuel efficiency enhancements, and a comprehensive approach to addressing both noise and emissions.

We continue to have success with the traffic management advisor—a system that is designed to optimize the flow of high-altitude aircraft into busy airports. It's operational at eight sites and has increased the capacity at these airports by as much as 5 percent. We plan to install this software at Chicago next year with the expectation that it will increase capacity there by at least 2 percent.

The Standard Terminal Automation Replacement System (STARS) provides controllers with standardized color displays and supporting processors to display radar targets for control of the terminal airspace. It replaces several generations of the existing terminal automation systems. STARS' most significant feature is its open architecture, enabling it to expand and adapt to new functional requirements, and changing system configurations due to airspace changes and runway modifications. Its unique fusion tracking allows it to receive inputs from 16 locations to depict aircraft location more precisely. It also represents a substantive increase in security and redundancy over the existing terminal systems. STARS will be the backbone for the next generation of safety and capacity tools. STARS is operational at 19 FAA TRACON facilities and 13 DOD air traffic control facilities. Our fiscal year 2005 plan for STARS will be provided to you shortly, as we are currently undergoing a baseline review.

The Flight Plan charts our course to 2008. Beyond that, the Operational Evolution Plan, our current 10-year rolling plan, sets out the aviation community's strategy to increase capacity by 31 percent by 2010.

Looking further into the future, the aviation community needs to develop a shared vision for aviation. That's why we launched a joint planning and development office—called the JPDO. It is formulating a plan for the evolution of aviation between now and 2025. The joint planning and development office is housed in the FAA and comprised of members from the Department of Transportation (DOT), NASA, the White House Office of Science and Technology Policy, and the Departments of Commerce, Defense, and Homeland Security. For the first time, we will put in place a unified national plan to meet the aviation needs of U.S. businesses, consumers, and the military.

Aviation is critical to the growth of the U.S. economy. This work will lay an important foundation for the future. For example, some 51 million international visitors come to the United States every year, making a contribution of more than $100 billion to the economy. Since the tourism and aerospace industries generate about 10 percent of the U.S. gross domestic product, we're preparing for both an increasing number of domestic users and the opportunities of an ever-expanding global sky.

INTERNATIONAL LEADERSHIP AND GLOBAL HARMONIZATION

The third goal in our Flight Plan is international leadership. The United States must lead aviation into the second century of flight, as it did in the first. Today, the FAA has operational responsibility for approximately half of the world's air traffic, certifies nearly three-quarters of the world's large jet aircraft, and provides assistance on improving aviation systems to more than 100 countries. However, we must become even more globally focused to ensure that U.S. citizens can travel safely around the world, while being a catalyst for the smooth flow of safety and capacity enhancing technology around the world. The budget requests $45.2 million to support international leadership and global connectivity.

Several weeks ago, I returned from a trip to Beijing, Hong Kong, and Tokyo. Chinese aviation is thriving. The United States remains China's largest export market, taking over one-third of China's exports. According to forecasts, China, over the next 20 years, will buy more transport category aircraft than any other country. By 2020, China's air traffic operations will be second only to our own. In terms of sheer numbers, China will be an important component of the expanding global aviation system. Our goal is to work with Chinese aviation officials to implement a system that is safe, efficient, and interoperable with Western technology. The FAA already is laying the groundwork to assist China's aviation system in supporting the 2008 Olympic games.

It is clear that the FAA needs to have a central role in advancing the international leadership of the United States in aviation, and not just in Asia. The numbers and the activity point to the need for a globally regulated sky, and we are working to shape that destiny. I have had the unique privilege of signing bilateral aviation safety agreements with key aviation partners in Asia and Latin America, literally within weeks of each other. These agreements are good for all of us—for passengers, for government, and for the aviation industry.

ORGANIZATIONAL EXCELLENCE

The fourth goal is at the heart of the entire plan: to fulfill our mission, the FAA must become a world-class organization. The people of the FAA are the key to achieving this goal. We are committed to finding and eliminating barriers to equity and opportunity. We believe that fairness and diversity fortify our strength. Furthermore, we must give our people the tools and resources they need to overcome the challenges we face and to become more accountable and cost efficient. In turn, our employee compensation and salary increases should be performance-based, allowing the agency to pay for results and reward success.

In simple terms, our objectives are: to have stronger FAA leadership, to meet our organizational goals, to control costs while delivering quality customer service, and to make decisions based on reliable data. The budget requests $428 million for organizational excellence initiatives.

We can't be more accountable, cost efficient, and customer service oriented unless we continue to change our way of doing business. The FAA launched a new Air Traffic Organization (ATO) late last year. Our previous organizational structure followed typical bureaucratic stovepipes that often stymied progress. To overcome this, we hired a chief operating officer who comes from the private sector, where success is predicated on efficient organizational structures. This group, known as the ATO, is taking its first steps toward becoming a bottom-line-focused, results-driven service organization. One thing is certain: the air traffic organization is the tactical engine that will help us achieve the near-term goals of our Flight Plan and, eventually, lead the FAA to a new way of doing business.

This is a real change in the agency's operating philosophy. We are organizing around what we produce for our customers. We have 10 operating service units that will be responsible for not only operations, but also for implementing new technology and capabilities within their own business unit. The ATO is making changes across the board. We recently hired a new vice president of safety. This position provides day-to-day focus on safety from within the air traffic organization. We also have created an office located outside the new organization to provide independent air traffic safety oversight.

I am very excited about the possibilities that this new organization holds for us in streamlining our operations and being more accountable and productive. I will keep the committee apprised of its activities and progress.

Like our counterparts in the private sector, we are determining how best to utilize our human capital in the years to come. Our people are our greatest resource, and the safety of the NAS, our greatest priority. We have several challenges on the way to achieving organizational excellence, one of which is the impending controller retirements. As required by law, we have initiated a rulemaking to consider waiver

requests by individual controllers who want to work beyond the current mandatory retirement age of 56. This rulemaking has potentially significant personnel, budgetary, and other issues, so although we have accelerated the process, it is not yet completed.

In addition, we are looking for other ways to become more efficient. Specifically, we are investigating ways to right-size our facilities. We are working to make our training programs more efficient in order to reduce the time it takes to train new controllers. Additional steps may need to be taken, and I will keep the committee apprised of our actions.

I'm also pleased to note that FAA employees are, overall, adapting well to the changes that are being made in the FAA and aviation, in general. Our latest employee attitude survey shows a 71 percent job satisfaction approval rating. That's an increase of 3 percent.

My initial impression is that while these survey numbers are moving in the right direction, we still have a lot of work to do. As in past surveys, employee ratings in several key areas are high, but in other key categories, such as trust in upper management, accountability of the organization, and communications, the numbers are not where they should be. At this time, each line of business and staff office is working to identify action plans that we must undertake to further improve our scores in these areas. We are also looking at administering the survey more frequently, as well as capitalizing on the success of the private sector employee survey instruments and action planning used by some of our external aviation partners.

COST CONTROL

One of our major objectives in the Flight Plan is cost control. As you have requested, we are working on reducing our operating costs, which have increased by 22 percent over the last 5 years. We are taking the following steps to be more cost efficient:

—In response to your concerns regarding the proliferation of memoranda of understandings (MOU's), last year, we implemented a strict new internal process for reviewing all labor agreements. We also renegotiated a number of costly pay rules and MOU's with the National Air Traffic Controllers Association (NATCA), as part of the controller's contract extension. We now conduct an assessment of the budget impact and legal implications of labor side agreements before we sign. We also established an automated database for memoranda of understanding that will allow us to track and analyze those agreements.

—We are committed to negotiating pay-for-performance with our unions until 100 percent of our workforce is under the system, and we are actively working to control the growth of our labor costs. Currently, 75 percent of the workforce is under a pay-for-performance system. We have a very well compensated work force—and deservedly so. They strive every day to achieve the highest level of safety and service for the American people. At the same time, we know we cannot sustain the growth in our operating costs, and we are addressing it. We recently negotiated an extension of the NATCA contract that links a portion of pay increases to controller performance. Discussions with the Professional Airways Systems Specialists (PASS) are continuing. The NATCA multi-unit, a group of administrative employees represented by NATCA independent of air traffic controllers, has been at impasse for some time.

—Although FAA's Office of Worker's Compensation Program (OWCP) bill has increased at a rate well below that of the rest of government over the last several years, at a cost of $90 million, this program continues to be a major issue for us. We have undertaken several initiatives that have begun to reduce costs, and we plan to devote additional resources to the program. A major OWCP issue facing not only the FAA, but also the entire Federal Government is the right of beneficiaries to stay on OWCP rolls well beyond normal retirement age. Forty-two percent of former FAA employees on the OWCP rolls are 60 years of age or older. Even more significantly, these individuals account for almost 70 percent of the FAA's chargeback costs to the Department of Labor (DOL), totaling well over $60 million!

—The agency's transition to a new financial management system, DELPHI, remains under way. Bringing the system online has proved to be a challenge. Slowly but steadily, the agency is working to reduce the number of outstanding vouchers and overdue vendor payments that were delayed during the transition to the new system. Importantly, the agency received a clean audit opinion on our financial statements for the third consecutive year.

—We also are working diligently to implement the administration's call for cost-effective business operations. An FAA study of automated flight service stations

is being conducted to compare the cost of performing the function by Federal employees to the cost of contracting it out. The study, initiated under the A–76 program, is designed to ensure that automated flight service stations operate in the most cost-effective manner without compromising safety or service. Our goal is to get the best deal for the taxpayer, while focusing on the services required for safe and efficient flight. The taxpayer stands to realize substantial savings because of reduced annual operating costs, which stand at $502 million in fiscal year 2003. The FAA enters the process with an open mind and a commitment to make sure the process is fair.

—The FAA is consolidating many of our personnel and accounting functions to streamline the numbers of offices performing duplicative functions. Much of our accounting operation will be centrally located in Oklahoma City.

—The agency has implemented cost accounting in two lines of business and several support organizations. We will implement cost accounting in the remaining lines of business later this year. The Office of the Inspector General has raised several concerns with our labor distribution system, CRU-X, and we are refining it to account more accurately for the distribution of labor costs. The Inspector General raised justifiable concerns about an "automatic sign off" feature in CRU-X that would, in essence, punch an individual's time card without actually being certain of when he or she stopped working. The Inspector General also raised concerns about the ability for the system to track all types of official time—such as breaks or when conducting official union business.

CONCLUSION

In closing, let me emphasize that we are taking decisive steps to manage the agency, its programs, and its expenditures. We are changing the agency's structure with a major shift to a performance-based organization, making hard, tough choices with our funding. We are implementing cost accounting. We're operating more like a business. We will continue to work on increasing the capacity of the system as it returns to pre-9/11 levels. With that, I thank you for your time and welcome the opportunity to discuss these issues in greater detail.

Senator SHELBY. Thank you.

Mr. Mead.

OFFICE OF THE INSPECTOR GENERAL

STATEMENT OF KEN MEAD, INSPECTOR GENERAL

Mr. MEAD. Thank you, Mr. Chairman, Senator.

I want to point out first that I think the feeling is mutual with regard to the IG relationship with the FAA. The management at FAA is clearly, unambiguously improving, in my opinion, and the rigor of cost control, which is important in these times, is clearly evident.

And as for you, I appreciate the kind words. It almost seems to me like yesterday that I can recall testifying before you. I can recall some of the exact questions and observations you made just 2 weeks after 9/11, first in that extraordinary joint House and Senate appropriations hearings and then the Senate Secure Conference facility. It is etched in my mind.

The CBO has estimated that the deficit is going to be about $477 billion this year. In 2001, FAA estimated that the trust fund revenues next year would be about $14 billion. That number has come down. It is now projected to be about $11 billion. So their budget request of $14 billion is about $3 billion more than the trust fund is going to bring in.

As the Administrator has said, a major focus for FAA this coming year must be the control of costs. And as you noted, Senator Shelby, in our statement we say that historically FAA is not used to living in this type of environment.

I would like to make just a number of points here but the first I would like to highlight is that FAA has got to be in a position for rebounding air traffic. Domestic traffic levels still fall short of the peak experienced in 2000, but there is no question that traffic is rebounding.

PASSENGER ENPLANEMENTS

Some data points as a frame of reference here. In February 2004, the number of passenger enplanements is down 12 percent from February of 2000. That represents a 5 percent growth over enplanements last year. And I think this is an interesting statistic, that in 13 of the 31 largest airports, including some of those that experienced serious delays in 2000, the number of scheduled flights in March 2004 is actually exceeding the number of scheduled flights in March of 2000. But at 11 of those 13 airports, the number of available seats scheduled is still lagging behind the number offered in March 2000. One reason that the operations in the air traffic control system can be up but the number of passengers still down is the huge growth in the use of regional jets. Since this time in 2000, the number of regional jet flights has increased by 134 percent. That is a pretty astonishing figure.

Airports that bear watching include Chicago O'Hare. As you could tell from the papers this morning, the Secretary and the FAA took some additional actions yesterday. I would watch Atlanta, and the three New York metropolitan airports. At those five airports, arrival delays during the first 2 months of 2004 ranged from between 20 and 35 percent of scheduled flights and the delays were generally 50 minutes or more, which is not dissimilar from where we were in 2000.

Another watch item I would like to put on your RADAR screen is Dulles Airport. The launch of Independence Air by former United Airlines regional carrier Atlantic Coastal Airlines will increase Dulles traffic this summer to historically high levels. You can probably expect at least a 50 percent increase in traffic there. That is going to place additional demands on the air traffic control system, to say nothing of the already taxed security checkpoints there.

SAFETY

Safety. It has already been mentioned that the January 2003 Air Midwest crash in Charlotte was the only fatal commercial accident in the past 2 years. I do think that record is almost remarkable. I can report that FAA has made progress again this year in reducing runway incursions. Those are potential collisions on the ground. Actually it is 3 years running that those numbers are down, but at 324 this past year, that number is still much too high.

Operational errors where controllers allow planes to come too close together in the air, that remains a significant safety risk. They continue to increase—over 1,000 of them in 2003, with an average of about one very serious error every 7 days. So those must come down.

On maintenance, there has been, as Senator Murray pointed out, a gravitation of maintenance from in-house to out-sourced. There are domestic repair stations and there are foreign repair stations. We did issue a report last year on it that contained a series of rec-

ommendations. The FAA has agreed with them all and is proceeding to implement them.

The budget. Operating costs are mostly salaries and at $7.8 billion, those costs are the largest portions of the FAA's budget. They continue to increase but not as markedly as they had been in these last several years and I attribute that to Administrator Blakey and her team.

MOU'S

We reported last year that FAA and NATCA had entered into sidebar agreements called memoranda of understanding. Sometimes FAA management did not even know about these and they had no real inventory of them and there were a number that were costly and rather wasteful.

Just one example. One memorandum of understanding allowed controllers that were getting transferred to receive their pay increase by as much as $45,000 before moving and sometimes they would get that money a year ahead of time. Well, this past year FAA and the controllers union have rescinded or modified a large number of those memoranda of understanding. There are a couple that I think still need attention but there has been a lot of progress this year.

Getting big reductions in FAA's operating costs is tough, Mr. Chairman, and that is because FAA has a very high salary base and much of that salary base is covered by contract.

CONTROLLER RETIREMENTS

A cost driver this subcommittee needs to be aware of, though, is a bubble of pending controller retirements. You have in front of you two hand-outs and I would like to focus on the first one. The handout that we provided indicates that FAA's estimate is that about 7,000 controllers will leave the agency over the next decade. As you can see from the chart, it begins to hit big-time in 2006 and increases steadily from then on up through 2012.

Now whether FAA is going to have to replace all these controllers on a one-for-one basis is going to depend on a variety of factors like the number of facilities and how many people they need at each facility and initiatives that FAA undertakes in its hiring and training process.

Well, we just completed an audit of FAA's process for replacing and training controllers. I think it is with FAA for comment and we will be issuing it soon. We see some opportunities here.

First, I do not think FAA has a good handle on where the vacancies are going to occur and when you are talking about hiring people in these numbers, you really have to know where they occur, because you have 300 facilities in the system. And there is also a need for getting some solid, good estimates of where they are going to occur and how many and when.

When we visited FAA facilities we found that they were all over the map in how they were counting. While they all had estimates of attrition, they differed. For example, one only counted mandatory retirements. That is when you get to age 56. Another used only transfers and excluded retirements and another included all

types of attrition, so they need to calculate their estimates on a common basis.

OJT TRAINING

We also found that there were some huge differences in how FAA facilities handle on-the-job training of new controllers. They do not keep data on such things as the time and cost required to complete OJT and we tried to calculate it at some sample facilities and what we found was pretty astonishing. The average time to train a new controller is about 3 years but we found in some instances it would go up to almost 7 years.

COST ACCOUNTING

Cost accounting. Administrator Blakey is correct that they have made progress at the agency on cost accounting but I am really disappointed with the lack of progress in fielding a labor distribution system plan for air traffic control. Until you have that in place, it is going to be almost a crap shoot to figure out where you are going to need controllers and when. So I am hoping that we see some progress this next year on that.

CAPITAL ACCOUNT

I will go to the capital account that both the chairman and Senator Murray referred to. Last year we did analyze 20 projects and found schedule slips of up to 7 years. Fourteen projects experienced cost growth of over $4.3 billion. That number is an interesting number because it exceeds by more than 100 percent the annual appropriation for this account. FAA is aware of this. We have seen some very positive signs as the Administrator and her team are focused on addressing problems. FAA has a lot on its plate with the existing acquisitions, plus they're starting some new ones.

I would like to speak to the half-billion-dollar reduction for a moment. It is not fair to say that the projects that were cut lack merit but it is fair to say that the projects that were cut did face some fundamental issues, like not having a realistic cost estimate. And I do not mean just off by a little bit; I mean by in some cases $100 million. In other cases there were serious miscalculations about the benefits.

ACQUISITION PROGRAM

There are two things on the overall acquisition program that FAA needs to do. The first is too many expensive projects do not have reliable cost and schedule estimates, and I am talking about huge swings. I know FAA is working on that but until you get some reliable cost and schedule baselines you are going to have a very difficult time figuring out what the game plan is going to be for the future.

And second, stay away from these long-term cost-plus contracts. By long-term I am not talking about just a couple of years. I am saying sometimes a decade-long contract where you enter into it and you say it is cost-plus, which is where the contractor basically can bill the government and it is open-ended. ERAM, as you men-

tioned, Senator Shelby, which is the brain for controlling the high altitude air traffic, is one such new system.

AIRPORTS

Airports. I would like to close on a couple of points on airports. First is revenue diversion. Revenue diversion is illegal in most cases. Congress put in some caveats and grandfather clauses and so forth but overall, revenue diversion is illegal and what revenues diversion is is that money that is going to the airport, that the airport generates, is not supposed to go to the city or the State, except to pay for reimbursement for the services that are provided. We are finding too much revenue diversion out there. I think FAA could step up its efforts to provide some oversight.

PREPARED STATEMENT

Second is you have had some big plus-ups in the airport account. It has gone from $1.5 billion, I think, to almost $3.5 billion. In addition, you authorized an increase in the passenger facility charge, increased that to about $4.50. That is yielding about $2 billion a year. Those funds are directed by law toward airport-related projects, such as new runways. However, FAA also incurs costs to support many airport projects. Well, you are going to have to get money from somewhere to provide the nav aids, the air traffic equipment, and things of that nature that have to support those capacity enhancements. I see this as a looming issue as to where you are going to get the money to pay for those, particularly as FAA's capital account gets squeezed more and more, because that is the account where the money has historically come from.

Thank you, Mr. Chairman.

[The statement follows:]

PREPARED STATEMENT OF KEN MEAD

We appreciate the opportunity to testify today as the subcommittee begins deliberations on the fiscal year 2005 appropriations for the Federal Aviation Administration (FAA). This year, we are facing an austere budgetary environment, one that will likely continue for at least the next several years. The Congressional Budget Office estimates that the Federal deficit will be $477 billion this year.

Within this context, FAA must also be positioned for a rebound in air traffic. Domestic traffic levels still fall short of the peaks experienced in 2000, but there is no question that traffic is rebounding. In February 2004, the number of revenue passenger enplanements (35.1 million) was down 12 percent from February 2000, but this represents a 5 percent growth over enplanements in February 2003 (33.3 million).

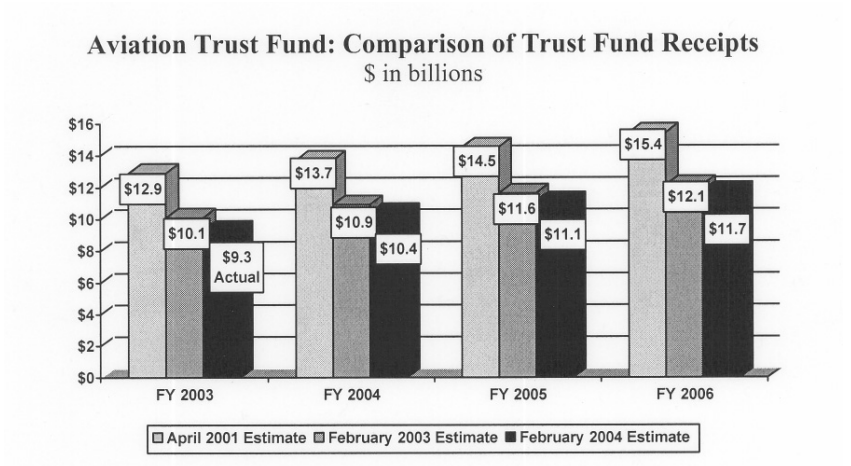
While systemwide operations in February 2004 were slightly down from February 2000, the story is very different on an airport-by-airport basis. In 13 of the 31 largest airports, including some of those that experienced serious delays in 2000, the number of scheduled flights in March 2004 actually exceeded the number of scheduled flights in March 2000. However, in 11 of those 13 airports the number of available seats scheduled still lagged behind the number of available seats offered in March 2000. This is an indication, at least in part, of how network carriers are using regional jets in the place of narrow-body jets to connect traffic to the network hubs.

It is unlikely that the situation will reach the level of widespread system failures we experienced in the summer of 2000, but it is possible that some airports could experience disruptions in service. Airports that bear watching include Chicago O'Hare, Atlanta, and the three New York metropolitan airports. At these five airports, arrival delays during the first 2 months of 2004 ranged between 20 and 35 percent of scheduled flights.

The FAA and the Department have been working with the industry to identify potential solutions to delays that might occur this summer such as creating high-altitude express lanes and voluntary schedule reductions. At Chicago O'Hare, arrival delays during March 2004 represented a 74 percent increase over delays in the same period in 2003 but down from triple digit increases during the period between November and January.

One situation that bears watching, in particular, is the expected service growth at Washington's Dulles airport. In June, when Independence Air is launched by former regional carrier Atlantic Coast Airlines as a new low-cost carrier, traffic at Dulles will increase significantly. Some estimates put that increase at over 50 percent by this summer. In addition to airside congestion, there are concerns with airport terminal services, including the resources needed to process a significantly increased number of passengers through security checkpoints.

While air traffic levels continue to show improvement from the sharp declines of 2001, there still remains a substantial decline in projected Aviation Trust Fund revenues. In 2001, FAA estimated that Trust Fund revenues in 2005 would be about $14.5 billion. That estimate has now been reduced to $11.1 billion.[1] FAA's fiscal year 2005 budget request of $14 billion exceeds those revenues by nearly $3 billion.



Clearly, a major focus for FAA this coming year, and for some time to come, must be controlling costs. FAA has not been accustomed to operating within this type of environment, and changing the organizational culture to reflect that focus will be a challenge. This past year, we have seen positive signs of leadership and commitment on the part of Administrator Blakey and her staff to address FAA's costs. For instance, there has been notable progress this past year in reining in FAA's unabated cost growth in its operations account. Progress is also being made toward restructuring the Air Traffic Organization into a performance-based organization. However, much more remains to be done to bring FAA's costs under control. Actions such as:

—developing realistic cost and schedule baselines for major acquisitions,
—avoiding long-term cost-plus contracts,
—improving contract oversight,
—implementing a cost accounting and labor distribution system, and
—identifying ways to increase workforce productivity

will be key to effectively manage the Agency's budget, and this will be the focus of our testimony today.

SAFETY

It is important to note that the U.S. aviation industry continues to be the safest in the world. The January 2003 Air Midwest crash in Charlotte was the only fatal commercial accident in the United States in the past 2 years. This past year, FAA

[1] Even though air traffic operations are rebounding, Aviation Trust Fund revenues have not returned to previous levels partially because of lower enplanements, lower air fares, and more point-to-point service operations, all of which affect the amount of tax revenue collected.

has made progress in reducing runway incursions (potential collisions on the ground), but operational errors (when controllers allow planes to come too close together in the air) continue to increase. In fiscal year 2003, runway incursions decreased 4 percent to 324, while operational errors increased 12 percent to 1,186, with an average of 3 operational errors each day and 1 serious error (those rated as high risk) every 7 days.

Additionally, a significant challenge for FAA will be to adjust its safety oversight to emerging trends in the aviation industry, such as outsourcing maintenance. While major air carriers outsourced 37 percent of their aircraft maintenance in 1996, the amount spent on outsourced maintenance increased to 47 percent of maintenance costs in 2002.

OPERATING COSTS

FAA is requesting $7.849 billion for its fiscal year 2005 operating budget, which is about $370 million above the fiscal year 2004 enacted amount of $7.479 billion. Operating costs represent the largest portion of FAA's fiscal year 2005 total budget, over 56 percent, whereas FAA's airports and capital accounts represent 25 percent and 18 percent, respectively. This past year Administrator Blakey and her staff have made notable progress in beginning the process of reining in FAA's history of operating cost growth.

Last year we reported that FAA and the National Air Traffic Controllers Association (NATCA) had entered into numerous sidebar agreements or Memoranda of Understanding (MOU's). Many of those MOU's had significant cost and/or operational impacts on the Agency, but we found that FAA had no controls over the process.

This past year, FAA developed new policies and procedures that, if properly implemented, should significantly improve controls over MOU's. As part of an agreement to extend the controllers' collective bargaining agreement for another 2 years, FAA and NATCA also rescinded or modified many of the most costly MOU's. For example, FAA and NATCA rescinded an MOU that allowed controllers transferring to larger consolidated facilities to begin earning the higher salaries associated with their new positions substantially in advance of their transfer or taking on new duties.

However, one costly MOU that we identified last year was not renegotiated. This MOU concerns "Controller Incentive Pay" (CIP), which provides controllers at 110 locations with an additional cost-of-living adjustment of between 1 and 10 percent, which is in addition to Government-wide locality pay. In fiscal year 2003, this additional cost-of-living adjustment cost FAA about $35.6 million.

FAA also made progress in linking pay and performance—a key tenet of FAA's personnel reform efforts. As part of the 2-year extension of the controllers' agreement, FAA and NATCA agreed to tie a portion of controllers' salary increases to meeting four national performance metrics, which include goals for reducing operational errors and runway incursions. It is important to note, however, that the performance increase represents a very small percentage of the controllers' total annual pay increase. For each goal reached, controllers will receive a pay increase of 0.2 percent. However, even if none of the performance goals are met, controllers will still receive an average increase of about 4.9 percent this year because of contractual requirements.

Achieving substantial reductions in operating costs represents a tremendous challenge because salaries and benefits make up approximately 73 percent of FAA's operating budget. Because FAA's salary base is relatively fixed, it is unlikely that significant reductions in operating cost growth can be achieved in the near term without substantial improvements in the Agency's workforce productivity.

Initiatives such as new air traffic systems, technological improvements, efforts to redesign the National Airspace System, and consolidating locations all have the potential to significantly improve productivity. In the past, FAA has embarked on similar initiatives on a limited basis but was unable to demonstrate any credible gains in productivity partially because FAA did not have systems to accurately capture reliable cost and workforce-related data.

Accurate cost and workforce data are particularly critical in light of the anticipated wave of controller retirements. FAA currently estimates that about 7,000 controllers could leave the Agency over the next decade. Whether FAA will need to replace all of them on a one-for-one basis depends on many factors, including future air traffic levels, new technologies, and initiatives that FAA undertakes in its hiring and training process. However, it is clear that as a result of the anticipated increases in attrition, FAA will begin hiring and training controllers at levels the Agency has not experienced since the early 1980's.

A substantial challenge for FAA will be to hire and train new controllers within a tightly constrained operating budget. FAA has recently made significant progress in this area by renegotiating several pay rules with NATCA that previously allowed some newly hired controllers to earn base salaries in excess of $79,000 while in training. The renegotiated rules now allow FAA to set newly hired controllers' salaries at levels that are more commensurate with an entry-level position (from $25,000 to $52,000), which should help FAA avoid higher costs as it begins hiring and training greater numbers of new controllers.

We have just completed an audit of this issue and will be issuing a report next month. We found that this is an area where management attention is needed to better prepare for the expected increase in retirements. For example, FAA has national estimates of expected attrition within the controller workforce, but those estimates do not take into account where vacancies will occur.

While most locations we visited had estimates of attrition over the next 2 years, they included different information in developing those estimates. One facility only projected mandatory retirements, another projected attrition for transfers but not retirements, and another provided estimates on all types of attrition (i.e., retirements, transfers, hardships, resignations, and removals).

In addition, FAA does not keep national statistics on the controller on-the-job training (OJT) process, which is the longest portion of controller training. At the locations we visited, we found that the overall time required for newly hired controllers to become certified averaged 3.1 years, but in some cases it took as long as 7 years. To effectively manage the OJT process as hiring increases, FAA will need data such as the time and costs required to complete OJT, the number of training failures, and any delays in the process to benchmark against and improve the time and costs associated with OJT.

The expected increase in controller attrition reinforces the need for FAA to have its cost accounting and labor distribution systems in place and operating effectively. This past year, FAA has made some progress with its cost accounting system, but there has been very little progress in fielding the labor distribution system planned for air traffic employees. That system is critical for managing the expected wave of controller retirements. FAA is aware of this need and the Chief Operating Officer for the Air Traffic Organization has committed to putting both of these systems in place.

MAJOR ACQUISITIONS

FAA modernization projects have historically experienced considerable cost growth, schedule slips, and shortfalls in performance. In the current budget environment, cost growth and schedule slippages experienced in the past are no longer affordable or sustainable. Cost and schedule problems with ongoing modernization efforts have serious consequences because they result in postponed benefits, the crowding out of other modernization projects, costly interim systems, or a reduction in the number of units procured. In the past, the severity of these problems has been masked by the size of a modernization account that either grew or stayed constant.

We note that FAA has made downward adjustments in its fiscal year 2005 request for a number of modernization projects. These projects have merit but they face fundamental problems with respect to misjudging technological maturity, unexpected cost growth, or concerns about how to move forward in a cost-effective way.

—The Local Area Augmentation System (LAAS) is a new precision approach and landing system. In December 2002, we reported that expectations for the cost, schedule, and performance of the new system needed to be reset because the new landing system was not as mature as FAA expected. Category I LAAS was planned for 2006, and more demanding Category II/III performance is now a research and development effort with uncertain completion dates. After assessing contractor progress, FAA believes that it will take considerably longer, as much as 21 months, to complete just the first phase of LAAS.

—Controller-Pilot Data Link Communications (CPDLC) is a new way for controllers and pilots to share information that is analogous to wireless email. FAA is deferring plans for CPDLC because of concerns: (1) about how quickly users would equip with new avionics; (2) that the approved program baseline of $167 million was materially understated and no longer valid; and, (3) about the impact on the operations account, which is already overburdened.

—Next Generation Air-to-Ground Communications System (NEXCOM) is an effort to replace aging analog radios and foster the transition to digital communications. The first segment of NEXCOM (new radios and new ground infrastructure for digital communications) was expected to cost $986 million. However,

the full cost of implementing NEXCOM throughout the National Airspace System was uncertain, but later segments were estimated to cost $3.2 billion. In addition, NEXCOM was controversial with airlines because of FAA's preferred technology. While FAA will move forward with replacing older radios, it has postponed making decisions about NEXCOM ground system development.

While we see positive signs that the Administrator and her team are addressing fundamental problems with major acquisitions, additional steps are needed.

—*Developing reliable cost and schedule estimates*.—Last year, we reported that despite the benefits of acquisition reform granted in 1996, cost growth and scheduled slips in modernization efforts are all too common. For example, we analyzed 20 major acquisition projects and found that 14 of these projects experienced cost growth of over $4.3 billion (from $6.8 billion to $11.1 billion), which represents considerably more than the FAA's annual appropriation for modernizing the National Airspace System.

For example, the cost of the Standard Terminal Automation Replacement System (STARS), which will supply new controller displays and related computer equipment for FAA's terminal facilities, has nearly doubled from $940 million to $1.69 billion.

FAA has already obligated $1.1 billion through fiscal year 2003 and has installed 20 STARS systems, of which 19 are operational. The Agency is currently reviewing its deployment plans. We reported in September 2003 that STARS is not the same program that was planned 8 years ago. The program has shifted from a commercial off-the-shelf procurement to one that has required more than $500 million in development costs. Moreover, because of cost growth and a schedule slip to fiscal year 2012, the benefits that supported the initial acquisition are no longer valid.

The Fiscal Year 2004 Appropriations Conference Report directs our office to review and validate the Agency's revised STARS lifecycle cost estimates. We are encouraged that FAA has made recent changes in the STARS program. To control cost growth, FAA has developed a phased approach to STARS that will use a fixed price contract and consider contractor performance before moving to the next phase. Last Tuesday, FAA approved the first phase limiting STARS to 50 locations. FAA is also developing a business case to complete its terminal modernization program. When FAA has completed its business case, we will review and validate the cost estimates.

—*Avoiding long-term cost-plus contracts*.—Our work on the cost, schedule, and performance problems of 20 major FAA acquisitions illustrates why the Agency needs to avoid entering into long-term cost-plus contracts before Agency requirements and user needs are fully understood. Cost growth associated with additional development work and changing requirements for both STARS and the Wide Area Augmentation System was absorbed fully by the government and ultimately the taxpayer.

FAA is now undertaking a large and complex automation effort through a long term, cost-plus contract called the En Route Automation Modernization (ERAM) program, which FAA estimates will cost about $2 billion between now and 2011. FAA expects to spend over $200 million annually on the project beginning in fiscal year 2005. ERAM is designed to replace the Host Computer System, the central nervous system for facilities that manage high-altitude traffic.

One significant exception to programs with major cost overruns with cost-plus contracts is the Advanced Technologies and Oceanic Procedures program (ATOP), an effort to modernize FAA facilities that manage air traffic over the Atlantic and Pacific Oceans. Because FAA has relied on what is largely a fixed price contract and kept requirements stable, the costs associated with additional software development and correcting software problems discovered during testing, until recently, have been absorbed by the contractor.

Due to software development problems and pending delays, FAA modified the contract and increased its value by $11 million in an effort to maintain the Agency's schedule for deploying the new system to Oakland by the end of June. This is a modest adjustment compared to what we have seen with other modernization projects that relied on cost-plus contracts.

While the $11 million can be accommodated in the current ATOP cost baseline, the critical issue is what happens between now and February 2005. This time frame is important because the recent contract modification limits the contractor's responsibility for paying to fix software problems FAA finds in ATOP after February 28, 2005. FAA expects to complete work on the initial version of ATOP software (required for Oakland) shortly and plans to test the more advanced version of ATOP software by the end of this year. Given the change in

the contract and tight time frames, it will be critical for FAA to identify all software problems before February 28, 2005.

—*Improving contract management*.—Last year, we reported that FAA's management of cost-reimbursable contracts was deficient, lacked accountability, and did not adequately protect against waste and abuse. Our audits have found that FAA officials did not: (1) obtain audits of billions of dollars in expenditures on cost-reimbursable contracts; (2) ensure reliable government cost estimates were prepared and used in evaluating contracts; and, (3) properly account for billing and expenditures to prevent overpayments. For example, our current audit work has identified that FAA officials did not obtain audits of 17 cost-reimbursable contracts with a total value of $6.7 billion.

In January 2004, when we rendered our opinion on the Department's financial statements, we identified these deficiencies as a material weakness, and FAA is implementing a detailed action plan to correct the deficiencies. We are working with FAA to ensure that these actions are fully implemented. We do want to note that FAA achieved a "clean" opinion on its fiscal year 2003 financial statements.

AIRPORTS

Finally, funding for the airport improvement programs (AIP) has seen substantial increases over the past several years. FAA's AIP account has increased from $1.5 billion in 1996 to $3.5 billion in 2005. This is on top of passenger facility charges (PFCs) that airports collect (up to $4.50 per passenger) that FAA estimates will generate over $2 billion in fees in 2004. FAA projections suggest that a similar amount will be collected in 2005.

The increased amounts of AIP funding and PFC collections are directed by law toward airport-related projects, such as new runways. However, FAA also incurs costs to its other accounts in order to support many of the airport projects. For example, FAA's Facilities and Equipment (F&E) and Operations accounts bear the cost of air traffic related projects, such as new weather or instrument landing systems and the redesign of airspace to support new runways.

An emerging issue for FAA's budget is whether or not airport funds should be used to support some air traffic control related projects. In its budget request, FAA observes that new systems once considered beneficial to FAA air traffic operations have evolved to provide significant benefits to airport operators and users. FAA's budget submission identifies several systems that should be considered for AIP funding instead of funding from the F&E account.

Although AIP funds can be used for this purpose, the change would represent a shift in the allocation of budgetary resources. FAA estimates that this would impact the AIP account in fiscal year 2005 by about $30 million, but this number could grow as more capacity projects come on line. Accordingly, FAA needs to identify and quantify all the specific systems that will be needed to support new infrastructure projects and then identify the funding sources that will be used to pay for them.

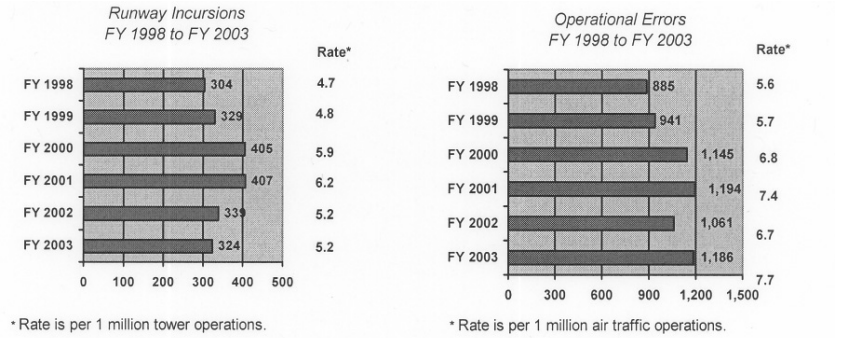
A longstanding problem that we continue to address through our work is diversion of airport revenues by airport sponsors or owners. We have been reviewing revenue diversions for over 13 years. Between 1991 and 2000, our audits disclosed over $344 million in diverted revenue. Last year, we reported on revenue diversions at five large airports, including one airport whose sponsor, a local government agency, diverted about $40 million to projects not related to the airport.

Our work shows that FAA's oversight of revenue diversions is limited. In the past, FAA has maintained that it did not have the resources to devote to this issue. We recently met with the Associate Administrator for Airports and members of her staff to discuss FAA's specific plans to increase the Agency's oversight of revenue diversions. We plan to meet next month to review progress and discuss how we can coordinate efforts. These are steps in the right direction; the key now is follow-through.

AVIATION SAFETY ISSUES

In terms of safety, FAA and U.S. air carriers have maintained a remarkable safety record. The January 2003 Air Midwest crash in Charlotte was the only fatal commercial accident in the past 2 years. However, operational errors pose a significant safety risk, with an average of three operational errors per day and one serious error (those rated as high risk) every 7 days. In fiscal year 2003, the number of operational errors increased 12 percent to 1,186, or 125 more than the number of incidents that occurred in fiscal year 2002. Additionally, while runway incursions have continued to decline for a second year in a row, there is still an average of nearly 1 runway incursion per day and an average of 1 serious runway incursion

every 11 days (those incursions that barely avoided or had significant potential for a collision).



As shown in the following table, while the total number of runway incursions has decreased, during the first 6 months of fiscal year 2004, the most serious runway incursions have increased. Also, the total number of operational errors continue to increase, even though the most serious, or high severity, operational errors decreased during this same time period.

RUNWAY INCURSIONS AND OPERATIONAL ERRORS—OCTOBER 1, 2003 THROUGH MARCH 31, 2004 [1]

	Total Incidents			Most Serious Incidents		
	Fiscal Year 2003	Fiscal Year 2004	Percent Change	Fiscal Year 2003	Fiscal Year 2004	Percent Change
Runway Incursions	165	157	(5)	13	18	38
Operational Errors	495	511	3	27	21	(22)

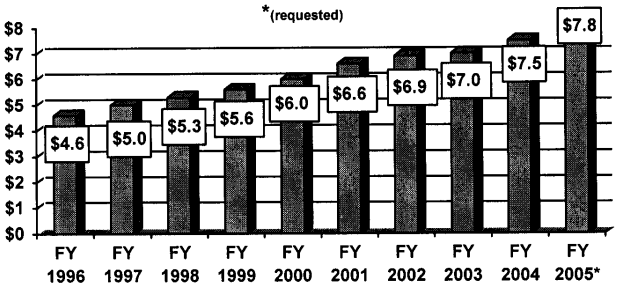
Fiscal year 2004 information is preliminary as all incidents may not have received a final severity rating. Serious incidents for runway incursions include category A and B incidents. Serious incidents for operational errors include high-severity incidents.

This past year, we also reported that improvements are needed in FAA's oversight of a growing trend toward air carrier use of outsourced maintenance facilities. While major air carriers outsourced 37 percent of their aircraft maintenance expense in 1996, the amount spent on outsourced maintenance increased to 47 percent of maintenance costs in 2002. Yet, over 90 percent of FAA's inspections are still focused on in-house maintenance, leaving contract repair stations inadequately reviewed. In response to our audit, FAA agreed to develop a new process to identify repair stations that air carriers use to perform safety-critical repairs and target inspector resources to those facilities.

ABATING A TREND OF OPERATING COST GROWTH

FAA is requesting $7.849 billion for its fiscal year 2005 operating budget, which is about $370 million above the fiscal year 2004 enacted amount of $7.479 billion. Operating costs represent the largest portion of FAA's fiscal year 2005 total budget, over 56 percent, whereas FAA's airports and capital accounts represent 25 percent and 18 percent respectively. As shown in the following graph, FAA's operating costs have been increasing substantially over the past 9 years.

Figure 1. FAA's Operations Budget - FY 1996 to FY 2005*
$ in Billions



This past year Administrator Blakey and her staff have made notable progress in beginning the process of reining in FAA's history of operating cost growth. Several areas stand out in particular.

—*MOU's*.—Last year, we reported that FAA and the National Air Traffic Controllers Association (NATCA) had entered into numerous sidebar agreements or Memoranda of Understanding (MOU's). Many of those MOU's had significant cost and/or operational impacts to the Agency, but we found that FAA had virtually no controls over the process. This past year, FAA developed new policies and procedures that, if properly implemented, should significantly improve controls over MOU's. As part of an agreement to extend the controllers' collective bargaining agreement for another 2 years, FAA and NATCA also rescinded or modified many of the most costly MOU's. For example:

—FAA and NATCA rescinded an MOU that allowed controllers transferring to larger consolidated facilities to begin earning the higher salaries associated with their new positions substantially in advance of their transfer or taking on new duties. At one location, controllers received their full salary increases 1 year in advance of their transfer (in some cases going from an annual salary of around $55,000 to over $99,000). During that time, they remained in their old location, controlling the same airspace, and performing the same duties. At three locations alone, we found FAA incurred over $2.2 million in unnecessary one-time costs as a result of this MOU.

—FAA and NATCA also renegotiated another MOU for a new free flight tool that originally gave each controller two $250 cash awards and a time-off award of 24 hours for meeting certain training milestones on the new system. The MOU contained no distinction of awards for individual contributions other than coming to work and attending training. At six facilities alone, this MOU resulted in FAA incurring approximately $1.3 million in individual cash awards and 62,500 hours in time off, which is the equivalent of approximately 30 full-time positions.

However, one costly MOU that we identified last year was not renegotiated. This MOU concerns "Controller Incentive Pay" (CIP), which provides controllers at 110 locations with an additional cost-of-living adjustment of between 1 and 10 percent, in addition to Government-wide locality pay. For example, like all other Federal and FAA employees in the Washington Metropolitan area, controllers receive 14.63 percent in Government-wide locality pay (for Calendar Year 2004). However, as a result of this MOU:

—Controllers at Dulles International also receive 4.6 percent in CIP;

—Controllers at Reagan National also receive 3.3 percent in CIP;

—Controllers at Andrews Air Force Base also receive 5.9 percent in CIP; and

—Controllers at Baltimore Washington International also receive 1.7 percent in CIP.

In fiscal year 2003, this additional cost-of-living adjustment cost FAA about $35.6 million.

—*Flight Service Stations*.—Another area of progress this past year is FAA's A–76 study of its flight services functions, which provide general aviation pilots with aeronautical information and services such as weather briefings, flight planning assistance, and aeronautical notices. In December 2001, we issued a report showing that FAA could save approximately $500 million over 7 years by consolidating its automated flight service stations in conjunction with deployment of new flight services software. In response, FAA began an A–76 study

to determine if flight services should be retained within the government or contracted out.

FAA has made strides in the process this past year. FAA plans to review proposals from several contractors, as well as the government's "More Efficient Organization" proposal, within the next several months and believes it will be ready to make a final determination by March 2005. A key challenge will be completing those actions under what are already tight timeframes. Keeping this process on track is important because the potential for cost savings is significant. FAA is requiring a 22 percent cost savings, or about $478 million, over 5 years as a selection factor for determining if a proposal will be considered.

—*Pay for Performance*.—FAA also made progress in linking pay and performance—a key tenet of FAA's personnel reform efforts. As part of the 2-year extension of the controllers' agreement, FAA and NATCA agreed to tie a portion of controllers' salary increases to meeting four national performance metrics: (1) a reduction in the number of operational errors; (2) a reduction in the number of runway incursions; (3) improvements in arrival efficiency rates; and (4) improvements in on-time performance.

This now means that 78 percent of FAA's workforce will be on a pay-for-performance plan, up from 36 percent last year at this time. It is important to note, however, that in the case of controllers, the performance increase represents a very small percentage of their total annual pay increase. For each goal reached, controllers will receive a pay increase of 0.2 percent However, even if none of the performance goals are met, controllers will still receive an average increase of 4.9 percent this year because of contractual requirements.

Other FAA employees who are on other pay systems will receive different pay increases. For example, non-bargaining unit employees on the Agency's "core compensation plan" will receive a 4.5 percent average pay increase. However, those employees are still eligible to receive a performance increase, which averages about 0.6 percent, based on an individual's job performance and not on specific goals as in the case of controllers.

—*FAA Review of Overtime and Sick Leave Usage*.—In the past, our office received several hotline complaints alleging that FAA employees at five large facilities were abusing credit hours and manipulating work schedules to increase overtime. When we made FAA aware of the allegations, the Agency took little or no action. Recently, however, we met with senior FAA officials who briefed us on measures taken to identify and address the allegations at two of the cited locations. According to FAA managers, the actions taken during the previous fiscal year have resulted in a $4 million reduction in personnel costs and a 19 percent reduction in overtime costs. These actions appear to be steps in the right direction, but it is unclear what measures have been taken at the other FAA facilities identified in the hotlines. Accordingly, we are initiating a review of the measures planned and taken at each location cited in the hotline complaints and will be issuing a report within the next few months.

Mr. Chairman, the actions taken by the Administrator and her staff this past year are encouraging. However, it is important to keep in mind that achieving significant reductions in operating costs represents a tremendous challenge. This is because salaries and benefits make up approximately 73 percent of FAA's operating budget or about $5.7 billion in fiscal year 2005.

FAA's operating costs are further compounded by the fact that FAA has a very high average salary base. For example, last year, the average base salary for all FAA employees was over $87,000. We estimate that this year, the average base salary for controllers, FAA's largest workforce, will be about $111,000,[2] which is exclusive of premium pay. Against FAA's high salary base, pay increases (which are a percentage of base pay) result in large dollar increases to FAA's operating costs. For example, FAA's fiscal year 2005 budget request of $7.8 billion for operations is a total increase of about $370 million over fiscal year 2004 appropriations. However, FAA estimates that approximately $200 million of the $370 million will be consumed by pay increases alone.

Because FAA's salary base is relatively fixed, it is unlikely that significant reductions in operating cost growth can be achieved without substantial improvements in the Agency's workforce productivity. Initiatives such as new air traffic systems, technological improvements, efforts to redesign the National Airspace System, and consolidating locations all have the potential to significantly improve productivity. In the past, FAA has embarked on similar initiatives on a limited basis, but it was

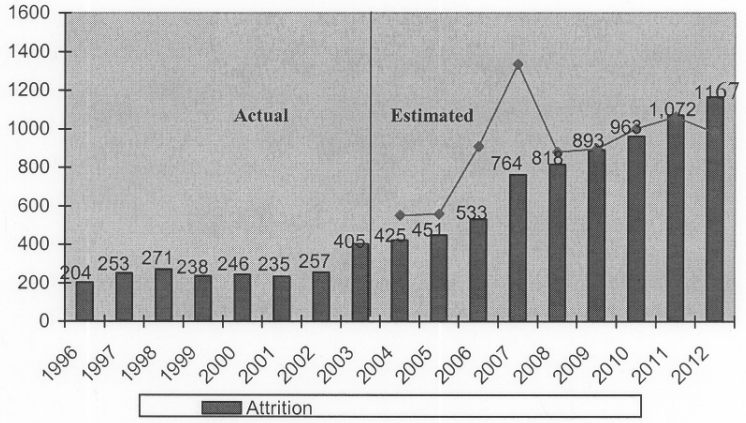
[2] Based on a 4.9 percent average increase, which does not take into account possible additional increases for meeting performance goals.

unable to demonstrate any credible gains in productivity partially because FAA did not have systems to accurately capture reliable cost and workforce-related data.

Expected Increases in Controller Attrition.—A significant issue for FAA is the expected increase in controller attrition. Attrition in FAA's air traffic controller workforce is expected to rise sharply in upcoming years as controllers hired after the 1981 Professional Air Traffic Controllers Organization controllers' strike become eligible for retirement. FAA currently estimates that nearly 7,100 controllers could leave the Agency over the next 9 years (Fiscal Years 2004–2012). In contrast, FAA has only experienced total attrition of about 2,100 controllers over the past 8 years (Fiscal Years 1996–2003).

Whether FAA will need to replace all 7,100 controllers on a one-for-one basis depends on many factors, including future air traffic levels, new technologies, and long-term initiatives that FAA undertakes. However, it is clear that as a result of the anticipated increases in attrition, FAA will begin hiring and training controllers at levels that the Agency has not experienced since the early 1980's.

Figure 2. FAA Air Traffic Controller Attrition Compared to Retirement Eligibility



* Attrition data are as of November 2003. The number of controllers becoming eligible includes only those controllers reaching retirement eligibility in that year and does not include prior years. Retirement eligibility estimates are as of December 31, 2003.

We have just completed an audit of FAA's process for placing and training air traffic controllers and will be issuing a report next month. We found that this is an area where additional management attention is needed. For example:

—FAA has national estimates of expected attrition within the controller workforce, but those estimates do not take into account where vacancies will occur. It is almost certain that many will be at some of the busiest and most critical facilities within the National Airspace System.

—While most locations we visited had estimates of attrition over the next 2 years, they included different information in developing those estimates. One facility only projected mandatory retirements, another projected attrition for transfers but not retirements, and another provided estimates on all types of attrition (i.e., retirements, transfers, hardships, resignations, and removals).

—In addition, FAA does not currently have a selection process for determining if newly hired controllers have the knowledge, skills, and abilities to complete training and become certified at the facility level of their assigned location.

—FAA does not keep national statistics on the controller on-the-job training (OJT) process, which is the longest portion of controller training. At the locations we visited, we found the overall time required for newly hired controllers to become certified averaged 3.1 years but in some cases took as long as 7 years. To effectively manage the OJT process as hiring increases, FAA will need data such as the time and costs required to complete OJT, the number of training failures, and delays in the process to benchmark against and improve the time and costs associated with OJT.

A substantial challenge for FAA will be to hire and train new controllers within a tightly constrained operating budget. FAA has recently made significant progress in this area by renegotiating several pay rules with NATCA that previously allowed some newly hired controllers to earn base salaries in excess of $79,000 while in training. The renegotiated rules now allow FAA to set newly hired controllers' salaries at levels that are more commensurate with an entry-level position (from $25,000 to $52,000), which should help FAA avoid higher costs as it begins hiring and training greater numbers of new controllers.

One point worth noting, Mr. Chairman, is that new controllers will generally have lower base salaries than the retiring controllers they replace. Over time, this could help reduce FAA's average base salary and, in turn, help reduce FAA's operating cost growth. However, if FAA does not place new controllers where and when they are needed, the potential reductions in base salaries will be offset by lower productivity as a result of placing too many or too few controllers at individual facilities.

To effectively manage the expected increase in controller attrition, FAA needs accurate cost and workforce data, which underscores the urgency of getting the Agency's cost accounting and labor distribution systems in place and operating effectively. The Chief Operating Officer for the Air Traffic Organization has committed to putting both of these systems in place. This past year, FAA has made some progress with its cost accounting system, but there has been very little progress in fielding the labor distribution system planned for air traffic employees. That system is critical for managing the expected wave of controller retirements.

—*Cost Accounting*.—In 2003, FAA's cost accounting system was partially operational in two of FAA's five lines of business. FAA produced limited cost accounting information for the Air Traffic Services line of business, a major component of the new Air Traffic Organization, and for the Commercial Space Transportation line of business. FAA made progress during the year by assigning some overhead costs properly, but much more needs to done. For example, FAA is unable to assign about $1.3 billion of costs to individual facilities. Until these costs can be assigned, managers will lack the information they need to determine the true cost of facility operations.

—*Labor Distribution*.—CRU-X is the labor distribution system FAA chose to track hours worked by air traffic employees. As designed, CRU-X could have provided credible workforce data for addressing concerns about controller staffing, related overtime expenditures, and help determine how many controllers are needed and where. However, CRU-X has not been deployed as designed because of a September 2002 agreement between FAA and NATCA that limited the system's capability to gather data regarding workforce productivity. Specifically, the agreement eliminated (1) requirements for controllers to sign in and out of the system when arriving or leaving work, and (2) tracking time spent by employees performing collateral duties.

In February 2004, FAA provided NATCA with substantive changes planned for the system and began negotiations with the union in March. FAA and NATCA need to complete actions to resolve internal control deficiencies with CRU-X and implement the system as quickly as possible so the Agency and union have objective data to determine how many controllers are needed and where.

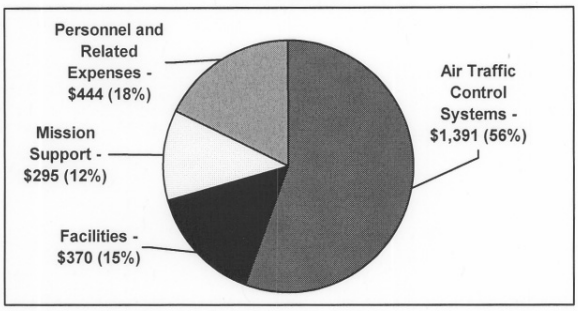
BRINGING FISCAL DISCIPLINE AND ACCOUNTABILITY TO FAA MODERNIZATION EFFORTS

FAA is requesting $2.5 billion for the Facilities and Equipment account for fiscal year 2005. This represents a reduction of over $350 million from last year's appropriated level of $2.86 billion and nearly $500 million less than the authorized level. Historically, FAA's modernization projects have experienced considerable cost growth, schedule slips, and shortfalls in performance.

In the current budget environment, cost growth and schedule slippages experienced in the past are no longer affordable or sustainable. As the following chart shows, only 56 percent of FAA's $2.5 billion budget request for Facilities and Equipment is for developing and acquiring air traffic control modernization projects. The remaining funds are for salaries, FAA facilities, and mission support.

Figure 3. FAA's FY 2005 Facilities and Equipment Budget Request

$ Millions



Source: FAA

(Percentages may not add up to 100% due to rounding)

Cost and schedule problems with ongoing modernization efforts have serious consequences because they result in postponed benefits (in terms of safety and capacity), the crowding out of other modernization projects, costly interim systems, or a reduction in units procured. In the past, the severity of these problems has been masked by the size of a modernization budget that either grew or stayed constant.

Adjustments to FAA Modernization Projects.—FAA has reduced or eliminated funding in its fiscal year 2005 request for a number of modernization projects, including, the Local Area Augmentation System, Controller-Pilot Data Link Communications, and the Next Generation Air to Ground Communications System. These efforts were longer-term in nature and called for airspace users to purchase and install new avionics. Funding reductions also reflect an emphasis on near-term FAA infrastructure projects.

These projects have merit but they face problems irrespective of funding that needed to be addressed with respect to misjudging technological maturity, unexpected cost growth, or concerns about how to move forward.

—The Local Area Augmentation System (LAAS) is a new precision landing and approach system. It was expected to cost $696 million and to be deployed in 2006, 4 years later than originally planned. FAA is not requesting funds for LAAS in fiscal year 2005 and will use funds from fiscal year 2004 to continue work on the new system. In December 2002, we reported that expectations with respect to cost, schedule, and performance needed to be reset because the new landing system was not as mature as FAA expected.[3] Category I LAAS was planned for 2006 and the more demanding CAT II/III LAAS is now a research and development effort with uncertain completion dates.[4]

Considerably more development work is required for LAAS than FAA expected just a year ago. The key issue is how to ensure the system will work as safely as intended. After assessing contractor progress, FAA estimated that it could take up to 21 months and an additional $37 million for the contractor to recover and complete just the first phase for LAAS.

—Next Generation Air-to-Ground Communications System (NEXCOM) is an effort to replace aging analog radios and foster the transition to digital communications. The first segment of NEXCOM (new radios and new ground infrastructure for digital communications) was expected to cost $986 million. FAA is requesting $31 million for NEXCOM in fiscal year 2005, $54 million less than last year's appropriated level of $85 million. FAA will move forward with replacing older radios (the least complex element of the NEXCOM effort) but has postponed making decisions about NEXCOM ground system development and is reevaluating its approach for modernizing the air to ground communications. The full cost of implementing NEXCOM throughout the NAS was uncertain but

[3] FAA Needs to Reset Expectations for LAAS Because Considerable Work Is Required Before It Can Be Deployed for Operational Use (AV–2003–006, December 16, 2002).

[4] CAT I precision approach has a 200 foot ceiling/decision height and visibility of ½ mile. CAT II precision approach has a 100 foot ceiling/decision height and visibility of ¼ mile. CAT III precision approach and landing has a decision height and visibility of less than 100 feet down to the airport surface.

later segments were estimated to cost $3.2 billion. Also, NEXCOM has been controversial with the airlines because of FAA's preferred technology.

FAA's decision to postpone decisions about NEXCOM gives the Agency opportunities to develop a cost-effective approach for meeting the air-to-ground communications needs of the National Airspace System. While FAA replaces older radios, the Agency needs to needs to determine how it will: (1) sustain existing communications infrastructure; (2) address frequency congestion problems in the short term; and, (3) meet the communications needs of FAA and airspace users in the most cost-effective way.

—Controller-Pilot Data Link Communications (CPDLC) is a new way for controllers and pilots to share information that is analogous to wireless email and considered an enabling technology for Free Flight. FAA began using CPDLC at Miami Center in October 2002 and planned to deploy the system to other facilities that manage high altitude traffic at a cost of $167 million. FAA deferred these plans for expanding CPDLC last year. The Conference report for the fiscal year 2004 Appropriations Act directed our office to look into, among other things, the circumstances leading to termination of the CPDLC program and what control could have been put in place to avoid a program failure of this type.

We found that a number of factors contributed to FAA's decision, including concerns about how quickly users would equip with new avionics and the fact the approved program baseline of $167 million was no longer valid. FAA estimates that it would cost $236.5 million for eight locations—an increase of $69 million for fewer than half the locations initially planned.

Another factor was the impact on the operations account, which is already overburdened. CPDLC would have added $63 million in cost to the operations account for, among other things, controller training and overtime (for just eight locations), and $20 million annually for the cost of data link messages. We are continuing our work on CPDLC and will report back to this committee later this year.

We see positive signs that the Administrator and her team are addressing problems with major acquisitions. However, there should be no mistake that FAA's efforts are in the early stages and a number of fundamental steps are needed. They include:

—Developing reliable cost and schedule estimates,

—Avoiding long-term cost-plus contracts, and

—Establishing controls to prevent waste and abuse.

Developing Reliable Cost and Schedule Estimates.—Last year, we reported that despite the benefits of acquisition reform granted in 1996, cost growth and scheduled slips in modernization efforts are all too common. For example, we analyzed 20 major acquisition projects and found that 14 of these projects experienced cost growth of over $4.3 billion (from $6.8 billion to $11.1 billion), which represents considerably more than the FAA's annual appropriation for modernizing the National Airspace System. Also, 13 of the 20 projects accounted for delays ranging from 1 to 7 years. FAA recognizes these problems and the Agency's strategic plan—Flight Plan 2004–2008—establishes a performance target so that 80 percent of critical acquisitions are both on schedule and within 10 percent of budget. This is an important step.

A number of key modernization projects that have been delayed still do not have reliable cost and schedule baselines. Without better information, FAA cannot effectively plan, manage the modernization portfolio, or determine what is affordable. The following table provides information on selected acquisitions that do not have reliable cost and schedule baselines.

FOUR KEY PROJECTS NEEDING UPDATED COST AND SCHEDULE BASELINES

[Dollars in Millions]

Program	Estimated Program Costs		Percent Cost Growth	Implementation Schedule		Schedule Delay Years
	Original	Current		Original	Current	
Wide Area Augmentation System	$892.4	[1] $2,922.4	227	1998–2001	2003–TBD [2]	5
Standard Terminal Automation Replacement System.	940.2	1.690.2	80	1998–2005	2002–2012 [2]	7
Airport Surveillance Radar–11	743.3	1,040.0	39.9	2000–2005	2003–2013	8
Integrated Terminal Weather System	276.1	283.7	3	2002–2003	2003–2008	5

[1] This includes the cost to acquire geostationary satellites.
[2] Costs and schedules are under review.

Mr. Chairman, I would like to discuss three of these projects.

—Standard Terminal Automation Replacement System (STARS) will supply new controller displays and related computer equipment for FAA's terminal facilities. FAA's official STARS acquisition cost estimate has nearly doubled from $940 million to $1.69 billion.

FAA has already obligated $1.1 billion through fiscal year 2003 but has only installed 20 systems, of which 19 are operational. The Agency is currently reviewing its deployment plans. We reported in September 2003 that STARS is not the same program that was planned 8 years ago. The program has shifted from a commercial off-the-shelf procurement to one that has required more than $500 million in development costs. Moreover, because of cost growth and a schedule slip to fiscal year 2012, the benefits that supported the initial acquisition are no longer valid.[5] Due to STARS delays, FAA deployed Common Automated Radar Terminal System (Common ARTS) hardware and software to 141 terminal facilities over the past 5 years.

In our 2003 report, we recommended that FAA select the most cost-effective and affordable strategy to complete terminal modernization by augmenting STARS deployment with Common ARTS. We estimated that implementing this approach would allow FAA to put at least $220 million to better use. To date, the Agency has not ruled out keeping some Common ARTS as an alternative if STARS proves to be unaffordable or does not perform as expected.

FAA officials maintain that STARS has important capabilities, such as "Sensor Fusion," which is designed to merge data from multiple radars on controllers' displays. However, FAA continues to experience problems with the Sensor Fusion software. We have not yet seen sufficient evidence to justify FAA's conclusion that the capabilities of STARS are far superior to the capabilities of Common ARTS, and both systems are certified for use in the National Airspace System.

The fiscal year 2004 Appropriations Conference Report directs our office to review and validate the Agency's revised STARS lifecycle cost estimates. We are encouraged that FAA has made recent changes in the STARS program. To control cost growth, FAA has developed a phased approach to STARS that will use a fixed price contract and consider contractor performance before moving to the next phase. Last Tuesday, FAA approved the first phase, limiting STARS to 50 locations. FAA is also developing a business case to complete its terminal modernization program. When FAA has completed its business case, we will review and validate the cost estimates.

—The Wide Area Augmentation System (WAAS) is a new satellite-based navigation system to enhance all phases of flight. The program has a long history of uncertainty regarding how much the system will cost, when it will be delivered, and what benefits can be obtained. Limited WAAS services became available in July 2003, but additional work is needed to expand WAAS coverage through additional ground stations. FAA has obligated over $800 million on WAAS and expects to spend $100 million on the new system in fiscal year 2005.

WAAS was expected to provide Category I performance to the majority of the Nation's airports but will provide something less when the system is deployed. Based on our discussions with FAA, the subcommittee should expect to see a reduction in overall WAAS baseline costs in the $300 to $400 million range to reflect the fact that Agency will not pursue Category I performance.

—The Integrated Terminal Weather System (ITWS) provides air traffic managers with a 20-minute forecast of weather conditions near airports and can help the National Airspace System recover from periods of bad weather. FAA initially planned to complete deployment of 38 systems by 2003 at a cost of about $276 million, but production costs increased significantly from $360,000 to $1 million per system. According to FAA officials, the Agency now plans to establish new cost and schedule parameters this April, and accelerate an ITWS enhancement (the Convective Weather Forecast product) in response to our December 2002 report.

Avoiding Long-Term Cost-Plus Contracts.—Our work on the cost, schedule, and performance problems of 20 major FAA acquisitions illustrates why the Agency needs to avoid entering into long-term cost-plus contracts before Agency requirements and user needs are fully understood. Cost growth associated with additional development work and changing requirements for both STARS and WAAS was absorbed fully by the government. In the future, FAA needs to use a more incremental

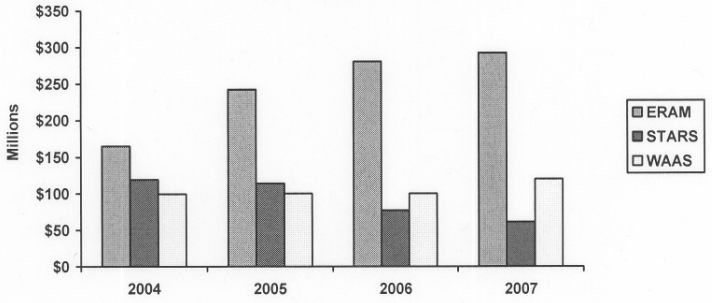
[5] FAA Needs to Reevaluate STARS Costs and Consider Other Alternatives, AV–2003–058, September 9, 2003.

approach to complex long-term efforts until the scope of work and development are clearly defined and rely more on fixed price contracts.

FAA is now undertaking a large and complex automation effort through a long term, cost-plus contract called the En Route Automation Modernization (ERAM) program, which FAA estimates will cost about $2 billion between now and 2011. FAA expects to spend over $240 million annually on the project beginning in fiscal year 2005. ERAM is designed to replace the Host Computer System, the central nervous system for facilities that manage high altitude traffic. The fiscal year 2004 Appropriations Conference Report directs our office to look at executability of the program and identify program risks, including security.

The following chart illustrates planned funding for ERAM and as well as funding profiles for STARS and WAAS, two projects that have been delayed for years and do not have reliable cost estimates.[6] Any cost increases with these programs will have a cascading effect on other efforts and limit FAA's flexibility to begin new projects.

Figure 4. Planned Funding for ERAM, STARS and WAAS
Fiscal Years 2004 to 2007
$ in Millions



Source: FAA's January 2004 Draft Capital Investment Plan.
Note: Cost and schedule plans for STARS and WAAS are under review.

ERAM is the largest and most complex automation effort FAA has embarked on since the Advanced Automation System. We anticipate completing our first review of this complex program this year. At this stage, we see key ERAM program risks as: (1) an aggressive schedule; (2) complex software development and integration; and, (3) successfully managing a long-term cost-plus contract that is already valued at close to $1 billion. As FAA moves closer to the production phases of ERAM, the Agency should seek opportunities to use fixed-price contracting mechanisms.

One significant exception to programs with major cost overruns is the Advanced Technologies and Oceanic Procedures program (ATOP), an effort to modernize FAA facilities that manage air traffic over the Atlantic and Pacific Oceans.[7] This effort has experienced some serious and unexpected software development and testing problems. Problems are traceable to the fact that the contractor relied on non-development software that could not meet FAA requirements.

In June 2001, FAA awarded a $217 million contract for ATOP to provide oceanic air traffic systems. Since the contract was awarded, the contractor has experienced problems with software development and testing. As a result, the first phase of testing, known as factory acceptance testing, was completed 12 months behind schedule. In October 2003, FAA began operational testing to determine whether the new automation system would perform as intended. This testing uncovered further software problems that forced FAA to halt testing of ATOP's air traffic management functions. FAA subsequently resumed and completed that round of testing and begin site acceptance testing in April 2004.

[6] STARS and WAAS funding profiles are currently under review by FAA.
[7] For additional details on ATOP, see Status Report on FAA's Advanced Technologies and Oceanic Procedures (report number AV–2004–037, March 31, 2004).

FAA has relied on what is largely a fixed price contract and kept requirements stable. Consequently, the costs associated with additional software development and correcting software problems discovered during testing have been absorbed by the contractor—not the government. However, due to the software problems and pending delays, FAA decided to modify the contract in an effort to maintain the schedule to install the system in Oakland. The modification will expand the use of cost-plus contract elements (including time and materials) and increase the value of the contract by approximately $11 million.

While this $11 million adjustment is modest and can be accommodated in the current ATOP cost baseline, the critical issue is what happens between now and February 2005. This time frame is important because the recent contract modification limits the contractor's responsibility for paying to fix software problems FAA finds in ATOP after February 28, 2005. According to FAA, after work on the initial version of ATOP software (required for Oakland) is complete, the Agency will test the more advanced version at its Atlantic City Technical Center by the end of this year. Given the change in the contract and tight time frames, it will be critical for FAA to identify all software problems before February 28, 2005.

We will continue to monitor progress with ATOP. The Conference report accompanying the Appropriations Bill for fiscal year 2004 directed our office to compare FAA's pursuit of oceanic automation capabilities to the experiences of NAVCanada and other oceanic air traffic service providers. We intend to begin work on this later this year.

Improving Contract Management.—Last year, we reported that FAA's management of cost-reimbursable contracts was deficient, lacked accountability, and did not adequately protect against waste and abuse. Our audits have found that FAA officials did not: (1) obtain audits of billions of dollars in expenditures on cost-reimbursable contracts; (2) ensure reliable government cost estimates were prepared and used in evaluating contracts; and (3) properly account for billing and expenditures to prevent overpayments.

For example, our current audit work has identified that FAA officials did not obtain audits of 17 cost reimbursable contracts with a total value of $6.7 billion. In addition, we reported that FAA officials did not ensure that contractor employees were qualified to do the work. For example, a contractor employee charged approximately $255,000 as a senior systems engineer, even though that individual had only a Bachelors of Arts Degree in Psychology, and his past work history indicated no experience in engineering.

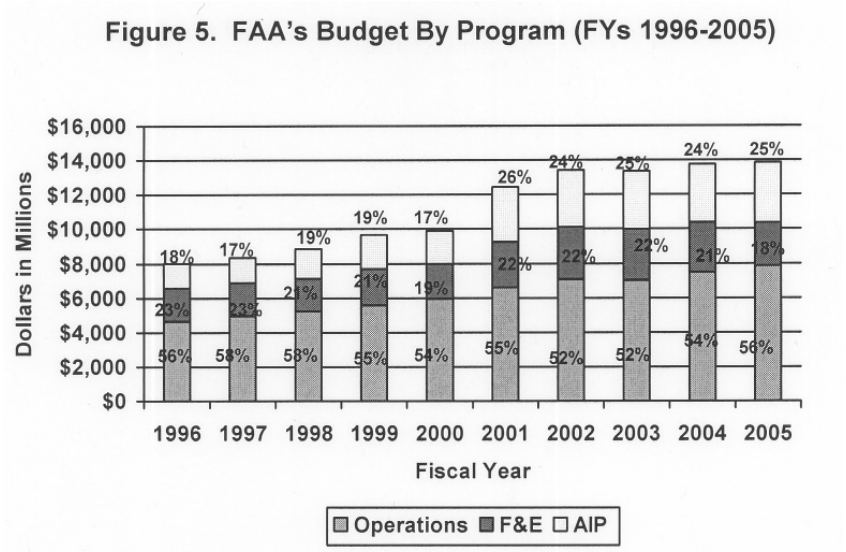
When we rendered our opinion on the Department's financial statements we identified these deficiencies as a material weakness, and FAA has developed and begun implementation of a detailed action plan to correct the deficiencies. For example, FAA has made progress in reducing the backlog of 459 completed contracts by closing out 279 contracts valued at $2.55 billion. In addition, FAA is providing adequate funding to perform cost-incurred audits of contract expenditures. Congress provided $3 million in fiscal year 2004 funds for this purpose, and FAA is establishing procedures to ensure the funds are applied effectively by focusing on larger contracts.

FAA is also establishing a centralized control in FAA headquarters to track the status of all completed and ongoing cost reimbursable contracts in order to meet Congressional direction to audit 100 percent of contracts over $100 million and 15 percent of contracts less than $100 million. We are working with FAA to ensure that these plans are implemented.

AIRPORT FUNDING ISSUES

Funding for the airport improvement programs (AIP) has seen substantial increases over the past several years. FAA's AIP account has increased from $1.5 billion in 1996 to $3.5 billion in 2005. This is on top of passenger facility charges (PFCs) that airports collect. The maximum amount allowed has increased from $3.00 to $4.50 per passenger, and FAA estimates that PFCs will generate over $2 billion in fees in 2004. FAA projections suggest that a similar amount will be collected in 2005.

The following chart illustrates funding levels for FAA's airports, operations, and facilities and equipment accounts from fiscal year 1996 through fiscal year 2005. It shows that AIP is taking up an increasing share of FAA's overall budget. For example, in fiscal year 1996 AIP made up 18 percent of FAA's total budget whereas in fiscal year 2005 AIP represents 25 percent of the Agency's total budget.



Emerging Issue for AIP.—The increased amounts of AIP funding and PFC collections are directed by law toward airport-related projects, such as new runways. However, FAA also incurs costs to its other accounts in order to support many of the airport projects. For example, FAA's Facilities and Equipment (F&E) and Operations accounts bear the cost of air traffic related projects such as new weather or instrument landing systems and redesigning airspace in order to support new runways.

An emerging issue for FAA's budget is whether or not airport funds should be used to support some air traffic control related projects. In its budget request, FAA observes that new systems once considered beneficial to FAA air traffic operations have evolved to provide significant benefits to airport operators and users. FAA's budget submission identifies several systems that should be considered for AIP funding instead of funding from the F&E account.

Although AIP funds can be used for this purpose, the change would represent a shift in the allocation of budgetary resources. FAA estimates that this would affect the AIP account in fiscal year 2005 by about $30 million but this number could grow as more capacity projects come on line. Accordingly, FAA needs to identify and quantify all the specific systems that will be needed to support new infrastructure projects and then identify the funding sources that will be used to pay for them.

Revenue Diversions.—A longstanding problem that we continue to address through our work is diversion of airport revenues by airport sponsors or owners and a lack of effective FAA oversight. It is a matter of law that all airports receiving Federal assistance use airport revenues for the capital or operating costs of an airport. Any other use of airport revenue is considered a "revenue diversion." Examples of common revenue diversions include charges to the airport for property or services that were not provided, indirect costs such as promotional activities that were improperly allocated to the airport, and payments of less than fair market value for use of airport property.

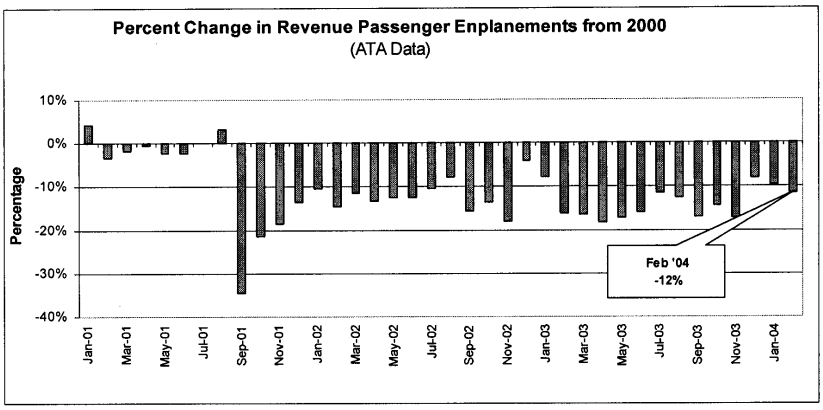
We have been reviewing revenue diversions for over 13 years. Between 1991 and 2000, our audits disclosed over $344 million in diverted revenue. Last year, we reported on revenue diversions at five large airports, including one airport whose sponsor, a local government agency, diverted about $40 million to other projects not related to the airport. We also just completed an audit at San Francisco International last month which disclosed about $12 million in diverted revenue. Additionally, we have begun reviews regarding potential revenue diversion and contracting irregularities at Los Angeles International Airport.

Our work shows that FAA's oversight of revenue diversions is limited. In the past, FAA has maintained that it did not have the resources to devote to this issue. We recently met with the Associate Administrator for Airports and members of her staff to discuss FAA's specific plans to increase the Agency's oversight of revenue diver-

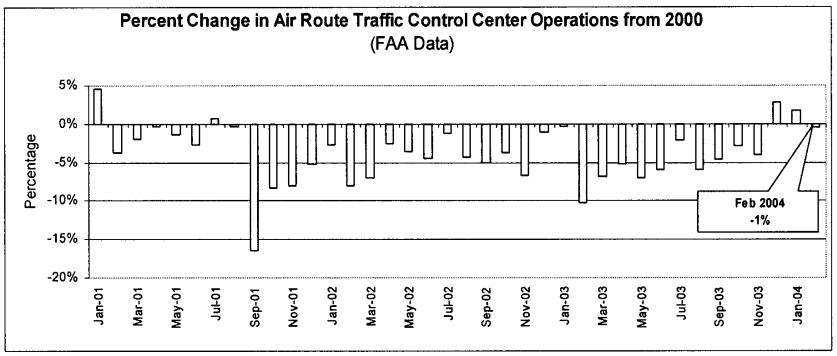
sions. We plan to meet next month to review progress and discuss how we can coordinate efforts. Clearly, these are steps in the right direction, but the key now is follow-through.

BEING POSITIONED FOR A REBOUND IN AIR TRAFFIC

Mr. Chairman, our testimony this morning has focused primarily on cost issues within FAA's budget. However, an important issue for this subcommittee is the fact that air traffic levels are beginning to rebound. While domestic traffic levels still fall short of the peaks experienced in 2000, there is no question that traffic is rebounding. In February 2004, the number of revenue passenger enplanements (35.1 million) was down 12 percent from February 2000, but this represents a 5 percent growth over enplanements in February 2003 (33.3 million). While this is good news for the airlines, the increased traffic levels are bringing pressure to bear on our Nation's airports, air traffic control systems, and the traveling public.



Aircraft operations have also increased significantly since September 2001. In February 2004, domestic operations handled by Air Route Traffic Control Centers were less than 1 percent below the operations handled in February 2000. The 3.63 million February 2004 operations represented nearly 11 percent growth over operations handled in February 2003.



While systemwide operations in February 2004 were slightly down from February 2000, the story is very different on an airport-by-airport basis. In 13 of the 31 largest airports, including some of those that experienced serious delays in 2000, the number of scheduled flights in March 2004 actually exceeded the number of scheduled flights in March 2000. For example, at Denver International, the number of flights scheduled for March 2004 exceeded March 2000 schedules by 10 percent and at Chicago O'Hare, scheduled flights in March exceeded 2000 levels by 9 percent.

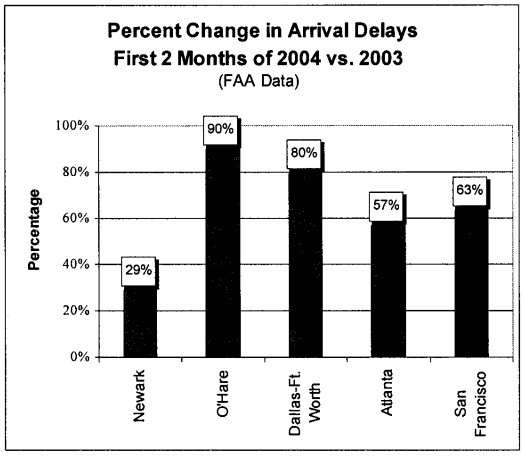
In 11 of the 13 airports where March 2004 scheduled flights exceeded March 2000 levels, the number of available seats scheduled still lagged behind the number of

available seats offered in March 2000. This is an indication, at least in part, of how network carriers are using regional jets in the place of narrow-body jets to connect traffic to the network hubs.

For example, in Cincinnati, a major Delta hub, scheduled flights in March 2004 were 11.5 percent higher than in March 2000, while available seats were down 7.7 percent. During this same period, regional jets, as a percentage of all aircraft operations in Cincinnati, grew from 53.8 percent to 72.3 percent. Overall, the number of flights scheduled to be operated by regional jets in March 2004 was 134 percent greater than in March 2000.

The growth in aircraft operations, especially at some of what have historically been our Nation's busiest airports creates a situation that merits careful monitoring. Although systemwide arrival delays in January and February 2004 were still 22 percent below those experienced in the first 2 months of 2000, the number is up 33 percent from the same period in 2003.

In some individual markets, the growth is particularly pronounced. At Chicago O'Hare, arrival delays during the month of March 2004 represented a 74 percent increase over delays during the same period in 2003, down from the 90 percent increase during the first 2 months of 2004. At Dallas-Fort Worth, arrival delays in January and February combined were up 80 percent over the same period in 2003.



The Department and FAA are aware of this growth in delays and the potential near-term affects on the quality of air transportation service if the growth goes unchecked. The subcommittee should also follow the situation closely. It is unlikely that the situation will reach the level of widespread system failures we experienced in the summer of 2000, but it is possible that some airports could experience disruptions in service. The FAA and the Department have been working with the industry to identify potential solutions to delay problems that might occur this summer such as high-altitude express lanes and voluntary schedule reductions.

One situation that bears watching, in particular, is the expected service growth at Washington's Dulles Airport. In June, when Independence Air is launched by former regional carrier Atlantic Coast Airlines as a new low-fare carrier, traffic at Dulles will increase significantly. Executives at Independence Air anticipate operating between 200 and 300 daily departures primarily between Dulles and East Coast destinations.

Assuming that United does not reduce service in any of the markets it had previously served using Atlantic Coast Airlines as a regional partner—and it has made no indications that it plans to do so—daily aircraft operations at Dulles could increase by more than 50 percent this summer. In addition to airside congestion, there are concerns with airport terminal services, including the resources needed to process a significantly increased number of passengers through security checkpoints.

That concludes my statement,[8] Mr. Chairman. I would be pleased to address any questions you or other members of the subcommittee might have.

ATTACHMENT 1.—RELATED OFFICE OF INSPECTOR GENERAL REVIEWS 1998–2004

Operations

Using CRU-X to Capture Official Time Spent on Representational Activities—AV–2004–033, February 13, 2004

FAA's Management of Memorandums of Understanding with the National Air Traffic Controllers Association—AV–2003–059, September 12, 2003

Safety, Cost and Operational Metrics of the Federal Aviation Administration's Visual Flight Rule Towers—AV–2003–057, September 4, 2003

FAA's Oversight of Workers' Compensation Claims in Air Traffic Services—AV–2003–011, January 17, 2003

FAA's National Airspace System Implementation Support Contract—AV–2003–002, November 15, 2002

FAA's Air Traffic Services' Policy of Granting Time Off Work to Settle Grievances—CC–2002–048, December 14, 2001

Subcontracting Issues of the Contract Tower Program—AV–2002–068, December 14, 2001

Automated Flight Service Stations: Significant Benefits Could be Realized by Consolidating AFSS Sites in Conjunction with Deployment of OASIS—AV–2002–064, December 7, 2001

Compensation Issues Concerning Air Traffic Managers, Supervisors, and Specialists—AV–2001–064, June 15, 2001

Technical Support Services Contract: Better Management Oversight and Sound Business Practices Are Needed—2000–127, September 28, 2000

Contract Towers: Observations on FAA's Study of Expanding the Program—AV–2000–079, April 12, 2000

Staffing: Supervisory Reductions will Require Enhancements in FAA's Controller-in-Charge Policy—AV–1999–020, November 16, 1998

Personnel Reform: Recent Actions Represent Progress but Further Effort is Needed to Achieve Comprehensive Change—AV–1998–214, September 30, 1998

Liaison and Familiarization Training—AV–1998–170, August 3, 1998

Acquisition and Modernization

FAA's Advanced Technologies and Oceanic Procedures—AV–2004–037, March 31, 2004

FAA Needs to Reevaluate STARS Costs and Consider Other Alternatives—AV–2003–058, September 10, 2003

Status of FAA's Major Acquisitions—AV–2003–045, June 27, 2003

Integrated Terminal Weather System: Important Decisions Must Be Made on the Deployment Strategy—AV–2003–009, December 20, 2002

FAA's Progress in Developing and Deploying the Local Area Augmentation System—AV–2003–006, December 18, 2002

Follow-up Memo to FAA on STARS Acquisition—CC–2002–087, June 3, 2002

Letter Response to Senator Richard Shelby on FAA's Advanced Technologies and Oceanic Procedures (ATOP)—CC–2001–210, April 12, 2002

Status Report on the Standard Terminal Automation Replacement System—AV–2001–067, July 3, 2001

Efforts to Develop and Deploy the Standard Terminal Automation Replacement System—AV–2001–048, March 30, 2001

Aviation Safety

Review of Air Carriers' Use of Aircraft Repair Stations—AV–2003–047, July 8, 2003

Operational Errors and Runway Incursions—AV–2003–040, April 3, 2003

Air Transportation Oversight System (ATOS)—AV–2002–088, April 8, 2002

Oversight of FAA's Aircraft Maintenance, Continuing Analysis, and Surveillance Systems—AV–2002–066, December 12, 2001

Further Delays in Implementing Occupational Safety and Health Standards for Flight Attendants Are Likely—AV–2001–102, September 26, 2001

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[8] This testimony was conducted in accordance with Government Auditing Standards prescribed by the Comptroller General of the United States. The work supporting this testimony was based on prior and ongoing audits conducted by the Office of Inspector General. We updated material to reflect current conditions or to reflect fiscal year 2005 budget requests as necessary.

Despite Significant Management Focus, Further Actions Are Needed To Reduce Runway Incursions—AV–2001–066, June 26, 2001

Airports

Revenue Diversions at San Francisco International Airport—SC–2004–038, March 31, 2004

Oversight of Airport Revenue—AV–2003–030, March 20, 2003

These reports can be reviewed on the OIG website at http://www.oig.dot.gov.

Senator SHELBY. Senator Stevens, do you have an opening statement?

Senator STEVENS. I apologize for being late. There are too many other meetings, but I am happy to see the witnesses here today and I will have some questions when the time comes.

Senator SHELBY. Thank you.

Senator MURRAY. Mr. Chairman, before you go to questions I just want to recognize that our National Teacher of the Year has joined us in the audience today, Dennis Griner from Palouse High School in Palouse, Washington, and we are proud to see you here today.

Senator SHELBY. Thank you, Senator Murray.

SAFETY

Safety is, and I believe must always remain, FAA's top priority. Madam Administrator, I know how serious your commitment to improving aviation safety is. What are your top safety priorities for fiscal year 2005? You are doing well, but you want to do better.

Ms. BLAKEY. You are absolutely right. One of the things that we are most committed to is working with our carriers, the airline industry, to develop a safety system approach that means we are all looking at risk factors. That we are all looking at the way we should manage together that potential risk, and not wait till an accident or incident happens, but really getting in front of it.

Senator SHELBY. What is your biggest safety concern?

Ms. BLAKEY. Well, I think right now what we would like to do is marry up data and marry up information in a way that we have never done before. For example, we have two systems out there that are great. One is called Arrival Sequencing Program (ASP), which gives pilots, dispatchers, all of those who are operating the system a way to voluntarily say something went wrong here. They can do it without penalty and that gives us again access to information we would not have from their perspective. You know, a dispatcher who says later on, I probably should not have done that—a little too close to scud-running; a pilot who says yes, I probably did make an error there that is worth taking note.

We also have a way now, a program called Flight Operational Quality Assurance (FOQA), which takes data, routine data off the flight data recorder and lets us analyze that and see what the machine is doing, see what is happening. We think we need to marry that kind of information together and as an industry and as the FAA, really work to make sure that we are inspecting the right things, analyzing the right things, making training changes, and doing air traffic control procedures better. All of this will help.

FAA'S OPERATIONS ACCOUNT

Senator SHELBY. The FAA's operations account has witnessed significant increases over the years. Could both of you identify the

major cost drivers of the Operations appropriation? First, Ms. Blakey.

PERSONNEL COSTS

Ms. BLAKEY. Mr. Chairman, I think the Inspector General has it right. There is no question about the fact that the major cost driver is our personnel costs. After all, that is what the FAA is about. It is an operating agency and about 80 percent of that operations cost goes to personnel. Also there are a lot of contractual obligations that limit the flexibility we have in controlling costs. I would also say that the way we have gone about modernization has increased capacity and added additional personnel requirements. It was not done to drive down operations costs. It was done with an eye to increasing capacity in the system, with more nav aids, with more technology, which means more things to maintain and more people to operate them. All of that has, as we have overlaid better and better programs, increased safety, but that takes people and certainly that has driven the costs up, as well.

MOU'S

Senator SHELBY. Last year it became clear that FAA's oversight of MOU's was seriously inadequate. The situation has been well documented by the Inspector General, Mr. Mead. While MOU's often serve useful purposes, they also have cost implications. In the 2004 Appropriations Act, Congress required the FAA to establish a central database on all MOU's. Has this been accomplished? And what was the total budgetary impact of the MOU's and what processes of control have been put in place?

Do you want to answer that first, Mr. Mead?

Mr. MEAD. Well, we are not at an end state yet. I cannot say exactly what the total budgetary impact is but I would put the figure probably that the steps they have taken may have avoided costs something on the order of $50 million. They have a much better handle on having an inventory of these and they have put the brakes on entering into new ones, at least ones where the Administrator would not even know about them.

I think there are one or two more out there. One that I think is particularly interesting is all Federal employees get locality pay and the controllers entered into a memorandum of understanding with FAA so they get something called controller incentive pay, which is on top of that at 110 locations. That one item is running FAA something on the neighborhood of $25 to $30 million per year. They have a very generous pay package.

Senator SHELBY. What is your recommendation to get control of the process?

Mr. MEAD. I think FAA is doing the right things and has the right things. I think right now I would have no additional recommendations except that they continue doing what they are doing on the memoranda of understandings.

The issue on the growth in the operations account, you can expect it to continue. It will not be as marked as it has been in the past but it is still going to continue because you have such a high salary base there. If you give a 4 percent or 5 percent pay increase on a salary base of, say, somebody who is getting $135,000, that

is a lot more every year compounded than adding 5 percent every year on top of a salary base of $75,000 or $80,000.

Senator SHELBY. It adds up.

Mr. MEAD. Yes, sir, it does.

MODERNIZING NAS

Senator SHELBY. The FAA has a poor track record of modernizing the National Airspace System. The GAO and Transportation Inspector General have published many reports on projects that are late, overbudget, and cannot deliver as promised. Madam Administrator, what are you doing to address this long-standing problem?

Ms. BLAKEY. Well, I will tell you. As we have analyzed this, I think we need to take a very different approach and that is what our COO Russ Chew, and the entire group that is managing these accounts is committed to. What I think has been a really tremendous mistake in the past is the FAA took the approach that somehow you could predict the cost of systems that were going to be deployed over 10 years going where no one had gone before. It is one thing if you are asked to talk about a capital investment where you are pulling commercial off-the-shelf technology. You then would know how many, and know exactly where systems are going.

That was not the case with the FAA. We are talking about what essentially were research programs, but the FAA committed to figures in the baseline that would go out as many as a dozen years. The question of how long it would take to get the fundamental technology down, then what it was going to cost in a prototype stage to actually build it and deploy it was not addressed. Where should it really go? All the while you have changing traffic patterns and a whole field operation out there.

Here is what we are going to do. We are going to call research "research". We are going to chunk these projects, if you will, into much smaller stages where we commit to the initial R&D as much as possible under firm, fixed-price contracts. We will try our best to hold to that fixed price. We will also do it in stages. We will, therefore, be making the financial investments in stages so that we do not get in over our head. We can continue to analyze the benefits, and as circumstances change over 10 years, we are able to say "wait a minute", let us not put all the things in facilities that we had planned. We really can fine-tune modernization over time, and I think get much better value for taxpayer dollars.

This is what we are doing with the STARS program, one of our major programs that we feel we have to take a very different approach.

Senator SHELBY. Mr. Mead.

Mr. MEAD. Yes, I think the most important thing in these contracts where we do not know where we are buying and some of these are concepts, to go into a 10-year contract and say the pricing mechanism will be just bill me whatever it takes, with no cap—we should not be doing that. It should scare this committee. It scares me.

Senator SHELBY. It does scare us. That is why I keep asking this line of questioning.

Mr. MEAD. Every one of the programs that is in trouble falls into that pattern where it has been that type of contract.

Senator SHELBY. How are we going to deal with it? You are the Inspector General; we are the appropriators. We are working with you and the Administrator to make sure this money is spent well for the right purpose.

Mr. MEAD. I think you should insist on more fixed-price contracts coming out of FAA. I think you would see some rapid improvements. That single move, I think, would change a lot. And what the Administrator says, too, about research and development should be called research and development.

Senator SHELBY. It should be called what it is, should it not?

Mr. MEAD. We should call it like it is, yes, sir.

FIXED PRICE

Ms. BLAKEY. Mr. Chairman, let me also add on the firm, fixed price, I think the Inspector General and I agree on this in concept. What I would say, though, is that we cannot expect a corporate entity of any sort to assume all the risk without dramatically increasing what they are willing to commit to on a firm, fixed price, which goes back to let us take it in small stages; let us go where we can all see what this is likely to cost. Do not ask them to commit to something where they are assuming enormous risk or where they are putting in huge costs.

Senator SHELBY. Well, you have to be specific in what you want. Or, if you do not know what you want or what you are trying to improve, how can you contract for it, other than learning as you go through a cost-plus acquisition. We cannot always afford that. I do not believe that is the way to operate the FAA, do you?

Ms. BLAKEY. I do not, either. And one of the things that we have done in some of our capital programs is we have all accepted what we and our customers want. It is fine to say we want a system with certain capabilities but the question of how do you get the technology to do that—we have not always been realistic about how difficult that was going to be. And frankly, in some of the areas where we have cut back on the F&E programs, technology was the problem.

Mr. MEAD. I have noticed over the years they pretend that they know what they are buying and you will have the vendors come in and say yes, it is off the shelf; we are going to get it off-the-shelf; we know what you want. But then when you look down into the details of the contract, it is kind of open-ended; it is cost-plus. That is a sure give away nine times out of ten.

Senator SHELBY. That is suicide for the appropriators, too, because if we do not know what things are going to cost, how do we watch the money?

Senator Murray.

F&E

Senator MURRAY. Thank you, Mr. Chairman.

Ms. Blakey, the budget request for the FAA's Facilities and Equipment account is nearly $400 million below last year's level and represents the largest cut in the entire Department of Transportation budget. In fact, when you look at the Bush Administration's multi-year budget, it says that the funding for air traffic con-

trol modernization will be $2 billion lower than the amount authorized in the Vision-100 bill.

When Secretary Mineta came before our subcommittee a couple of weeks ago, he explained those cuts by saying there was a need to reevaluate those programs from a priority perspective. Since your 2005 budget reduced by more than 50 percent programs that were designed to prevent runway incursions and improve air-to-ground communications, should we assume that those goals are no longer a priority for the FAA?

SAFETY AND CAPACITY

Ms. BLAKEY. No, those goals are absolutely in place. We are going to work very hard to make certain that we address our overall safety goals and capacity. I would tell you that this budget supports our safety and capacity goals. It is something that we are going to as we move forward to make certain that we support core programs that are delivered in those areas. This budget does that.

It is true we are not in expansive times. Looking at the Aviation Trust Fund and looking at other constraints, we are dealing with an industry that is not able to equip like we had at one point hoped and expected. Things have changed. But the commitments that we have made in our capital account go to capitalizing on those programs, which at this point, the research and development is done. We are at the implementation stage. We do need to move ahead with them. And those programs that really are R&D, they are not ready for implementation and the huge costs that go with implementation. That is what we have tried to recognize here.

Senator MURRAY. Just last week the FAA's air traffic control infrastructure experienced a power outage in Los Angeles and a computer crash in Kansas. In Los Angeles, they said that it took nearly 3 hours to get all the communication systems back on line. Eighty flights were delayed. Two airplanes violated FAA's safety standards by flying too close together. And in Kansas, FAA technicians in the operations control center and the field were left unable to electronically communicate with each other for almost 12 hours. Can you assure us that this is not a preview of what we can expect to see with the $400 million cut to the air traffic control modernization budget?

NETWORK OF SYSTEMS

Ms. BLAKEY. You know, the FAA does a remarkably good job at keeping on line a huge network of systems. So every now and then something occurs and the news media made a good bit out of something that actually was not as severe as the papers characterized it in terms of Los Angeles. It does catch people's attention.

But I would have to tell you that our ongoing ability to maintain and support our existing systems and network is a very high priority, and it is something that you will continue to see reflected in our budget.

Senator MURRAY. Mr. Mead, do you see any linkage between the overall funding level for modernization of the ATC system and the frequency of system crashes and other ATC outages like I just mentioned?

Mr. MEAD. No, I do not think I do. That is because if you look back about 3 or 4 years, these outages were much more frequent. We were reading about them almost every week and they were all over the country. Actually the trend line shows that they are getting better. But when they happen you wonder why did they happen and how can we get the recovery back as quickly as possible?

MAINTENANCE WORKFORCE

I would say that the maintenance workforce at FAA and how you are going to provide maintenance, I think that is an area that bears watching because the way the operations account is structured, much of the growth in it is going to cover the air traffic controllers, not much will go to maintenance technicians. Your salaries in that area have a crowd-out influence on other elements of that account and the maintenance technicians are one other element of the account.

Ms. BLAKEY. One thing I would say about this, and this really is a compliment to the vision of this committee and the Congress in general. The investments you have made in modernization have paid off in this area. We have seen a very significantly improved picture because the equipment is newer and much more reliable. It can be handled in many cases by remote maintenance, scheduled maintenance, which is obviously much more efficient than having to send folks out in the middle of the night on something that is a last-minute emergency. That really has made a very big difference, the fact that it is much more reliable, much more situationally situated where we can do it and do it well. So I think that we have to realize that the picture has changed. We are very committed to training our maintenance workforce not only for the challenges we have right now, but also to look at specific situations to make sure what happened here, what we are going to do to fix it to make sure it does not happen the next time. The second thing is we need to train people more for the upcoming systems, which are much more software-intensive, so that we have people who are well situated for the equipment of the future.

Senator MURRAY. Well, let me ask about maintenance, because on March 1 a Federal arbitrator ruled that the FAA has not met the minimum staffing levels needed for the agency's air traffic control maintenance functions based on the agreement that was reached in fiscal year 2000 between the FAA and the union that represents the airway facilities technicians. The arbitrator ruled that the FAA must immediately take action to raise the total number of technical employees to a minimum staffing level of 6,100. How was this allowed to happen and when was the last time the FAA met that staffing level of 6,100?

Senator STEVENS. Who made that ruling?

Senator MURRAY. A Federal arbitrator.

Ms. BLAKEY. This has been a longstanding difference of view between ourselves and PASS, our union. So we really do see that figure differently. We believe we have been meeting that 6,100. It all goes to a question of how you count some of our personnel and centers, and we believe they should be counted in that figure. That said, we are looking at the situation now as to whether we should

appeal this or whether we should take steps to increase the numbers there. This is a very recent ruling.

Senator MURRAY. It was March 1. So can you give us a time line of when you expect to move forward on that?

Ms. BLAKEY. I would be very happy to get back to you. I have not consulted with the folks who are actually working that arbitration, so let me find out and I will get back to you.

[The information follows:]

Timeline to move forward on the March 1 ruling on staffing for air traffic control maintenance functions based on the fiscal year 2000 FAA/PASS agreement.—The FAA has appealed the arbitration award that interpreted an agreement between FAA and PASS on systems maintenance staffing levels. The primary issue in the dispute was what specific positions should be counted towards the agreed on staffing number. FAA believes that the award is inconsistent with the Federal Service Labor-Management Relations Statute that governs labor relations in the Federal Government. The appeal acts as a stay of the award until the Federal Labor Relations Authority (FLRA) issues a decision on the appeal. There is no fixed time for FLRA to issue a decision. The FAA will comply with whatever decision the FLRA issues. In the meantime, the FAA will continue to monitor maintenance staffing levels in accordance with resource constraints and operational needs.

CONTROLLER RETIREMENTS

Senator MURRAY. The issue of controller retirements is not a new one. I was dismayed last year when our conference committee was required to accept the House's proposal to reject the FAA's request for 328 more controllers. While the conference report did not provide the requested funding to grow the existing number of controllers, it certainly assumed that there would be money to hire replacements for the usual number of controllers that leave or retire over the course of a year.

Ms. Blakey, as I mentioned in my opening statement, the number of air traffic controllers at our 24 en route centers is 747 controllers or 10 percent below the level called for under the FAA's own staffing standard. That shortfall has worsened by almost 100 controllers in just the last year. In fact, all but four of the FAA's en route centers are below the staffing standard and some are below by as much as 30 percent. Is your agency promptly hiring enough controllers to replace the ones that are retiring or leaving the system?

Ms. BLAKEY. The picture on the number of controllers FAA has in terms of our staffing needs is complicated. It is important to know at the beginning that in point of fact, when you take our controller workforce as a whole, we are well above our staffing standard. Currently I can give you the figures. We have on board 15,428 controllers. The staffing standard calls for 15,136. The question is are they in the right places? We are talking about our centers. It is true that only one of our centers—and the way the staffing standard operates, it says that you should have a set number within plus or minus 10 percent, so there is a fair latitude there and that is because it is hard—they differ a lot—to get it exact. We are looking at some of the centers where we believe we need to address that. Oakland is one, for example. Oakland, though, is complicated because it has historically been hard to staff. It is not where a lot of people have wanted to go for a variety of reasons. So some of these have issues that are not so much a question of resources;

they are a question of trying to figure out how we bring people in who both want to be there and who qualify to be there. Now another indicator, besides these staffing standards, which are sort of mathematical formulas, if you will, about how many people we need——

Senator MURRAY. So you do not think those are good standards?

Ms. BLAKEY. They are a standard. Another way to look at it, though, is how is your overtime doing? Are you running excessive overtime? We are not running excessive overtime in our centers. So if you look at that as a measure you say well, they are obviously operating fairly well with the existing numbers of people they have on board.

I met with our facility representatives for NATCA about a week ago in Redondo Beach with the leadership of all the centers from a union standpoint and asked, "what do you see?" And one of the things they pointed out was let us take a look at the folks who are talking to air traffic, talking to airlines. We have a lot of folks in the centers who are doing other kinds of things. So we need to look at both right-sizing and duties. How are we doing? But I take your point that in some of our centers we should increase the staffing and we are working to do that.

Senator MURRAY. Mr. Mead, do you care to comment on this?

Mr. MEAD. I think it is fair to say that FAA probably needs to start hiring some number of controllers in anticipation of this bubble, so I think you have a point there. At the same time, these staffing standards—Congress or FAA directed the National Academy of Sciences some years ago to take a look at the staffing standards and the National Academy of Sciences did not have a lot of favorable things to say about the application of these standards down to the facility level.

So when you have a number of 15,000-odd controllers nationally, the real issue is where do you need them? Because you have 300 different places. We do not have one building where we send 15,000 controllers. That is why I think this is a problem that FAA shares with the controllers union. I think FAA needs to take a look at how long it is taking for their on-the-job training. I think they have to drill down to figure out where they think these vacancies are going to occur.

I think the controllers union, for its part, needs to agree to participate in a labor distribution system so you can tell why do we have these disparities between similar facilities with comparable traffic levels? How many hours is it reasonable to expect the controllers to spend on scope? So I think it is kind of a community problem here and we need to get on with solving it.

CONTROLLER RETIREMENTS

Ms. BLAKEY. Senator Murray, you had also mentioned the retirement bubble and your disappointment that we had not—and as you know, in last year's budget we asked for additional positions and the Congress as a whole said no, do some other things. Congress asked us to look at the age 56 retirement requirement, develop guidelines for waivers, and look at training. But a big part of the push was right-sizing our facilities, not having these significant

shifts between overstaffing and understaffing. So we are trying to do that.

The Inspector General mentioned the retirement bubble. We agree that this bubble is coming up. I did bring a chart with me that shows the FAA's predictions of retirements accompanied by what actually happened that year. You will see that so far we are spot on. I think that the Inspector General is correct in saying we would like to have a lot more granularity at each——

Senator MURRAY. Spot on? I am a little worried at where that graph is going.

Ms. BLAKEY. Well, as I say, there is no question about the fact that there is a significant retirement wave coming up. That said, we believe we are accurately predicting this wave. At this point we do think that one of the things we need, at the facility level, is to determine a more granular picture of who is retiring and when. But it is not easy to do, as you can appreciate.

Senator MURRAY. What is the training time for those?

Ms. BLAKEY. It differs. Two-and-a-half, in some cases up to about 5 years. It should not be running more than 5 years. But you also are able to bring in what we call developmental controllers, who can be productive and work much earlier than the 2½-year mark. That is for a fully certified controller on all the positions at the facility.

Mr. MEAD. The concern is that as those bars increase and you have more people in the system, more controllers that you just hire, if I hire a controller today, send him to school, gets out of school, that controller is not going to be controlling air traffic, so you are going to have a lot of trainees around the system. So the granularity point that the Administrator points to about these disparities between facilities cuts this way, too, that that granularity has to figure out how many can we afford to have in training because you cannot equally weight a trainee with a full performance level controller.

Senator MURRAY. My time is up, Mr. Chairman. Thank you very much.

Senator SHELBY. Senator Stevens.

Senator STEVENS. Thank you very much. First let me thank you, Administrator, for working with us on the Adak runway. It really has been necessary to have a transition there with the State ownership and the operational capability of that area has been enhanced by your willingness to maintain the runway lights during the transition period. I do thank you for that.

LASER RUNWAY LIGHTING

I would like to ask if you would ask your people to give us an update on the laser runway lighting proposal that is before you. I know it is still in some test phase but I do not know if most people understand that we have over 1,000 commercial runways, some that you have a function on and mostly State and just local support. But beyond that, we have a whole system of private runways, people landing on their homesteads or in terms of float planes, landing on lakes.

We have an enormous landing problem. That laser designation for safe use is something that holds great promise to us to cut costs

considerably with regard to those and I would urge you to see what we can do to accelerate the application of that.

[The information follows:]

A demonstration of the use of yellow lasers to highlight hold lines was conducted in November 2002 at Ted Stevens Anchorage International Airport. Using eye safe lasers, a single holding position line was illuminated for 2 weeks. Tilt switches prevented the laser projectors from projecting above the ground; no direct exposure was possible from the ground-based projection system.

The second (longer term) demonstration is planned for September 2004 in Fairbanks, Alaska. Improved solid-state yellow lasers will be used to illuminate a problem intersection on the Fairbanks Airport where snow and ice cover the painted hold line over half the year. The lasers that will be used in the Fairbanks demonstration have been viewed by the FAA Administrator in a demonstration during her August 2003 trip to Alaska and have been reviewed by the FAA Radiological Officer in September 2003. Further review will include the Society of Automotive Engineers G–10T Committee that creates recommendations for limiting the use of lasers in airport environments.

If the second demonstration proves operationally successful, the laser technology will need to meet the requirements of FAA regulations and Certification as well as FAA airports to ensure proper National Airspace integration and eligibility for Airport Improvement Program funding. Final review of physiological safety will be provided by the FAA Civil Aerospace Medical Institute. Their concurrence is a necessary element in the decision on suitability.

Senator STEVENS. Secondly, though, I want to congratulate the two of you, Mr. Mead and Ms. Blakey. I note that there's a little more indication of contemporaneous review and comment in your department. I have always believed that the staff of the Inspector General has a responsibility for preventing problems, as well as critiquing the results of problems, and you sound like you have a little bit more communication than you have had in the past and we applaud that. I do hope that it continues to develop because this is a good problem.

CAREER STAFFING PROBLEM

I would like to show you sometime the chart for the Library of Congress. You think you have problems; this is a problem for the whole government and it comes about because of people deciding to make a career out of government. As the pay increased and as retirement benefits increased, as the health care increased, more people are staying in government now than ever before for longer periods of time. As a consequence, this is a national problem, not just yours.

It requires some real help, Mr. Mead, from the inspector generals to start looking at how we can utilize some of the funds that are available.

And Ms. Blakey, I do believe inspector generals can step out of the box a little bit. They do not have the long-term and political responsibility that you might have but they have the capability with their staffs to try to see around corners and see how collisions could be avoided. As I said, I applaud you. It seems like you are doing more of that, from the conversations I have heard.

TRAINING OF NEW CONTROLLERS

I do want to ask you a little bit about this problem of dealing with the movement of new people into full controller status. It seems to me that that has got to be accelerated. Have you looked at that, Mr. Mead? How do you accelerate the time in which a per-

son is really qualified to take the position of the well qualified controllers that are going to leave?

Mr. MEAD. We looked at this. You will remember, Senator Stevens, some years ago FAA's academy in Oklahoma City used to have—they say if you look to your left, look to your right, two of you will not be there; you will not pass. And FAA corrected that.

Senator STEVENS. That is what they said when I went to law school.

Mr. MEAD. Same here.

Senator STEVENS. They were right.

Mr. MEAD. I think we need to take a look at that. We are about to issue a report. FAA has it and I think you are quite right about the extent that we communicate but——

Senator STEVENS. We tried in Alaska to reach down into the university and have the universities start training these people and as they came through their college training, they were prepared to move in and be ahead of those who might have just walked off the street and said I would like to be an air traffic controller.

I think we have a duty to reach down into the educational process across government and say we want some of these institutions to start training people more specifically for the work that they may be able to fulfill for the government. If we do not do something, you cannot train them post-college and meet the goals of that chart or the Library of Congress or, for that matter, take a look at the military departments. They probably have the worst one of all right now.

Mr. MEAD. FAA is using the university system. They used to never use it. I do think you are right on target. I do not recall whether you were in the room at the time of the statistic I mentioned. It takes an average of 3 years after they get out of school before they are at the full performance, fully certified level and we found some instances, Senator Stevens, where it took up to 7 years.

Senator STEVENS. I just read that. It is on page 7 of your report. I understand what you are saying but I do not think the solution is to critique it as it is happening. I think we have to find a solution in advance of the problem and it has to be—maybe we should create—right after World War II we created special schools. We authorized people to form special schools for training of our professions and various jobs for government. Have we got enough capability in the colleges to do this? Have you examined into that? How many colleges are willing to participate?

Mr. MEAD. No, we have not.

Ms. BLAKEY. We have quite a few and certainly when I was in Anchorage I was very impressed by the university's simulation lab they had for air traffic controllers. I thought that was a great thing, that they are actually beginning training that is going to certainly feed into our system.

Senator STEVENS. Have you seen our interdisciplinary training, Mr. Mead, in Alaska? Have you seen what we are doing?

Mr. MEAD. No, I have not.

Senator STEVENS. We do not have taxis outside of the two or three major cities. We do not have buses. We do not have trains, only one train. We have fewer highways in the whole State of Alaska, which is one-fifth the size of the United States, than King

County, Washington has. But we depend on airplanes and we are using our system as sort of an incubator for new ideas to deal with that need. We are always going to be dependent upon airplanes because the Congress in its wisdom withdrew a lot of Alaska this way and that way. We cannot have north and south roads. We cannot have east-west roads. We are linked to aviation forever. So I would urge you to come up. As a matter of fact, I might take you fishing if you want to come up.

Mr. MEAD. I will take you up on that.

Senator STEVENS. Ms. Blakey is a damn good fisherman. She finds occasion to come up at the right time of the year, which is a very intelligent use of the taxpayers' money as far as I am concerned.

Mr. MEAD. I will take you up on that, sir.

Senator STEVENS. Well, I congratulate you very much and I appreciate that this is a sea change, even for you. I remember sitting here when you were mostly critical. I like the fact that you are now mostly analytical—where we are going and what is causing the problems as we proceed along this path. That is a good partnership you have there, Ms. Blakey. You are part of it, too, and I congratulate you very much.

Thank you, Mr. Chairman.

REVIEW OF BUSINESS CASE ANALYSIS

Senator SHELBY. Thank you, Chairman Stevens.

Madam Administrator, as a major acquisition program experiences cost growth or schedule delays or capability reduction, does your agency review and update the business case analysis and how often?

Ms. BLAKEY. We do. We have a variety of mechanisms in which we do a close analysis, in fact, of our major acquisition programs. I can tell you that——

Senator SHELBY. How do you validate the assumptions and conclusions in these analyses? What method do you use? Is the Inspector General aware of them?

Ms. BLAKEY. I think he is aware of a lot of them. I will tell you, we have relied very significantly on some independent analysis that has certainly helped us out. For example, on our baselining of our STARS program and what we can expect there, we asked Mitre to take a look at all of the cost assumptions, to really go through the business case and to provide us with an independent analysis because we felt that was important. We are going to be doing more of that as time goes on because I think it does help to have someone who is not as connected with these programs and who has frankly more financial and economic horsepower to do it.

But we do have a Joint Resources Council that meets and has to approve these. I am told when there is any significant variance off of the projected schedule, and the projected cost. We are monitoring that—it depends on what level you are talking about—on a weekly to monthly basis and anything that begins to deviate immediately throws up a major red flag. It does not always fix it when we see the red flag, but we know at that point we have a problem.

Senator SHELBY. Was the process you are referring to applied uniformly to determine whether to continue funding programs with major problems—that is, WAAS, STARS, ATOP, and so forth?

Ms. BLAKEY. I cannot speak historically because, as you know, I have been at the FAA——

Senator SHELBY. Could you get back with us on that?

Ms. BLAKEY. I would be happy to and I certainly will give you more detail on exactly how we are applying this for the current programs.

[The information follows:]

Yes. The FAA has incorporated a series of management control processes and tools to improve reporting and evaluation of costs, schedule, and technical performance for major acquisition programs. Internal processes used to monitor acquisition programs and inform senior management include:

Monthly reporting by program offices of baseline status and variance using an automated desktop tool called Simplified Program Information Reporting and Evaluation (SPIRE).

Monthly reporting to the Air Traffic Services Board on cost, schedule, requirements stability, and earned value status.

Quarterly reporting to the Joint Resource Council (JRC) members on the status of all baselined programs.

Administrator notification whenever variances to baseline parameters exceed 10 percent.

Semi-annual acquisition reviews to examine programs progress and issues towards completion of acquisition goals including cost, schedule, and performance. May be held more or less frequently as needed.

Public Law 104–264 gave the FAA Administrator the authority to terminate any acquisition program that breaches a baseline element by more that 50 percent. If the Administrator determines to continue the program, this determination must be provided to Congress. Public Law 104–264 also authorized the FAA Administrator to consider terminating any acquisition program that breaches it cost, schedule, or performance baseline by more than 10 percent.

Mr. MEAD. A problem has developed here and I could use STARS as an example. It has been a fiction for some time, probably for nearly 3 years running, where the costs of this program were represented to be around $1.69 billion. People inside FAA knew that that figure was not realistic for what the program was supposed to do and time marched on. A big change from this time last year is that FAA is putting a can opener on all these major programs. I think STARS was one of the first because that is some decisions that need to be made on in the very near future. So it takes a while but I can assure you that there is a recognition inside FAA that this list of programs, that the baseline estimates need to be revisited and that process is ongoing. I am very encouraged.

OCEANIC AIR TRAFFIC CONTRACTOR COST

Senator SHELBY. Administrator Blakey, in 2001 the FAA awarded a fixed-price contract of $218 million to develop a replacement system to control oceanic air traffic. As a result of the contract, the contractors had to bear software development cost overruns. This has been touted as a new approach for managing contracts at the FAA.

I have learned that FAA recently agreed to pay the contractor $11 million for work it was already contractually bound to perform and FAA agreed that taxpayers would bear all future cost overruns after February 2005. How do you justify this $11 million for work that the contractor was already obligated to perform?

Ms. BLAKEY. Well, this is exactly the dilemma you get into with a fixed-price contract because the contractor in this regard, Lockheed-Martin, had sunk considerable costs for unanticipated problems in terms of software development and technology development. Again you are going where no one has gone, and they bore a lot of those costs. It is very critical that we field our oceanic technology in the very near future. In fact, we expect to see our system in Oakland go live in June.

We could not let those schedules just go way out because the contractor was in the red and no longer making money and the schedules were slipping. It is in the taxpayers' best interest to address the issues and the problems. We felt it was equitable to go ahead and fund, in this case another $11 million, on the contract to bring it in in a timely fashion and get service going.

There are competing providers out there for oceanic air traffic. We believe we are doing an excellent job and have the best system, but we need to field that system.

Mr. MEAD. Mr. Chairman——

Senator SHELBY. Do you agree with that?

Mr. MEAD. Largely. If it stops at $10 million, that certainly is dwarfed by some of these $900 million increases in these other programs. So if it stops there, I think that is fairly modest and we could almost——

Senator SHELBY. It is still a lot of money to us.

Mr. MEAD. It is. The big date to watch is February 28 because after February 28, 2005, FAA has basically agreed to pay for any problems that are identified. So they had better make sure they identify all the problems before February 28, 2005 or that $11 million figure will go up.

Senator SHELBY. It could be a huge underwriting mistake.

Mr. MEAD. That is right.

LABOR DISTRIBUTION

Senator SHELBY. Regarding labor distribution, CRU-X was supposed to be a system that would allow FAA to accrue credible workforce data about controller staffing, overtime cost, and workload issues. Madam Administrator, why has not this system been employed as designed and why was the functionality of it limited?

Ms. BLAKEY. The system initially was developed in a very collaborative fashion with our workforce and with NATCA. We do believe that the functionality that it has is going to be very useful to the FAA. There has been a dispute over the specific detail that the system collects in terms of the duties and hours that are being spent on them, and we have been in negotiations with NATCA over this. We would like to bring those negotiations to an end. We would like to fill all of the functionality of the system. We are working very hard to do it. This is a matter, though, that is subject to negotiation with our union, and we are working through it at this point.

Senator SHELBY. Mr. Mead.

Mr. MEAD. I have a suggestion for you. What the Administrator says is correct but these negotiations have dragged on and on and on. Senator Murray pointed out how important——

Senator SHELBY. Negotiations generally bring more costs, do they not?

Mr. MEAD. Yes, they do. Senator Murray pointed out the controller retirement bubble. This is the part that controllers need to help us with because this will give you a sense of where they need the people and why you have disparities between facilities that handle similarly complex levels of traffic.

The suggestion I have is that we make any increases in staff to be done on the condition that we get a labor distribution system in place because that will be a central issue for us for the next 8 or 9 years. You are going to be facing increases in the controller workforce and you are going to want to know where and when they are needed and a system like this would help measurably in that task.

ACCOUNTABILITY

Senator SHELBY. Bringing more accountability to FAA is a top priority of this committee—it has to be—and we are pleased to see that the FAA now has a chief operating officer whom you introduced, Mr. Russ Chew. The transition to a performance-based organization called the Air Traffic Organization, while it is not complete, may also be a step forward if implemented correctly. It has to be implemented correctly. What additional steps are you taking to bring more accountability to FAA? And how long will it take to change the agency's culture? First you, Ms. Blakey, and then Mr. Mead.

Ms. BLAKEY. Well, I will tell you. I think that culture change is a multi-year activity. It will not happen overnight, but I am pleased to say that Russ Chew and his team are moving with remarkable speed. They have already worked to flatten our management layers so that we bring headquarters much closer to the field and have much fewer people in that interface of our management bureaucracy.

They have also instituted an activity value analysis, which I think is going to be remarkably interesting. I look forward to sharing the results with this committee because essentially what we are doing is having Booz Allen Hamilton help us go out and analyze what exactly are the services we are producing at the individual levels of the organization and are they important? Are they being well done? Do our customers value them? And as a result of that, we will be able to determine much better what are the activities that we can do without, what are areas that we should be doing more of, and therefore have our resources, both personnel and others, devoted to where we are getting the value. So that process is ongoing. We expect to have the first results of it by June. We will certainly be looking at that as a way to make this work more efficiently.

Senator SHELBY. Mr. Mead.

Mr. MEAD. I think there are already some early signs that the direction is changing in making the ATO a performance-based organization. I think the proof will be in the pudding and it is probably 2 or 3 years down the road. I think at this time next year——

Senator SHELBY. Two or 3 years will be here before we know it, though.

Mr. MEAD. Yes, sir, it will be.

Senator SHELBY. I know from being on this committee.

Mr. MEAD. I think the big barometers right now are how we handle the workforce issues involving the air traffic controller retirements, STARS, getting our terminal modernization on the right track, and this big acquisition they are just starting called ERAM.

Another big-ticket item, although compared to billion-dollar systems is not that big financially, is that oceanic air traffic control system. Some big dates are coming up this year on that in June. It is supposed to be in Oakland. That program is already late. I think they are paying a lot of attention to it. So it takes a while to turn around the ship. I will withhold judgment until I see the pudding.

FLIGHT DELAYS

Senator SHELBY. You know, the summer months are coming on us fast here. The air traffic is probably going to rebound as people start traveling more; we hope so. What are the top three or four actions that you are taking that will help meet the growing demand for air travel and prevent gridlock during the busy summer travel season?

Ms. BLAKEY. Well, certainly we have been looking at the question of what we can do very immediately to relieve congestion. The conference I mentioned in March really was a ground-breaking activity where we asked everyone to sit down in the same room and say now look, for the good of the system, not just a single airport or parochial interest of an airline, how can we make the system work more efficiently? And we came out with a number of procedural changes which we have already begun implementing in the way we are looking at the upper level air space and the way we are establishing express lanes.

The agreement is that if we are experiencing 90 minutes or more in taxi-out and hold at airports, we can start flushing those airports and asking others to hold back. Let us get the delay out of wherever we have it so that it does not overwhelm, not only the passengers in those places that are congested, but also begin to ripple through the entire system.

Just yesterday Secretary Mineta and I took specific steps to deal with O'Hare, which I do not have to tell this subcommittee O'Hare has a huge effect on the system. We had realized back in the fall that the scheduling at O'Hare was beyond the capacity of the airport. You know, 2 pounds in a 1-pound bag does not work. Therefore, we began in the winter, early part of this year to talk with the two airlines which are the primary airlines at O'Hare, American and United, about drawing down their schedule. They drew it down 5 percent in the critical hours between 1 p.m. and 8 p.m. We tried to see if that was going to be enough during the month of March. It proved that it was not enough. We still were experiencing significant delays at O'Hare and again this ripples through the whole system. You know, if O'Hare sneezes everybody gets a cold. So we then asked again that the airlines look at their schedules and yes, just yesterday the Secretary and I announced an agreement that each airline is going to take down their schedule further, American and United, another 2.5 percent at O'Hare.

Now this is not something we like. We certainly would prefer that the market work and not have to put any constraints, but

these are voluntary measures. We are very much looking at this to make sure that we are doing everything possible to address schedules and delays.

Senator SHELBY. Mr. Mead.

Mr. MEAD. We all remember the summer of 2000. Everybody talks about the summer of 2000. That is a reference to the worst gridlock year. I think we all remember that. Two big things are different, maybe three things are different now. There are more runways out there.

In the summer of 2000 and the aftermath there was extreme reluctance for the regulatory authorities to put the brakes on airline scheduling practices. You remember we had all kinds of examples where you had more aircraft leaving at a specific time of day than could possibly leave and Chicago O'Hare was one of the poster children for that. I think that the Secretary and the Administrator have shown a willingness to tackle that issue.

Secondly, one of the things that we learned from the summer of 2000 was the need for the airlines and FAA to talk to each other on a daily basis, in the morning, about what things were looking like that day from the standpoint of weather or flight patterns, and so forth. So that is different.

Another fact that I think is a little bit scary that we have not had a lot of experience with is the regional jet growth, which carry less passengers. As traffic rebounds and——

Senator SHELBY. Less traffic and fewer passengers.

Mr. MEAD. Yes, and I mentioned Dulles. I think we see some danger signs at Dulles for this summer. I mean it is a huge growth balloon if you believe the airlines about what is going to happen and I think right now is the time to start planning for that.

Senator SHELBY. Senator Murray, thanks for your patience.

SAFETY

Senator MURRAY. Thank you, Mr. Chairman.

Mr. Mead, in the area of safety, a continuing concern is the fact that the aviation industry is out-sourcing an increasing percentage of their aircraft maintenance work. In fact, almost half of their maintenance costs were out-sourced in 2002. The US Airways Express crash in Charlotte last year I think is a tragic example of what happens when there are performance deficiencies on the part of third-party maintenance contractors.

When your office looked into this issue last year you reported that the FAA's inspection efforts were primarily focused on in-house maintenance programs. The FAA agreed to develop a program to target inspector resources toward the out-sourced facilities. In your view how well is the FAA now targeting those facilities?

Mr. MEAD. We need to do a follow-up effort. Let me give you a good answer to that question. I can tell you what I have been told is that they are in the process of implementing our recommendations. For example, the problem you alluded to was where United Airlines' principal inspector would not know much about what was going on at the repair stations and there is all this maintenance being done at this repair station and the repair station person would not know what was going on inside of United Airlines, just to use the one airline as an example.

FAA is piloting a process with one airline—I think it is Delta—where the principal maintenance inspector for Delta is expected to be on top of all of their maintenance. That is, I think, the essential design of their program. I think FAA is impressed with the results of that and wants to consider expanding it to the other carriers. I think that is the current status.

On the foreign repair stations, FAA agreed that they needed to step up their oversight there. You will recall that the problem we identified there was FAA would certificate the repair station but not necessarily know—they would delegate a lot of the oversight responsibility. We have not followed up to check to see how that was implemented. Maybe the Administrator is more current than I am on that.

Senator MURRAY. Ms. Blakey.

Ms. BLAKEY. Well, certainly we have just instituted, in fact, new rules, new regulations governing repair stations across the board, both foreign and domestic. We have evened out much more so the requirements that we are placing on foreign repair stations are equivalent to those in the United States except that they must be recertificated every 1 to 2 years. So I think at this point from that standpoint we are working very hard to make sure that those requirements, for example for FAA-certified training, et cetera, will be carried through.

The second thing is we are adapting our own oversight, just as the Inspector General pointed out, and we are working with the carriers so that they see the integration of oversight of repair work——

Senator MURRAY. Can you give us any specific examples?

Ms. BLAKEY. I can probably do that better in a written response to the committee if you would like, just to give you more detail on that.

Senator MURRAY. All right.

Ms. BLAKEY. But Mr. Mead is correct. We are very encouraged by the fact that the inspectors should look at this as a unit for a carrier, not as we look at these repair stations who are doing six carriers and over here we are only focusing on what Delta does in-house.

Mr. MEAD. I think just a footnote to this, I think the domestic situation is easier to fix than the foreign situation. In the foreign situation, we found cases where the FAA person that was supposed to certificate was presented with materials that were in a foreign language that he or she did not understand. So the problems in foreign repair stations and the FAA oversight I think are of a different type and maybe a bit deeper.

Senator MURRAY. Well, if both of you could follow up with the committee in response to that, I would appreciate it. It remains a significant concern.

[The information follows:]

The FAA has taken numerous actions to address changes in repair station oversight. Many of these actions address concerns raised by the OIG in the Air Carriers Use of Repair Stations audit published in June 2003.

In October 2003, FAA formed working groups to respond specifically to the OIG report. This working group will:

—Identify repair stations that perform safety critical repairs for air carriers;

—Improve databases to capture results of foreign aviation authority inspections;

—Develop new comprehensive repair station oversight organizations and concepts to oversee aviation article repairs from start to finish.

FAA increased the sampling inspections performed by FAA inspectors for inspections performed by foreign aviation authorities on FAA requirements.

Implemented the final Part 145 rule on Repair Stations (January 2004).

In collaboration with Duncan Aviation and TIMCO, the FAA is initiating a prototype program to develop new oversight systems and techniques to oversee large, complex repair stations. This system will:

—Standardize FAA oversight of repair stations located in multiple FAA regions;

—Increase the quality of surveillance by assigning a dedicated team of inspectors experienced and knowledgeable in the practices and procedure of the repair station;

—Increase the quality of surveillance by allowing inspectors to retarget their oversight to areas of risk.

On going efforts in changing foreign and domestic repair station oversight:

—Enhance the FAA inspector repair station certification and surveillance course and give priority to inspectors assigned oversight responsibilities for repair stations. (Must be done to comply with the requirement of new rule).—June 2004.

—Develop a repair station prototype program that incorporates a certificate management team structure to enhance oversight of large repair stations or companies that own multiple repair stations and satellite repair stations.—October 2004.

—Develop and publish a notice of proposed rulemaking that revises the rating system, adds a quality assurance requirement, and further clarifies rule language.—October 2004.

—Develop the 145 Surveillance and Evaluation Program by revising the Surveillance and Evaluation Assessment Tool to target identified risks and incorporates the system safety approach into repair station oversight.—October 2006.

The fiscal year 2004 activities are focused on developing new processes and procedures to identify risks and target FAA inspector resources to resolve those risks. The completion of these activities and implementation of the new programs will not be accomplished until the fiscal year 2007 timeframe.

Senator MURRAY. Ms. Blakey, as you will recall, the only reason the conference report on the FAA bill was allowed to pass the Senate and go to the President was because you provided a letter to the Senate Commerce Committee promising that you would not contract out any additional air traffic control functions to the private sector during fiscal year 2004. This could very well become a contentious issue for our bill this year if we do not have a similar commitment from you for fiscal year 2005. Are you prepared to submit to this subcommittee at this time that the FAA will not be contracting out any current air traffic control jobs during 2005?

Ms. BLAKEY. You know, the letter that you are referring to was one that was prompted, as you say, by what, to me, was a surprisingly intense debate over this issue of contracting out, out-sourcing, privatization, all sorts of things being batted about. And it did prove important to have the debate set aside and be able to get what was a very important 4-year reauthorization bill completed.

I think it is a very different thing, though, if you are suggesting that on an annual basis the FAA Administrator should provide a guarantee that there would not be any kind of out-sourcing for the following year. Historically, since the FAA has been here, that has never been done. It has never been necessary, and I do not understand that there is a necessity for it now. And the reason I say that is I have already said and I have said repeatedly that on the issue of our contract towers that we have no intention of converting further towers any time in the foreseeable future. There are no plans on the table. I have no additional A–76 plans for studies right now. We do, however, have an important A–76 study under way, which this subcommittee is very well aware of, focusing on our flight serv-

ice stations. As you know, we have the Inspector General's report and recommendation and that of others. We have looked at the question of can this be done by the private sector. And, in point of fact, everything points to the fact that this is an important area to have looked at from the standpoint of "Can private or public sector accomplish this best?"

No matter whether our own employees, who are bidding in this process, no matter whether they win or whether others win, we know that we will have very considerable cost savings to the taxpayers, about a half billion dollars over a 5-year period. We also know we will have better service at the end of this. So that is important and we expect to award that contract in fiscal year 2005.

So I mention those things by way of saying that it would seem both unnecessary and an impediment to the kind of flexibility that may be important down the road if all of a sudden there becomes some annual expectation that guarantees have to be provided.

SEATAC

Senator MURRAY. I do know what the annual expectation is. I can just tell you it will be an issue this year.

Let me turn to another topic. Ms. Blakey, your testimony does mention that last year was what you called a banner year for new runways. It will not surprise you when I tell you it was not a banner year for SeaTac International Airport's third runway project. Unfortunately, as you well know, SeaTac is kind of the poster child project for the need to streamline the environmental review process for new runways. And, as you know, we have been trying to complete construction of the third runway I think it is for my entire life but it has only been 16 years.

The added costs for complying with those environmental rules for the construction of that runway, as well as the associated cost of delays for a great deal of time now, have grown by almost $200 million just in the last 4 years. As you can well imagine, this has put an incredible amount of pressure on the ability of the airport authority to finance the completion of that project. The Port of Seattle, as you know, is currently pursuing an amendment to the airport's existing Federal commitment to ensure that there is adequate financing to meet all of those new environmental costs. Do you believe it is reasonable for us to pursue an additional Federal commitment for this project, given the fact that these added costs are associated with the need to comply with Federal environmental laws?

Ms. BLAKEY. Although I have not been as long on this project as you have, I do share your frustration about it. We see the third runway at SeaTac as being a very important part of the national aviation system. So successful completion of that runway is a big goal for all of us. No question about it.

What we are doing right now, because I think this is the most intelligent thing from our standpoint, is we have hired again an independent contractor to look at the financials that SeaTac has provided. As you know, they came in only a month or so ago, but we are trying to get through this very quickly. It is a very complicated analysis, but we need to understand a variety of the cost justification there, as well as things like what will that do for the

cost per enplaned passenger, what will be the impact on the airlines, et cetera?

What I can definitely tell you is that we are committed to working through that. We will be as supportive of SeaTac as is possible, with the understanding that this is an unprecedented request. A request of this magnitude and taking up the Federal share to the degree this would, it certainly raises policy issues as well as understanding the financial needs.

Senator MURRAY. Well, I appreciate that very much and want to work with you on that. Do you have any sense of the time line that we will be getting a response back?

Ms. BLAKEY. Boy, I would like this get this done by sometime in June. I will keep you posted, if I might.

Senator MURRAY. Thank you very much.

Ms. BLAKEY. And by the way, congratulations on the commissioning of the tower. I know that is coming up on the 24th and cutting that ribbon will be great.

[The information follows:]

The FAA timeline to reach a decision on the SeaTac application to increase the LOI by $198.1 million follows:

March 8, 2004.—Application received.

May 19, 2004.—FAA receives the independent financial analysis from Reed & Associates, LLC.

May 30, 2004.—Complete agency financial analysis and review of the application.

Mid-June 2004.—Final agency decision on the application.

Senator MURRAY. Good. One other question, Mr. Chairman, and I know we have a vote coming up.

Ms. Blakey, in my opening statement I talked about how essential it is that the United States maintain its international leadership in aviation for the second century of flight. Part of my dismay over the proposal to cut $400 million from your procurement budget is that it will slow down our ability to modernize the current air traffic control system. Beyond just replacing the aging equipment that your agency is operating on today, we have to be thinking about the next generation of air traffic control equipment and begin planning for deployment of that system.

GLOBAL COMMUNICATION, NAVIGATION, AND SURVEILLANCE SYSTEMS

As you know, for the past couple of years, I have secured about $45 million for the Global Communication, Navigation and Surveillance Systems program and I am very pleased that the first phase of that contract was awarded to the Air Traffic Management division at Boeing. And I really want to commend you for extending their contract so they can stay on the job until you have awarded the phase two contract portion of that. What can you tell this committee about the accomplishments of that initiative to date?

Ms. BLAKEY. Well, I think in terms of satellite navigation and the way we see our system developing over time, certainly the program has given us important information about how satellite navigation can function, particularly in areas like the Gulf where you really do not have radar control and you have therefore big challenges involved. It also points in the direction of what we will do from the standpoint of digital communications, what we will do from the standpoint of looking at investments internationally be-

cause we do see this as being the wave of the future. So we are still both analyzing the results and, of course, looking at what is proposed for the next stage as a part of a contract extension. I think the results so far have certainly been promising.

Senator MURRAY. Is there any doubt in your mind that the next generation of air traffic control will be satellite-based?

Ms. BLAKEY. No. It certainly will be heavily satellite-based; let me put it that way. And we are very much of the view that our standing internationally is going to depend on continuing U.S. leadership in that regard.

ADDITIONAL COMMITTEE QUESTIONS

Senator MURRAY. Well, we want to be there.

Thank you very much, both of you, and thank you, Mr. Chairman.

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

QUESTIONS SUBMITTED TO THE FEDERAL AVIATION ADMINISTRATION

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

FAA ACQUISITION POLICY

Question. Earlier in the hearing, I asked if FAA reviews and updates accordingly the business case analysis if a major acquisition program experiences cost growth or schedule delays, or capacity reductions. How does the FAA validate the assumptions and conclusions in such analyses?

Answer. Under the FAA's acquisition policy, the program office is responsible for preparing cost, schedule and performance estimates for review when these commitments change. Before approval by the Joint Resources Council, the Office of Operations Planning and Finance is responsible for business case analysis, and reviews the revised estimates. The reviews include an audit of the estimates and examination of the underlying ground rules, assumptions and models. Reviewers determine differences between revised estimates and previous estimates. The reviewers use historical results from similar FAA programs, other government programs, and industry to validate the estimates. In some instances, the reviewing division may develop their own estimates for comparison purposes. Risk assessments are usually performed. Together with program office analysts, the reviewers ensure that estimates are adjusted to account for risks, risk mitigation strategies and uncertainties. An opinion is made available for consideration during Joint Resources Council deliberations and decisions.

Question. What process does the FAA use to determine whether to accelerate, maintain, decelerate or terminate an ongoing program?

Answer. FAA acquisition policy requires cost, schedule and performance baselines for each major acquisition program at the time of initial program approval by the Joint Resources Council. If baselines are breeched, revised baselines are subject to review and approval by the Joint Resources Council, revisiting the rationale for continuing the program and the terms under which the program may proceed. The Administrator reviews programs that exceed their baseline by more than 10 percent.

Under the Air Traffic Organization (ATO), performance is defined in terms of service delivery targets and published in the FAA Flight Plan and upcoming ATO Business Plan. Decisions to accelerate, maintain, decelerate or terminate an ongoing program will be based on its contribution to meeting service delivery targets and business objectives, such as targets for reduced operating costs. The ATO reviews the costs and benefits of programs to ensure there is an economic return on the capital investment.

ADVANCED TECHNOLOGIES AND OCEANIC PROCEDURES

Question. When and at what cost can we expect to have fully functional ATOP systems replace the obsolete technology in Anchorage, New York, and Oakland Centers?

Answer. The approved acquisition program baseline for the Advanced Technologies and Oceanic Procedures (ATOP) system calls for Build 1 to achieve Initial Operational Capability (IOC) at Oakland Center in June 2004 (which occurred on June 30), at New York Center in March 2005, and Build 2 IOC at Anchorage Center in March 2006, with the final ATOP system IOC in 2008. The FAA is working toward a more aggressive schedule with contract incentives to deliver Build 1 IOC at New York Center in December 2004 and Build 2 at Anchorage Center in May 2005. Build 1 delivers a fully operational ATOP system with integrated decision making tools, enabling "off-the-glass" operations and providing the flexibility needed to entertain more requests for in-flight altitude changes. Build 2 delivers integrated radar data processing functionality and the enhanced conflict probe required to reduce aircraft separation from 100 nautical miles to 30 nautical miles. The total Facilities and Equipment cost of the program is $548.2 million.

STANDARD TERMINAL AUTOMATION REPLACEMENT SYSTEM

Question. It seems as if the Standard Terminal Automated Replacement System (STARS) procurement is through the most difficult phase of the procurement cycle and your testimony indicates that the anticipated resources for this program will decline in the coming years. How do you compare the relative risk remaining in the program compared to other major FAA programs such as WAAS, ASR–11, or ERAM?

Answer. The STARS program has completed core baseline development and is well into the production, deployment, and sustainment phase. As of May 26, 2004, 21 STARS sites are fully operational in the National Airspace System, along with 15 separately funded systems operating at DOD military (Air Force, Army, and Navy) installations worldwide. All operational STARS systems have exceeded their requirements for system reliability and availability.

The remaining STARS risks are primarily programmatic and budgetary. The FAA Joint Resources Council (JRC) recently approved STARS for full production and deployment to the remaining 31 of its 50 most critical terminal locations as part of Phase I of the Terminal Automation Modernization Program.

When compared to Wide Area Augmentation System (WAAS), Airport Surveillance Radar—Model 11 (ASR–11), and En Route Automation Modernization (ERAM), STARS is in the lower risk phase of the standard program life cycle. The life cycle starts with high risk during the development phase, decreases through deployment, is at lowest risk during the years of sustainment, and eventually increases during the end of life phase prior to replacement. STARS is deploying full production configuration systems and sustaining those systems. ERAM is in the higher risk area of development while WAAS and ASR–11 are nearing the end of development.

GLOBAL POSITIONING SYSTEM

Question. It is my understanding that the Department of Defense appears to be increasing their requirement for Global Positioning System (GPS) IIF satellites. I am told that L5 signal coverage is on the horizon and that GPS accuracy will get even better than it already is. Given the difficulty that everyone anticipates for WAAS equipage, the accuracy improvement of the GPS system, and the success that GPS already enjoys in the general aviation and commercial fleets, I'm wondering what benefits we derive from continuing to pour more resources into WAAS when most, if not all, of the capability that WAAS offers is likely to be offered by this next generation of GPS satellites. Would we be better off focusing on how to leverage GPS in our Required Navigation Performance, or RNP, efforts and by taking advantage of the installed base of GPS receivers?

Answer. The Department of Defense is adding an additional civil frequency called L5 to the next generation of GPS satellites. This frequency will provide additional capability for all users of GPS and will enhance accuracy. WAAS presently achieves an accuracy of 1.5 to 2 meters.

WAAS receivers for aviation use are currently available by a limited number of manufacturers and we expect that over the next year this number will grow significantly. GPS provides significant benefits for pilots, and today many are taking advantage of the capabilities of GPS. However, GPS alone, even with the L5 signal, does not meet all the needs for our customers. Specifically, GPS alone does not meet aviation safety requirements to virtually never fail to warn pilots of misleading information and to be available all the time. Meeting these requirements improves safety while enhancing capacity within the National Airspace System (NAS). For this to occur, capability beyond GPS alone is needed, and WAAS meets this need. The WAAS will utilize the GPS L1 and L5 frequency to enable pilots to fly precision

approaches to Category I levels. Precision approach utilizing WAAS will be fully compatible with the FAA Required Navigation Performance. The WAAS program has recently undergone program re-planning to leverage the investment the Department of Defense is making to modernize GPS when it adds the L5 frequency.

There are three issues regarding the modernization of GPS by adding L5 that need to be addressed. The first is the schedule of when L5 will be available. Although the first L5 satellite is scheduled for launch in 2006, it will not begin broadcasting the L5 signal until 2009. In addition, in order to utilize the capability of the GPS constellation, many satellites with L5 must be operating. Based on the current schedule, it is possible that L5, with acceptable availability of its signal, will not be available until 2015 or later. WAAS is providing service to customers now. With the additional L5 frequency provided by GPS, WAAS capabilities will improve. The second issue is that even when modernization is completed, there may not be a sufficient number of satellites available to provide precision approach capability to all users, at all locations in the NAS. Analysis shows that the modernized GPS will still need to be augmented to provide service to all users, at all needed locations, at all times. The third issue is that current GPS receivers are not capable of receiving and processing the L5 signal. New equipment or upgrades to existing equipment will be necessary to receive and process the L5 signals.

FAA is committed to working with our customers to enable RNP capability. WAAS allows more aircraft to achieve the most stringent RNP by providing high capability RNP-capable receivers at modest costs available to all users. GPS alone cannot meet the most stringent RNP capabilities.

CONTROLLER RETIREMENTS

Question. How the controller workforce changes over the next several years will be a critical issue for the FAA. FAA has reduced staffing levels for air traffic controllers from 15,613 in fiscal year 2003 to 15,333 in fiscal years 2004 and 2005. And, FAA is not requesting additional controllers in fiscal year 2005. What is your plan for addressing the retirement surge?

Answer. Controller retirements are a critical issue for FAA. We are in the process of developing a plan to prepare the agency. We are also developing a plan to address controller retirements, as required by Vision-100, which will be submitted to Congress at the end of calendar year 2004.

CONTROLLERS-IN-CHARGE

Question. What are you doing about the practice of air traffic controllers acting as controllers-in-charge and the rising number of operational errors occurring under their watch?

Answer. To date we have not identified any direct correlation between the use of air traffic controllers acting as controllers-in-charge (CIC) and the number of operational errors. Following any operational error, the FAA conducts a detailed review of the circumstances surrounding the error to identify causal factors. The current data indicates that approximately 23 percent of the errors reported for fiscal year 2004 occurred while CIC's were on duty in comparison to approximately 21 percent during fiscal year 2003.

The agency is moving forward with plans to bring the supervisory level up to 1,726 by the end of fiscal year 2004.

CONTRACT TOWERS

Question. The subcommittee supports the FAA contract tower program as a way to provide cost-effective ATC services in a proven and safe manner at over 200 smaller airports across the country. Without this program, many of these smaller communities would lose the significant safety benefits a tower provides. Can you tell us the plans to spend the $80.3 million provided by Congress in fiscal year 2004 for the baseline program and your projections for funding the program in fiscal year 2005?

Answer. In fiscal year 2004, the FAA will maintain 219 contract towers and provide funding for 10 new starts. For fiscal year 2005, $79.2 million is included in the President's budget request to run contract towers.

BALANCING INVESTMENTS

Question. FAA modernization plans have suffered from a number of redirections over the past several years. The U.S. aerospace industry continues to make early investments in the technologies supporting these plans with returns on these investments delayed or eliminated when the FAA's plans change. What is the FAA doing

to ensure that future modernization plans are clearly defined, achievable, and supported by the aviation community?

Answer. Modernization efforts with links to avionics investments are heavily dependent on high levels of equipage to achieve customer benefits. When the benefits are overwhelming, such as with domestic reduced vertical separation minima (DRVSM), a rule can be made and a date certain for implementation set. When the modernization effort depends on voluntary equipage, the economic ability for a predominate portion of the fleet to equip to achieve additional flight efficiencies or economies is a major factor in achieving the modernization benefit. Since investments that include voluntary equipage are more uncertain, the FAA continually works with the aviation community through its Federal advisory committees (in particular, RTCA) to coordinate FAA and community investments, and to identify initial applications and target locations for which the benefit is overwhelming and the investment clear.

Question. As the airline industry and the economy recover from the September 11 terrorist attacks, airspace and airport capacity will once again become a significant concern. While it's reasonable to expect that some of the recent and pending system improvements will support the demand for the next couple of years, more significant technology insertion will be needed to ensure unconstrained aviation growth for the future. Near term spending on key technologies like LAAS, CPDLC, and ADS–B appears insufficient to ensure these technologies will be ready to deploy when they're needed. How are you balancing your investments between near-term, mid-term, and long-term modernization initiatives?

Answer. Balancing near-term, mid-term and long-term modernization initiatives is based on providing services that have the greatest value for our customers according to schedules that are mutually compatible. As an example, the Operational Evolution Plan includes modernization investments that produce significant value for our customers over the next several years.

Longer-term investments will provide a higher capacity, flexible infrastructure to accommodate new operational concepts that will be needed to meet future traffic growth. In many cases, longer-term services may require significant development before new concepts and systems can be implemented.

In today's business environment, aircraft equipage schedules have been delayed or canceled due to the number of cash-limited airlines. Also, practical limits exist in the rate and number of major changes that can be accommodated in operational facilities.

Finally, modernization investments need to be balanced against investments needed to safely and reliably provide existing services.

All of these factors are considered in consultation with our customers as our investments are balanced and reflected in the National Airspace System Architecture and our Capital Investment Plan.

HARMONIZATION OF U.S. AND EUROPEAN MODERNIZATION PLANS

Question. The United States has long been regarded as the global leader in aviation. Close cooperation between U.S. industry and the FAA has resulted in the aircraft and ATC technologies that shaped the first century of flight. In recent years, Europe has focused their efforts to modernize their aviation infrastructure. Projects like Galileo and the Single European Sky are positioning Europe to define the technologies that will shape the next century. What steps are you taking to harmonize U.S. and European modernization plans, ensuring U.S. interests are appropriately represented in future aviation solutions?

Answer. FAA continues to engage in bilateral, regional, and multilateral support activities to promote the improvement of safety worldwide, including the implementation of U.S. safety technologies, system safety concepts, and air traffic management procedures and practices as the foundation for global aviation safety standards. FAA international leadership is one of the four main goals included in the FAA Flight Plan for 2004-2008, and as such, will continue to be a top FAA priority.

FAA accomplishes this mainly through its participation in, and support of the International Civil Aviation Organization (ICAO) and its numerous technical panels, regional implementation groups, and higher-level policy meetings. Within these activities, FAA works very diligently to develop and obtain approval of global standards and recommended practices (SARPs), and guidance materials based primarily on U.S. systems and solutions to ensure that new globally adopted procedures and technologies will not be detrimental to the collective interests of the U.S. civil and military government, industry, and user communities.

Within the global aviation community, the United States and Europe, from the service provider perspective, are viewed as the two major air navigation service pro-

viders in the world that can ultimately determine the success or ineffectiveness of new technology, procedures and air traffic concepts. As such, cooperation between the FAA and its European counterparts has been viewed as imperative to the creation of truly seamless air transportation system. The FAA and EUROCONTROL have been cooperating for years through a Memorandum of Cooperation (MOC) and related technical annex agreements that outline our joint cooperation on air traffic management (ATM) research on new technologies and concepts, strategic ATM system analysis, harmonization of ATM enhancement programs and plans, ATM development and operation, and safety management and regulation. Between our respective support to ICAO global programs and our bilateral cooperative projects under the stated MOC, the FAA and EUROCONTROL continue to successfully harmonize and align related programs, to the extent practicable to ensure interoperability of air transportation systems and procedures between the United States, Europe, and neighboring airspace.

Through our ongoing cooperative relationships with the EUROCONTROL and European States, FAA is keeping abreast of the new Single European Sky Initiative (SESI) to be able to assess any aspects of the program that may be detrimental to United States policies or initiatives.

One of the most visible areas of U.S. and European cooperation is in satellite navigation system implementation. Since the release in 1996 of the United States Presidential Decision Directive (PDD) promoting the proliferation and use of the U.S. GPS and its civil wide and local area augmentations, the FAA has been encouraging its international counterparts, as individual States and as regional communities, to approve the use of the basic GPS signal for use in certain oceanic, en route, and non-precision approach operations. As a result, we have seen the number of States approving the operational use of GPS double since 1998.

For the last couple of years, the FAA has supported the U.S. Department of State's ongoing negotiations with the European Commission (EC) on overall operating principles of the planned European Galileo satellite constellation and its full interoperability with the already established and globally accepted U.S. GPS. As a result of this U.S. initiative, a joint statement was signed on February 25, 2004 between the EC and the United States stating that both parties were able to reach agreement on most of the overall principles of GPS/Galileo cooperation, and both parties will continue to work diligently to resolve the few remaining outstanding issues which concern primarily some legal and procedural aspects. This cooperation should minimize the negative implications to United States GPS interests worldwide (civil government, military, industry, and user community) as a result of the potential future implementation of the European Galileo satellite system.

On a more technical level, FAA has been managing a satellite based augmentation system (SBAS) technical interoperability working group since 1996 with participation by Europe and Japan to collectively ensure that technical interoperability issues are solved prior to the operational implementation of the United States (WAAS), European (EGNOS), or Japanese (MSAS) systems. FAA is also providing support to regional projects in South America and Southeast Asia to implement GPS augmentation system prototype capabilities. Successful results from these projects will influence the adoption of U.S. GPS and augmentation systems that will ultimately increase international flight safety for the U.S. aviation community.

GLASS BEADS

Question. On March 6, 2001, the Engineering and Specifications Division, FAA, requested the Office of Aviation Research to analyze glass beads "to determine if the new Visibead or Megalux bead are a viable alternative to the 1.9 or 1.5 IOR glass beads." (Project Number 2000–589.) The FAA issued a Final Report in early 2003 that found the Visibead and Megalux bead to be acceptable. Given the cost savings associated with the use of these glass beads, why has the FAA waited over 12 months to certify the use of these glass beads as required for airport managers/engineers to use Visibead and Megalux beads on airport runways?

Answer. The referenced study confirmed the acceptability of existing reflective glass beads and the newer Visibead and Megalux reflective glass beads, as well as newer formulations of water-borne paints. A draft change to the FAA paint specification has been initiated. In the meantime, an airport may ask for FAA approval on a project basis. The revised specification will contain generic language that both manufacturers of the newer glass beads can meet along with paint application rates specific to these newer beads. With the addition of these beads, three reflective media options will be available to an airport. In order of increasing initial cost, they are:

1. Type I beads, commonly referred to as "highway-grade" beads.

2. Type IV beads, the nomenclature used to refer to the Visibead and Megalux beads.

3. Type III beads, commonly referred as "airport-grade" beads.

Question. Can you assure the subcommittee that the FAA will certify the use of these glass beads on airport runways before the end of the current fiscal year?

Answer. A new paint specification will be issued prior to the end of the fiscal year. It contains generic language that will allow contractors to use Visibead and Megalux reflective glass beads.

RELIABLE COST INFORMATION

Question. There has been much discussion about the transition to the air traffic organization and the need to get good, reliable cost information. It is my understanding, however, that this information is not available, and it will take some time to do so. How long will it take to get this information?

Answer. Since the FAA switched to the new Department of Transportation financial system (DELPHI) in November 2003, we have been working on reconciling and cleaning up the financial information for all organizations, including the ATO. In addition, we have been working to interface this new financial information into our Cost Accounting System (CAS). We plan to re-establish the CAS interface and begin producing cost reports with the first 8 months of fiscal year 2004 data in August 2004 and all fiscal year 2004 data in October 2004. We expect to get back to routine monthly CAS reporting in November 2004 with fiscal year 2005 data.

Question. What stands in your way?

Answer. This fiscal year, the FAA implemented new financial (DELPHI) and procurement (PRISM) systems. These systems were necessary for the FAA to address long-standing weaknesses in these areas. Improving these systems is the foundation on which we can implement a more business-like approach to running the agency. As with any major system changes, there were backlogs and interface problems that have taken several months to resolve. One of the interface problems we experienced is between DELPHI and the existing Cost Accounting System.

Our first priority was to ensure that DELPHI provides accurate and timely financial information. DELPHI data must be accurate for cost accounting data to be accurate. We dedicated significant resources to clearing up DELPHI and PRISM backlogs through June 2004. In July 2004, we changed our focus to cleaning up some remaining issues with DELPHI data in support of the clean audit effort and to improving financial and acquisition business processes.

Our second priority is to complete the DELPHI interface that supports the Cost Accounting System. We completed testing the interface in March 2004 and will complete the processing of the first 9 months of fiscal year 2004 cost accounting data in early September 2004. All fiscal year 2004 cost data will be processed by late October 2004. In fiscal year 2005, we plan to return to monthly processing of the cost accounting data. We also continue to improve our labor distribution reporting for our Air Traffic Organization.

QUESTIONS SUBMITTED BY SENATOR SAM BROWNBACK

CENTER WEATHER SERVICE UNITS (CWSU)

Question. I understand you are in the process of modernizing the FAA's air traffic operations and that updating and improving the Center Weather Service Units (CWSU) is part of that plan. I see many positive things in this plan that will enhance safety such as improved training, standardization among units, and instituting 24-hour operations. However, some of my constituents who are members of the National Weather Service (NWS) Employees Organization are concerned that a portion of this plan would no longer require a CWSU meteorologist at each of the 21 Air Route Traffic Control Centers (ARTCC). Would this plan leave some air traffic controller and management personnel without immediate, on-site meteorologist assistance? If so, how would this impact safety?

Answer. There are several different configurations for restructuring the CWSU under consideration. The FAA and the NWS are collaborating to come up with a configuration and placement of personnel that will improve safety. Further, we intend to take full advantage of revolutionary improvements in communications technology that have been developed since the CWSUs were first put in place more than 25 years ago (1978).

We recognize the concept of "on-site meteorological assistance" as essential for the safe, efficient management of air traffic. Frankly, that is why the NTSB has also been concerned that weather support be available at TRACON facilities and airport

traffic control towers—as well as at the CWSUs—at all times when significant weather is forecast.

Partly in response to these NTSB recommendations, we intend to design a system where all FAA field facilities get on-site weather assistance on a 24-hour basis, 7 days a week. The foundation of modern weather services is electronic and automated, rather than human. We recognize the impossibility of putting a meteorologist into every field facility of the FAA: air route traffic control centers (ARTCC), TRACONs, ATCTs and flight watch facilities of the automated flight service stations.

Thus, I can assure you that the improvements that we are planning for the CWSU will not leave air traffic controller and management personnel without immediate, on-site meteorological assistance. As an example, the service they now receive from the on-site meteorologist will improve immediately by 50 percent simply by operating 24 hours a day, rather than the present two shifts a day. However, this does imply the assistance that all facilities receive (including the ARTCCs) will be electronic and automated. This design is not only economical, but will be a great improvement in services compared with current level of operations.

Of course we are planning several sites where human weather support is always available 24 hours a day in case human intervention or consulting on critical weather problems is needed. However, their support will cover a regional domain, rather than just meeting local needs. This is the most economical use of trained meteorologists. Further, the NWS has proposed to train and reward these forecasters consistent with their larger responsibilities.

We recognize the employees union of the NWS, the National Weather Service Employees Organization, is concerned about changes. The NWS is a full partner in these plans.

GENERAL AVIATION

Question. General aviation is very important to Kansas, given the presence of airplane manufacturers, avionics manufacturers, and the 6,000 pilots across the State. What steps are being taken to ensure that general aviation pilots have access to the latest technology?

Answer. The FAA has worked in partnership with the general aviation (GA) industry to promulgate standards and guidance material to ensure that GA pilots have access to the latest technology.

The FAA recently published Technical Standard Order (TSO) C–145 and C–146 for WAAS for the Global Positioning System (GPS). This TSO allows avionics companies, such as Garmin and Honeywell, to self-certify WAAS equipment for installation in the GA fleet.

The FAA's Wichita Aircraft Certification Office has recently approved several new technology projects for use in the GA fleet. Both projects are navigation equipment and flight deck weather display applications.

The FAA has also published guidance material in the form of an Advisory Circular (AC) that considerably simplifies the requirements for GPS equipment installation. Due to the wealth of experience gained by FAA and industry in installing GPS equipment, this AC removes many of the burdensome requirements formerly associated with a GPS installation. The FAA has worked with avionics companies to streamline installation requirements for many GA operators.

Question. For example, the President's budget calls for GPS landing systems nationwide—a move that would greatly improve the safety of flying in difficult weather conditions. With precision satellite signals now available, how is the implementation of this system progressing?

Answer. The FAA commissioned WAAS in 2003. The WAAS system provides greatly improved accuracy, integrity and continuity for aircraft during precision approach operations.

The FAA published TSO C–145 and C–146 as minimum design standards for WAAS avionics. The FAA evaluated the potential of the new GPS L5 signals and has approved a new WAAS acquisition program baseline that exploits these signals to improve the reliability of operations in the presence of interference and severe atmospheric conditions. It introduces a new Category I precision approach capability.

The FAA has also chartered the Required Navigation Performance (RNP) program. The program is a combined effort of Air Traffic, Flight Standards, and Aircraft Certification. The RNP program exploits the navigation capability of present aircraft to use precision approaches at many airports.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

ADVANCED TECHNOLOGIES AND OCEANIC PROCEDURES

Question. Ms. Blakey, the Inspector General's status report points out that the FAA's operating cost estimates for Advanced Technologies and Oceanic Procedures (ATOP) are almost 3 years old and that there are remaining challenges associated with controller and technician training and acceptance of the technology. Do you agree with the Inspector General's assessment of the cost and schedule of the ATOP program?

Answer. The Inspector General's status report points out that the FAA's operating cost estimates for ATOP are almost 3 years old and that there are remaining challenges associated with controller and technician training and acceptance of the technology. The FAA is currently revalidating its operating cost estimates. Both controllers and maintenance technicians have also been involved in numerous validation and testing activities, and have been deeply involved in the development and review of the vendor's training materials. ATOP training is ongoing and to this point has received positive feedback from the user community.

Question. What can you tell us about the comfort level of the controller workforce in using this system?

Answer. Controller and maintenance personnel were members of the ATOP evaluation team prior to contract award and have been heavily involved in the program for the last 4 years, from design to on-site operations. The site product teams have also been involved in numerous validation and testing activities.

The ATOP Build 1 system test program successfully used a systematic approach to evaluate the ATOP system under a range of simulated and live operational conditions that were representative of those found at the Oceanic facilities. System test was conducted through a semi-structured exercise that permitted field participants to perform typical and non-typical assessments and evaluations to determine the operational suitability of the ATOP system.

The field believes that the ATOP system is operationally suitable contingent on the resolution of the issues documented. All issues are tagged according to their specified completion timeframes (e.g., by Site Acceptance Test (SAT), Field Familiarization (FF), First Course Conduct (FCC), and Initial Operating Capability (IOC). The ATOP team continues to verify software fixes, conduct regression testing, and monitor system changes and the resulting impacts to operational suitability. Any issues that may emerge or re-emerge in subsequent testing or validation activities will be evaluated for their operational impact.

Question. As for training, have the training materials been fully developed and will you have to expedite the training process to meet the June deployment date in Oakland?

Answer. Training materials have been fully developed for both controllers and maintenance technicians. Both groups' personnel have been deeply involved in the development and review of all training materials. The first training course is now underway for maintenance technicians and has received positive feedback. ATOP went live in Oakland on June 30, 2004.

REVENUE DIVERSION

Question. The Inspector General's office has put a spotlight on the issue of airport revenue diversion with your recent report on San Francisco International Airport and your current review of potential revenue diversion at Los Angeles International Airport. Mr. Mead's testimony suggests that the FAA is not exercising adequate oversight in this area. Ms. Blakey, what additional steps is the FAA taking to make sure that airport revenues are not being diverted to other activities?

Answer. Unlawful revenue diversion generally occurs when an airport sponsor, usually a city or county, overcharges its airport for services, thereby diverting revenue from airport use. Revenue diversion is more likely to be a problem at larger airports and at city- or county-owned airports rather than independent airport authorities.

FAA has a number of different ways to detect unlawful revenue diversion. First, the agency reviews the annual financial reports that all commercial use airports are required to file with the FAA as a result of the 1994 FAA Reauthorization Act. Second, we review the findings of audits of airport revenue under the Single Audit Act, and have issued new guidance to the field offices to ensure they correctly analyze those findings. Third, FAA receives complaints of revenue diversion filed by companies and individuals doing business with an airport. Fourth, when the Office of the Inspector General (OIG) reports audit findings of unlawful revenue diversion by an

airport operator, the agency investigates and requires corrective action to resolve the findings.

When we identify a potential unlawful revenue diversion, we contact the airport and require an explanation. When we conclude that airport revenue has been improperly used, we require the diverted revenue to be refunded to the airport with interest.

Recently, in coordination with the OIG, we have taken the additional steps of identifying airports at higher risk of revenue diversion and focusing spot checks on financial transactions at those airports.

BASELINE REVIEW OF WAAS AND STARS

Question. Ms. Blakey, last year, Chairman Shelby asked you to name the three modernization projects that were most important to the future of the aviation system. Two of the programs you named, STARS and WAAS, are being rebaselined. When can we expect to see the details of your request for STARS and WAAS?

Answer. STARS—FAA has modified its strategy for Terminal Automation Modernization into a three-phased approach, starting with the most critical Terminal Radar Approach Controls (TRACONs.) This approach breaks large, complex terminal modernization acquisitions into phases that mitigate Government, vendor, and deployment costs and risks. This three-phased acquisition approach allows FAA to select a "best value" system and pace the automation system replacements and upgrades to fit within the FAA's capital investment program and meet critical National Airspace System requirements.

Terminal Automation Modernization was re-baselined on April 20, 2004. We have just recently provided the details for fiscal year 2005 to the subcommittees. In the re-baseline, Terminal Automation is requesting $113.9 million for Facilities and Equipment in fiscal year 2005 for Phase 1 of the modernization program.

The terminal automation baseline, approved by the Joint Resource Council (JRC), is for the Full Production and Deployment to the remaining 31 of its 50 most critical Terminal locations (Phase 1). In accordance with Congressional direction, the option to Phase 1 (Chicago's Common ARTS IIIE and the two Common ARTS IIEs) will only be implemented after the Department of Transportation (DOT) Inspector General (IG) reviews and validates the life cycle costs and performs other relevant analysis. Phases 2 and 3 will be priced and presented separately at JRCs in future years. For the follow-on phases, FAA is developing a business case considering STARS and all other viable terminal modernization alternatives and will provide comparative cost/benefit data to the DOT IG for their review before awarding a contract for Phase 2 or 3.

Since FAA is the acquisition lead for the joint DOT and DOD STARS program, in accordance with Title 31, USC 1535, the Economy Act of 1932, rebaselining the FAA portion of the STARS program directly affects deployment of STARS at DOD sites within the Continental United States (CONUS) and outside the CONUS. The goal of the agreement is to avoid Departmental duplications of independent acquisitions, life cycles, and system-unique training of air traffic controllers and technicians. A joint DOT and DOD platform avoids duplicate civil and military development and sustainment expenditures.

WAAS was re-baselined on May 3, 2004. We recently provided the details of the request for fiscal year 2005 to the subcommittees. In the re-baseline, WAAS is requesting $100.03 million for Facilities and Equipment in fiscal year 2005.

Question. How, if any, have the plans and capabilities of these two systems changed from last year?

Answer. STARS—The Terminal Automation Modernization plan has changed to a multiple-phased approach, starting with the most critical TRACONs. This reflects the FAA's changing processes and philosophies to demonstrate a consistent and continuous business approach. A key element of this approach breaks large, complex modernization acquisitions (i.e., STARS) into phases that mitigate Government, vendor, and deployment costs and risks. This three-phased acquisition approach allows the FAA to select a "best value" system and will also use mostly fixed-price arrangements as opposed to cost-plus contracts. The FAA Joint Resources Council approved STARS for full production and deployment to its 50 most critical terminal locations (Phase 1) on April 20, 2004.

The STARS national baseline continues to evolve to meet National Airspace System requirements. Additional functionalities have been added to incorporate site-specific local patches, NTSB and Homeland Security enhancements, mirror Common ARTS developments, and satisfy DOD requirements for their worldwide operation. For all follow on phases and systems (Common ARTS IIIE and STARS), additional

capabilities will be added for in later phases. Each phase will be priced and presented separately at future JRCs.

WAAS will provide full Category One precision approach capability when it is completed. It will do this by using the new capabilities of the GPS satellite constellation when they become available. WAAS is now providing a near Category One capability over most of the United States. WAAS will be incrementally improved between now and 2008 to add additional ground hardware and system software to provide this near Category One capability over the entire continental United States and Alaska at all times. When the modernized GPS provides sufficient numbers of new satellites with the L5 signal capability, WAAS ground receivers and system software will be modified to use it. WAAS will then provide full Category One capability.

THE NEW SEATAC TOWER

Question. Ms. Blakey, as you are aware, we are about to commission a brand new air traffic control tower at Seattle-Tacoma International Airport. Certain offices of the FAA are now maintaining that your agency located this tower in the wrong location. How was it that the FAA built a brand new air traffic control tower, but put it in a less-than-ideal location?

Answer. The Seattle Air Traffic Control Tower (ATCT) siting study was completed in April 1997. The final location and height recommendation was based on meeting the FAA's existing siting criteria standards. These include providing a clear and unobstructed view of all controlled aircraft movement surfaces, adequate depth perception and perspective, and minimum desired look down angle to provide a clear line of site to furthest operational areas. In addition, an analysis was performed to understand the impact of applying Terminal Instrument Approach Procedures (TERPS) that were current at the time to determine any impacts to the IFR capabilities of the airport. The potential impact created by the height of the new ATCT on Runway 16L during periods of poor weather (CAT II/III operations) was raised during the siting process. When the TERPS analysis indicated that the decision height (DH) for CAT I operations on runway 16L would be raised, a determination was made by the FAA that the criteria at the time allowed for CAT II/III operations with a CAT I Decision Height in excess of the standard.

The new ATCT was designed and sited at the preferred location at the lowest optimum height. After construction on the new ATCT was substantially complete (end of 2002), the FAA revised its procedures and no longer permitted CAT II/III operations when the landing minimums for CAT I approach have been raised.

Because the new ATCT was almost complete, we established a cross-organizational working group to determine mitigation strategies. The team has been working on developing strategies that will provide the safe operation of the CAT I approach procedures while meeting the planned capacity of the airport. These potential strategies include radar-monitored final approach aid, redirecting slower speed category aircraft, advanced avionics, policy changes, special procedures and improved radar surveillance systems. FAA is currently conducting modeling and analysis to evaluate the feasibility and determine the full impact of implementing the preferred mitigation strategy. The analysis was completed in June 2004. A report of the study's outcomes will be published in August.

Question. The Port of Seattle is still waiting to hear how the FAA plans to address this concern about the location of the tower. Is there any risk that the FAA's remedy for this situation could result in there being a diminished number of takeoffs or landings allowed by any types of aircraft at SeaTac International?

Answer. In August 2003, the FAA Northwest Mountain Regional Management Team chartered a cross-organizational regional working group to develop a proposal that mitigates the ATCT height, ensures an equivalent level of safety, and meets the planned capacity at SeaTac.

The working group evaluated eleven potential mitigation strategies and ranked them with regard to the potential of ensuring an equivalent level of safety, maintaining current and planned capacity at SeaTac, and the feasibility of effecting the strategy. The strategies include radar-monitored final approach aid, redirecting slower speed category aircraft, advanced avionics, policy changes, special procedures, and improved radar surveillance systems.

The FAA Flight Technologies and Procedures Division is conducting modeling and analysis to evaluate the feasibility and to determine the full impact of implementing the mitigation proposals. This analysis is expected to be completed this month, and should allow for implementation of a strategy well in advance of the September 2006 date when Runway 16L is scheduled to become an "all weather" runway.

JOINT PLANNING AND DEVELOPMENT OFFICE

Question. I believe that the subcommittee is now prepared to approve your reprogramming request to launch the Joint Planning and Development Office (JPDO). I support this initiative and the interagency efforts that are supposed to be brought together by DOD, NASA, the White House and the Departments of Commerce, Defense and Homeland Security. Are you at all concerned that you will not gain the level of cooperation from the other Federal agencies that you need in order for the JPDO to fulfill its mandate?

Answer. The subject of our Air Transportation System is no longer solely an FAA interest. All six members of the JPDO recognize the need for close cooperation in this area. We have formed the JPDO and have representatives and principals, from all six members actively engaged in JPDO activities and working to develop the first edition of the national plan. This year's plan will provide the foundation for the following years' plans. We are also developing an MOU that will further define responsibilities and resources necessary to make the JPDO successful.

Question. I understand your budget is allocating only $5 million a year to this initiative. Do you think that level of funding will demonstrate a strong enough commitment on the part of the FAA to bring all of the other agencies to the table in a meaningful way to develop the next generation of our aviation infrastructure?

Answer. Basic financial support for the JPDO in fiscal year 2004 came from both FAA and NASA. The FAA contribution was $4.4 million and NASA's was $5.38 million. Other members of the office contributed employees and some contractors. The fiscal year 2005 FAA budget will allow the office to hire 3 FTE and expand our work to begin limited integration. The office will rely on NASA to support the needed research for the program. Several interested groups, including our own Executive Advisory Committee, have recommended that we rapidly expand our systems integration activity. We are now studying this recommendation. If we decide that it is necessary to move more quickly in the systems integration area, it will cause us to modify our request.

The FAA continues to strongly support the formulation of a national plan for the next generation air transportation system. The $5 million is for the support of the JPDO office itself. The national plan will encompass significant resources throughout the participating organizations of the Department of Transportation (FAA), Defense, Homeland Security, Commerce, and NASA.

TERMINATION OF LONG-TERM PROCUREMENT PROJECTS

Question. Ms. Blakey, when you look at the projects that you have shelved because of the need to cut $400 million out of your procurement budget, they appear to be those projects that were scheduled for deployment in the more distant future. However, they also represent some of the most critical projects necessary for taking the technology of our air traffic control system to the next level. For example, your agency is pulling the plug on its so-called Data Link Communications System, where aircraft sends a stream of data to air traffic controllers so that all that information does not need to be communicated by voice. This subcommittee has made significant investments in your Free Flight initiative and, by your agency's own admission, the full deployment of data link is essential to getting the maximum utility out of your Free Flight initiative. Part of the rationale that you have given as to why we can set these projects aside is because the financially strapped airlines are not yet in a position to equip their aircraft with this most up-to-date equipment. Isn't it true, however, that the FAA has not customarily waited to modernize the system until the airlines are ready, willing and enthusiastic about deploying new equipment?

Answer. The FAA has always considered our partners in the airlines when making major investment decisions, particularly those that require reciprocal equipage on their part in order to achieve real operational improvements. When there is a commitment to equip on their part, the FAA has moved out smartly to invest in the ground infrastructure and procedure development side. A case in point is Domestic Reduced Vertical Separation Minimum (DRVSM). Alternatively, when an equipage commitment from the airlines is less firm, the FAA has adopted a rational "go slow" approach wherein the FAA has developed the technology and fielded it in a limited number of locations. In cases where the airlines need to defer investments, it is prudent for FAA to do the same. Two cases in point are Controller-Pilot Data Link Communications (CPDLC) and the Local Area Augmentation System (LAAS).

Question. Is not there a real risk that we will dramatically slow the advancements that we make in modernizing our air traffic control system if we wait and wait and wait until the airlines say that they are ready to make the investment?

Answer. Capital investments that do not achieve improvements in operational efficiency due to airline non-equipage simply increase the FAA's costs without improving performance. In business terms, there is no return on the investment. Such investments should be eliminated. On the other hand, investments that modernize our system, but do not require airline equipage (e.g., ERAM and Terminal Modernization) will continue because they will achieve operational efficiencies and performance.

RULEMAKING AUTHORITY

Question. Your agency has the authority to require safety improvements to aircraft when you believe that they are beneficial for safety and the most efficient use of the air space. Have you given up on using that tool to advance improvements in our aviation system?

Answer. The FAA has rulemaking authority. The FAA ranks each proposed rule in terms of its safety effect. The FAA then does a cost-benefit analysis to make sure the proposed rule is worth its cost, which is ultimately borne by the flying public.

A recent example of the FAA's use of rulemaking authority to require safety improvements to the aircraft is the insulation flammability rule which was issued on July 14, 2003, which is designed to reduce the flammability of aircraft insulation (and thereby prevent the spread of fire). This rule requires manufacturers of new airplanes that enter service after a phase-in period to equip them with insulation that passes improved flammability test and requires air carriers, operating under Part 121, to use insulation meeting the new flame propagation requirements when they replace insulation.

SECURITY AT THE AUBURN TRACON

Question. In the age of heightened security, it has become even more important that we make sure that our air traffic control facilities have sufficient security measures in place. It was reported a few weeks ago that the TRACON facility in Auburn, Washington that is about to be completed would not be provided security guards even though the FAA built a guardhouse at the facility. Ms. Blakey, can you explain to us why you decided to forego security at this particular air traffic facility in Auburn?

Answer. FAA considers a number of factors when determining security requirements for its facilities. These include employee population, physical size, and the criticality of the facility to the National Airspace System. When developing security requirements for an individual facility, these factors plus an evaluation of local area risk and geography are used.

When the Seattle Terminal Radar Approach Control (TRACON) facility was designed and built, guards were required by FAA policy. Since then, FAA has migrated away from using guards at this type of facility. The main reason is our analysis of the security risks to these facilities, as well as the maturing of other aspects of FAA's Facility Security Management Program. In short, FAA determined that sufficient safeguards exist at facilities of this type, making a guard force unnecessary. Existing security measures at the Seattle facility include an extensive camera system that monitors key areas, and a secure access system for the property and building. In addition, the facility meets the security-required setbacks and has security fencing.

The policy change that removed the requirement for guards was put into effect in August 2003. We now reserve guard use at TRACON facilities that are significantly larger than the Seattle TRACON.

Even though the national policy shifted, with designs completed and construction underway, it was prudent to continue with the planned security measures. The guardhouse will provide us with future flexibility without incurring additional cost. We will provide guard services if the TRACON meets the established criteria for such measures in the future.

QUESTIONS SUBMITTED BY SENATOR HERB KOHL

LORAN

Question. In recent years, this subcommittee has provided nearly $120 million to the FAA and the Coast Guard to modernize the LORAN infrastructure through an existing Memorandum of Agreement between the agencies and DOT that was last updated in 2003. This work continues to be one of my important priorities. Repeated technical and economic studies by government, academics, industry and others provide convincing evidence of the need for and benefits of LORAN as a cost-effective

national asset to back up satellite navigation technology. Numerous infrastructure safety and efficiency improvement projects have already been completed and many other projects necessary to complete the modernization effort are already underway. LORAN is United States technology that is among the most widely used radio navigation systems worldwide and, aside from satellite technology, it is the only other multi-modal navigation system available to meet our national transportation system safety and security objectives. Over the past several years, DOT has promised to formulate a policy dealing with the long-term future of LORAN. What is the status of such a policy?

Answer. The FAA, in conjunction with Coast Guard, academic, and industry team members, delivered a technical report to DOT on March 31, 2004. This report evaluated whether LORAN could satisfy the current non-precision approach (NPA), harbor entrance approach (HEA), and timing and frequency requirements, and its capability to mitigate the impact of GPS outage on GPS position, navigation, and time applications. Similarly, the Volpe National Transportation System Center delivered their independent LORAN Benefit/Cost analysis to DOT on the same date. The administration will make a policy decision on LORAN following review of these reports.

Question. What is the FAA doing to ensure the continuation of a modern and secure LORAN system?

Answer. The FAA has utilized the funding provided by the subcommittee to significantly modernize the LORAN system infrastructure. Working closely with the United States Coast Guard, the three aging tube transmitters have been replaced with modern, state-of-the-art solid state transmitters, new timing and frequency equipment has been installed, and each LORAN station has been supplied with three new cesium clocks. LORAN stations have also installed uninterruptible power supplies to preclude even momentary outages during power outages. The FAA has also conducted significant research in modern LORAN receiver technology and has developed prototypes for aviation and maritime users and for other potential markets. It should be noted that the administration does not support funding for LORAN in DOT. Funding for LORAN should be provided to the Coast Guard since it is primarily a maritime system.

FAA POLICY ON AIRSPACE VIOLATIONS

Question. On January 15, a pilot of a small Cherokee airplane took a 4-hour flight that took him through the approach path of Philadelphia International Airport, buzzed commercial airliners and the Philadelphia Naval Shipyard, and came within a quarter-mile of the cooling towers of the Limerick nuclear power plant. When the small plane finally landed, the pilot's blood alcohol level measured 0.15. While the pilot could face charges of risking a catastrophe and reckless endangerment, the incident also highlighted an important deficiency in the FAA's ability to deal with such situations. While air traffic controllers and supervisors followed required protocol, it's clear that the current system is lacking in terms of both prevention and enforcement of airspace violations. What is the FAA policy on dealing with airspace violations?

Answer. The FAA's policy is to administer enforcement action on airspace violations. The FAA takes seriously the willful violation of Federal Aviation regulations. The range of enforcement sanctions can include warning letters, fines or certificate action, such as revocation. In the case mentioned, the pilot's license was revoked within 7 days of the incident.

Question. What would the FAA need in order to develop a quicker response system, one that could account for any such airspace violations in the future?

Answer. Aircraft that are flying in Visual Flight Rules (VFR) mode are required to display a beacon code of "1200," however, aircraft flying outside of controlled airspace (i.e., outside the Philadelphia International Airport Class B), have no requirement for the pilot to talk to air traffic controllers or file a flight plan. This VFR mode allows pilots a great deal of freedom in operating their aircraft, while reducing the burden on the National Airspace System of identifying and talking to every aircraft. On a clear weather day, VFR aircraft can be counted in the hundreds, especially in large metropolitan areas of the country. It would be an overwhelming burden on air traffic controllers to identify and separate these aircraft from one another.

When the identity of an aircraft is known and the air traffic controller has the ability to talk to that aircraft, the pilot is given instructions to avoid a restricted area. When a violation has occurred, the pilot is advised of the error and instructed to call the appropriate FAA facility for a briefing and follow-up with the Flight

Standards District Office (FSDO), which can take place immediately or several hours after the incident.

In the January incident, air traffic controllers were able to observe the aircraft's target on the radar scope for a portion of its flight, but never communicated with the pilot; many attempts to contact the pilot on "Guard frequency 121.5" were unsuccessful. To prevent situations like this, it would be necessary to change the rules for flying in VFR conditions by requiring two-way communications with air traffic controllers, discrete beacon code assignment, and mandatory filing of flight plans. The NAS is not capable of handling these capabilities at this time.

Question. Would you agree that we should strengthen Federal law as it applies to airspace violations?

Answer. The FAA does not believe that any changes to Federal law are necessary to address airspace violations. The current sanctions that we have available, i.e., suspending or revoking pilot certificates and imposing civil penalties, have proven to be sufficient. The agency rarely sees reckless violations of the sort committed by the pilot in Philadelphia. That pilot's certificate was revoked on an emergency basis. In addition, he was charged with State criminal violations for his conduct.

QUESTIONS SUBMITTED BY SENATOR RICHARD J. DURBIN

CHICAGO O'HARE INTERNATIONAL AIRPORT

Question. How do you expect to proceed on addressing aviation congestion and flight delays at Chicago O'Hare International Airport in addition to the temporary, voluntary flight reductions during peak hours? When will data on the flight reductions be available?

Answer. In Vision-100, Congress gave the FAA a number of new tools to use when demand exceeds capacity at an airport. Under Section 422, the FAA can schedule delay reduction meetings, under Section 423, we can engage in collaborative decision making.

United Airlines, Inc. (UAL) and American Airlines, Inc. (AAL), agreed to an order cutting peak hour operations by 7.5 percent—5 percent in March and 2.5 percent starting in June. The Department of Transportation and the FAA deferred convening a schedule-reduction meeting under Section 422, in order to allow the operational limits to take effect and assess the impact on congestion and delay. The orders currently expire on October 31, 2004.

To augment these reductions, on June 13, 2004, FAA adopted new air traffic procedures for use under certain runway combinations at O'Hare that increases capacity and efficiency, especially for departing flights, by several operations each hour when conditions permit. The FAA is currently monitoring the results of the recent changes in schedules and procedures. We will analyze the operation under various weather conditions over the coming weeks before determining whether additional action is required.

The total daily flight reduction as a result of the 7.5 percent reduction by UAL and AAL has been 91 total flights during the most congested hours of 12 noon until 8 p.m. Many of these flights have been shifted to other hours. These are all short-term methods, with the long-term goal of addressing congestion by gaining additional capacity at the airport and throughout the National Airspace System. This administration is committed to addressing aviation congestion in both the short and long term and working with the carriers and local authorities.

Question. Can you explain the time line, including the EIS, for the O'Hare modernization project?

Answer. The City of Chicago is proposing a substantial reconfiguration of O'Hare International Airport under an initiative called the O'Hare Modernization Program (OMP). The city submitted a draft Airport Layout Plan (ALP) depicting the OMP proposal to FAA in December 2002 and a Master Plan document in February 2004. FAA comments on the ALP were provided to the city in mid-2003. Based on those comments, the city presented a revised ALP to FAA in October 2003. The FAA is also reviewing the Master Plan and preparing an Environmental Impact Statement (EIS) regarding the OMP proposal. Ultimately, the FAA must issue a favorable EIS Record of Decision and subsequently approve the ALP before the City of Chicago can begin construction.

The ALP and Master Plan review are ongoing at this time, and the EIS process is underway. On April 15, 2004, the FAA issued a letter to the City of Chicago outlining FAA's projected EIS schedule. The projected schedule reflects availability of a Draft EIS in February 2005 and an EIS Record of Decision in September 2005.

The EIS schedule was developed after extensive coordination between the FAA, its EIS contractor, and all involved subcontractors. The FAA sees the projected EIS schedule as an aggressive but achievable schedule, with significant effort having been devoted to streamlining the EIS process while simultaneously assuring the thoroughness and integrity of the process. FAA's efforts in regard to process streamlining include the development of written agreements with other involved government agencies that will yield efficiencies in our collective effort to complete an environmental assessment of the OMP proposal.

The City of Chicago projects the commissioning of its first new runway approximately 30 months after receipt of FAA approval. Approximately 2 years thereafter, the city projects the commissioning of its second new runway as well as the extension of one of O'Hare's existing runways. In total, the city projects a 10-year time frame for full implementation of the OMP. Throughout this period, substantial FAA work will be required to support the numerous National Airspace System changes necessitated by the OMP. The FAA is currently engaged in planning work associated with these NAS changes so as to be prepared for implementing the changes should the OMP be approved.

CHICAGO MIDWAY AND O'HARE AIRPORTS

Question. I would like to ask you to look into two Chicago Airport System projects that were included in the fiscal year 2004 Omnibus Appropriations conference report (Transportation-Treasury title), at my request. First, $4 million for various improvements at Midway Airport related to capacity expansion. And second $1.5 million for CAT II/III instrumentation for Runway 27L and Runway 27R at O'Hare. It is my understanding that the FAA has not yet released funding. Please explain any outstanding issues within the FAA related to these projects and give me an estimate as to when the funding will be released?

Answer. Regarding the $4 million for airport improvements at Midway, the airport originally desired to use the Airport Improvement Program discretionary funds to help finance expansion of passenger screening capacity in the terminal. Terminal work of this kind cannot be funded with discretionary funding. Working with the airport, FAA has identified other projects of high priority for the airport and FAA that can be financed with discretionary funds. We are in the process of increasing the airport's existing Letter of Intent by $4 million to include these items. We expect to notify Congress of our intention to issue the grant for these funds within 30 calendar days following completion of all environmental documentation.

The upgrade of Runway 27L and Runway 27R at Chicago O'Hare is an on-going FAA project with $4 million of fiscal year 2003 funding already obligated on the National Construction Contract to do the work. The FAA is currently conducting the environmental assessment and engineering design. The ILSs and ALSF–2s have been purchased. The $1.5 million in fiscal year 2004 funding completes the estimated $5.5 million project. FAA plans to obligate the remaining funds by October 2004 to start construction activities.

QUESTIONS SUBMITTED TO THE OFFICE OF THE INSPECTOR GENERAL

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

Question. What do you believe is the most significant safety concern facing FAA?

Answer. As air traffic operations increase and the demand for air travel rebounds, there are two safety indicators to watch—runway incursions (potential collisions on the ground) and operational errors (when air traffic controllers allow planes to come too close together in the air). Runway incursions and operational errors pose a significant safety risk. We have seen some progress on runway incursions, with the number of incidents decreasing in fiscal year 2003 and continuing to decline during the first 8 months of fiscal year 2004; however, the most serious runway incursions increased. In addition, operational errors increased in fiscal year 2003 with an average of three operational errors each day and one serious error (those rated as high risk) every 7 days. Although operational errors decreased marginally during the first 8 months of fiscal year 2004, they are still much too high.

In addition, while FAA and U.S. air carriers have maintained a remarkable safety record, a significant emerging issue for FAA will be to adjust its safety oversight to changing trends in the aviation industry. For example, in response to record-breaking monetary losses, major air carriers are making unprecedented changes, such as outsourcing more of their aircraft maintenance. While major air carriers outsourced 37 percent of their aircraft maintenance expense in 1996, the amount spent on outsourced maintenance increased to 50 percent in 2003.

Another trend FAA will need to monitor is the growth of low-cost and regional air carriers. While network air carriers have been losing money and restructuring their operations, low-cost air carriers have experienced phenomenal growth and have increased their market share of passengers from 17 to 22 percent. This trend is projected to continue with FAA forecasting that low-cost and regional air carriers will account for more than 50 percent of the passenger market share in 2015.

Question. What progress is the FAA making on addressing the long-standing problems in its procurement process? Has procurement authority that Congress gave the FAA improved or hindered the FAA's ability to deliver capital programs?

Answer. First, with respect to acquisition reform, Congress gave FAA two powerful tools in 1996 by granting relief from Federal personnel and procurement rules, both of which the agency believed were hindering its ability to modernize the National Airspace System. FAA has not taken full advantage of this flexibility. Our work shows procurement reform at FAA has produced mixed results. While contracts are awarded faster, there has been little bottom line impact on cost and schedule problems with major acquisitions. For example, last year we analyzed 20 major acquisitions and found that 14 of these projects experienced cost growth of over $4.3 billion, which represents considerably more than 1 years' annual appropriation for modernizing the National Airspace System.

Administrator Blakey and her team are well aware of the problems with major acquisitions, such as entering into long-term cost plus contracts before requirements are understood, unreliable cost and schedule baselines, and poor contract management, that have led to significant cost growth and schedule slips. FAA now has a chief operating officer and is transitioning to a performance-based organization for air traffic, and plans to change how the agency procures new air traffic control equipment. The key will be follow-through.

Question. When and at what cost do you expect the FAA to have fully functional ATOP systems replace the obsolete technology in Anchorage, New York, and Oakland Centers?

Answer. FAA's schedule calls for completing the installation of the last ATOP facility, Anchorage, in March, 2006. FAA's cost estimate to develop and field ATOP is $548 million (from the Facilities and Equipment Account) with an additional $1.06 billion to maintain and operate the system over its useful life (which is paid for through the Operations Account).

ATOP is approaching a key milestone at the end of June 2004—completing site testing at Oakland. If FAA can successfully complete site tests, necessary training, and satisfy any last minute needs of Oakland users, agency officials believe that the program will probably move forward within its cost and schedule goals and deploy ATOP as planned to New York (March 2005) and Anchorage (March 2006). However, if Oakland experiences significant delays to the current schedule, or unforeseen defects are uncovered, the entire ATOP program will be vulnerable to additional cost growth and schedule delays.

Question. It seems as if the STARS procurement is through the most difficult phase of the procurement cycle and your testimony indicates that the anticipated resources for this program will decline in the coming years.

How do you compare the relative risk remaining in the program compared to other major FAA programs such as WAAS, ASR–11, or ERAM?

Answer. Unfortunately, STARS is not past the point where procurement no longer presents difficult issues, and it is unclear what budgetary resources FAA will need to finish terminal modernization. Questions continue to persist about how much STARS will cost to complete and what capability it will actually provide. As described below, all four of these programs contain significant risk with respect to cost, schedule, and performance.

FAA has changed its terminal modernization strategy significantly. As a result, the cost assumptions that drove STARS are no longer valid. For example, the STARS 1996 baseline estimated a cost of $940 million for 172 sites with a completion date of 2005. Due to cost and schedule concerns, FAA recently limited approval to 50 sites at a cost of $1.45 billion. However, the total cost and timeframe for completing the entire terminal modernization program remains uncertain. Beyond 50 sites, FAA estimates STARS funding (assuming a full STARS solution) will peak at $270 million in 2008. This funding estimate is only a placeholder until FAA decides in 2005 how it will complete terminal modernization and how much it will cost overall.

WAAS, like STARS, has experienced considerable cost growth and schedule slips and was pursued under a cost-plus contract. FAA believes much of the developmental risk is behind WAAS but, unlike STARS, airspace users must equip with new avionics to obtain benefits. Now, the risks for WAAS focus on (1) effectively managing a contract for obtaining geostationary satellites (to broadcast the WAAS

signal), (2) how quickly airspace users will equip with WAAS avionics, and (3) developing and publishing procedures for pilots to use WAAS approaches to airports.

Since we testified before the subcommittee, we learned that FAA intends to pursue Category I performance for WAAS in the 2007 timeframe to take advantage of the Department of Defense's plan to modernize the GPS constellation (with a second civil frequency). This presents a number of issues that must be resolved. For example, there is a great deal of uncertainty about how quickly the Department of Defense will modernize GPS and what will happen with the Local Area Augmentation System (a precision landing system for Category I, II, and III that recently slipped back into development). Unresolved issues also focus on concerns about user equipage and procedure development. As a result, consideration should be given to withholding funds for the pursuit of Category I until these issues have been resolved.

In comparison to STARS, the ASR–11 program faces lower performance and cost risks. This is because the ASR–11 needs little additional development work to deploy to its remaining sites. However, the program does face cost risks in two areas. Because development was delayed, procurements have been pushed into the future. This has caused prior cost estimates to grow. Also, the contract, which is administered by the Department of Defense, will expire before FAA will finish procuring all of the needed sites. If the Department of Defense terminates the contract or does not extend the production timeframe, FAA will not have a contract in place to complete the program. In either case, new, and probably higher, costs will have to be negotiated with Raytheon.

At this time, it is difficult to compare the relative risks of STARS to the $2.1 billion ERAM effort because it is too early to determine if FAA can manage ERAM risks. In contrast to STARS, which has been underway for 8 years, ERAM is just getting started, and major design and development issues are not settled. FAA is less than 18 months into an ERAM program that will span over 7 years. FAA plans to rely on a phased approach to deliver hardware and software with reduced risk. Cost control will be essential because ERAM is being purchased through a cost-plus contract but the contract (currently worth $1.2 billion) is not fully definitized. We plan to issue a report on ERAM this year.

Question. Do you believe that FAA is prepared to address a potential retirement surge of air traffic controllers in 2007?

Answer. FAA is just beginning to address a likely surge in controller retirements over the next several years. In our opinion, there are three key issues the Agency needs to focus on in order to effectively address the expected increases in attrition. Those are:

—developing better attrition estimates by location;
—assessing newly hired controllers' abilities before they are placed at facilities; and
—determining ways to reduce the time and costs associated with controller on-the-job training while still achieving results.

FAA has agreed with the recommendations in our June 2004 report and is taking steps to address them; the key now will be follow-through. An important milestone is December 2004 when FAA plans to release a detailed human capital plan for addressing controller retirements as required under FAA's Reauthorization—Vision–100.

Question. The subcommittee remains concerned over the use of air traffic controllers acting as controllers-in-charge and the rising number of operational errors under their watch. Mr. Mead, you testified last year that there is a statistical correlation between operational errors and the controller-in-charge program.

What conclusions can you draw from the data a year later?

Answer. Since we testified in 2003, the number of operational errors that occurred while a controller-in-charge (CIC) was supervising an area has continued to increase. In fiscal year 2003, operational errors that occurred while a CIC was supervising an area increased 43 percent to 248 from about 174 in fiscal year 2002. Further, during the first 8 months of fiscal year 2004, preliminary data indicates that operational errors that occurred while a CIC was supervising an area increased slightly to 161 compared to 155 during the same period in fiscal year 2003. In our April 2003 report we recommended that FAA conduct detailed evaluations of those facilities that have significant increases in operational errors while CICs are on duty to determine the cause of the increases. FAA agreed with our recommendation and committed to conduct detailed reviews of operational errors to identify causal factors. This analysis will include monitoring the impact the expanded CIC program has on operational errors. FAA stated that if the CIC actions result in an operational error, steps will be taken to ensure that only qualified controllers are performing CIC duties. We will continue to monitor this important matter.

IS THE FAA'S OCEANIC PROGRAM IN TROUBLE?

Question. Mr. Mead, at the end of March, your office released a status report on your agency's ongoing review of the FAA's Advanced Technologies and Oceanic Procedures (ATOP) program. Your review uncovered serious software problems with ATOP and noted that the FAA may have shifted some of the risk of additional cost growth from the contractor to the government. This was one project where the FAA seemed to have had costs under control because they had a firm fixed contract.

Why in your view, did the FAA add $11 million to this contract if the government had the contractor under a firm fixed contract?

Answer. Facing growing risks that ATOP would not meet its June schedule for starting operations at Oakland Center, FAA decided to add $11 million to the fixed-price contract to meet ATOP's schedule. This allowed the contractor to focus additional resources to fix software development problems at the government's expense. The contractor had staff working on a later and more advanced software version of ATOP even though the first software version was experiencing problems. In essence, the modification allowed FAA to shift resources to help get the basic ATOP system to Oakland as planned.

Question. Mr. Mead, are you concerned that the FAA will continue to expose the government to higher costs in this program even though this project is under a firm fixed contract?

Answer. Although the increase of $11 million is modest when compared to increases we have seen with other programs, we are concerned FAA has shifted the risk of additional cost growth from the contractor to the government. The critical issue is what happens with ATOP between now and February 2005. This timeframe is important because the recent contract modification limits the contractor's responsibility for paying to fix software problems FAA finds in ATOP after February 28, 2005. According to FAA, after work on the initial version of ATOP software (required for Oakland) is completed, the Agency will test the more advanced version at its Atlantic City Technical Center by the end of this year. After February 2005, FAA must pay to fix software problems that are found. Given the change in the contract and the tight timeframe, it will be critical for FAA to identify all software problems before that date.

Question. Given the problems to date, how confident are you that this program will continue to stay on schedule and within budget?

Answer. FAA built additional time into the ATOP schedule to handle unanticipated problems, but most of this schedule reserve was consumed resolving problems discovered during factory acceptance testing (completed in July 2003), which took much longer than anticipated. FAA is fast approaching another key program milestone for ATOP that will determine if it will stay on track. If ATOP can successfully pass site acceptance tests at Oakland in June 2004, FAA's ability to stay within schedule and budget will be strengthened.

Question. Mr. Mead, do you have any concerns that the FAA might rush to deploy the Oakland system before the FAA workforce is fully prepared to operate and maintain the system?

Answer. While we do not believe that FAA will deploy an air traffic control system to Oakland that the workforce could not safely operate and maintain, we are concerned that the ATOP program has become schedule driven. As we saw with STARS, as the pressure builds to meet the scheduled milestone, FAA might defer needed work just to stay on schedule. For example, FAA said it would install the nationally deployable version of STARS at Philadelphia in November 2002, but the agency made a number of trade-offs to meet the schedule. FAA estimates now show that 2 more years and $59 million are needed to complete the development of a STARS system that can be deployed nationally. After FAA deploys ATOP to Oakland, and once the system is fully operational, the agency needs to communicate to the Congress and other key stakeholders any trade-offs or deferments made to maintain schedule.

AIRPORT REVENUE DIVERSION

Question. Mr. Mead, your office has put a spotlight on the issue of airport revenue diversion with your recent report on San Francisco International Airport and your current review of potential revenue diversion at Los Angeles International Airport. Your testimony suggests that the FAA is not exercising adequate oversight in this area.

How rampant is the problem of airport revenue diversion?

Answer. The problem of airport revenue diversion has been extensive. Between 1991 and 2000, our audits disclosed over $344 million in diverted revenue. The problem, however, has not subsided. Last year, we reported on revenue diversions at five

large airports, including one airport whose sponsor, a local government agency, diverted about $40 million to other projects not related to the airport. We also just completed an audit at San Francisco International last month which disclosed about $12 million in diverted revenue.

Our work shows that FAA's oversight of revenue diversions is limited. In the past, FAA has maintained that it did not have the resources to devote to this issue. We met with the Associate Administrator for Airports and members of her staff in May 2004 to discuss FAA's specific plans to increase the agency's oversight of revenue diversions. FAA is currently working on a plan that is designed to identify airports with the highest risk of diverting revenue. We recently provided the agency with our methodology for determining whether or not airport revenues have been diverted. We will continue to monitor this issue and work with FAA.

EXPLANATION FOR INCREASE IN OPERATIONAL ERRORS

Question. Mr. Mead, according to your testimony, in fiscal year 2003 the number of operational errors increased 12 percent.

To what extent do you believe this spike in operational errors is attributable to the vacant positions that the FAA has at many of its air traffic control facilities?

Answer. We have not performed work to determine if there is a correlation between air traffic control staffing and operational errors. However, it is important to note that although fairly accurate at the national level, FAA's staffing standards for each field location are not precise. The National Academy of Sciences reviewed FAA's staffing standards in 1997 and found that they cannot be used to provide highly accurate estimates of requirements for individual facilities. We have seen, however, indications that staffing workload can increase operational errors. Our analysis found that as air traffic operations decreased nationwide, operational errors decreased. Conversely, as operations increase nationwide, more opportunities existed for operational errors to occur.

Question. A small part of the pay raise that would be granted to air traffic controllers is dependent on a reduction in operational errors and yet operational errors have increased.

Mr. Mead, what are the reasons that you believe that operational errors have increased, and what is your assessment of FAA's efforts to reduce them?

Answer. As we noted in our April 2003 report there are a number of factors that contribute to the cause of operational errors and whether FAA is successful at reducing these incidents. Specifically, we found that (1) FAA needed to provide stronger national oversight of regions and facilities that were not making progress in reducing operational errors, (2) FAA procedures did not require training when controllers had multiple operational errors or for controllers who had errors that posed a moderate or high safety risk, and (3) FAA's expanded controller-in-charge program may have had a negative impact on operational errors. While FAA has made some progress in reducing these incidents during the first 8 months of fiscal year 2004, operational errors are still too high with three operational errors occurring each day and one severe error every 9 days.

In response to our report, FAA established a permanent national program manager for quality assurance responsible for the overseeing regional and facility efforts to reduce operational errors. Under FAA's new Air Traffic Organization structure, this manager (Director of Safety Evaluations) reports directly to FAA's Vice-President for Safety. This group plans to conduct 161 air traffic facility safety evaluations during fiscal year 2004, including no-notice reviews.

FAA also revised its training requirement so that controllers with multiple operational errors can be trained. However, FAA did not mandate that controllers who make operational errors that posed a moderate or high safety risk receive training. Finally, FAA agreed with our recommendation to monitor the impact of the CIC Program at the national level.

IS THERE ADEQUATE SECURITY AT THE AUBURN TRACON?

Question. In this age of heightened security, it has become even more important that we make sure that our air traffic control facilities have sufficient security measures in place. It was reported a few weeks ago that the TRACON facility in Auburn, Washington that is about to be completed will not be provided security guards even though the FAA built a guardhouse at the facility.

Mr. Mead, do you have any views on the overall security of the air traffic control facilities?

Answer. Security is important for all DOT personnel and equipment; this is especially true for critical facilities such as FAA air traffic control facilities. We are aware of reports that air traffic controllers moving into the new TRACON in Wash-

ington will not have armed security guards, because there will not be a sufficient number of employees at the facility to justify security guards based on FAA regulations. The new TRACON contains a guardhouse specifically built so two guards could monitor the 16 remote-controlled cameras and other security equipment. We plan to begin an audit this fall, which will assess FAA's Internal Security Program and whether FAA is ensuring adequate protection of FAA property, personnel, and operations against criminal and terrorist acts.

CONCLUSION OF HEARINGS

Senator SHELBY. I want to thank both of you on behalf of the subcommittee for the work you are putting in and we hope you are going to continue down that right road that you are going. Thank you.

The subcommittee is recessed.

[Whereupon, at 11:45 a.m., Thursday, April 22, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF TRANSPORTATION, TREASURY AND GENERAL GOVERNMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2005

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

MATERIAL SUBMITTED BY AGENCIES NOT APPEARING FOR FORMAL HEARINGS

[CLERK'S NOTE.—The following agencies of the Subcommittee on Departments of Transportation, Treasury and General Government, and Related Agencies did not appear before the subcommittee this year. Chairman Shelby requested these agencies to submit testimony in support of their fiscal year 2005 budget request. Those statements submitted by the chairman follow:]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

PREPARED STATEMENT OF ALBERT S. JACQUEZ, ADMINISTRATOR

The U.S. Saint Lawrence Seaway Development Corporation (SLSDC or Corporation), a wholly owned government corporation and an operating administration of the U.S. Department of Transportation (DOT), is responsible for the operations and maintenance of the U.S. portion of the St. Lawrence Seaway between Montreal and Lake Erie. This responsibility includes maintaining and operating the two U.S. Seaway locks located in Massena, NY, and vessel traffic control in areas of the St. Lawrence River and Lake Ontario. In addition, the SLSDC performs trade development functions designed to enhance Great Lakes St. Lawrence Seaway System utilization.

Since its opening in 1959, the binational St. Lawrence Seaway has been a vital transportation corridor for the international movement of bulk commodities such as steel, iron ore, grain, and coal, serving a North American region that makes up one quarter of the U.S. population and nearly half of the Canadian population. The binational waterway serves as a deep draft waterborne link between major U.S. and Canadian agricultural, manufacturing, and industrial cities, including Chicago, Detroit, Toronto, Cleveland, Duluth, Toledo, Milwaukee, Montreal, and Green Bay, and European, South American, and North African markets.

The SLSDC coordinates its activities with its Canadian counterpart, The St. Lawrence Seaway Management Corporation (SLSMC), particularly with respect to rules and regulations, overall day-to-day operations, traffic management, navigation aids, safety, environmental programs, security, operating dates, and trade development programs. The unique binational nature of the Seaway System requires 24-hour, year-round coordination between the two Seaway entities.

The SLSDC's principal performance goal is to provide a safe, secure, reliable, and efficient U.S. portion of the St. Lawrence Seaway to its commercial users. Since its opening in 1959, more than 2.3 billion metric tons of cargo has been transported through the combined sections of the St. Lawrence Seaway (Montreal-Lake Ontario and Welland Canal) with an estimated value of more than $400 billion.

The navigation season typically runs from late March to late December. During the 2003 navigation season, the availability of the U.S. sectors of the Seaway, including the two U.S. locks maintained and operated by the SLSDC, was 98.9 per-

cent; the annual goal is 99 percent. Weather and vessel incidents were the causes for all delays in 2003. Of the remaining factors that cause lockage shutdowns, the one that the SLSDC has the most control over is the proper functioning of lock equipment. During the 2003 navigation season, there were no system delays due to malfunctioning lock equipment.

FISCAL YEAR 2005 BUDGET ESTIMATE

The SLSDC's fiscal year 2005 budget request provides the agency with the funding necessary to provide a safe, secure, reliable, and efficient waterway system for the movement of commercial goods to and from the Great Lakes region of North America.

The SLSDC fiscal year 2005 proposed level of $16,800,000, includes an appropriation request from the Harbor Maintenance Trust Fund of $15,900,000 and an estimated non-appropriated $900,000 in non-Federal revenues. This proposed level will allow the agency to fund its 157 Full-Time Equivalent (FTE) staff and continue the day-to-day operational and maintenance programs for the U.S. portion of the St. Lawrence Seaway between Montreal and Lake Erie. These programs include managing vessel traffic control in areas of the St. Lawrence River and Lake Ontario, maintaining and operating the two U.S. Seaway locks, and continuing increased security-related activities that were initiated as a result of the terrorist-related events of September 11, 2001. In addition, the SLSDC performs trade development activities designed to enhance Great Lakes St. Lawrence Seaway System awareness and utilization.

The request also directly supports four of the five President's Management Agenda (PMA) initiatives (budget and performance integration, strategic management of human capital, financial performance improvement, and electronic government expansion; the SLSDC is exempt from competitive sourcing as a government corporation), the Department's strategic goals of Global Connectivity (efficient cargo movement) and Security (transportation system recovery), as well as the SLSDC's internal strategic goals. These agency goals include: safety, security, and the environment; reliability and availability; trade development; and management accountability. The request, separated by Departmental strategic goals and performance measures, includes $15,650,000 in appropriated funds directed at maritime navigation programs and personnel, and $250,000 towards the SLSDC's security and infrastructure protection activities.

The SLSDC's budget request also includes funding for the Seaway Automatic Identification System (AIS) and the agency's financial management system, both of which support the PMA. The AIS system, which serves as one of the agency's "Expanding E-Government" PMA initiatives, utilizes Global Positioning System (GPS) to allow the SLSDC to more efficiently manage vessel traffic control and vessel transits at the U.S. Seaway locks. Implemented at the start of the 2003 navigation season, the Seaway became the first inland waterway in the western hemisphere to implement an operational AIS vessel traffic services system.

The SLSDC's financial management system supports the President's "Improving Financial Management" initiative and includes nine subsystems that allow Corporation officials to track all financial-related information and meet all independent auditor reporting requirements. The SLSDC has received 40 consecutive unqualified or "clean" financial audits since its first audit in 1955, a major achievement under the PMA initiative of financial performance improvement. The AIS system and the financial management system represent $70,000 of the fiscal year 2005 budget estimate. This amount is consistent with the fiscal year 2004 request for operating and maintaining these two programs.

CONCRETE REPLACEMENT PROJECT

The fiscal year 2005 appropriation request is $1.627 million above the fiscal year 2004 enacted level and is principally attributable to the planned start of a $6 million concrete replacement project at the two U.S. Seaway locks ($1.5 million each year in fiscal years 2005–2008). The Eisenhower Lock has a history of concrete problems, caused by the use of natural cement in the mix composition during the construction of the lock. Due to the amount of concrete in need of replacement, the difficulties associated with accessing these areas of deteriorated concrete, and the need for in-house maintenance crews to focus on other essential non-concrete lock maintenance projects, it is more efficient and cost effective for outside contractors to complete this project. The SLSDC's Office of Engineering has researched other solutions to the concrete deterioration problem and found that there are no other substances as effective as concrete in protecting the structural integrity of the lock chambers.

The concrete replacement work to take place in fiscal years 2005–2008 includes areas identified by the U.S. Army Corps of Engineers (Corps) in its 1991 lock survey and evaluation of the two U.S. Seaway locks (Corps Technical Report ITL–91–4, November 1991). The report concluded, "It is important for the SLSDC to maintain an aggressive maintenance program of replacing deteriorated concrete. In the near future, attention should be given to the repair of deteriorated concrete near the bottom of the lock walls at Eisenhower Lock."

Since 1991, the SLSDC has made in-house repairs to the most critical areas identified by the Corps, but further deterioration and harsh winter conditions have caused additional damage to the lock walls at Eisenhower Lock and newly-identified problems at the Snell Lock have also been targeted for replacement. In addition to concrete deteriorating along the lower portions of the lock walls, freeze-thaw damage is significant in the lock walls at high and low pool levels at both locks. As it deteriorates, pieces of concrete become dislodged and fall into the lock chambers. This poses a risk to people on the decks of commercial vessels and pleasure boats.

Due to the amount of concrete in need of replacement, the difficulties associated with accessing these areas of deteriorated concrete, and the need for in-house maintenance crews to focus on other non-concrete lock maintenance projects, it is more efficient and cost effective for outside contractors to complete the project than in-house personnel.

Between 1959 and 2003, the SLSDC expended more than $25 million on concrete replacement at the two locks during the off-season winter months, with the majority of work taking place at the Eisenhower Lock. Most of the work over that time was completed with in-house labor. The last major concrete replacement projects that utilized contractors were completed in fiscal years 1986 and 1987, at a total cost of $4.3 million. The Seaway is a single-lock system, consisting of 15 individual U.S. and Canadian locks; a delay/shutdown to any one of the locks would cause a delay/shutdown of the entire waterway. Although the SLSDC has never experienced a major lock failure, the Canadian Seaway agency suffered a lock failure at the Welland Canal in 1985, which trapped 53 vessels above the Canal for 24 days at a cost to the carriers of $24 million.

ENHANCED SEAWAY INSPECTION PROGRAM

The SLSDC and the U.S. Coast Guard (USCG), in conjunction with Transport Canada and the SLSMC, signed a Memorandum of Understanding in March 1997 to develop a program of coordinated vessel inspection and enforcement activities to expedite the safe transit of shipping through the Great Lakes Seaway System. The principal goal of the Enhanced Seaway Inspection (ESI) program is to inspect all ocean vessels for safety and environmental protection in Montreal, Quebec, before they enter U.S. waters. Starting in 2002, security-related risk assessment inspections have been conducted concurrent with the ESI, further improving transit times for Seaway users. In 2003, the SLSDC continued this program and met its internal performance goal of inspecting 100 percent of all ocean vessels in Montreal (208 total inspections).

The ballast water exchange program continues to be an important function of the ship inspection program. These inspections are carried out concurrently with the ESIs, by Corporation personnel in Montreal. In 2003, 56 ballast water examinations were conducted in Montreal on ocean vessels transiting the Seaway. The SLSDC performed 31 ballast water examinations for subsequent trip vessels and eight follow-up examinations in Massena.

Prior to the inception of the ESI program, foreign flag vessels experienced numerous delays at the U.S. locks to accommodate USCG-required safety-related inspections, as well as ballast water management activities. Inspection in Montreal eliminates duplicative inspections, allows for a seamless and efficient transit of the Seaway, and provides a better location for repair resources, if required. This improved inspection regime has saved each vessel, on average, 4 hours per transit and ensured that any safety or environmental issues are addressed prior to entering U.S. waters. As a result, ocean carriers using the Seaway saved more than $500,000 in operating costs during the 2003 season. Seaway customers have responded favorably to the ESI program through annual customer surveys.

CRITICAL INFRASTRUCTURE AND NAVIGATION SECURITY MEASURES

The SLSDC has been proactive in implementing increased security measures following the events of September 11, 2001. Within days of the terrorist attacks, risk assessment inspections of all foreign flagged vessels were conducted in Montreal, prior to their entry into U.S. waters. This protocol was developed with the full cooperation of the Canadian SLSMC, as well as U.S. and Canadian law enforcement

and Coast Guard personnel. The protocol was further refined in March 2002 when the risk assessment inspection was combined with the existing Enhanced Seaway Inspection (ESI) program. By combining the two inspections into a single process, foreign-flag vessels are not unnecessarily delayed for security screenings, unless the initial risk assessment compels an additional examination. During the 2003 navigation season, SLSDC inspectors completed 216 risk assessment inspections in Montreal.

Security procedures, both maritime and internal, were developed to ensure that security was enhanced while minimizing any impacts on the efficiency of Seaway operations. In late 2001, SLSDC inspection personnel logged substantially more staff hours in carrying out the risk assessment protocol than normally projected. However, when the protocol was refined in 2002 and merged with the existing ESI program, this impact was ameliorated.

Another major security milestone for the SLSDC was the expansion of the U.S. and Canadian Seaway mandatory Notice of Arrival requirement for all foreign commercial vessels. With the start of the 2002 navigation season, all foreign ships entering the St. Lawrence Seaway are required to give 96-hour advance notification of arrival in Montreal, Quebec. Ships failing to give complete notice are prohibited from entering the Seaway.

The notification requirement on the St. Lawrence Seaway is unique because it mandates 96 hours notice prior to arrival in Montreal, as opposed to all other U.S. waterways which require the notice prior to reaching the first U.S. port of call. This modified requirement was needed due to the geography of the key U.S. ports on the Great Lakes Seaway System, which are several hundred miles into U.S. waters and, in many cases, require transit of all 15 Seaway locks before reaching the port. The Seaway's 96-hour notification requirement provides SLSDC officials, as well as law enforcement and intelligence agencies, even more advance notice (approximately 10 additional hours) to review vessel crew lists and manifests before the vessel enters U.S. waters. The SLSDC immediately sends the pre-entry information it receives to the USCG, which in turn submits the information to its National Vessel Movement Center for screening through various law enforcement databases.

Other U.S. and Canadian agencies involved in the development of both the risk assessment inspection program and 96-hour notification requirement included Transport Canada, Citizenship and Immigration Canada, Canadian Navy, Royal Canadian Mounted Police, U.S. Customs, U.S. Immigration and Naturalization Service, and the U.S. Consul General's Office in Montreal.

In February 2002, the SLSDC contracted for services to assess the physical security for SLSDC infrastructure and workplace assets in Massena. This assessment was intended to supplement and enhance an initial security assessment that was conducted immediately following September 11. The assessment focused on the two U.S. Seaway locks, the Eisenhower Lock Visitors' Center, and the SLSDC's marine base/maintenance facility. In addition, another contractor conducted a detailed blast analysis of the highway tunnel under the Eisenhower Lock. Based on the contractor's recommendations, the SLSDC has made and continues to make several security enhancements and improvements to the lock infrastructure and other workplace assets. It is estimated that the SLSDC will expend more than $2.2 million in other-than-personnel security enhancements and improvements during fiscal years 2002 through 2005.

Significant security-related enhancements and improvements made to date include:

—Installation of approximately 4,400 feet of additional 8-foot-high, chain-link fencing and various slide and swing gates. Gate controllers will not be installed until the fiber optic system is installed.

—Purchase of a Nasatka portable vehicle barrier to shut down or control access, as needed, to our facilities, particularly the Eisenhower Lock highway tunnel. This vehicle barrier has been deployed during elevated threat level conditions.

—Construction of approximately 61 concrete "jersey barriers" topped with a 4-foot-high section of chain-link fence to keep vehicles and pedestrians in the Visitors' Center parking lot from approaching too close to the lock structure. These barriers, built at a considerable cost savings with in-house labor, will also be used in conjunction with the Nasatka portable vehicle barrier to shut down or control vehicular traffic.

—Completion of several improvements at the Eisenhower Lock Visitors' Center, including (a) fencing of both ends and the lock side of the lower and upper observation decks, (b) closure of some ground level observation area to visitors, (c) movement of visitor parking areas further away from the lock chamber, and (d) setup of a security checkpoint at the Center entrance with a security guard on duty during operating hours.

In fiscal year 2003, the SLSDC contracted with the firm of Edwards and Kelsey to conduct an engineering plan for the implementation of other security-related enhancements recommended in the previous assessments. At the end of fiscal year 2003, the SLSDC finalized plans to install a fiber optic network necessary for the electronic-based security enhancements. In fiscal year 2004, the fiber network will be installed and the purchase and installation of video cameras and smart card/EZ pass systems for access to gates and buildings will be finalized. The SLSDC will contract with an "8-a, small business" firm for the installation of the security enhancements. In fiscal year 2005, the SLSDC will continue to aggressively pursue the objectives of its security program, which includes greater protection of SLSDC facilities, new and improved measures for employee and visitor entry into facilities, and planned contingencies for facilities/infrastructure in the event of a heightened security alert.

The SLSDC fully participated in the U.S. Department of Transportation's role in the TOPOFF 2 weapons of mass destruction response exercise mandated by the U.S. Congress and conducted in May 2003. The agency is currently participating in several preparatory exercises that will culminate in "Exercise Forward Challenge '04"—the government-wide continuity of operations exercise that is scheduled for May 12–13, 2004.

In addition, the SLSDC will continue to work cooperatively with security and intelligence officials at both the Departments of Transportation and Homeland Security to ensure that the St. Lawrence Seaway, and its navigation assets, is protected to the maximum extent possible. This relationship was highlighted by the General Accounting Office's Top Fiscal Year 2004 Management Challenges for the Department of Transportation (Establishing and Managing an Ongoing DOT/Department of Homeland Security (DHS) Programmatic Relationship).

The SLSDC has worked closely with DHS and the Transportation Security Administration (TSA) since their inception. In February 2002, the Corporation contacted officials in the TSA Explosives Unit to request its consultation on security concerns regarding the Eisenhower Lock highway tunnel. Additionally, SLSDC security and emergency staff have also conducted a series of informational meetings with TSA officials from its Office of Maritime and Land Security to educate them on those same issues. To date, SLSDC/TSA interactions have proven to be informative, constructive, and useful.

TRADE DEVELOPMENT INITIATIVES

Since 1985, the SLSDC has performed trade development and promotional activities geared at generating trade to and from North America via the Great Lakes Seaway System. Program-wide activities include hosting overseas trade missions that promote the entire Seaway System at maritime and trade-related exhibitions, developing commodity-specific marketing plans, and working directly with ports, carriers, terminal operators, labor, and importers/exporters in the development of promotional materials and initiatives. Overseas trade missions, which include U.S. and Canadian maritime, government, industry, and labor delegates, have led to the development of new international cargo movements into the System. Since 1985, the SLSDC has sponsored 26 trade missions to 56 cities in 37 countries. In October 2003, the SLSDC led a 23-member delegation of U.S. and Canadian Great Lakes executives to Belgium and The Netherlands, two of the Seaway's largest trading partners.

In addition to overseas trade missions, the SLSDC is working with various Great Lakes Seaway System port authorities, the Great Lakes Cruising Coalition, the Great Lakes Waterways Management Forum, State and local governments, and tourism associations, to attract cruise vessels into the Great Lakes. Also, the SLSDC is working on joint trade development initiatives with the Canadian SLSMC to maximize the use of waterborne transportation as North American highways become more congested, including the examination of the Seaway System for short sea shipping movements and niche container trade as well as exploring partnerships with other inter-modal connections in an effort to generate new business for the Seaway System.

In an effort to provide its global customers with a single portal for news and information related to the Great Lakes Seaway System commercial navigation, the SLSMC and SLSDC developed and launched a binational Internet web site (www.greatlakes-seaway.com) in 2001 that has been extremely well received domestically and internationally from the maritime and trade communities. In 2003, average monthly site page hits grew from 70,000 in 2002 to more than 120,000 hits. The site recorded an all-time high in December 2003 with 153,000 page hits, and re-

ceived more than 1.4 million hits for the year from viewers in more than 110 countries.

U.S. ARMY CORPS OF ENGINEERS' GREAT LAKES ST. LAWRENCE SEAWAY STUDY

The Water Resources Development Act of 1999 directed the Corps, in consultation with DOT (through the SLSDC), to undertake the Great Lakes St. Lawrence Seaway Study (Study) to examine improvements to the commercial navigation infrastructure of the Great Lakes St. Lawrence Seaway System. Since January 2001, the Corps has partnered closely with DOT/SLSDC to carry out the Study's reconnaissance phase.

The Corps completed a 2-year reconnaissance study in February 2003 and concluded that more analysis was needed to determine if a Federal interest exists to improve the commercial navigation infrastructure on the Great Lakes and Seaway. The current scope of the Study is to establish a 50-year baseline for the current infrastructure to analyze the engineering, economic, and environmental consequences of maintaining, and not maintaining that infrastructure at its current level of reliability. The Study is primarily a commercial navigation study, but as evidenced by the composition of the Steering Committee, it will include environmental considerations.

On May 1, 2003, the U.S. Department of Transportation and Transport Canada signed a Memorandum of Cooperation that established the intent of each agency to work together to ensure the future viability of the Great Lakes Seaway System as a commercial navigation waterway. Memorializing this intent in the MOC document cleared the way for Canada to work together with the Corps and DOT on the Study.

Currently, all projects related to the revised scope of the Study are underway (engineering, economics, and environmental), along with meetings of the Study Steering Committee. The Steering Committee is made up of the senior level officials from Corps, DOT, Transport Canada, SLSDC, Canadian SLSMC, as well as representatives from the U.S. Fish and Wildlife Service and Environment Canada.

SEAWAY AIS/GPS PROJECT

Since 1992, the SLSDC has worked with the U.S. Department of Transportation's Volpe National Transportation System Center and Canadian partners to design and implement state-of-the-art AIS/GPS navigation technology.

On March 31, 2003, with the start of the navigation season, the U.S. and Canadian Seaway agencies began enforcing mandatory AIS use on commercial vessels entering the waterway in North America to employ this technology as a requirement for transit. The AIS/GPS project represents a major step forward in marine navigation technology. In fact, the Seaway is currently the world leader in developing shore-side applications for AIS/GPS.

AIS technology uses data from ship-to-ship, ship-to-shore, and shore-to-ship, thereby enabling a constant two-way communication between mariners and the three Seaway vessel traffic control centers. Originally developed primarily for safety reasons, AIS has become increasingly of interest to maritime security officials in the post-9/11 environment as it offers the ability for them to track any vessel carrying a transponder with great precision.

In the near future, permanent installation of AIS equipment will be required onboard commercial vessels in the entire Great Lakes St. Lawrence Seaway System from the Lakehead in Duluth, MN, to traffic entering the Gulf of St. Lawrence on the Atlantic. Adoption of the technology, which has been approved by the International Maritime Organization, was embraced early on by the Canadian Shipowners Association and the Shipping Federation of Canada, both of which provided technical and financial assistance. The Department's Volpe National Transportation Systems Center served as technical contractor for development of the AIS project, which began almost a decade ago. AIS will soon be required internationally on commercial vessels and will be mandatory throughout the Great Lakes Seaway System by December 2004.

2003 NAVIGATION SEASON OVERVIEW

The estimated tonnage for the combined sections of the St. Lawrence Seaway in 2003 was 40.9 million metric tons. This was 500,000 metric tons or 1 percent below the 2002 total (a decrease of 1 percent). The decrease can be attributed, in large part, to higher global freight rates, weaker U.S. dollar valuation, the continuation of grain export reductions (7 percent decrease) due to lower European grain imports, and significant reductions to general cargoes, including iron and steel products (38 percent reduction). The reduction of import steel also had a secondary effect on export grain. It is estimated that approximately 20–30 percent of ocean-going vessels

exporting grain from the Great Lakes Seaway System enter the waterway carrying steel. The final weeks of the navigation season did result in high levels of grain movements on Canadian lakers as the Canadian Wheat Board began moving more grain exports via the St. Lawrence Seaway. In addition to cargo movements, estimated total commercial transits through the St. Lawrence Seaway were on par with 2002 levels at 3,886 transits.

Several commodities posted increases in 2003: iron ore (up 10.5 percent to 10.7 metric tons); coal (up 33 percent to 4.1 million metric tons); petroleum products (up 2 percent to 1.8 million metric tons); salt (up 17 percent to 2.3 million metric tons); stone (up 8 percent to 800,000 metric tons); potash (up 48 percent to 144,000 metric tons); ores and concentrates (up 68 percent to 357,000 metric tons); and gypsum (up 25 percent to 652,000 metric tons).

CONCLUSION

The SLSDC's fiscal year 2005 budget request reflects the agency's ongoing commitment of providing a safe, secure, reliable, and efficient waterway and lock transportation system for the movement of commercial goods to and from the Great Lakes region of North America. Maritime commerce on the Great Lakes Seaway System is vitally important to the Great Lakes regional economy, annually supports more than 150,000 U.S. jobs, $4.3 billion in personal income, $3.4 billion in transportation-related business revenue, and $1.3 billion in Federal, State, and local taxes.

Since 1959, the SLSDC has played a significant role in not only the operations and maintenance of the U.S. Seaway assets, but also in the promotion and development of new business for the waterway in concert with its North American stakeholders. As the St. Lawrence Seaway nears its 50th year of operation, the SLSDC remains committed to working with its customers and stakeholders to ensure the waterway's reliability and competitiveness for its next 50 years.

MERIT SYSTEMS PROTECTION BOARD

PREPARED STATEMENT OF NEIL ANTHONY GORDON MCPHIE, ACTING CHAIRMAN

Chairman Shelby, Ranking Member Murray and members of the subcommittee, thank you for the opportunity to submit this statement for the record on the fiscal year 2005 appropriations request for the U.S. Merit Systems Protection Board (MSPB or "the Board"). This year is particularly significant for the Board, as 2004 marks the agency's Silver Anniversary. Over the course of the Board's 25-year history, its Chairmen, Board members and staff have held steadfast and true to the agency's mission: to serve as guardian of Federal merit systems. In those 25 years, the Board has issued decisions in over 239,000 cases. The Board has issued over 80 reports of studies of the Federal merit systems and the degree to which employees are managed free from prohibited personnel practices. In addition, the Board has conducted outreach activities on its findings on appeals and studies to promote the improved application of merit principles. I am pleased to take this opportunity to explain to the subcommittee the basis for the President's appropriations request on behalf of the Board and its importance in enabling the Board to continue to fulfill its statutory missions during fiscal year 2005.

OVERVIEW OF THE REQUEST

The President is requesting $35,303,000 in appropriated funds to support the operations of the Merit Systems Protection Board. This request represents a $1,800,000 increase over the fiscal year 2004 appropriations request. This increase covers the $1,501,000 in additional expenses resulting from the January 2004 and 2005 pay raises that were included in the President's budget. However, because Congress approved a higher pay raise for fiscal year 2004 than the President recommended, MSPB needs an additional $375,000 to cover the difference between the President's recommended raise and the amount that was ultimately approved by Congress. This request also covers the increase in commercial rent charges for fiscal year 2004 ($183,000), the $78,000 necessary to provide for inflationary costs increases in other non-personnel costs and the $38,000 necessary to cover the cost of Workers Compensation Programs in fiscal year 2005.

At the request of the Office of Management and Budget (OMB), the Merit Systems Protection Board is not requesting that funds be transferred from the Civil Service Retirement and Disability Trust Fund for fiscal year 2005. Instead, at OMB's request, the funding previously supplied from the Trust Fund for adjudication of Civil

Service Retirement appeals is being requested as part of the regular appropriation total of $37,303,000.

FISCAL YEAR 2003 AND FISCAL YEAR 2004 ACCOMPLISHMENTS WITH FISCAL YEAR 2005 OUTLOOK (BY BUDGET ACTIVITY)

ADJUDICATION

The bulk of the Board's resources are dedicated to processing our appellate workload; 192 FTE—or 84 percent of the 228 FTE estimated for fiscal year 2004 and fiscal year 2005—will be used for adjudication. During the last several years, we have maintained an average processing time of approximately 3 months for appeals and other cases processed in our regional and field offices. However, the average case processing time at headquarters increased slightly because the Board functioned with only one member for approximately 6 weeks in fiscal year 2003.

We estimate that in each of the next 2 years the administrative judges will process approximately 7,300 appeals and other cases in our regional and field offices, and the Board members will adjudicate approximately 1,300 cases at headquarters. In fiscal year 2003, the Board decided 8,416 cases: 7,227 in the regional and field offices and 1,189 in the headquarters office. The average processing times were 94 days in the regional and field offices and 295 days for headquarters. Of the Board's final decisions that were appealed to the U.S. Court of Appeals for the Federal Circuit, the Court left 94 percent of the Board's decisions unchanged.

This case workload is determined by factors beyond our control, as it results from the number of appealable actions taken by Federal agencies, the number of employees who decide to challenge those actions, and from legislative changes that affect our jurisdiction. Two such changes are enactment of the Homeland Security Act of 2002 and the National Defense Reauthorization Act of 2004. Under these statutes, the Department of Homeland Security (DHS) and the Department of Defense (DOD), respectively, were granted authority to establish their own appeals process.

The Department of Homeland Security has decided to retain MSPB appeal rights for its employees at the regional and headquarters levels. DHS issued proposed regulations establishing an expedited appeals processing system which requires the Board to process employee appeals using shorter timeframes at the headquarters level. As required by statute, DHS officials consulted with MSPB prior to issuing those regulations.

These expedited procedures might well require an increase in our adjudication staff in the headquarters office. Further, while DOD employees' MSPB appeals rights are currently limited by statute to the petition for review (PFR) level, it is still possible that DOD will also decide to provide first-level MSPB appeals rights for its civilian employees by regulation. If DOD does not provide first-level MSPB appeal rights for its employees, we expect the number of PFR's to increase, as this avenue of appeal will present DOD employees with their first opportunity for an independent review of the agency's employment action. This increase in PFR's will likely require additional Board staff to review the PFR's at MSPB headquarters.

Notwithstanding the new DHS appeals procedures or the changes to DOD's appeals procedures, the Board will still hear DOD and DHS appeals under the Whistleblower Protection Act, the Uniformed Services Employment and Reemployment Rights Act, and the Veterans Employment Opportunities Act. Thus, the Board is seeking the level of funding reflected in its fiscal year 2005 budget request because we do not anticipate a decrease in the Board's caseload or staffing needs.

It is important to note that even a small increase in workload per administrative judge could cause a significant increase in processing times. MSPB needs the requested funds in order to maintain the adjudication staff and to continue technological improvements that will facilitate case processing and avoid escalation of costs to the government as a whole.

Achievement of the Board's performance goals related to the adjudication of cases at headquarters depends on having a quorum of Board members. When the Board has a full complement of three members, cases at headquarters are closed by a unanimous vote or a majority vote of the Board. When the Board has only two members, there is a quorum, but no majority is possible unless both members agree. If the two members cannot agree, the Board's regulations permit the issuance of a "split-vote" order, which makes the initial decision under review final but not precedential. When the Board has only one member, as it did for almost 2 months during fiscal year 2003, no decisions can be issued.

I am serving under the recess appointment I received from the President in April 2003. On December 10, 2003, the President designated me as Vice Chairman of the Board. Because the position of Board Chairman was vacant, I became the Board's Acting Chairman pursuant to the Board's operating statute, 5 U.S.C. § 1203(b). Un-

less confirmed, my appointment to the Board will end when Congress adjourns sine die at the end of the 108th Congress. The term of the current Board member, Susanne T. Marshall, ended on March 1, 2004. However, Ms. Marshall has exercised her option to continue to serve in this position for up to 1 additional year if no successor is named. While the President has recently submitted a nominee to the Senate for confirmation to fill the one remaining vacancy on the Board, this position has been vacant since December 2001. The Board has not had its full complement of three members since then.

During fiscal 2003 MSPB implemented an electronic appeals process (e-Appeal) that allows appellants to file an initial appeal using the Internet.

The Board's new alternative dispute resolution pilot program, called the Mediation Appeals Program (MAP), became fully functional in fiscal year 2003 with the completion of mediation training by 15 Board employees. As part of the training, these employees completed three to five co-mediations with dispute resolution experts. Fifty percent of the completed co-mediations resulted in settlements of pending appeals.

MERIT SYSTEMS STUDIES AND OVERSIGHT

The MSPB has the statutory responsibility to conduct studies of the civil service and other merit systems in the Executive Branch. Our goal is to support strong and viable merit systems that ensure the public's interest in a high quality, professional workforce managed under the merit principles and free from prohibited personnel practices. In fiscal year 2005, the MSPB will increase its program of in-depth, timely analysis of major merit and human capital management issues. In fiscal year 2005 we expect to issue at least six reports and a quarterly newsletter, "Issues of Merit." This function will use approximately 13 FTE, or about 4 percent of the approximately 228 FTE the Board is projected to use in fiscal year 2005.

The Board makes reports of our studies available to a wide audience, including the President, members of Congress, Federal policy officials, managers, employee groups, academicians and others with an interest in the merit systems and Federal human resources management. Reports address policy issues as well as issues that affect the operation and practice of merit in the workplace. In fiscal year 2005, we will continue our efforts to work with organizations such as the Federal Executive Boards, the Senior Executive Association, and the Federal Managers' Association.

The President's Management Agenda item on Human Capital Management and GAO's rating of human capital management as high risk influence our report topics. Alternative systems, such as those authorized by the Homeland Security Act of 2002 and the National Defense Reauthorization Act of 2004, are covering larger and larger portions of the workforce. Our charter to examine the policies and implementation of traditional and alternative personnel systems and their impact on merit principles and prohibited personnel practices is more important than ever.

We are working closely with other research groups from the General Accounting Office, the Office of Personnel Management, the National Academy of Public Administration, and the Partnership for Public Service to include a sharing of research agendas and an expansion of peer reviews of our respective work products. These other groups have either a constituency group funding them or are direct agents of the administration. Accordingly, their clients' interests shape the views they express on an issue. MSPB is distinct in its statutory mission to provide an independent, unbiased perspective. Our clients are the American people and our responsibility to them is to protect the public's interest in a viable, merit-based system.

In fiscal year 2003, the MSPB released three major studies and three editions of the newsletter. The major studies were, The Federal Selection Interview: Unrealized Potential, which makes recommendations to improve this important part of the selection process, Help Wanted: A Review of the Federal Vacancy Announcements, which makes recommendations to make vacancy announcements more useful in the recruitment process, and The Federal Workforce for the 21st Century: Results of the Merit Principles Survey 2000, which addresses employees' concerns before September 11, 2001. We are also planning our largest Merit Principle Survey ever using electronic web-based methodology. This electronic survey capability will be a centerpiece of our research agenda.

MANAGEMENT SUPPORT

The management support function, which uses approximately 26 FTE, or 11 percent of the 228 estimate in fiscal year 2004 and fiscal year 2005, provides the necessary management support for information resources management, human resources management, budget, finance, procurement, equal employment opportunity, travel, space and property management. The management support function, which

uses approximately 26 FTE, or 11 percent of the 228 estimate in fiscal year 2004 and fiscal year 2005, provides the necessary management support for information resources management, budget, finance, procurement, equal employment opportunity, travel, space, and property management.

Fiscal year 2003 was the first year that we were required to have a financial audit pursuant to the Accountability of Tax Dollars Act of 2002. We received a clean audit opinion. An additional important administrative accomplishment was the development and implementation of the Continuity of Operations Plan.

The Board determined that a restructuring of its regional and field office configuration was necessary in order to consolidate resources and to allow for the most efficient management of case processing. After evaluating workload shifts, costs, economies of scale, changes in the Federal workforce, and the flexibility needed to adjust to civil service reform, Board management determined that it was necessary to close two of these offices to enable the Board to further its mission more efficiently and effectively.

Effective March 31, 2004, the Board closed its field offices in Seattle, Washington and Boston, Massachusetts. This action affected a total of 12 employees in these two offices (four in the Boston office and eight in the Seattle office). The Board received authority to grant voluntary early retirement and voluntary separation incentive payments to affected employees. The Board will continue to operate five regional offices (Philadelphia, Washington, Atlanta, Chicago, and San Francisco) and three field offices (New York, Dallas and Denver).

The restructuring was accomplished without a reduction in force. Every employee in the affected offices was offered a reassignment to an equivalent position within the Board. These reassignments were made without loss of pay or grade for the affected employees. Additionally, the Board will pay all required and most optional relocation expenses for employees who are reassigned. Eligible employees who declined the reassignment were offered the option of taking voluntary early retirement or the voluntary separation incentive payments. Under these arrangements, only five employees are separating from the Board; three are retiring and receiving voluntary separation incentive payments, one employee transferred to another Federal agency and one employee is serving in a temporary assignment, while seeking other employment.

We believe that the restructuring will have a neutral budgetary impact. The annual rent on the Seattle field office is approximately $150,000 and the rent on the Boston field office is approximately $100,000 annually. As of April 1, 2004, the Board will cease to pay rent on the Seattle office. We are tied to a lease agreement that will obligate the Board to pay some amount for the Boston property through the end of the lease term, which is February 14, 2005. However, we are currently negotiating with the management company in an effort to pay a lesser amount from April 1, 2004, through the end of the lease period. We anticipate that any savings in rent expenses will be offset by an increase in expenses associated with the additional staff needed to meet the challenges presented by the new Department of Homeland Security and Department of Defense appeals systems.

In fiscal year 2004, the Board implemented a new case management system. This system replaces a 13-year-old case management system, whose major components had long become obsolete. Two of the features of this new system that will improve the overall efficiency of the adjudicatory process include: (1) interfaces between the Board's Case Management System, Document Management System, and Document Assembly System to reduce duplicative data entry and to automate the use of data from CMS to produce standard case documents; and (2) use of off-the-shelf software as the basis of the system, which will allow more frequent upgrading of other software.

Additionally, in fiscal year 2004, the Board expects to replace all of the agency's personal computers (PC's) in accordance with our policy of replacing PC's every 4 years. As part of that upgrade, we will update word processing and other desktop software, and we will investigate the feasibility of installing a wireless network within our building.

Finally, the Board's information resource management office will continue to enhance information technology security for the Board's IT systems. These enhancements will follow up on the recommendations of the independent auditor which were included in the agency's fiscal year 2003 Federal Information Security Management Act report.

In fiscal year 2005, we will implement a pilot program to evaluate the cost and feasibility of scanning case documents received from the parties. This is another phase of the e-Filing initiative which would permit documents that we do not produce or receive in electronic form through e-Appeal to be made part of the electronic case file nonetheless.

CONCLUSION

I am honored to serve as Acting Chairman of the Merit Systems Protection Board. The Board and its staff continue to work diligently to maintain the reputation for efficiency, effectiveness and fairness it has earned over its 25-year history. I have enjoyed serving the Board as a member and now as Acting Chairman. I welcome the opportunity to lead the organization as it builds upon its legacy of excellence for service in the public interest.

U.S. ACCESS BOARD

PREPARED STATEMENT OF LAWRENCE W. ROFFEE, EXECUTIVE DIRECTOR

INTRODUCTION

The Access Board is requesting a total budget authority of $5,686,000 for fiscal year 2005. The proposed budget is a 5.3 percent increase over the amount appropriated for fiscal year 2004. The Board is not planning new costly initiatives in fiscal year 2005 but will continue with the programs started in fiscal year 2004, and has followed the directives issued by the Office of Management and Budget for the preparation of the fiscal year 2005 budget.

GOVERNMENT PERFORMANCE AND RESULTS ACT ANNUAL PERFORMANCE PLAN

Following the Government Performance and Results Act (GPRA), the Board has established long-range goals and annual objectives that describe the strategies it will implement to achieve the long-range goals. The objectives are described in terms that permit future assessment regarding whether the objectives were achieved. To satisfy the requirements for an annual performance plan and review, this budget justification presents information under each of the Board's program areas regarding the long-range goals, reports on the results of the fiscal year 2003 activities, reviews the planned fiscal year 2004 activities, and presents the fiscal year 2005 objectives.

The Board was established by section 502 of the Rehabilitation Act and is the only Federal agency whose primary mission is accessibility for people with disabilities. The Board is responsible for developing guidelines under the Americans with Disabilities Act, the Architectural Barriers Act, and the Telecommunications Act for ensuring that buildings and facilities, transportation vehicles, and telecommunications equipment covered by these laws are readily accessible to and usable by people with disabilities. The Board is also responsible for developing standards under section 508 of the Rehabilitation Act for accessible electronic and information technology used by Federal agencies, and for providing training under the Assistive Technology Act to Federal and State employees on obligations related to section 508 of the Rehabilitation Act.

In 2002, the Board was given new responsibilities under the Help America Vote Act to serve on the Board of Advisors and the Technical Guidelines Development Committee that will assist the new Election Assistance Commission in developing voluntary guidelines and guidance for voting systems, including accessibility for people with disabilities.

The Board also enforces the Architectural Barriers Act and provides training and technical assistance on each of its guidelines and standards, and on a variety of other accessibility issues. Additionally, the Board maintains a small research program that develops technical assistance materials and provides information needed for rulemaking.

The Board has adopted this mission statement to guide its programs: The Board is the catalyst for achieving an accessible America. The statement recognizes that achieving an accessible America requires bringing together public and private sectors. The Board has established three long-range goals for its programs:

—Take a leadership role in the development of codes and standards for accessibility;
—Work in partnership with agencies and others to make the Federal Government a model of compliance with accessibility standards; and
—Be known as the leading source of information about accessibility and disseminate that information to customers in effective ways.

In developing objectives and strategies for achieving the long-range goals, the Board seeks to work together with its stakeholders toward common objectives. The Board's plan is simple: work with its stakeholders to establish consensus-based guidelines and standards that are fair, reasonable, and acceptable to all interests;

where the Board has enforcement responsibilities over Federal agencies, assist those agencies to achieve full compliance; and involve its stakeholders in developing and disseminating materials and manuals that will help them understand and comply with our guidelines and standards.

The Board's programs will result in accessible buildings and facilities, transportation vehicles, telecommunications equipment, and electronic and information technology across our country and, ultimately, the full economic and social integration of people with disabilities into our society. Achieving these results will depend not only on the Board's activities, but also on the level of commitment and action taken by other Federal agencies, State and local governments, and businesses who are required to comply with or enforce the various laws that guarantee the civil rights of people with disabilities.

ACCESSIBILITY GUIDELINES AND STANDARDS

The Board will continue to develop and update accessibility guidelines and standards and to work cooperatively with organizations which develop codes and standards affecting accessibility through fiscal year 2005 and beyond. The status of current guidelines and standards efforts is presented below.

ADA and ABA Accessibility Guidelines

This rule will revise the accessibility guidelines for the Americans with Disabilities Act (ADA) and the Architectural Barriers Act (ABA), and include new guidelines for accessible housing covered by both of these laws. Through this rulemaking, the Board will ensure consistency and coordination in the development of guidelines applicable to the public and private sector, as well as the Federal Government. A notice of proposed rulemaking (NPRM) was published for public comment in November 1999. The NPRM consisted of separate scoping parts for each law. The ADA scoping part was based on the recommendations of the Board's ADAAG Review Advisory Committee and covers private facilities, such as places of public accommodation and commercial facilities, and State and local government facilities. The ABA scoping part applies to Federally financed facilities and is based on the ADA scoping part, with a few changes due to differences in the coverage of the two laws. For example, the ABA scoping part covers facilities leased by Federal agencies. The NPRM contained a single set of updated technical requirements based on the recommendations of the ADAAG Review Advisory Committee. Both the ADA and ABA scoping parts reference these common technical requirements. The comment period for the proposed rule closed in May 2000 and over 2,500 comments were received. The Board held two public hearings on the proposed rule. The Board also held informational meetings in Washington, DC in October 2000 to hear from industry associations and disability groups on issues regarding automated teller machines, reach ranges, and captioning equipment for movie theaters. The Board required further information on these issues before deciding how to address them in the final rule.

In April 2002, the Board placed in the docket for public review a draft of the final guidelines to promote harmonization of the Board's guidelines with the International Code Council (ICC)/American National Standards Institute (ANSI) A117.1 Standard on Accessible and Usable Buildings and Facilities and the International Building Code. The ICC/ANSI A117 Committee and the ICC were in the process of revising the private sector codes and standards. This provided another opportunity to harmonize the Board's guidelines with those of the private sector. The Board's final rule will be published in fiscal year 2004.

Outdoor Developed Areas

The Board's Outdoor Developed Areas Regulatory Negotiation Committee presented its report to the Board in September 1999. This committee developed new sections for parks, trails, and camping and picnic areas. In October 2001 the Board sponsored an information meeting on the final report of the Outdoor Developed Areas Regulatory Negotiation Committee. The meeting was attended by about 50 individuals and was held in Denver, CO during the annual meeting of the National Recreation and Park Association. The meeting was informal and provided an opportunity for a dialogue with Board members about the report.

In September 2003, the Board decided to develop an NPRM on Outdoor Developed Areas using only its rulemaking authority under the Architectural Barriers Act. Taking this approach will help move this rulemaking forward and allow the Federal Government to take the initiative of addressing accessibility in this area before applying requirements to State and local governments or private entities. Future rulemaking under the ADA would be enhanced by the experience of implementing accessibility guidelines at Federal facilities. The Federal Government would gain experience in implementing the guidelines and this experience should prove important be-

fore applying them to other entities. A proposed rule will be published for public comment in fiscal year 2004.

Passenger Vessels

In September 1998, the Board convened a 21-member Passenger Vessel Access Advisory Committee to develop accessibility guidelines for cruise ships, ferries, excursion boats, and other vessels covered by the Americans with Disabilities Act. The committee presented its report with recommendations to the Board in November 2000. The Board created an ad hoc committee of Board members to begin developing a proposed rule on access to passenger vessels.

Standard means of boarding passenger vessels and the interaction between vessels and shoreside facilities present unique challenges to accessibility. It is a major issue the Board will address in guidelines it is developing for passenger vessels. The Board held public meetings in New Orleans (August 2003) and Seattle (September 2003) to gather information and input on viable access solutions that will allow persons with disabilities independent access onto and off of large vessels such as cruise ships, dinner boats, ferries, and gaming boats. Over 150 vessel designers and operators, pier operators, persons with disabilities, and others attended the meetings. A notice of availability (or draft rule) is expected to be published in fiscal year 2004.

Public Rights-of-Way

In October 1999, the Board created a 32-member Public Rights-of-Way Access Advisory Committee to assist it in developing new guidelines for access to sidewalks, street crossings, and related pedestrian facilities. The committee presented its report with recommendations to the Board in January 2001. The committee is continuing to meet to develop recommendations for a technical assistance manual for agencies and practitioners to support implementation of the future guidelines. In June 2002, the Board released draft guidelines on accessible public rights-of-way for public comment. The draft guidelines were made available for public review and comment prior to issuing a notice of proposed rulemaking. Written comments were accepted until October 28, 2002; we received approximately 1,400 comments—all of which are available on our website.

A public meeting on the draft guidelines was held in Portland, OR on October 8, 2002. The meeting provided an opportunity for industry groups, persons with disabilities, civil engineers, local governments, and other interested parties to comment on the published draft. Over 100 people attended the meeting, and approximately 40 people provided testimony. Comments focused on the impact of various provisions in the guidelines. A proposed rule is expected to be published in fiscal year 2004.

Fiscal Year 2003 Results—Rulemaking

In fiscal year 2003, we did not issue any guidelines.

Fiscal Year 2003 Results—Codes and Standards

Our long-range goal is to take a leadership role in the development of codes and standards for accessibility. The Board works with model code organizations and voluntary consensus standards groups that develop and periodically revise codes and standards affecting accessibility. We have voting membership in several codes and standards organizations, and monitor or are actively involved in the development or revision of dozens of other codes and standards affecting accessibility.

We believe this goal enhances the Board's credibility as a knowledgeable source of information regarding technical aspects of accessibility. Additionally, by working cooperatively with codes and standards-setting bodies, Federal and private codes and standards will be more similar, or harmonized, and the Board will be more alert to non-Federal influences affecting its constituencies. Harmonization between Federal and private requirements will make it more likely that buildings and facilities will be accessible, thus reducing the necessity for complaints and litigation. Some highlights of accomplishments in fiscal year 2003 include:

—The parent of a child with a hearing loss petitioned the Board to include new provisions in ADAAG for acoustical accessibility for individuals who are hard of hearing because the acoustical environments found in many schools today are barriers to communication and therefore to learning for children with hearing impairments. Rather than initiating rulemaking, the Board collaborated with an existing Acoustical Society of America (ASA)/American National Standards Institute (ANSI) Working Group on Classroom Acoustics to develop private sector technical and scoping standards. The standard was recently adopted by ANSI. The approved standard, Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools (ANSI S12.60–2002), sets specific criteria for maximum background noise and reverberation.

—Currently, the Board is finalizing revisions to the ADA and ABA accessibility guidelines. A key goal of this revision is to make the guidelines more consistent with model building codes and industry standards, particularly those issued by the ICC/ANSI A117 Committee. The ICC/ANSI A117.1 standard is referenced by the International Building Code and various State codes, among others. While the Board's guidelines derive from earlier versions of the ICC/ANSI A117 standard, significant differences between the documents have remained. From the outset of its rulemaking to update the ADA and ABA guidelines, the Board has sought to reconcile these differences. The ICC/ANSI A117 Committee is in the process of updating the A117.1 standard and is working to harmonize the new edition with the Board's upcoming guidelines. In April 2002, the Board released a draft of the final ADA and ABA guidelines to facilitate this effort. Later, the ICC/ANSI A117 Committee completed a series of hearings on changes to the standard to make it more consistent with the Board's draft final guidelines.

Fiscal Year 2004 Plans—Rulemaking

In fiscal year 2004, we will issue one final guideline and three proposed guidelines:

—Final rule on revisions to the ADA and ABA accessibility guidelines
—NPRM on outdoor developed areas
—Notice of availability (draft rule) on access to passenger vessels
—NPRM on access to public rights-of-ways

Fiscal Year 2004 Plans—Codes and Standards

The Board will be assisting the new Election Assistance Commission in the development of voluntary voting system guidelines under the Help America Vote Act. Among other things, the legislation requires the new Election Assistance Commission to develop voluntary voting system guidelines, including accessibility for people with disabilities. The voting system guidelines are to be developed with the assistance and input of a Technical Guidelines Development Committee and Board of Advisors. The legislation requires that the Access Board be represented on both groups.

As a result of the September 11, 2001 attacks on the World Trade Center, code provisions for emergency egress from tall buildings are being re-examined. There is renewed interest in the use of elevators for both occupant egress and fire fighters access. Therefore, a workshop on the Use of Elevators in Fires and Other Emergencies will be held on March 2–4, 2004, in Atlanta, GA. This workshop is being co-sponsored by the Access Board, the American Society of Mechanical Engineers, National Institute of Standards and Technology, International Code Council, National Fire Protection Association, and the International Association of Fire Fighters.

Fiscal Year 2005 Objectives—Rulemaking

In fiscal year 2005, we will issue three final guidelines:

—Final rule on outdoor developed areas
—NPRM on access to passenger vessels
—Final rule on access to public rights-of-ways

Fiscal Year 2005 Objectives—Codes and Standards

In fiscal year 2005, the Board will continue efforts to harmonize its guidelines with model codes and standards, including the ICC/ANSI A117.1 Standard for Accessible and Usable Buildings and Facilities.

TECHNICAL ASSISTANCE

The Board provides technical assistance to a wide variety of people regarding the accessibility guidelines and standards it issues. The Board's customers include architects, builders, designers, manufacturers, people with disabilities, State and local governments, and Federal agencies. The Board's technical assistance program has four components:

—Responding to customer inquiries. The Board responds to about 13,000 customer inquiries each year. We have four toll-free telephone lines for customers to call with questions. Customers also e-mail and fax us questions. Many literally are sitting at a drawing table with a design problem. They want accurate, reliable, and timely advice. Our customers value being able to discuss their questions directly with our accessibility specialists who developed the guidelines and standards.

—Developing and disseminating bulletins, manuals, and other publications. The Board maintains about 30 publications on accessibility issues. These range from short bulletins responding to frequently asked questions about specific issues such as accessible parking, to manuals on the Board's guidelines and standards. We send out about 12,000 publications each year in print and alternate formats.
—Providing training. The Board conducts about 100 training sessions each year. Training usually is provided at conferences and seminars sponsored by other organizations. Training sponsors generally reimburse us for travel expenses.
—Maintaining the Board's website. The Board's website (http://www.access-board.gov) has become a very effective way to distribute information to the public. Customers can download many of our publications and view our accessibility guidelines and standards from our website. We received over 12 million "hits" on our website in fiscal year 2003.

The Board also has established partnerships with other organizations such as the American Institute of Architects, the National Association of ADA Coordinators, the Disability and Business Technical Assistance Centers, and the Information Technology Technical Assistance and Training Center (ITTATC) to disseminate information about the Board's programs. The ITTATC, which is funded by the National Institute on Disability and Rehabilitation Research, collaborates with stakeholders to improve the awareness and availability of accessible electronic and information technology and telecommunication products and services and disseminates information, training, and technical assistance. Many of the Board's guidelines and publications are available through these organizations' on-line networks. The Board also provides training for these organizations. The Board's long-range goal is to be known as the leading source of information about accessibility and to disseminate information to our customers in effective ways. As we revise the guidelines for the Americans with Disabilities Act and the Architectural Barriers Act and develop guidelines for new areas such as outdoor developed areas, passenger vessels, and public rights-of-ways, there will be increased demands for technical assistance from existing and new customer groups. There also will be opportunities to use existing partnerships and establish new partnerships with customer groups to disseminate information about the Board's guidelines and standards.

Fiscal Year 2003 Results—Leading Source of Information

As a result of our expertise in accessibility issues, many government agencies and private organizations ask for our assistance in ensuring access at their facilities. During fiscal year 2003, we met with staff from the General Services Administration (GSA) on the design of a new courthouse annex in Washington, DC and plans for a new courthouse in Eugene, OR and we visited an existing courthouse in Upper Marlboro, MD with GSA staff. We also reviewed accessibility issues for the planned new Department of Transportation headquarters building.

Many foreign government agencies also ask for our assistance in promoting access in their countries. In fiscal year 2003, we met with the Chairman of the Disability Rights Commission from the United Kingdom. The Disability Rights Commission helps implement the Disability Discrimination Act of 1995. We also met with a researcher from Sweden regarding accessible design and provided information on model building codes and met with Japanese researchers regarding Japanese initiatives on "talking signs" and detectable warnings. We also met with an Australian company representative to provide feedback on a new pocket Braille writer and with staff from the Royal National Institute for the Blind (England) to discuss United States and European cooperation on accessibility standards for information technology. We also hosted an architect from Portugal who is in the United States through the Fulbright Visiting Scholar Program. Recognizing the international interest in access to information technology, we recently posted translations of the section 508 standards in Spanish and Japanese on our website.

Each year the Board meets outside of Washington, DC to encourage a more direct and open dialogue with members of the public about accessibility and the work of the Board. These visits outside the Washington beltway substitute for one of the Board's regular meetings, which are held every other month in the Washington, DC area. In September 2003, the Board held a meeting in Seattle, WA. During its stay in Seattle, the Board explored accessibility as it pertains to information technology and outdoor environments such as parks and trails. In a visit to Microsoft headquarters, the Board was briefed by representatives from Microsoft, Hewlett Packard, Cingular Wireless, and NCR Corporation on industry efforts to improve access to information technology. Presentations included information on how accessibility is mainstreamed into operating systems, other software, hardware and telecommunications products and services. The Board also toured several area parks to learn

more about ways of providing access to campgrounds, picnic areas, trails, and other outdoor sites.

The Board also held public meetings in Seattle and New Orleans to gather information and input on viable access solutions that will allow persons with disabilities independent access onto and off of large vessels such as cruise ships, dinner boats, ferries, and gaming boats. Over 150 vessel designers and operators, pier operators, persons with disabilities, and others attended the meeting. In advance of the meetings, the Board toured vessels and boarding facilities at area ports.

Digital wireless phones present significant compatibility and interference problems for people who use hearing aids and cochlear implants. The Board assumed a lead role in organizing a conference on the subject held in September 2003 at Gallaudet University in Washington, DC. Sponsored by the Interagency Committee on Disability Research (ICDR), the "Summit on Interference to Hearing Technologies by Digital Wireless Telephones" explored compatibility issues and potential solutions. Digital wireless phones, unlike analog wireless phones, can emit interference caused by radio frequency from the antenna and magnetic interference from the battery leads and other electronic components. Noises resulting from such interference, which were simulated at the conference, make them virtually unusable by people who use hearing technologies. Participants included representatives from the digital wireless phone and hearing technologies industries, disability organizations, research centers, and Federal agencies such as the Federal Communications Commission (FCC) and the Food and Drug Administration (FDA).

In fiscal year 2003, the Board responded to 12,193 customer inquiries; distributed 1,673 information packets; and conducted 90 training sessions which were attended by 8,414 people. An information packet usually contains several publications. Since we do not collect data on publications disseminated through partner organizations, the actual number of publications disseminated to our customers is greater than our current data indicate. Technical assistance, research, and training projects funded in fiscal year 2003 include:

—Recreation Technical Assistance with the Marina Operators Association of America. This project will develop technical assistance and training materials and conduct training sessions for marina operators on the requirements of the new guidelines for marinas and boating facilities.

—Maintenance and Weatherability of Detectable Warnings with the Transportation Research Board. The Board has contributed to a larger project funded by several transportation industry organizations to collect and report on detectable warnings testing undertaken by several State departments of transportation. The Board will be a member of the project advisory committee.

—Curb Ramp Directionality Workshop with the Institute of Transportation Engineers. This project will bring together highway engineers, orientation and mobility specialists, and consumers in a 2-day workshop to consider possible changes to roadway design that can facilitate wayfinding.

—Passenger Vessels Coaming Research with the Volpe Transportation Research Center. This project will investigate current and possible approaches to shipboard coaming treatments for accessibility.

We use existing partnerships with organizations and will be establishing new partnerships to develop training and technical assistance materials. We have used our website to provide copies of the Board's guidelines and answers to frequently asked questions about the guidelines so that more customers can get the information they need. The number of user sessions on our website continues to grow. There were approximately 1,423,465 user sessions in fiscal year 2003, nearly 200,000 more than the previous year. Due to the increasing use of the Board's website, we are focusing on web-based dissemination of information since this allows a variety of options for speedy distribution at a low cost to the Board. We also published and distributed six issues of Access Currents, a free newsletter the Board issues every other month by mail and e-mail. In addition, we responded to press inquiries from:

—National and syndicated newspapers, magazines and radio and television shows such as: Houston Chronicle; Los Angeles Times; and the Washington Post.

—Government related newspapers and journals including: Government Computer News and Federal Computer Week.

—Disability related newsletters including: Report on Disability Programs and the Disability Compliance Bulletin.

—Trade association periodicals such as: Transit Access Report; Land Development Today magazine; Buildings Magazine; States News Service; and the International Council of Cruise Lines newsletter.

—Local newspapers, television, and radio stations such as: Orange County Register; Nashville City Paper; Daily Times (Merryville, TN); Canyon Current

(Canyon City, CO); El Nuevo Dia (The New Day), a newspaper in Puerto Rico; and the Daily Camera (Boulder, CO newspaper).

We also wrote an article on section 508 for Telecommunications for the Deaf, Inc. (TDI) and developed an article on the Board's section 508 standards for the Information Technology and Disabilities Journal, a new, quarterly electronic journal.

We added to our growing inventory of technical assistance materials by creating new brochures on the Board and the Architectural Barriers Act. We also posted several new documents on the Board's website, including a research report on play surfaces, a new report on audible pedestrian signal products and their interface with traffic signal controllers, and a summary on ADAAG's detectable warning requirements. We also updated the on-line version of ADAAG including the requirements for children's elements, prisons and courtrooms, play areas, and recreation facilities into one integrated document.

Last September, the Board issued new guidelines that address access to various types of recreation facilities covered by the ADA. These guidelines, which supplement the Board's ADA Accessibility Guidelines, specify access to amusement rides, boating facilities, fishing piers and platforms, golf courses, miniature golf courses, sports facilities, and swimming pools, wading pools, and spas. The guidelines are one of the first of their kind in detailing access to these environments. To help users become familiar with the Board's new recreation facility guidelines, including the meaning and intent of specific provisions, we developed seven supplementary guides on each of the facility types covered. The guides summarize and explain requirements for each facility type.

Fiscal Year 2004 Plans—Leading Source of Information

The upcoming publication of the new ADA and ABA Accessibility Guidelines offers a timely opportunity to develop and implement an accessible web-based technical assistance and training strategy to augment current Board publications. Completion of the revised and reformatted ADA and ABA Accessibility Guidelines will necessitate a review of the Board's many technical assistance manuals and publications. Many documents will need revision; others may no longer be required, and some new publications may be indicated.

The redesign of our agency graphic identity has provided us with a coordinated range of new templates for the layout of reports, bulletins, our internet presence, and other print and electronic materials. We developed this new and more appropriate graphic expression, including both logo and text, for our family of print materials. We did this to reflect the Board's professionalism and to communicate that we are the only Federal agency devoted to accessibility in the built environment and in communications and electronic technologies.

Also, in a few years we will be largely finished with our planned rulemaking activities. It is an opportune time to share our accomplishments and insights with the rest of the world and encourage them to look at some of the access issues we have explored such as access to electronic and information technology, playgrounds, and recreation facilities. To do this will require that our documents become available in other languages. In fiscal year 2004, we will redesign most of our publications as well as our website using the Board's new graphic identity and will translate the ADA and ABA Accessibility Guidelines into other languages.

Fiscal Year 2005 Objectives—Leading Source of Information

In fiscal year 2005 and beyond, we will develop training and information materials on our planned final rules on outdoor developed areas, access to passenger vessels, and access to public rights-of-ways. As we publish final rules, we make every effort to ensure that training and technical assistance materials will be available to organizations and individuals that must apply the new requirements.

Additionally, we plan to further our outreach activities to foreign government agencies who ask for our assistance in promoting access in their countries. In recent years we have hosted numerous delegations from other countries who are interested in learning more about our experiences with the Americans with Disabilities Act and other laws, as well as to discuss general accessibility issues. We plan to share our accomplishments and insights with the rest of the world by translating many more of our documents and guidelines into other languages and by looking for opportunities to work collaboratively with international entities on accessibility issues. With this new material we can more effectively encourage others to look at some of the unique access issues we have addressed.

ARCHITECTURAL BARRIERS ACT COMPLIANCE AND ENFORCEMENT

The Board enforces the Architectural Barriers Act (ABA), which requires that most buildings designed, constructed, altered, or leased by the Federal Government

and certain other Federally financed facilities be accessible to people with disabilities. Complaints received by the Board concern post offices, national parks, military facilities, veterans hospitals, subway stations, and a variety of other facilities. When the Board has jurisdiction and finds that the applicable accessibility standards were not followed, we request a corrective action plan and monitor the case until the barrier is removed. Even when the Board does not have jurisdiction or no violation is found, we attempt to negotiate voluntary barrier removal.

The Board's long-range goal is to work in partnership with Federal agencies and others to make the Federal Government a model of compliance with accessibility standards. The Board's experience with resolving complaints is that most violations are not intentional. When violations are found, it is usually because the people responsible for designing buildings, reviewing plans, and on-site construction did not have a good understanding of the accessibility standards and how to apply them. People responsible for building planning and design at headquarters, regional and field offices, and local sites must have a working knowledge of the accessibility standards if compliance is to be achieved. As Federal agencies are reorganized and personnel assignments and responsibilities change, it is important that agencies have effective systems for training new people responsible for applying the accessibility standards and for monitoring compliance with the Architectural Barriers Act. Training will be even more important when the accessibility guidelines and standards for the Architectural Barriers Act are revised.

Fiscal Year 2003 Results—ABA Compliance

In fiscal year 2003, the Board received 140 written complaints. These included complaints investigated under the Architectural Barriers Act, and also those concerning facilities not covered by that law but potentially covered by other laws, such as the Americans with Disabilities Act and the Rehabilitation Act. Of the 140 complaints, we opened 83 as new Architectural Barriers Act cases. Although the Board did not have authority under the Architectural Barriers Act in the other 57 complaints, we responded to the complainants, usually by referring them to the appropriate enforcement agency. In addition, we referred another 37 complainants to other agencies for action when our investigations revealed there was no violation of the Architectural Barriers Act or we did not have jurisdiction. The Board receives many comments from its customers, indicating they are pleased that we make this extra effort to ensure that their complaints are addressed. The Board continued its high rate of successful complaint resolution in fiscal year 2003. Of those cases closed where the Board had jurisdiction and a violation of applicable standards was found, 100 percent resulted in the successful removal of barriers. Additionally, in those instances where the Board did not have jurisdiction over the facility or no violation was found, we negotiated voluntary barrier removal in 21 percent of the cases.

The Board responds quickly to all new complaints and contacts complainants frequently to update them on the status of their complaints. In fiscal year 2003, the Board sent initial letters to complainants acknowledging receipt of their complaint or began an investigation of the issues they raised within an average of 4 days. The Board's customers regularly say they are pleased to hear from a Federal agency so promptly. It is Board practice to keep complainants informed on a regular basis throughout the course of our investigations. In fiscal year 2003, we contacted 116 complainants to provide updates on the status of their complaints.

Fiscal Year 2003 Results—Working in Partnership with Agencies

During fiscal year 2003 we continued ongoing actions under our long-term goal of working in partnership with agencies and others to make the Federal Government a model of compliance with accessibility standards. Under our partnership with the National Institutes of Health (NIH), we completed a series of training sessions on accessibility requirements under the Americans with Disabilities Act Accessibility Guidelines and the Uniform Federal Accessibility Standards.

We completed our partnership with the General Services Administration (GSA) resulting in its development of a comprehensive desk guide of GSA policies and procedures regarding accessibility for use by GSA personnel to assist in implementing its National Accessibility Program. We also continued working in partnership with the Smithsonian Institution, Kennedy Center, and Library of Congress to develop a resource tool that organizations can use as guidance in evaluating and improving their emergency evacuation plans for persons with disabilities.

Fiscal Year 2004 Plans—ABA Compliance

In fiscal year 2004, the Board will continue to investigate complaints under the Architectural Barriers Act. At the beginning of fiscal year 2004, the Board had 104 active cases. We expect to receive 145 new complaints in fiscal year 2004. Of this total, we estimate that 85 will be opened as new Architectural Barriers Act cases

and 60 will be referred to other agencies for enforcement under other laws, such as the Americans with Disabilities Act and the Rehabilitation Act. The Board anticipates responding to complaints in an average of 3 or fewer business days and will continue to provide periodic updates to complainants on the status of their complaints. We also will evaluate and refine our electronic complaint-filing system and the compliance and enforcement information presented on our website.

Fiscal Year 2004 Plans—Working in Partnership with Agencies

In fiscal year 2004, we will continue working with agencies to assist in development of ways to assess and improve plans for emergency evacuation of persons with disabilities. We will continue efforts to learn about plans or actions being developed by the standard-setting agencies with regard to implementation of the new ABA standards.

Fiscal Year 2005 Objectives—ABA Compliance

In fiscal year 2005, the Board will continue to investigate complaints under the Architectural Barriers Act. We estimate that we will have 105 active cases at the beginning of fiscal year 2005 and will receive 145 new complaints. We expect to open 85 new Architectural Barriers Act cases and refer 60 complaints to other agencies for enforcement under other laws. We will continue to provide good customer service.

Fiscal Year 2005 Objectives—Working in Partnership with Agencies

Once new ABA standards are issued by the standard-setting agencies, our objective will be to work with the agencies on the development of web-based training or other interactive methods to ensure their effective implementation. In addition, we will continue our efforts to work with agencies to identify and publicize best practices for ensuring ABA compliance.

OFFICE OF PERSONNEL MANAGEMENT

PREPARED STATEMENT OF KAY COLES JAMES, DIRECTOR

Mr. Chairman and members of the subcommittee, I am pleased to have this opportunity to submit for the record a statement discussing the appropriations request for the Office of Personnel Management (OPM) for fiscal year 2005 and the relationship between that request and the implementation of the President's Management Agenda and other critical administration initiatives.

Before reviewing the President's request for appropriations for OPM, I would like to provide some context by outlining briefly the significant strides we have made and the tremendous challenges we face.

Consistent with our objective of shaping a Federal workforce that honors the President's commitment to the taxpayers for citizen-centered, results-oriented, market-based government, we have made the President's Management Agenda the cornerstone of our corporate management. We are proud to note that the Office of Management and Budget cited us as one of the two most improved agencies, based on our rating on the Executive Branch management scorecard. Our employees have embraced the agenda and work as a team to identify and solve management problems. Since September of 2002, under the competitive sourcing initiative, OPM employees have aggressively competed and won all 11 competitions undertaken.

Given the government-wide nature of our responsibilities, we have focused on improving the strategic management of human capital in all agencies in many ways. We have analyzed the human capital efforts of agencies and shared our insights and guidance by providing agencies with workshops, tools, and information on specific human capital topics.

Perhaps our most groundbreaking achievement was our joint effort with the new Department of Homeland Security (DHS) in creating a human resources management (HRM) system that provides the flexibility to manage more than 180,000 employees in a manner consistent with the unique mission requirements of that Department. The pioneering development of such a system through a joint regulatory process was unique. The collaborative and inclusive nature of the process involved employees, managers, the Department's largest labor unions, and a broad array of stakeholders and experts from the Federal sector and private industry. Currently, we are reviewing the many comments submitted in response to the publication of draft regulations on February 20, 2004.

In addition, in conjunction with DHS and other agencies, OPM assisted Federal employees with safety planning, both at work and at home. Our efforts involved producing a series of publications to educate Federal workers and their families on

dealing with emergency situations and providing training for employees in both security and emergency procedures. Further, we have conducted, for the past 2 years, surveys on emergency planning in the agencies and have worked to highlight areas of improvement to ensure better safety for employees.

Beyond DHS, OPM is now working in a total partnership, as prescribed by law, for the standup of the new National Security Personnel System at the Department of Defense (DOD). OPM and DOD are pursuing a similar process to that used during the DHS process, with joint agency staff teams, meetings with unions and stakeholders, and, ultimately, joint signoff of implementing regulations by Secretary Rumsfeld and me.

In fiscal year 2005, our appropriations request will build on those achievements in several ways. First, it will help us to continue to focus on the strategic use of human resources flexibilities tailored to each agency's unique requirements.

Second, it will enable us to build the capacity to hold agencies accountable for using tools effectively, as well as sustaining the core values of Federal service. Third, OPM's budget request includes funding for security and emergency action programs to support increased outreach efforts designed to ensure the safety and security of the Federal workforce. OPM's efforts are being conducted in conjunction with the DHS and the General Services Administration.

A significant highlight of our request is the support for OPM to continue our critical work as the managing partner for e-Government projects. For example, our request for $6.615 million will allow us to complete the Federal payroll enterprise architectural model and recommend a technology solution to replace legacy systems following the consolidation of payroll providers. We project that this investment will help yield over $1 billion in cost savings and avoidance through the project's life cycle. Also, with $3 million in base funding and $3.9 million from our revolving fund, we will continue our recruitment one-stop initiative to operate and enhance the USAJOBS Federal employment information system, increasing usage and satisfaction for Federal job seekers. Since launching new technology in August of 2003, the USAJOBS website has been used by job seekers to log more than 53 million visits; and more than 483,000 new resumes have been created by Americans interested in public service careers. Through the USAJOBS website, this initiative is delivering to Federal agencies a greater number of highly-qualified candidates in a more efficient and cost-effective manner.

While the requests for other e-Government initiatives are somewhat smaller, they are no less crucial. The $2 million requested for the Enterprise Human Resources Integration effort will enhance the capability of agencies to submit timely and accurate data electronically to OPM's data warehouse. This data warehouse will help improve decision making and policy development through comprehensive, accurate, and efficient transfer of data, as well as by allowing improved analytics. Additionally, with our requested $2 million in salaries and expenses funding for e-Clearance, we will promote reciprocity of security clearances among agencies. Expanding reciprocity can save money and improve efficiency without adverse consequences to security.

Our $800,000 request for the e-HRIS initiative will enable us to research, plan, and develop a project plan to establish standardized and integrated human resources information systems across the Federal Government, and the $685,000 sought for e-training will facilitate the transformation of the Go.Learn.gov site to a fully reimbursable activity that increases economies of scale and, through shared solutions, reduces duplicative investments.

In addition to the innovative approaches taken in our e-Government initiatives, the establishment of the Human Capital Performance Fund is a major step toward transforming Federal employment by creating a pay-for-performance culture. This Fund is an important tool for use by Federal agencies in rewarding high-performance employees. It points the way toward greater emphasis on employee performance contributions to mission accomplishment, rather than longevity. By requiring robust performance management as a criterion for funding, it would also provide an incentive for agencies to improve their performance management systems and human capital strategies and align them more closely with their missions and goals.

As you are aware, the establishment of this Fund has not affected the operation of the General Schedule pay system itself. Individual employees remain at their existing grades and steps and continue to receive annual across-the-board pay adjustments, locality payments, and periodic within-grade increases. However, if the request for $300 million for the Human Capital Performance Fund is granted, high-performing employees will be rewarded with additional payments that will be treated as basic pay for the purposes of retirement and other benefits and will stay with the employees in the future.

OPM will administer the Fund to ensure that agency plans for the distribution of payments from the fund are predicated strictly on appropriately assessed employee and/or organizational performance.

Full funding of this request is essential to the progress of meaningful pay reform for the benefit of dedicated employees, critically challenged agencies, and taxpayers.

Of course, beyond the e-Government initiatives and the Human Capital Performance Fund, OPM is requesting funding for the ongoing operation of our transformed agency. Our focus will be to build the government's capacity for human capital flexibility, accountability, and national security. With the funding we have requested for our new organizational framework—called Team OPM—we will concentrate on developing strategic human resources flexibilities through approaches tailored to each agency's unique requirements. We will also build the capacity to hold agencies accountable for using tools effectively, as well as sustaining the core values of Federal service. Also, as noted earlier, we will devote additional resources to the support of government-wide disaster and emergency action working groups.

Turning to our request for resources to support these priorities, it is important to note that the total OPM fiscal year 2005 budget request of slightly more than $35 billion, an increase of nearly $1.4 billion, includes appropriations that are 98 percent mandatory and only 2 percent discretionary.

OPM's general fund request for basic operating expenses totals $131.3 million and covers 831 full-time equivalent (FTE) employees. This includes $114.9 million in annual funds, $11.4 million in no-year funds for the e-Government projects discussed earlier (excluding recruitment one-stop), and $5 million in 2-year funds to coordinate and conduct program evaluation and measurement.

The annual funds include an increase of slightly more than $3 million and 24 FTE to increase the human capital support to agencies, to develop hiring solutions, to provide enhanced information technology support, to conduct competitive sourcing studies, and to support homeland security and emergency response needs.

With regard to the transfers from benefits trust funds, OPM is requesting a total of nearly $128.5 million to support 1,151 FTE in the administration of the employee retirement and insurance programs. This includes more than $100.8 million in annual funds, representing an increase of almost $2.2 million from fiscal year 2004. These resources will be devoted to retirement benefits calculation, increased call center support during peak season, telephone system upgrades, and contract cost increases. The total also includes more than $27.6 million in no-year funds for the retirement systems modernization effort.

It is important to note here that a significant portion of the funding for the Office of the Inspector General in OPM is derived from trust fund transfers, too. That request will be discussed in greater detail by that office in a separate statement, but it should be mentioned that the overall request totals $18.1 million dollars and 140 FTE. Of that total, $1.6 million would come from general funds, while $16.5 million would represent transfers from the trust funds. Of course, we strongly support the important work of Inspector General Pat McFarland and his fine staff. OPM maintains an independent relationship with the IG, but on issues of common concern, such as the maintenance of employee and retiree confidence in the trust funds and the Combined Federal Campaign, the teamwork and professionalism of the IG and his staff are outstanding.

In addition to the 141 FTE financed by reimbursements from other agencies for the provision of HRM technical assistance and from OPM programs for the provision of agency-wide services, it is also worth noting that OPM provides a variety of services that are financed by payments from other agencies through our revolving fund.

For ongoing revolving fund programs, the fiscal year 2005 budget includes slightly more than an estimated $1 billion in obligations and 2,601 FTE to be financed by payments from other agencies for OPM's services.

These services include professional development and continuous learning for Federal managers and executives; providing one-stop access to high-quality e-training products and services; testing potential military personnel for the Department of Defense in those locations where it is cost-effective for OPM to do so; providing employment information and assessment services; automating other agencies' staffing systems; providing examining services when requested by an agency; providing technical assistance and consulting services on all facets of HRM; coordinating the selection and development of Presidential Management Fellows; and, through contracts with private companies, conducting suitability and security investigations.

As always, the OPM budget request includes mandatory appropriations to fund the government contributions to the health benefits and life insurance programs for Federal annuitants. This is because OPM serves as the "employing agency" for these individuals relative to these benefit programs.

Given the mandatory nature of these payments, we are requesting a "such sums as may be necessary" appropriation for each of these accounts. We estimate that, for the 500,000 annuitants under age 65 who elect post-retirement life insurance coverage and for whom we are responsible, $35.0 million will be needed, while an appropriation of about $8 billion will be required to pay the government's share of the cost of health benefits coverage for the 1.9 million annuitants who participate in that program. That represents an increase of $688 million over fiscal year 2004.

In addition, as mandated by the financing system established in 1969 by Public Law 91–93, liabilities resulting from changes (principally pay raises) since that year which affect retirement benefits must be amortized over a 30-year period. We are requesting a "such sums as may be necessary" payment to the Civil Service Retirement and Disability Fund for that purpose. We estimate the amount needed to be $26.4 billion, an increase of $402 million to cover this service cost that is not funded by and for active employees under the Civil Service Retirement System.

Finally, the President's budget for fiscal year 2005 proposes a pay increase for white-collar workers of 1.5 percent, to be distributed between an across-the-board raise and locality pay as determined by the President later in the year. In addition, funding in the amount of 0.2 percent has been included in agency budgets for use in addressing specific recruitment and retention needs. When combined with the basic pay adjustment and the $300 million request for the Human Capital Performance Fund, the overall amount available for a pay adjustment amounts to 2.0 percent.

Once again, we have included in the government-wide general provisions in the budget the appropriate legislative language to ensure that blue-collar Federal employees receive pay adjustments up to the amount received by their white-collar colleagues if warranted by local private sector market rates.

Thank you for the opportunity to discuss OPM's request for the record. I would be pleased to provide any additional information the subcommittee may require.

PREPARED STATEMENT OF PATRICK E. MCFARLAND, INSPECTOR GENERAL

Mr. Chairman and members of the subcommittee, thank you for providing me with this opportunity to discuss the President's fiscal year 2005 request for appropriations for the Office of the Inspector General (OIG). The total request for the Office of the Inspector General is $18,088,000, which is an increase of $2,257,000 above the amount appropriated in fiscal year 2004. Of this amount, $1,627,000 is from the salaries and expenses/general fund, and $16,461,000 is from the trust funds. The additional resources are requested to:

—Increase criminal investigative oversight of the Office of Personnel Management (OPM) administered trust fund programs;
—Conduct audits of pharmacy benefit managers participating in the Federal Employees Health Benefits Program (FEHBP);
—Expand the scope of audit for the largest community-rated health maintenance carriers;
—Further develop computer assisted audit tools and techniques to ensure effective audits of the FEHBP;
—Increase the number of health carrier information systems audits; and
—Provide pre-award contract audit support.

The Office of the Inspector General recognizes that oversight of the retirement and health and life insurance trust funds administered by OPM is, and will remain, its most significant challenge. These trust funds are among the largest held by the United States Government. Their assets totaled $650.0 billion in fiscal year 2003, their revenue was $78.2 billion, and their annual program and operating expenses were $164.1 billion. The amounts of their balances are material to the integrity of the government's financial position. I continue to allocate the vast majority of the Office of the Inspector General's efforts and resources to trust fund oversight, and we remain fully committed to trust fund activities.

OPM makes outlays from the retirement trust funds in the form of payments to millions of annuity recipients. The health insurance trust fund provides payments to approximately 260 health insurance plans nationwide. In turn, the health insurance carriers pay millions of claims for services filed by their enrollees and health care providers. We have shown through our investigations and audits that such health insurance payments may be at risk through improper, inaccurate or fraudulent claims.

We are obligated to Federal employees and annuitants to protect the integrity of their earned benefits. Our audit and criminal investigative work reduces losses due to fraud and otherwise improper payments and recovers misspent funds whenever

possible. We have a special obligation to the Federal agencies and the American taxpayers who provide the majority of the funding.

The Office of the Inspector General has achieved an impressive record of cost effectiveness. Audits and criminal investigations of the OPM administered trust fund programs have resulted in significant financial recoveries to the trust funds and commitments by program management to recover additional amounts. Since fiscal year 1992, these recoveries and commitments have exceeded $1 billion which is approximately $10 of positive financial impact for each direct program dollar spent. In addition, we believe that Office of the Inspector General audits and criminal investigations provide a significant deterrent against future instances of fraud, waste, and abuse.

The Office of the Inspector General's fiscal year 2005 request includes additional resources totaling $2.25 million. Of this amount, $0.6 million will be used to increase criminal investigative oversight of the Federal Employees Health Benefits Program and the Civil Service Retirement/Federal Employees' Retirement programs.

These additional criminal investigative resources will be dedicated to speed the handling of our current inventory of criminal investigative cases and also increase our ability to handle the growing number of referrals we have been receiving because of past success. As a result of this additional oversight, we expect to increase the number of arrests, indictments and convictions by approximately 60 percent, as well as increase financial recoveries by $5 million for the trust funds from criminal investigations. We are particularly concerned with the extent to which health care fraud puts the health and safety of current Federal employees, annuitants, their survivors, and eligible family members at risk.

An additional $0.7 million will be used to conduct audits of pharmacy benefit managers (PBMs). It is estimated that $6 billion will be paid during 2004 in prescription drug premiums by the Office of Personnel Management and Federal employees. This represents approximately 26 percent of total premiums paid for health benefits coverage for Federal employees and annuitants. The premiums paid for prescription drug coverage have risen exponentially over the last 10 years. However, Federal prescription drug benefits have never been audited because the FEHB Program historically has defined health care providers and suppliers as other than Federal subcontractors. Since health care providers and suppliers, including PBMs were not subcontractors, they were not subject to our audits. In light of increasing expenditures on prescriptions and allegations against PBMs, the FEHB Program has amended its carrier contracts to define PBMs as Federal subcontractors subject to our audits.

By performing these audits, we will help the FEHBP recover inappropriate costs charged to it in previous years, negotiate more favorable contracts, and positively affect the future costs and benefits provided to program enrollees. Ultimately, these audits will reduce health care costs while improving the quality of health care for FEHBP enrollees.

An additional $0.5 million will be used to expand the scope of audits for the largest community-rated health maintenance organization carriers participating in the FEHBP. During fiscal year 2002, $4.9 billion of FEHBP premiums were paid to community-rated carriers. Of this amount, $3.4 billion was paid to 25 carriers most of whom use some sort of experience-based rating to set premiums. The additional resources will enable us to expand the audit testing to include reviews of this information to identify overpayments charged to the FEHB Program which will result in increased financial recoveries to the Program totaling approximately $5 million.

An additional $0.3 million will be used to increase the efforts of our office's information systems audit program. The purpose of this program is twofold: (1) to perform information systems audits of Office of Personnel Management systems, including computer security, and (2) to develop computer-assisted audit tools and techniques (CAAT) such as computer claims analysis applications that our auditors use while conducting carrier audits. These new computer-related resources will be used primarily to increase the number of information systems audits we conduct on providers participating in the FEHBP.

Also, we will further our development of a data warehouse of health benefit claims. A data warehouse offers the best opportunity for detecting erroneous health benefit payment transactions by medical providers, insurance carriers and subscribers by accumulating all benefit claims for all fee-for-service insurance carriers in a single data repository. This effort will enhance our current claims reviews by enabling the auditors to target certain types of potential claim payment errors on a program-wide rather than on a plan-by-plan basis. This will provide a significant improvement in our audit efficiency and effectiveness by offering us the opportunity to address significant issues one time only, instead of multiple times per year and to recover overcharges to the program when appropriate.

The data warehouse will provide information enabling our criminal investigative staff to react quickly to criminal investigative leads. For example, the OIG investigators will be able to determine the potential program risks associated with an identified provider or subscriber fraud allegation, and take appropriate action in a matter of hours instead of the days or weeks currently required.

The remaining $0.1 million increase will be used to obtain technical expertise in the field of pre-award contract auditing. We will perform audits of selected bid proposals before OPM enters into large contracts with vendors.

I would also like to bring to your attention the significant progress we have made in implementing Public Law 105–266, the Federal Employees Health Care Protection Act of 1998. Final regulations necessary to implement the financial sanctions authorities provided in this legislation were published in the Federal Register in March 2004. These financial sanctions, in the form of civil monetary penalties and monetary assessments, provide OPM the ability to recover, through administrative action, FEHBP funds lost to provider misconduct. In addition, we believe they will serve as a deterrent against FEHBP program violations.

Also, OPM is now using new suspension and debarment regulations that went into effect during fiscal year 2003, to process actions. To date over 3,400 debarments under the new authorities have been issued. These new authorities are more efficient to administer and are designed specifically to address health care provider integrity concerns within the FEHBP. They have largely supplanted the previous regulations which, although we have used them to issue over 24,000 debarments and suspensions since 1993, are relatively inefficient to operate and, since they were dependent on Medicare or other agency debarments, were not tailored directly to the health, safety, and integrity issues that are most significant in the FEHBP.

Thank you for this opportunity to present my resource request for fiscal year 2005.

GENERAL SERVICES ADMINISTRATION

PUBLIC BUILDINGS SERVICE

PREPARED STATEMENT OF F. JOSEPH MORAVEC, COMMISSIONER

As Commissioner of the Public Buildings Service of the U.S. General Services Administration, I am pleased to present a statement for the record regarding our fiscal year 2005 budget request.

There are three primary programs within the Federal Buildings Fund (FBF)—New Construction, Leasing, and Asset Management.

NEW CONSTRUCTION

We construct new buildings when our agency customers have a need for specialized space. The majority of our newly constructed buildings are courthouses, border stations, laboratories and highly specialized facilities like the U.S. Mission to the United Nations and the National Oceanic and Atmospheric Administration, (NOAA) Weather Satellite control center. The courthouse construction program has a fewer number of projects this year due to the large investment required to construct the Los Angeles, CA Courthouse. This project is the No. 1 priority on the Judiciary's 5-Year Plan, which reflects priorities approved by the Judicial Conference.

As part of our performance-based budget, we have committed to completing 85 percent of our new construction projects on schedule, and within 1 percent of the original appropriation by fiscal year 2005. PBS is undertaking many initiatives to keep projects on schedule and within budget. Project status is being closely monitored throughout design and construction to alert us to any emerging issues in a timely manner. For projects over $25 million, evaluations are scheduled at 15 percent, 60 percent and 100 percent of the design process. In addition, a new performance measurement tool has been developed and implemented. This tool allows comparison of a project's construction schedule and outlays to standards and reports variances for both measures.

LEASING

GSA has a total leased inventory of over 160 million square feet located in 6,200 buildings across the United States and its territories. Our leasing program is an important tool for managing our portfolio because when clients' space requirements cannot be met with available Federal space, we lease space from the private sector. This program area has been undergoing significant expansion due to the growth of

Defense, law enforcement, and security-related agencies. The decision to lease space is part of a coherent overall local Portfolio Strategy. Our strategies to keep leasing costs at or below market levels include comparing lease offers to comparable industry benchmarks, using market surveys to comparison shop for best prices, using published market sources to gain a better understanding of area markets and partnering with the private sector for brokerage services. We are very proud that our vacant space within our leased inventory is 1.4 percent. The top priority within the Leasing Program is implementing the National Broker Contract. Analysis has indicated that "no cost" contracts and limited fee-based broker contracts will help meet future capacity needs, lower leasing costs and provide a higher level of customer service and satisfaction. GSA has taken the first steps toward implementing this important initiative.

ASSET MANAGEMENT

Repairs and Alterations

Our inventory of owned buildings contains more than 100 million square feet of space where the design and physical condition of the space make it very difficult to meet modern day needs. This space typically has inefficient energy systems, lacks the flexibility to readily provide state-of-the-art information technology features to occupants and—for those buildings constructed during the 1960's and 1970's—have exterior materials which have outlived their useful lives. To address many of these issues we have instituted a portfolio restructuring and reinvestment strategy that uses private sector techniques to tier our owned properties, remediate those that can still cost-effectively contribute to the overall financial strength of the FBF, and reshape other parts of the portfolio to include disposal of some properties. GSA measures the percentage of government-owned assets with a Return on Equity greater than 6 percent to gauge progress in this area. For each of the past several years, we have directed nearly $1 billion toward the reinvestment in the modernization of our inventory, with on-time, on-budget completion a program priority. Within government owned space, the vacancy rate is 8.3 percent with 35 percent committed to tenants and 25 percent currently under construction or alteration. That makes the amount of vacant available space in the owned inventory 5.0 percent.

Operations

The most critical initiative affecting the Asset Management program is the Human Capital Strategy. The Human Capital Strategy/Workforce Transformation project is primarily driven by the following factors:

—An aging workforce and previous inability to replenish talent lost through attrition;

—Customer demands for more complete real estate services; and

—Skills needed to focus PBS business priorities on customer relationships.

PBS is currently engaged in implementing a comprehensive Human Capital Strategy that will guide the recruiting, training, management and deployment of our most important asset in the years ahead.

For GSA to meet our customers' expectations and remain cost competitive with the private sector, we must maintain below-market operating costs and reduce energy consumption, while simultaneously maintaining a high level of customer satisfaction. Our strategy is to leverage buying power through better planning, using national tools like the Federal Supply Schedule, and holding contractors accountable for performance. We must leverage our workforce via user-friendly contracting vehicles, multi-regional operations/maintenance and energy contracts, electronic data systems, contractual data sharing, workload visibility, and national vendor alliance management and acquisition. Because many operational services are readily available from the private sector, and to obtain the best possible value for the taxpayer, we are subjecting many of the activities we currently perform with in-house staff to the rigorous analysis required by the A–76 process.

I am willing to answer any questions you or other members of the subcommittee may have on the President's fiscal year 2005 budget request for the General Services Administration.

GENERAL SERVICES ADMINISTRATION

PREPARED STATEMENT OF STEPHEN A. PERRY, ADMINISTRATOR

Mr. Chairman and members of the committee, the General Services Administration (GSA) budget request for fiscal year 2005 reflects our strong commitment to fulfilling our mission, which is: "to help Federal agencies better serve the public by

offering, at best value, superior workplaces, expert solutions, acquisition services and management policies. All areas of GSA, including the Public Buildings Service, the Federal Technology Service, the Federal Supply Service, our Office of Governmentwide Policy and our Office of Citizen Services are working together to efficiently and effectively meet the requirements of our Federal agency customers and the public.

Americans demand that the Federal Government show results. Accordingly, President Bush has challenged GSA and all Federal agencies to improve performance through the use of good management practices as outlined in the President's Management Agenda. In striving to achieve improved performance results, Federal agencies often rely upon GSA to provide the property management and acquisition services they need for successful operation. Additionally, each Federal worker relies upon GSA's assistance in creating a productive work environment by providing the appropriate facilities, equipment, supplies and services they need. GSA is committed to achieving our critically important mission in an efficient and effective manner that yields best value for the American taxpayer.

In the last few years, GSA has strengthened its Performance Management Process to document customer-focused goals, action plans and performance measures to enhance our achievement of high performance results and accountability. Our fiscal year 2005 budget request will provide the resources needed to achieve these high priority goals in support of Federal agencies, including our support of the U.S. Military, Homeland Security, the Judiciary and other law enforcement and security related agencies.

As you know, GSA offers its core expertise in acquisition services to Federal agencies on a "non-mandatory" basis. Therefore, agencies can decide to devote their own resources directly to the acquisition process or they can use GSA to provide this service. Where GSA provides the most efficient and effective approach, agencies are increasingly deciding to use GSA and thereby reducing the overall cost to the government. Further, this enables the customer agency's personnel to avoid duplication of effort and focus on their core missions. GSA charges fees to cover its costs and most of GSA's resources come from these customer payments. In fact, only a relatively small amount of GSA resources, close to 1 percent of funding, is from direct appropriations.

FISCAL YEAR 2005 BUDGET REQUEST

The total GSA budget for fiscal year 2005 budget is $24.3 billion. This is a 3.0 percent increase over fiscal year 2004, representing increased business in revolving funds (i.e., the General Supply Fund and the Information Technology Fund). Approximately 1 percent, or $218 million, of this amount is for funding GSA's appropriated activities.

The volume of services that GSA provides to other Federal agencies has increased each year because of our successful efforts to make GSA a more timely and cost-effective source for property management and acquisition services. At the same time, we have made process improvements and significantly streamlined our organization. Our employment level of 12,508 for fiscal year 2005 is 26 percent below the fiscal year 1995 levels. Lower employment levels mean that only 5.0 percent, or $1.2 billon, of our budget is expended for salaries and benefits and that 95 percent of GSA's funding is spent directly with private sector firms for goods and services procured on behalf of Federal agencies.

For fiscal year 2005, although our overall net request for budget authority is down $225 million from fiscal year 2004, given the increased income level there is a robust construction and repair and alteration program. In addition, our request also funds modest spending increases to support our E-Government component of the President's Management Agenda. The fiscal year 2005 budget does not include a request for an appropriation to the Federal Buildings Fund (FBF). The FBF New Obligational Authority request is funded entirely from rent revenue and other income to the Fund.

Public Buildings Service

GSA's Public Buildings Service (PBS) has reinvigorated the process for carrying out its responsibility to maximize the value of GSA's portfolio of government-owned buildings. The government-owned facilities under GSA's stewardship represent a real estate portfolio with a replacement value of approximately $34.7 billion. For fiscal year 2005, we are requesting $7.2 billion in New Obligational Authority (NOA) to spend available resources in the Federal Buildings Fund. Of this amount, $980 million is for our Repairs and Alterations program.

One of GSA's biggest financial challenges is funding the large backlog of deferred maintenance and repair work at its government-owned facilities. To address this

challenge, we have taken steps to transform our owned portfolio into one comprised of well-maintained, modernized, functional assets with positive cash flows. We have determined that in order to better allocate our funds for capital investment, we must redeploy our non-performing assets so that those properties that remain in our portfolio will provide appropriate workplaces for Federal workers.

PBS has begun to implement the policy of Executive Order 13327 on Federal Real Property Asset Management. GSA already "promotes the efficient and economical use of America's real property assets." We use asset management principles to allocate the limited resources of the Federal Buildings Fund to address the backlog of Repairs and Alterations projects. These asset management principles were applied to develop our $980 million Repairs and Alterations program for fiscal year 2005. The program includes:

—$394 million for basic (non-prospectus) Repairs and Alterations
—$473 million for prospectus Repairs and Alterations
—$50 million for design
—$13 million for chlorofluorocarbons program
—$30 million for energy conservation program
—$20 million for glass fragmentation retention program

There is $650 million for Construction and Acquisition of Facilities in GSA's fiscal year 2005 budget request. It includes the following projects:

—$381 million for construction for U.S. Courthouses in Los Angeles, CA and El Paso, TX; and design of a U.S. Courthouse in San Diego, CA
—$89 million for FDA Consolidation in Montgomery County, MD
—$14 million for FBI Facility in Los Angeles, CA
—$2 million for Southeast Federal Center Site Remediation, Washington, DC
—$53 million to purchase 10 West Jackson Blvd., Chicago, IL
—$91 million for 12 Border Stations
—$10 million for non-prospectus construction and acquisition
—$10 million for repayment to the Judgment Fund

Government-owned space represents approximately half of our inventory, however, today we are continuing to secure leased space to meet general-purpose office and special space needs. For fiscal year 2005 we project adding 2.6 million rentable square feet of leased space to our inventory. Under the Federal Buildings Fund operating programs, the $3.7 billion budget for Rental of Space is based on projections of known requirements such as (1) leases already in the inventory and the scheduled cost increases associated with these leases and (2) identified expansion and cancellation projects.

The $1.7 billion budget request for Building Operations funds essential building services provided by PBS for facilities occupied by our Federal Government customers, including cleaning, maintenance, minor repairs, utilities, space management and other building services.

The following performance measures illustrate some of our successes.

—Costs for leased space are 7.4 percent below the industry average.
—Operating costs are 14.8 percent below industry benchmarks.
—Energy consumption has been reduced by 19 percent from the fiscal year 1985 baseline. PBS plans to reduce energy consumption by an additional 11 percent by the end of fiscal year 2005.
—PBS has improved the percentage of Repairs and Alterations projects completed on time from 75 percent in fiscal year 2001 to 78 percent in fiscal year 2003.

Electronic Government

Expanding the scope and level of the Federal electronic government (E-Gov) program is a major focus of the President's Management Agenda. Through E-Gov initiatives GSA is transforming the way information is disseminated to the American people. By leveraging Internet technologies, GSA is building a more citizen-centric and results-oriented Federal Government. In support of E-Gov initiatives, our budget request includes $23.4 million in Operating Appropriations for select E-Gov initiatives led by GSA, $5 million for the E-Gov Fund, and $40 million in the General Supply Fund for government-wide initiatives.

To provide much needed resources for E-Gov projects, GSA is proposing a new general provision that would amend existing law to permit the Administrator, after consulting with the Office of Management and Budget, to retain surplus funds generated by the operation of the General Supply Fund in an amount not to exceed $40 million in any given fiscal year and use those funds for E-Gov initiatives. These funds would be used for government-wide E-Gov projects for purposes authorized under the E-Gov Act of 2002 (Section 3604 of Title 44). The fiscal year 2005 budget anticipates $40 million in funding from the GSA General Supply Fund.

GSA realizes that common solutions shared by agencies are absolutely critical to the effective and secure operations of the government. The $23.4 million requested in the fiscal year 2005 budget will be used to provide standardized Federal approaches to electronic government. GSA will provide a leadership role to customer agencies by integrating key E-Gov initiatives into the daily business of government. For example:

—USA Services, one of the President's E-Gov initiatives, is part of GSA's Office of Citizen Services and Communications. USA Services seeks to make government more citizen-centric by providing a front door where citizens can get answers to their questions about the Federal Government by phone, on line, by e-mail, or by print publications. At the same time, USA Services seeks to improve citizen customer service government-wide. We are requesting $1.5 million to establish government-wide standards in customer service, performance benchmarking, and best practices for Federal contact centers responding to citizen inquiries.

—A component of USA Services is the internet site FirstGov.gov, the official web portal of the U.S. Government. We are requesting $17.3 million, an increase of $3.7 million, to maintain and enhance FirstGov.gov by further leveraging Internet technology and by providing a highly secure environment. And by sharing the FirstGov technology and infrastructure, we are helping the government reduce costs. In fiscal year 2003, there were 580 Federal web sites using FirstGov.gov search services as their primary search engine mechanism, equating to a savings of $21 million from avoiding the need to purchase search engine software for each individual web site.

—GSA is playing a key role in setting standards for identity management and electronic authentication. In order for the Federal e-Government initiatives to be successful, the Office of Governmentwide Policy is working towards establishing a cross-agency governance structure and process for e-Authentication and identity management in order to unify Government systems. GSA is requesting $4.6 million to support this effort, an increase of $0.57 million.

Another key E-Gov initiative led by GSA is e-Travel. In 2003, the Office of Governmentwide Policy (OGP) and our partner agencies established a standard booking engine as well as a consistent travel and voucher system for the Federal Government. As the e-Travel service becomes operational, management of the e-Travel contracts will transfer from the Office of Governmentwide Policy (OGP) to the Federal Supply Service (FSS) in fiscal year 2005. FSS will integrate e-Travel with GSA's other travel service offerings. GSA will provide an additional $9.9 million to this E-Gov project in fiscal year 2005 through the General Supply Fund.

We believe these and other E-Gov initiatives are critical to becoming a citizen-centric government. These projects provide government-wide solutions to meet common needs across agencies, thus eliminating redundancies and duplicate spending.

APPROPRIATION REQUEST

While only about 1 percent of the total proposed budget is funded through direct appropriations, our Operating activities are a vitally important part of GSA's total program. These funds support our Office of Governmentwide Policy function, the Office of Citizen Services and Communications, the E-Gov Fund, the Office of Inspector General, Former Presidents, the Presidential Transition, and various other operating programs. The $218 million requested is $15 million above fiscal year 2004 levels. Approximately half of this increase, $7.7 million, is for Presidential transition.

Our request is shown by account in the following table:

THE FISCAL YEAR 2005 BUDGET IN SUMMARY

[In thousands of dollars]

	Fiscal Year 2003 Actual	Fiscal Year 2004 Current	Fiscal Year 2005 Request
TOTAL OBLIGATIONS			
Operating Accounts (Appropriations)	$853,133	$206,550	$218,682
Federal Buildings Fund Direct (Including Appropriations)	6,546,606	7,100,494	7,313,195
Reimbursable Programs	1,245,899	1,014,798	1,155,694
Real Property Relocation	.....	6,050	6,000
General Supply Fund	4,066,351	4,896,773	5,130,708
Information Technology Fund	10,034,941	9,970,687	10,071,313
Working Capital Fund	316,914	347,877	357,698

THE FISCAL YEAR 2005 BUDGET IN SUMMARY—Continued

[In thousands of dollars]

	Fiscal Year 2003 Actual	Fiscal Year 2004 Current	Fiscal Year 2005 Request
Federal Citizen Information Center Fund (Reimb.)	2,650	3,901	4,353
Permanent Appropriations	15,928	29,493	34,926
Subtotal	23,082,422	23,576,623	24,292,569
REQUIRING APPROPRIATIONS ACTION			
Operating Appropriations:			
Office of Governmentwide Policy	55,569	59,669	62,100
Operating Expenses, GSA	81,089	83,971	82,175
Electronic Government Fund	4,968	2,982	5,000
Election Reform Payments	650,000	0	0
Election Reform Reimbursements	14,903	0	0
Office of Inspector General	37,270	38,938	42,351
Federal Citizen Information Center	13,356	13,917	14,907
Presidential Transition	0	0	7,700
Former Presidents	3,156	3,373	3,449
Subtotal Budget Authority/Appropriation	860,311	202,850	217,682
Federal Buildings Fund New Obligational Authority:			
Construction & Acquisition of Facilities	734,868	745,314	650,223
Repairs and Alterations	985,009	1,002,997	980,222
Installment Acquisition Payments	178,897	169,677	161,442
Rental of Space	3,381,265	3,551,032	3,672,315
Building Operations	1,546,514	1,608,064	1,709,522
Subtotal FBF New Obligational Authority	6,826,553	7,077,084	7,173,724
FBF Net Budget Authority	463,347	254,194	15,447
FBF Appropriations	375,711	459,669	0
TOTAL, Transportation/Treasury Appropriation Action (BA/NOA)	7,673,508	7,266,017	7,376,499
Budget Authority	1,310,302	443,127	218,222
Appropriations	1,222,666	648,602	202,775
Total, VA/HUD Appropriations Action (BA): Federal Citizen Information Center (Direct)	13,356	13,917	14,907

Mr. Chairman, this concludes my formal statement, and I look forward to continuing to discuss our fiscal year 2005 budget request with you, members of the committee and your staff.

DEPARTMENT OF TRANSPORTATION

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

PREPARED STATEMENT OF ANNETTE M. SANDBERG, ADMINISTRATOR

OVERVIEW: SAFETY, SECURITY, PRODUCTIVITY

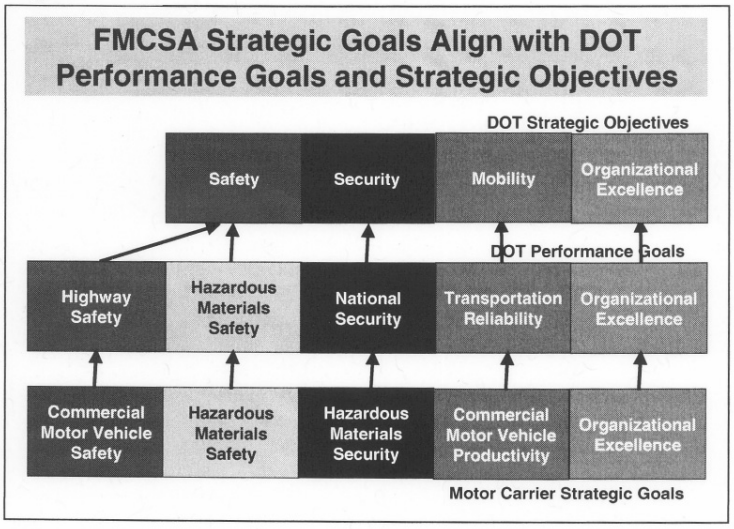
People depend on motor carriers for the safe, reliable, and efficient movement of the goods they use everyday. The trucking industry comprises almost 650,000 motor carriers operating in interstate commerce and some 7.9 million large trucks. Trucks account for most of the freight movement in our Nation's transportation system. Approximately 80 percent (by value) of all domestic commodity movements are carried by truck. The trucking industry also employs approximately 9.9 million people in jobs related to trucking activity, including several million drivers. People rely on motor coaches for safe and secure transportation. Commercial motor coaches traveled 2.4 billion miles in 2001, carrying more than 500 million passengers. Clearly,

both the trucking and motor coach industries contribute to competitiveness and a robust economy.

Mobility, as crucial as it is to our economic well-being, presents significant hazards in terms of safety on our highways. Trucks and buses share roadways with passenger vehicles and pedestrians. Over the last several years, approximately 5,000 people have died annually in crashes involving a truck. This is unacceptable. Truck transportation of hazardous materials presents even greater potential safety consequences. And, there is increasing recognition and appreciation that there can be no safety without security. In most cases, there is a close connection between safety and security, and strategies designed to mitigate one often impact both.

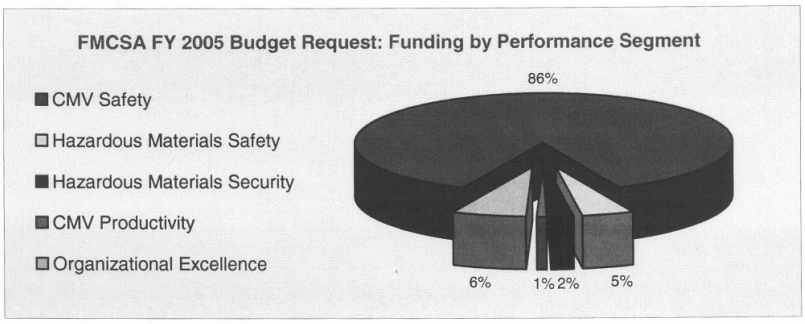
FMCSA has defined five strategic goals linking to Department of Transportation and national objectives, illustrated in Figure 1 below. Among these, safety is FMCSA's primary mission. At the same time, the agency looks to employ a coordinated strategy that balances the inter-relationships between these missions and leverages solutions that achieve the greatest overall public good.

Figure 1



The agency's $455 million request for fiscal year 2005 will fund programs and activities supporting all five agency strategic goals. Figure 2, below, illustrates the allocation of funds by agency strategic goal in our fiscal year 2005 budget request.

Figure 2



CMV SAFETY

Safety is the capstone of this agency's strategic hierarchy. The FMCSA safety vision is to develop and promote, in coordination with other Departmental modes, data-driven, analysis-based, and innovative programs to achieve continuous safety improvements in the Nation's highway system, intermodal connections, and motor carrier operations. Saving lives and reducing crashes involving trucks and motor coaches on our highways is the agency's primary mission, and our fiscal year 2005 budget request allocates approximately 86 percent of the agency's resources to 10 performance segments in support of this strategic goal. Figures for 2002 show a reduction in truck-related fatalities of 4.2 percent from 2001, despite a projected increase in truck vehicle miles traveled (TVMT). This decrease extends to five consecutive years (1998–2002) the trend of improved commercial motor vehicle safety. We may be beginning to realize the results of agency regulation and safety interventions undertaken since the establishment of the agency in 1999, enabling us to pursue with greater confidence our coordinated safety strategy.

With the encouragement of Secretary Mineta, FHWA Administrator Peters, NHTSA Administrator Runge, and I are coming together for safety. Improving highway safety is an administration and national goal. All highway fatalities are unacceptable. If we are to stem the tide of this terrible loss of life on our Nation's highways we all must play a role, combine our knowledge and expertise, and coordinate our program delivery. My colleagues and I share the belief that our programs are complementary rather than competing. So, FMCSA will work together with FHWA and NHTSA to pool and focus our effort, energy, and resources where they will have the greatest impact on safety. Our new CMV safety goal, harmonized with the DOT Highway Safety performance goal and FHWA and NHTSA measures, evinces our intermodal approach. Encouragingly, FMCSA achieved its fatality rate performance target for 2002.

Enforcement is FMCSA's primary safety mitigation strategy and the agency's core competency. Appropriately, it is the focus of the greatest share of program resources. FMCSA conducts enforcement operations and provides grants to support State enforcement efforts. To the extent possible, we look to increasingly align Federal and State enforcement operations in mutually-reinforcing ways. The effectiveness of enforcement interventions in reducing crashes, fatalities, and injuries is borne out by findings of the CR Impact Assessment Model and the Roadside Inspection and Traffic Enforcement Intervention Model. We propose to expand the toolbox of enforcement techniques, close loopholes permitting unsafe practices, and improve our penalty structure. We look to implement a balanced enforcement model—an approach that balances and capitalizes on prevention (compliance reviews, safety audits), deterrence (inspections, traffic enforcement), and remediation (sanctions and penalties) interventions. New entrant safety audits will broaden our enforcement regime.

Information is a high near-term priority. As a data-driven organization, information is the essential backbone for all major FMCSA operational and support programs and activities. To ensure our maximum operational effectiveness and efficiency, we need to base our decisions on the highest quality data possible and sound statistical analysis of that data. A highlight for fiscal year 2005 will be issuing the results of the Large Truck Crash Causation Study. Information initiatives are addressed in the respective performance segments and the cross-cutting Information Management proposal for fiscal year 2005 is attached as an Appendix.

States play essential partnership roles in highway safety, providing critical safety data and extending regulation and enforcement reach. The Motor Carrier Safety Assistance Program, which provides (MCSAP) grants to State highway safety authorities, is the primary means we have of moving our goal of safety advocacy from focus to action.

HM SAFETY

FMCSA authority extends to enforcing compliance with the Federal Hazardous Materials Regulations (FHMRs) to provide adequate protection against the risks to life and property inherent in the highway transportation of hazardous materials in commerce. The agency's goal is to reduce serious reportable hazardous materials incidents involving trucks. This links to and supports the DOT hazardous materials performance goal. Approximately 5 percent of the agency's fiscal year 2005 budget request is attributed to 3 performance segments contributing to achievement of this goal. A priority initiative is the institution of a grant program to extend safety inspection by States of HM carriers crossing the borders.

HM SECURITY

Continued emphasis on commercial carrier, driver, vehicle, and cargo security, and particularly hazardous materials operations is required, supporting the DOT Security strategic goal and administration priorities. Following the successful transfer of the Transportation Security Administration (TSA) to the Department of Homeland Security, FMCSA will continue to work in concert with TSA and other agencies to establish the protocols ensuring the security of commercial motor vehicle transportation. To this end, FMCSA has designated approximately 2 percent of the fiscal year 2005 budget request to two performance segments aimed at heightening the awareness of hazardous materials carriers to security threats.

CMV PRODUCTIVITY

The efficient movement of goods is a critical component of a healthy economy. FMCSA's authority extends to ensuring compliance of household goods carriers with the Federal Motor Carrier Commercial Regulations (FMCCRs). Judging by complaints received on our hotline, and more recently on the new website we have established for this purpose, closer scrutiny of and attention to the responsibilities of carriers and the rights of consumers is needed. Reducing the cycle time for response to complaints is a priority. Our fiscal year 2005 budget request includes approximately 1 percent for two performance segments supporting CMV productivity and the integrity of goods movement. Our aim is to provide informative and timely responses to all household goods complaints and HHG Congressional inquiries. We will track our progress toward accomplishment of this goal by the following two new performance metrics: percent of HHG consumer complaints receiving an initial response within 72 hours of the complaint, and percent of HHG Congressional inquiries receiving an initial response within the DOT time limit.

ORGANIZATIONAL EXCELLENCE

At the core of organizational excellence are our strategies for developing, acquiring, and sustaining the components of capability to perform our safety, security, and productivity missions: people, information, and financial resources. The President's Management Agenda (PMA) frames our agency efforts to ensure we put the right capability in the right place, at the right time, and at the right cost. Our five Organizational Excellence performance segments align with the PMA initiatives. We aim to sharpen our resource effectiveness and have allocated 6 percent of our fiscal year 2005 budget request in support of these performance-accelerating strategies.

In addition to the PMA, we are increasingly integrating findings and recommendations of the Government Accounting Office (GAO), DOT Office of the Inspector General (OIG), and the National Transportation Safety Board (NTSB) as integral components of our agency strategy and operational guidance. Our activities supporting these recommendations are addressed in our performance budget narrative. As a result of these efforts, we are pleased to have closed numerous recommendations in fiscal year 2002.

Strategic Management of Human Capital and Competitive Sourcing.—We will soon complete our agency-wide competency survey, and the priority objective will be the completion of the agency's Human Capital Plan. The Human Capital Plan will provide baseline information about the competencies of our workforce relative to our mission and performance targets; projections of potential competency gaps; and strategies for preventing those gaps. Competitive Sourcing is one approach in a coordinated strategy for managing human capital effectively and efficiently, along with hiring, learning and development, the use of personnel flexibilities, restructuring and reorganization of work, and contracting new work to result in best-value service to our customers.

Budget and Performance Integration and Financial and Procurement Performance.—Our agency's initial performance budget effort 1 year ago provided the framework for a more performance-based approach to formulation of this year's request. Agency senior leadership met and reviewed cross-cutting performance implications in the allocation of program resources in this performance budget request for fiscal year 2005. To advance our resource-to-results linkage, we have integrated our grant programs into our program logic, the better to track and discern the contribution of complementary Federal and State program efforts. We are also piloting FMCSA Division Administrator annual State plans to further increase the linkage between Federal and State plans, and to strengthen alignment with national goals. Our alignment and attribution of resources by performance segment also supports our advances in managerial cost accounting.

E-Government.—FMCSA is a data-driven and citizen-centered organization. The agency looks to increasingly capitalize on information and IT to streamline internal processes, and to increase public accessibility to programs and information. Our e-Gov initiatives include advances in e-grants, business compliance one-stop, e-rulemaking, and others.

FMCSA ADMINISTRATOR'S IMPERATIVES

My priorities for fiscal year 2004–2005 include:
—Full implementation of the New Entrant Program as mandated by MCSIA
—Reauthorization of FMCSA safety programs
—Improved safety data to inform targeting of enforcement operations
—Reduction in the backlog of rulemakings
—Improving the credibility and integrity of the CDL program
—Improving cycle time for response to household goods complaints.

BUREAU OF TRANSPORTATION STATISTICS

PREPARED STATEMENT OF RICHARD KOWALEWSKI, DEPUTY DIRECTOR

Mr. Chairman, Ranking Member Murray, members of the subcommittee, thank you for the opportunity to discuss the Bureau of Transportation Statistics' fiscal year 2005 budget request.

The Bureau of Transportation Statistics (BTS) proudly joins other agencies in our Federal statistical system to provide the unbiased data that drive planning, projections, and policies at the Federal, State, and local levels. Those decisions in turn determine the course of countless business and civic initiatives that support our prosperity, quality of life, and well-being as a Nation. In the transportation arena, BTS is committed to helping ensure the health and growth of efficient, safe, and environmentally sound infrastructure and operations across the various transportation modes.

The availability and use of BTS data support each of Secretary Mineta's Strategic Goals of safety, mobility, global connectivity, environmental stewardship, security, and organizational excellence. While our data are critical for decision making, they also provide an important, unbiased report card. The success of government programs cannot be simply proclaimed; it must be objectively measurable by the people those programs serve. Thus, BTS plays a critical role at both ends of the policy-making process: we fuel transportation decisions and help provide critical performance benchmarks. Operating under the strict guidelines that apply to any Federal statistical agency, and in line with congressional intent in creating BTS, we do our work objectively, free of bias toward any one mode of transportation.

RECENT ACCOMPLISHMENTS

BTS has accomplished much in the past year and has set its sights on doing fewer things better in the budget year to come. Our fiscal year 2005 budget request of $32.2 million from the Highway Trust Fund reflects critical information needs and incorporates decisions we have made internally to further the work that supports our mandate. In addition, as authorized in the VISION 100 aviation legislation, we propose that $4.045 million in reimbursable funding from the Airport and Airway Trust Fund be used to cover direct costs of our air transportation statistics program, which produces our most-requested and closely watched data.

BTS's air transportation statistics program is relied upon for decisions with far-reaching economic implications. Our data on passenger enplanements drive the Federal Aviation Administration's (FAA) distribution of Airport Improvement Grants, and our data on flight delays and their causes help in FAA's decisions about infrastructure and operational investments, as well as decisions by the airlines and the traveling public. We have worked with Alaskan carriers to improve the quality of the monthly traffic data that they report to BTS and which the U.S. Postal Service uses to decide which carriers are eligible to receive mail contracts for intra-Alaskan mail under the Rural Service Improvement Act. We provided airline financial and operating information for decisions on post-9/11 grants and loan guarantees to passenger and freight carriers. Our aviation data assist the Transportation Security Administration in decisions regarding the allocation and deployment of resources across the country, and support the Office of the Secretary in making decisions about service to underserved communities and on international routes.

For more than 11 years, Congress also has turned to BTS for both in-depth and quick turn-around answers, briefings, and visual presentations of data. We have

analyzed the impact of railroad rationalization in the upper Great Plains, compared the costs of highway and rail construction, and assessed the impact of international trade on highway demands in our border States. We have prepared maps showing structurally deficient and functionally obsolete bridges in each State and congressional district so that members of Congress can be better informed in setting priorities on infrastructure needs.

As the smallest of the Federal statistical agencies, BTS has always worked hard to maximize available resources, matching the right expertise to the job at hand and tuning our programs based on customers' feedback. That feedback has helped us determine the most effective approach in doing fewer things better.

In 1997, for example, we developed an innovative survey design that allowed us to cut the size of the Commodity Flow Survey in half, reducing its budgetary cost and burden on respondents, without compromising data quality. Between 2001 and 2003 we replaced a 30-year-old patchwork mainframe computer system that had been running our aviation data programs and replaced it with a modern mid-tier computer platform to increase our efficiency and the data's usability. Our work in helping to develop, validate, and verify performance measures for DOT contributed toward the high ranking of the Department's fiscal year 2003 performance report by the Mercatus Center of George Mason University—DOT's performance report tied for number one in the Federal Government.

BTS is working to improve its operations through initiatives of the President's Management Agenda, and to reorganize our lines of business to be simpler, more easily managed, and more results-oriented. As envisioned in the Administration's Safe, Accountable, Flexible, and Efficient Transportation Equity Act (SAFETEA) legislation and our budget, BTS proposes to sharpen its focus around five core data programs and two cross-cutting research programs. The core data programs are freight, travel, transportation economics, air transportation, and geographic information systems. The cross-cutting programs assess overall transportation system performance and improved statistical methods to address transportation-specific problems.

In the freight and travel areas, this past year saw the release by BTS of the full datasets from our two major survey activities, the National Household Travel Survey, collected in 2001–2002 with the Federal Highway Administration (FHWA), and the Commodity Flow Survey, collected in 2002 with the Census Bureau. Analysis of each of these datasets will play a critical role in driving Federal, State, and local transportation planning and investment for the next 5 to 10 years.

BTS is especially pleased to have unveiled two new economic indices that for the first time provide a comprehensive picture of transportation activity, help us to analyze its economic impact, and provide better information on what passengers pay for airline service:

—The monthly Transportation Services Index (TSI) measures outputs in the for-hire movement of freight and people and is a new leading economic indicator, better clarifying our understanding of transportation's relationship to the economy.

—The quarterly Air Travel Price Index (ATPI) illustrates the rate of national and local market fluctuations in the price of air travel. The ATPI yields greater understanding of the cause and effect relationship between airline industry market decisions, external market factors, and the affordability of travel.

These indices provide new insight into interrelationships and potential macro-economic impacts of changes in transportation activity. This, in turn, helps economists better anticipate turning points in our Nation's economy. We are also working, consistent with the late Senator Moynihan's original vision for BTS, on improving our measures of the productivity of the Nation's transportation sector.

In fiscal year 2004, BTS also released an innovative product called GeoFreight, an intermodal freight planning tool on CD–ROM that graphically displays the geographic relationship between freight movements and infrastructure. Developed jointly with FHWA, the tool was designed to aid the planning of State and local governments and augment their ability to anticipate demands on capacity.

Our work on improved statistical methods has led to the adoption of a new method to protect the confidentiality of statistical data that responds to customer demands to make more data available while preventing the disclosure of confidential data. We also led the development of Information and Dissemination Quality Guidelines for the Department, as required by recent data quality legislation.

We have also worked at increasing the accessibility of our data. Our Web-based data platform, TranStats, has won several awards as an exemplary e-government initiative, including the Industry Advisory Council/Federal CIO Council Excellence.Gov Award (Top 5 Winner), the Sun/Computerworld iForce Excellence Award for Business Intelligence, and the Computerworld Honors Program Award. Along

with our other web-based information services, we serve an estimated 3.7 million users per year, allowing users to analyze data on-line and access electronic copies of the documents of the National Transportation Library.

CHALLENGES THAT REMAIN

While BTS has made good progress in many areas of our statistical programs, challenges remain that need to be addressed to improve BTS's performance, such as BTS's freight flow data for imports and exports, geolocation data on the Nation's transportation network, and exposure data for general aviation operations.

Recently, the Transportation Research Board has called upon BTS to fill gaps in our freight data program. The modest budget increase we have requested for fiscal year 2005, along with our refocusing of effort on core programs, will allow us to increase sample sixes on our key freight and travel data, improving the quality of data available to our users.

BTS has much to accomplish at a time when our Nation has a new level of interest in and understanding of how the interconnectedness of our transportation system affects global competitiveness and national security. We need to develop a more timely and complete understanding of freight flows, as our economy moves increasingly to a just-in-time rhythm. We need a more comprehensive overview of our Nation's mobility and connectivity by collecting data that link transit trips, passenger terminal information, highway usage and capacity, and levels of commercial service. We also need improved highway safety exposure data, allowing improved analysis of the area where most of our transportation deaths occur. Possession of these data would reveal areas of economic opportunity, help us set our course more precisely, and help us to better predict the potential transportation impacts of terrorist attacks.

We look forward to working with the committee to meet the Nation's needs for reliable, accurate transportation data, so that our policymaking can be well-informed and our transportation planning can make accurate assessments of the Nation's transportation needs. We will continue to seek out innovative data collection strategies that provide better data quality at lower cost.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

PREPARED STATEMENT OF SAMUEL G. BONASSO, DEPUTY ADMINISTRATOR

Chairman Shelby, Ranking Member Murray, and members of the committee, on behalf of the Research and Special Programs Administration (RSPA), thank you for the opportunity to address the important safety, environmental and other performance goals supported by the President's fiscal year 2005 funding request for RSPA. With the active participation of our State, local, private sector and university partners, RSPA has made significant advances in meeting our performance goals, and we are looking forward to working with the members of this committee and with the Congress in continuing to reduce deaths, injuries, property damage and economic consequences resulting from hazardous materials, pipeline, and other transportation incidents. Working together, we need to develop and implement the programs and systems America needs to meet the important transportation safety challenges facing the Nation.

Effective fulfillment of RSPA's safety responsibilities is critical to both the transportation and economic needs of the Nation. Approximately 28 percent of America's freight ton-miles involve transportation of hazardous materials, regulated by RSPA. The safe and secure movement of hazardous materials is fundamental to America's economy and industry, delivering much of the petroleum products and raw materials that fuel American business. Hazardous materials are also fundamental to everyday personal needs—for example, chlorine treats our water, making it safe to drink; anhydrous ammonia fertilizes our fields, allowing America to feed our Nation and some of the world. The volume of hazardous materials regulated by RSPA is substantial:

—The Office of Pipeline Safety regulates 2.3 million miles of pipeline that move 63 percent of America's consumed energy—they are literally the arteries of our way of life. On a ton-mile basis, pipelines carry 21 percent of the Nation's freight.

—The Office of Hazardous Materials Safety regulates over 800,000 daily shipments of hazardous materials—working with all modes of transportation on packaging and handling to help assure safe movement through America's transportation system. Hazardous materials outside of pipelines account for 7 percent of the freight ton-miles transported annually in the United States.

—The Transportation Safety Institute conducts cutting-edge training in hazardous materials safety, as well as safety, security and environmental stewardship training in all modes of transportation for State and local first responders, public and private sector engineers, inspectors, and other employees.

Equally important to the efficient operation of America's transportation systems are RSPA's emergency transportation and research activities. Through RSPA:

—The Office of Emergency Transportation manages the DOT Crisis Management Center, a 24/7 operations center to track and respond to natural and human-caused transportation incidents; and coordinates continuity of operations and emergency transportation planning for all Department of Transportation's (DOT) operating administrations and in direct coordination with all other Federal departments.

—The Office of Innovation, Research and Education leads DOT's involvement in the President's Hydrogen Fuel Initiative, coordinating with all DOT administrations, the Department of Energy and other Federal agencies in conducting research and development and standards-setting activities to ensure the safety of hydrogen-fueled vehicles and the infrastructure to support them.

—The Office of Innovation, Research and Education manages 26 University Transportation Centers that conduct research in all areas of transportation engineering and management, advancing the state of the practice and preparing students to be the transportation systems leaders of tomorrow.

—The Volpe National Transportation Systems Center provides technical systems expertise to all DOT agencies and non-DOT clients in all areas of transportation systems, including safety, homeland and national security, mobility, environmental stewardship, systems engineering, navigation, operator performance, and economic analysis.

Implicit in all of these regulatory, technical, research and training activities supporting safety is a significant concern for national and homeland security. Our overall focus on safety supports administration and Congressional goals for improving transportation security. All of RSPA's offices work closely with the Department of Homeland Security to ensure that our program activities keep security as an important focus, an integral part of providing safe transportation systems.

RSPA's budget is performance-based, keyed to DOT's six strategic goals, rather than to specific "budget line activities." RSPA strives to deliver the results that Congress expects in all six DOT strategic areas:

—*Safety.*—Enhancing public health and safety by working toward elimination of transportation-related deaths and injuries.

—*Mobility.*—Advancing accessible, efficient intermodal transportation for the movement of people and goods.

—*Global Connectivity.*—Facilitating a more efficient domestic and global transportation system that enables economic growth and development.

—*Environmental Stewardship.*—Promoting transportation solutions that enhance communities and protect the natural and built environment.

—*Security.*—Balancing homeland and national security transportation requirements with the mobility needs of the Nation for personal travel and commerce.

—*Organizational Excellence.*—Advancing the Department's ability to manage for results and achieve the goals of the President's Management Agenda.

The President's total budget request for RSPA in fiscal year 2005 is $137.3 million, an increase of $11.7 million (9.0 percent) over the fiscal year 2004 enacted level. Seventy-five percent of the President's fiscal year 2005 budget request for RSPA is dedicated towards achieving results supporting the DOT safety strategic goal. Another 16 percent supports the environmental stewardship strategic goal, reducing environmental damage from pipeline incidents, with the remaining 9 percent supporting the other goals. The additional resources requested will primarily support efforts to reduce hazardous materials incidents and to advance preparation for emergency transportation response.

RSPA sets performance goals to implement the DOT strategic goals. Some of those goals, and the funding requested to achieve them, include:

—*Safety.*—RSPA requests $103.3 million, an increase of $7.6 million, to meet our three critical safety performance goals:

  —Reduce deaths, injuries, property damage and economic consequences resulting from hazardous materials transportation incidents.

  —Reduce death, injuries, and property damage resulting from pipeline incidents.

  —Promote the safe transport of hydrogen fuels and fuel systems so that alternative fuel vehicles can be developed as a safe alternative to petroleum-fueled vehicles.

—*Mobility/Security.*—RSPA requests $5.7 million, an increase of $2.0 million, in order to prepare our Nation's transportation system—in advance—to aid people and property harmed by natural and terrorist disasters.

—*Environmental Stewardship.*—RSPA requests $22.5 million, an increase of $1.7 million, to reduce the amount of oil or other hazardous liquids released from pipeline systems.

—*Organizational Excellence.*—RSPA requests $5.9 million, an increase of $0.4 million, in order to improve our operating efficiencies in all programmatic areas.

RSPA is achieving results in all of our critical areas, and is committed to continuing improvements in transportation safety. For example:

—The number of serious hazardous materials incidents in transportation has dropped by 18.5 percent since 2000.

—RSPA's Office of Pipeline Safety has addressed most of a 12-year backlog of outstanding Congressional mandates and recommendations from oversight agencies.

—RSPA is ensuring that pipelines are tested and repaired according to higher integrity management standards, and RSPA is working with our Federal partners to expedite the repair permits.

—Hazardous liquid pipeline incidents have decreased by 28 percent and the volume of oil spilled has been significantly reduced.

—Third party excavation accidents have decreased by 59 percent over the past 10 years, even while housing starts were on the rise, which brings construction risk near pipelines by encroachment on rights-of-way.

—RSPA's Transportation Capability Assessment for Readiness (TCAR) scores continue to improve annually.

—The Transportation Safety Institute trains over 50,000 students annually, graduated its 650,000th student in 2003, and recently acquired university credit for various courses.

—The University Transportation Centers continue to graduate over 1,500 students with advanced degrees annually.

—RSPA's Hazardous Materials Emergency Preparedness Grants program, which prepares communities to respond to hazardous materials incidents, received a "moderately effective" score of 83 percent on a Program Assessment Rating Tool (PART) analysis conducted for the fiscal year 2005 budget cycle. We are working to remedy implement the recommendations resulting from the PART analysis.

In conclusion, RSPA's requested $11.7 million increase will be invested in improving our performance, further reducing death, injuries, property damage and economic consequences resulting from transportation incidents.

Again, Mr. Chairman, thank you for the opportunity to testify before you today. I look forward to responding to any questions you may have.

DEPARTMENT OF THE TREASURY

FINANCIAL CRIMES ENFORCEMENT NETWORK

PREPARED STATEMENT OF WILLIAM J. FOX, DIRECTOR

Chairman Shelby, Senator Murray, and members of the committee, thank you for the opportunity to submit my statement for the record on the President's fiscal year 2005 budget request for the Financial Crimes Enforcement Network. This $7.271 million request reflects the important role FinCEN plays in the United States government's efforts to understand, detect, and prevent terrorist financing.

On December 1, 2003, I became FinCEN's fourth director. Prior to coming to FinCEN, I was working as the principal assistant to the General Counsel of the Treasury Department on issues relating to terrorist financing, which were issues that occupied a great deal of my time. Coming from the Department, I understood, to a large extent, the nature of FinCEN's responsibilities and what it was doing to carry out the obligations imposed by these responsibilities. In these 5 months, I have done a great deal of listening and learning from inside and outside of FinCEN. I have met extensively with the law enforcement and intelligence communities that we serve and the financial industry that we help regulate. I also have met with some of my counterparts in foreign governments and communicated with many more and I have met with and listened to the staffs of interested committees in the Congress—including this subcommittee.

In this short time, I have found an organization populated with employees with diverse and highly specialized talents, who are extremely dedicated to the agency

and its mission. I have found an agency that is a good steward of the human and capital resources that have been provided by the Congress. However, I have also found an agency facing many important challenges—challenges relating to the effective and efficient management of the extremely sensitive data collected under the Bank Secrecy Act; challenges relating to its analytic staff and the analytic product they produce; challenges relating to the administration of its regulatory programs under the Bank Secrecy Act; challenges relating to refocusing its important partnerships with financial intelligence units around the world—the Egmont Group; and, challenges relating to the agency's present organizational structure.

My statement will address how FinCEN is going to meet these challenges and then it will focus on our fiscal year 2005 budget request.

BACKGROUND

FinCEN's mission is to help safeguard the financial system of the United States from being abused by criminals and terrorists. FinCEN works to accomplish its mission through: (1) administration of the Bank Secrecy Act—a regulatory regime that provides for the reporting of highly sensitive financial data that are critical to investigations of financial crime; (2) dissemination of the data reported under the Bank Secrecy Act to law enforcement and, under appropriate circumstances, the intelligence community; (3) analysis of information related to illicit finance—both strategic and tactical analysis; and, (4) the education and outreach provided to law enforcement and the financial industry on issues relating to illicit finance. FinCEN has many attributes that are key to understanding the agency and how it works to achieve its mission:

—*FinCEN is a regulatory agency.*—FinCEN has an obligation to administer the Bank Secrecy Act, the principal regulatory statute aimed at addressing the problems of money laundering and other forms of illicit finance, including terrorist financing. It is responsible for shaping and implementing this regulatory regime and, in concert with the functional banking, securities, and commodities regulators and the Internal Revenue Service, for ensuring compliance with that regime. The agency is also charged with protecting the integrity and confidentiality of the information collected under the Bank Secrecy Act.

—*FinCEN is a financial intelligence agency.*—While not a member of the intelligence community, FinCEN, with the help of the Internal Revenue Service, collects, houses, analyzes and disseminates financial information critical to investigations of illicit finance.

—*FinCEN is a law enforcement support agency.*—While FinCEN has no criminal investigative or arrest authority, much of our effort supports the detection, investigation and successful prosecution of financial crime.

—*FinCEN is a network.*—We are not directed to support one agency or a select group of agencies. We make our information, products and services available to all agencies that have a role in investigating illicit finance. In fact, we network these agencies. Our technology tells us when different agencies are searching the same data and we put those agencies together—avoiding investigative overlap and permitting the agencies to leverage resources and information.

Given this important mission, FinCEN fits perfectly in the Department of the Treasury; possibly even more so after the Homeland Security reorganization rather than before that reorganization. The creation of the Office of Terrorism and Financial Intelligence within Treasury only enhances that fit. FinCEN will be able to help "operationalize" Treasury's policy priorities on these important issues and our operational analytic work will complement the analysis that will eventually be done in the newly created Office of Financial Intelligence. I believe this coordinated effort will lead to a greater emphasis and understanding of money laundering, terrorist financing and other forms of illicit finance not only at Treasury, but within the United States, and that will make us all safer. FinCEN will also benefit from the Department-wide, policy-coordinating role this office will provide.

FINCEN'S COUNTER-TERRORISM STRATEGY

The single, most important operational priority for FinCEN is counter-terrorism support to law enforcement and the intelligence community. To emphasize the importance of this work we have improved and are now implementing a comprehensive counter-terrorism strategy that draws from our analytic support to law enforcement, our regulatory tools and expertise, and our international networking capabilities. We believe the implementation of this strategy will strengthen our focus and ensure that FinCEN is more active and aggressive rather than reactive on issues relating to terrorism. The strategy has five basic components.

Analysis of Terrorist Financing Suspicious Activity Reports

FinCEN analyzes suspicious activity reports for both tactical and strategic value. At the tactical level, we are implementing a program in which every report that indicates a connection to terrorism is immediately reviewed and validated and then analyzed with other available information. This information will be packaged and referred to the Terrorist Threat Integration Center (TTIC), FBI–TFOS, and other relevant law enforcement. Moreover, this information will be stored in a manner that facilitates its access and availability for analysis. We have already had success with this process resulting in important information being passed along to law enforcement agency.

At the strategic level, we are also devoting analysts to study Bank Secrecy Act data and all other available information to gain an increased understanding of methodologies, typologies, geographic patterns of activity and systemic vulnerabilities relating to terrorist financing. These analysts will focus on regional and systemic "hot spots" for terrorist financing, studying and analyzing all sources of information. Such focus, which produced the study mandated by the Congress on Informal Value Transfer Systems, can significantly add to the knowledge base of law enforcement. For example, we have begun a process to comprehensively study illicit trade in diamonds and other precious stones and metals and the links to terrorist finance. Although this initiative is currently underway, in order to fully implement it, we will need to upgrade analysts' security clearances and obtain additional equipment appropriate for the handling and processing of national security information.

USA PATRIOT Act Sections 311 and 314 Implementation

Some of the new tools afforded us through the USA PATRIOT Act are proving to be invaluable in the war against terrorist financing, particularly Section 314 of the Act. FinCEN also has initiated a program to provide the analytic, regulatory and legal resources needed to support effective implementation of Section 311 by the Treasury Department. I have directed my staff to give priority to the pro-active targeting of those financial institutions and jurisdictions that are involved, wittingly or unwittingly, in the financing of terror. This prophylactic measure goes to the very heart of FinCEN's mission—to safeguard the financial system of the United States from money launderers and the financiers of terror.

Building on a successful pilot program that we began with the Bureau of Immigration and Customs on a 314(a) money-laundering request, FinCEN is now dedicating several analysts to apply this program to all 314(a) terrorism requests. Specifically, the analysts will run all 314(a) terrorism-related requests against Bank Secrecy Act data concurrent with these requests being sent to financial institutions. Based on this initial data review, the law enforcement requester will then be able to request a more in-depth analysis if desired.

International Cooperation and Information Sharing

FinCEN will increase the exchange of terrorist financing investigative and analytical information with other foreign financial intelligence units around the world. We are implementing a program by which FinCEN will automatically request information from relevant financial-intelligence-unit counterparts as part of any terrorism related analysis project. As part of this program, we are also upgrading our response to incoming requests for information from financial intelligence units by providing appropriate information and analysis from all sources of information.

Terrorism Regulatory Outreach

We will continue our work in improving our ability to provide information to the regulated community to better identify potential terrorist financing activity. One area of particular focus will be money services businesses. Money services businesses continue to require more attention and resources, and FinCEN will undertake an initiative to educate segments of the industry most vulnerable to terrorist abuse. These segments include small businesses that typically offer money remittance services, check cashing, money orders, stored value products and other informal value transfer systems. As we learned from the attacks of September 11, funds used to finance terrorist operations can be and have been moved in small amounts using, for example, wire transfer, traveler's check and automated teller machine services. I have directed FinCEN's Office of Regulatory Programs and Office of Strategic Analysis to enhance our outreach program that will include training on how terrorists have used and continue to use money services businesses; the reason for and importance of the registration requirement for money services businesses; and the importance of complying with the reporting requirements of the Bank Secrecy Act, especially suspicious activity reporting. We are planning to streamline sus-

picious activity reporting for small money services businesses with a simplified form.

Analytic Skill Development

As a general matter, I have directed that FinCEN make training of personnel the highest human resource management priority. The top priority of this new program will be analytic skill development relating to terrorist financing. We plan to begin by seeking reciprocal opportunities for terrorist finance analytic skill development within law enforcement, the Egmont Group, the intelligence community and the financial industry. This initiative is intended to build a foundation for continuous improvement of our analytic assets through cross training and diversification; production of joint terrorist financing threat assessments and other reports; understanding of intelligence processes; the international context of terrorist financing; and the financial industry perspective. In addition, we will need to support training focused on financial forensics, language skills, and geographically targeted studies that focus on culture, infrastructure and other unique aspects of a particular region.

I believe the full implementation of this strategy will materially assist the Department of the Treasury and the United States in addressing the financing of terror. Approaching this problem in a systemic way with dedicated resources is, in our view, the best way to make this strategy a success.

FINCEN'S NEAR TERM CHALLENGES

As I mentioned before, FinCEN is facing a number of significant challenges. Because each of these challenges affects FinCEN's effectiveness, I feel it is important to raise these challenges with the subcommittee.

Security and Dissemination of Bank Secrecy Act Information

As the administrator of the Bank Secrecy Act, there is no duty I view as more critical then the effective collection, management and dissemination of the highly sensitive and confidential information collected under that Act. If FinCEN does nothing else, it must ensure that such data are properly collected, are secure and are appropriately and efficiently disseminated. This is FinCEN's core responsibility.

FinCEN must modernize the way it houses and provides access to information collected under the Bank Secrecy Act. Currently, our data are accessed by most of our customers through an outmoded mainframe system. This system does not have the robust data mining capabilities or analytical tools we should be providing. This has led many of our customers to ask for wholesale copies of the data, or direct access to the data in a way that will not permit us to perform our responsibilities relating to the administration and management of the data. Accordingly, we must create a system that provides robust data mining and analytical tools to our customers in law enforcement and that preserves our ability to: (1) effectively administer and secure and audit use of the information; (2) network those persons who are querying the data to prevent overlapping investigations and encourage efficient use of law enforcement resources; and, (3) develop and provide adequate feedback to the financial industries we regulate, which will ensure better reporting. That system is called "BSA Direct."

When fully implemented, BSA Direct will make available robust, state-of-the-art, data mining capabilities and other analytic tools directly to law enforcement. We plan to provide all access to these data through BSA Direct, working with our law enforcement customers to ensure that their individual systems will be able to extract the maximum value from the Bank Secrecy Act reporting. We will be exploring ways to enable these agencies to integrate the Bank Secrecy Act reporting with their other systems while maintaining, and even improving our ability to audit and network the use of the data and obtain feedback concerning their value. This new system will provide us with the capability to discharge our responsibilities relating to the administration of these sensitive data: security and access control, networking, and feedback. This system will also significantly enhance our coordination and information sharing abilities, as well as our ability to safeguard the privacy of the information and monitor BSA compliance. We have already started work on this system and its deployment is crucial to FinCEN moving forward and meeting its various challenges. We have requested in our fiscal year 2005 budget a transfer of $2.5 million from the Internal Revenue Service for this system.

Enhancing FinCEN's Analytical Capabilities

Another challenge FinCEN is facing relates to its analytic capabilities. In my view, FinCEN must move away from its current emphasis on data checks and data retrieval, and move its analytic resources toward more robust and sophisticated analysis. FinCEN had moved to data checks and data retrieval in response to criti-

cisms about lag time in responding to simple requests for information. Now, as our systems improve, our customers will be able to retrieve data themselves, which will give FinCEN more time and resources for analysis of data.

I believe that FinCEN can and must provide value through the application of our focused financial analytic expertise to mining information and providing link analyses that follow the money of criminals and terrorists, or identify systemic or geographic weaknesses to uncover its source or the existence of terrorist networks. For example, in addition to providing geographic threat analysis for law enforcement, FinCEN has been studying systemic trends in money laundering and terrorist financing. We were instrumental in bringing the black market peso exchange system to the forefront of policy decisions, and we are focusing on other trends and patterns that we now see emerging in the global market. I recently made a trip to Dubai to participate in the growing dialogue on the potential use of diamonds and other commodities for illicit purposes, including money laundering and terrorist financing. We recently developed cases from Bank Secrecy Act data involving foreign gem companies with links to the United States and referred this information to law enforcement authorities. This is part of our focus on and study of what may be another iteration of money laundering and terrorist financing—commodity-based systems.

In my view, while FinCEN still has some of the best financial analytic talent in the United States government, the challenges we face require us to further develop that talent to enable the full exploitation and integration of all categories of financial information—well beyond Bank Secrecy Act information. I have directed FinCEN's managers to concentrate on training, as well as the hiring of new, diverse financial analytic expertise.

Enhancing FinCEN's Technology

As I have mentioned, information sharing is critical to our collective efforts to detect and thwart criminal activity and that is why I believe enhancing our technological capabilities is extremely important. Section 314(a) of the USA PATRIOT Act allows law enforcement to query United States financial institutions about suspects, businesses and accounts in money laundering and counter terrorism investigations. FinCEN facilitates this interaction between the financial industry and law enforcement by electronically sending law enforcement requests to various banks that, in turn, check their records and relay the information back to FinCEN to then provide to the requestor. This saves law enforcement time and resources. We are currently enhancing the Section 314(a) electronic capabilities to allow for the originating request to be made to FinCEN via a secure website. This system is an example of how critical technology is to our law enforcement counterparts.

We must continue to work to enhance the development of the PATRIOT Act Communications System, a system that permits the electronic filing of reports required under the Bank Secrecy Act. This system was developed and brought on-line under a very tight legislative deadline. FinCEN received the E-GOV award for its work on this system. Filing these forms on-line is not only more efficient; it will help eliminate some of the data errors and omissions.

As of April 19, 2004, 1.2 million Bank Secrecy Act forms had been electronically filed through this system. We now support nearly 1,100 users, which include 15 of the top 25 filers of Bank Secrecy Act information. These top 25 filers accounted for approximately 50 percent of all Bank Secrecy Act forms filed in fiscal year 2003. While this is all good news, the bad news is that the current number of forms filed electronically remains quite small on a percentage basis. The forms being filed through the PATRIOT Act Communications System represents only approximately 5 percent of the universe of all Bank Secrecy Act reports filed. I have directed our PATRIOT Act Communications System team to reach out to the financial industry and determine what more needs to be done to convince them to file electronically. As we learn about what is holding institutions back from filing, I have directed our team to work closely with system developers to build the system stability and tools necessary to improve the overall percentage of filing.

FinCEN presently lacks the capacity to detect Bank Secrecy Act form filing anomalies on a proactive, micro level. As I mentioned earlier, BSA Direct will integrate Bank Secrecy Act data into a modern data warehouse environment and it will include tools to flag Bank Secrecy Act form filing anomalies for action by FinCEN and/or referral to appropriate authorities. In the meantime, FinCEN is developing a request to the Detroit Computing Center to provide periodic exception reports on financial institutions whose Bank Secrecy Act form filing-volume varies beyond prescribed parameters during prescribed time frames. While we will not be able to conduct the sophisticated monitoring that will be available with BSA Direct, this interim step should produce an alert in the event of a catastrophic failure to file

forms, as was experienced in the Mirage case in which the Mirage Casino in Las Vegas failed to file over 14,000 currency transaction reports in an 18-month period.

Enhancing FinCEN's Regulatory Programs

The administration of the regulatory regime under the Bank Secrecy Act is a core responsibility for FinCEN. Given the nature of our regulatory regime—a risk-based regime—our partnership with the diverse businesses in the financial services industry is the key to our success. I must tell you that it is my perspective that the financial industry is generally a model of good corporate citizenship on these issues. The industry's diligence and commitment to the recordkeeping and reporting requirements of the Bank Secrecy Act is by and large outstanding. The industry's cooperation with FinCEN in implementing many of the provisions of the USA PATRIOT Act has strengthened the foundation of our efforts to safeguard the financial system from criminal abuse and terrorist financing. I have met with many of our industry partners in the last several months, both old and new, and I have been struck with how concerned they are that the information they provide be of value to the fight against terrorist financing and other financial crimes. In turn, FinCEN is committed to enhancing the guidance they need as they strive to meet the requirements and objectives of new regulations.

The challenge before FinCEN on this issue is simple: we must ensure the remaining regulatory packages required by the USA PATRIOT Act are completed and implemented. Moreover, as we work with our regulatory partners to implement this regulatory regime, we must provide constant feedback and guidance. We have asked the industry to create anti-money laundering programs that are risk-based—custom tailored to each institution based upon the business in which that institution engages and the customers that institution has. We must find ways to help the industry define that risk. Development of secure web-based systems that will foster the communication discussed above is a step in the right direction. But we must continue to find new and better ways to reach out to the industry. They understand the threat money laundering and illicit finance poses to our financial system and they are willing to help.

Perhaps our most significant challenge lies in ensuring that financial institutions are appropriately examined for compliance with the Bank Secrecy Act and its implementing regulations. As you know, we have issued and will continue to issue anti-money laundering program regulations that will bring new categories of businesses under this form of Bank Secrecy Act regulation for the first time.

We have and will continue to rely on the judgment, expertise, and resources of the Federal banking, securities and commodities regulators. But the expansion of the anti-money laundering regime comes with the additional responsibility and challenges of examining thousands of addresses and businesses for compliance. We have relied on the Internal Revenue Service to examine those non-bank institutions. The addition of the insurance industry and dealers in precious stones, metals, and jewels, two categories of financial institutions for which we will shortly issue final anti-money laundering program regulations, will themselves stretch the resources of agencies responsible for examination. We must find ways to ensure that these regulatory programs are implemented in a fair, consistent and timely manner that is focused on achieving the goals of the Bank Secrecy Act. Although difficult, this is an issue that must be resolved.

Finally, we intend to take even a more active role in working with our regulatory partners to ensure the effective examination of financial institutions. We will find appropriate ways to enhance our ability to provide prompt, interpretive guidance to examiners, obtain consistency in the application of the regulations across industry lines, and identify and address compliance issues as they arise.

Enhancing FinCEN's International Program

FinCEN's international initiatives and programs are driven by a stark reality: finance knows no borders. Next year will mark the tenth anniversary of the founding of the Egmont Group—a milestone event that FinCEN will host in Washington, DC next June. The Egmont Group is an international collection of "financial intelligence units"—entities, which, like FinCEN, are charged with the collection and analysis of financial information to help prevent money laundering and other illicit finance. The Egmont Group has achieved remarkable growth since its inception in 1995. Membership has risen from 6 charter members to 84. This membership number will rise to 92 this year and is expected to top 100 by the time of the June 2005 Plenary.

The Egmont Group serves as an international network, fostering improved communication and interaction among financial intelligence units (FIUs) in such areas as information sharing and training coordination. The goal of the Group is to provide a forum for FIUs around the world to improve support to their respective gov-

ernments in the fight against financial crimes. This support includes expanding and systematizing the exchange of financial intelligence information, improving expertise and capabilities of personnel employed by such organizations, and fostering better and more secure communication among FIUs through the application of technology.

Egmont's secure web system permits members of the group to communicate with one another via secure e-mail, and to post and assess information regarding trends, analytical tools, and technological developments. FinCEN, on behalf of the Egmont Group, maintains the Egmont Secure Web. Currently, 76 of the 84 members (90 percent) are connected to the secure web site. I am very pleased to announce that FinCEN will launch a new and more efficient secure web site for Egmont in June. We expect this new site will generate more robust usage, which will enhance international cooperation among Egmont members.

FinCEN has played a significant role in the growth and health of the Egmont Group and it maintains bilateral information sharing agreements with financial intelligence units around the world. However, in my view, this program has not received the priority it should have in recent times. Merely because of the simple statement I made earlier—that finance knows no borders—we must step up our international engagement with our counterparts around the world. Our plan is to do three principal things:

—Lead the Egmont Group to begin focusing on actual member collaboration. Egmont members should be collaborating in a more systemic way to address issues relating to terrorist financing, money laundering and other illicit finance at both a tactical and strategic level.

—Enhance the FinCEN analytical product we provide to our global counterparts when we receive requests for information. Today, we principally provide the results of a data check. We think we owe our colleagues more in-depth analysis of the information we provide. As noted before, we will also be making more requests for information and analysis from our partners—particularly when the issue involves terrorist financing or money laundering.

—Foster exchanges of personnel with financial intelligence units around the world. We have already begun discussions with certain counterparts about such an exchange and we are hopeful we can begin this program soon. The benefits of this type of exchange are obvious. It is the best way we can learn together how to address a truly global problem.

FinCEN will also enhance its support for Treasury policy officials' work in the Financial Action Task Force (FATF) and FATF regional bodies. We will continue our work with the State Department in the drafting and editing of the "International Narcotics Control Strategy Report." Finally, we will continue our important efforts on financial intelligence unit outreach and training. Presently, we are working with the United Arab Emirates on a South Asia FIU Conference for Afghanistan, Bangladesh, India, Maldives, Pakistan and Sri Lanka.

Additionally, FinCEN has given its support and participation to the "3+1" Working Group on terrorist financing in the Tri-border Area. The issues of information sharing and the bolstering of FIUs in the participating states of Argentina, Brazil and Paraguay are critical issues for the U.S. delegation to the "3+1" Working Group led by the Department of State's Office of Counter-Terrorism.

FinCEN's Organizational Structure

We have been working closely with Treasury on our efforts to more effectively marshal our resources at FinCEN. As a result, I recently proposed a realignment of FinCEN that reflects my priorities to enhance FinCEN's analytical component and improve its focus and services devoted to outreach, education and technology on behalf of both its clients and the financial services community. We have briefed your staff on this proposal and, just last week; have received approval from the Department to go forward with this realignment.

Essentially, the realignment provides the ability to pull out the non-analytical functions presently entangled in FinCEN's analytical unit so that those managers and analysts can focus exclusively on analysis. We are also combining all client services and systems under a single manager in order to ensure that our technology is coordinated and better focused on serving its users. Similarly, I want this organizational structure to highlight the importance of education and training of our law enforcement clients and the regulated community. Only by working closely and cooperatively with these groups can FinCEN truly understand what services it must provide and what requirements it must meet to assist in the detection, prevention and dismantling of terrorist financing.

FISCAL YEAR 2005 BUDGET REQUEST

The proposed fiscal year 2005 budget is designed to assist in strengthening our role in the United States Government's efforts to understand, detect, and prevent terrorist financing. I also believe it will allow us to begin to meet the challenges that I have outlined above. The President's fiscal year budget request would provide $64,502,000 and 291 full-time equivalents for FinCEN. This request includes:

—$1.533 million and 4 FTE for program increases to:
  —(1) enhance regulatory support to newly covered industries as required under the USA PATRIOT Act ($0.278 million and 2 FTE);
  —(2) enhance access to Bank Secrecy Act information by putting information technology aids in place to the Gateway system to increase the current 1,000 law enforcement users to 3,000 users by fiscal year 2008 ($1.055 million and 2 FTE); and,
  —(3) procure financial and administrative services which would enable FinCEN to consolidate its accounting and financial reporting by using a Treasury franchise service provider, assuring continued submission to TIER and other accounting-related reporting in the Treasury format ($0.200 million and FTE).
—$2.5 million transfer from the Internal Revenue Service for the Bank Secrecy Act (BSA) Direct System. See infra.
—$3.238 million and 10 FTE for adjustments necessary to maintain current levels ($1.716 million) and program annualizations for fiscal year 2004 initiatives ($1.522 and 10 FTE).

CONCLUSION

The fiscal year 2005 budget request for FinCEN supports the President's fight against terrorism, and continues to build the framework necessary for accomplishing our complex mission of protecting the United States financial systems from abuses imposed by criminals and terrorists and assisting law enforcement in the detection, investigation, disruption and prosecution of such illicit activity through our role as the administrator of the Bank Secrecy Act.

I look forward to continuing to work with you to meet these challenges and enhance our contributions to the war on financial crime and terrorist financing.

Mr. Chairman, this concludes my statement.

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

PREPARED STATEMENT OF ARTHUR J. LIBERTUCCI, ADMINISTRATOR

Mr. Chairman, Senator Murray, and members of the subcommittee, it is my pleasure and honor to have the opportunity to highlight the Alcohol and Tobacco Tax and Trade Bureau's (TTB) accomplishments for the past year and discuss our fiscal year 2005 budget submission.

The Alcohol and Tobacco Tax and Trade Bureau was established January 24, 2003, as a result of the Homeland Security Act of 2002. The Act authorized the transfer of all of the firearms, explosives, and arson functions of the Bureau of Alcohol, Tobacco and Firearms (ATF) to the Department of Justice and established TTB within the Department of the Treasury. While the agency was given a new name, the history of TTB's regulatory responsibilities dates back to creation of the Department of the Treasury and the first Federal taxes being levied on distilled spirits in 1791.

The mission of TTB is to collect alcohol, tobacco, firearms and ammunition excise taxes, to ensure that alcohol beverages are labeled, advertised, and marketed in accordance with the law, and to administer the laws and regulations in a manner that protects the revenue, protects the consumer, promotes voluntary compliance, and facilitates import and export trade in beverage and industrial alcohols.

Not since the late 1940's has there been such a large overhaul and reorganization of the government and its agencies. The challenges in standing up a brand new bureau were many, but the men and women on board at the time of the transition understood and were ready for the challenging job that lay ahead. When we began, we only had about half of our projected FTE on board. Most of fiscal year 2003 and part of fiscal year 2004 were dedicated to hiring personnel in all of our offices in Washington, DC, and around the country, and finding appropriate office space for field personnel.

Late in 2003 we began the move to our new headquarters location, two blocks from the Department. This was accomplished in two phases. A majority of the offices located in Washington, DC, which include Headquarters and Field Operations

staff, moved September 2003. My staff and the Office of Chief Counsel moved April 2004. Our goal in both moves was to continue with business as usual, carrying out our mission, and have as seamless a transition as possible.

AUTHORITIES

TTB oversees the regulation of alcohol under the Federal Alcohol Administration Act (FAA Act) and the Internal Revenue Code of 1986 (IRC). Under the FAA Act, TTB regulates the authorized operations, labeling, advertising, and trade practices for those engaged in the alcohol beverage industry. This includes trade practice provisions, which regulate such practices as exclusive outlets, tied house arrangements, commercial bribery, and consignment sales. These provisions are intended to ensure fair dealing within the industry and to protect the consumer by prohibiting sales arrangements that result from anti-competitive practices.

We also administer the IRC provision relative to the qualification and operation of distilleries, wineries, breweries, and industrial alcohol producers and users. Under this authority, we administer classification and collection of tax on alcohol products, and the collection of various occupational taxes from alcohol dealers. TTB's responsibilities under the IRC cover the production, packaging, bottling, labeling, and storage requirements related to alcohol products.

With respect to tobacco, TTB work involves chapter 52 of the IRC, relating to the manufacture, importation, exportation, and distribution of tobacco products. Specifically, we examine applications and issue permits for tobacco manufacturers and importers, and export warehouses, and oversee their operations. TTB classifies a wide variety of tobacco products for tax purposes, and collects the tax on such tobacco products, as provided under the statute and implementing regulations. Finally, TTB also administers the excise tax on firearms and ammunition pursuant to its authority under the IRC.

MISSION

TTB administers Federal tax laws on alcohol, tobacco, firearms, and ammunition, and ensures that the alcohol and tobacco commodities TTB regulates are lawfully sold in the United States. In carrying out its mission responsibly, TTB must be sensitive to the industry's concerns as the government's customers, by reducing delays and regulations that impede business while also providing a tangible benefit to the American public. TTB's history indicates that an appropriate regulatory presence provides a deterrent against tax evasion schemes. TTB is committed to carrying out its responsibilities in a manner that makes effective and efficient use of the public resources entrusted to us. We carry out our mission without imposing inappropriate or undue burden on those whom we regulate and from whom we collect taxes. At the same time we maintain an aggressive enforcement program that deters violations by industry members and promotes voluntary compliance.

The split from our predecessor agency has enabled TTB to return to its roots and focus on collecting the revenue and protecting the public. In the year since our inception, we have returned to that core mission, and we have proven that despite myriad administrative details, we have been able to focus on excise tax collection. Allow me to explain some of our highlights of the past year.

TTB created a Field Operations Directorate that includes the pre-established National Revenue Center in Cincinnati, Ohio, which reconciles returns, reports, and claims; screens applications and issues permits; and provides expert technical assistance for industry, the public, and government agencies to ensure fair and proper revenue collection. The NRC is currently undergoing a business process reengineering study in order to maximize customer service and efficiency, while allowing TTB to handle an ever-increasing workload with existing staff.

The Trade Investigations Division (TID), staffed with Investigators, has seven field groups located across the country dedicated to ensuring that only qualified applicants are granted permits to engage in the production and distribution of alcohol and tobacco products. Field investigations of industry members are conducted to help promote voluntary compliance with the laws and regulations enforced by TTB and prevent misleading labeling and advertising of alcohol beverages.

Investigators also respond to credible information suggesting a health-related contamination of an alcohol or tobacco product. In addition, TID conducts trade practice and Certificate of Label Approval (COLA) fraud investigations. Some investigations over the year have resulted in revocations of permits or in the applicant withdrawing the permit as it is unable to meet the government requirements to operate. The work done by Trade Investigations is not only about educating our customers, but showing our presence and clearly helping carry out our unique and necessary mission.

Because of a greater field presence, in fiscal year 2003 we accepted 13 Offers-in-Compromise (OIC) for a total of $1.162 million. In fiscal year 2004, we have so far accepted 12 OICs for a total of $270,086, and we have an additional 7 cases pending for $176,472. As an example, we collected a $35,000 OIC from a company who was found to have been receiving and shipping product without proper label approval. Investigators also conducted a product integrity investigation into a winery in the Southwest and found numerous label, record keeping, and administrative violations. We have also participated in counterfeit alcohol and tobacco investigations along the border in Texas and New Mexico.

TTB's Tax Audit Division and program was first established in late fiscal year 2003 as part of TTB's strategic plan to collect the revenue that is rightfully due from the alcohol, tobacco, and firearms and ammunitions industries because in the past, ATF's program priorities and investigations were placed primarily on firearms and explosives. The division was established to provide a systematic approach to safeguard over $14 billion in annual revenue collected by TTB.

The Tax Audit Division verifies the proper payment of tax and ensures compliance with the laws and regulations that protect the revenue and promote voluntary compliance. TTB Tax Audit uses a risk-based approach to target non-compliant industry members. A goal in 2004 is to establish a baseline for measuring tax revenue audited in a 5–6 year period and the industry compliance rate (percentage of taxpayers audited with no material findings, thereby validating the amount of tax paid was accurate and rightfully due).

TTB's accomplishments in Tax Audit include establishing 10 audit offices across the country and recruiting and hiring 80 audit staff. The average staff person has 10 years of previous audit experience and holds one audit certification (i.e. Certified Public Accountant). TAD also established a formal industry-training program: 75 percent of the workforce has been trained in three or more industries (Distilled Spirits Plants, Beer, Wine, Manufacture of Non-beverage Products, and Firearms). They also implemented an automated audit documentation tool to facilitate a standard audit approach and create efficiencies, and developed an audit work plan scheduling 110 taxpayers for review in 2004.

I am pleased to report that initial audit findings have identified approximately $4.7 million in additional tax revenue due, and to date, these audits have resulted in approximately $500,000 in additional revenue collected by TTB. Further, these audits have identified an additional $523,000 in revenue due to the governments of Puerto Rico and the Virgin Islands for taxes collected on articles (i.e. rum) produced in Puerto Rico or the Virgin Islands (also called cover over).

These divisions work hand in glove with the Risk Management Staff who develop, implement, and maintain programs that ensure TTB is collecting all the revenue due and protecting the public. Divisions within Headquarters Operations often support the work done by TTB Auditors and Investigators in the field.

The Regulations and Procedures Division (RPD) drafts new and revised regulations under the Internal Revenue Code and the Federal Alcohol Administration Act. They issue rulings, procedures, and informational documents to clarify the law and regulations. Most notably, they evaluate important policy issues before TTB and write proposed regulations and Treasury Decisions for publication in the Federal Register and the Code of Federal Regulations.

In 2003, much attention was placed on the issuance of limitations set for health claims related to consumption of alcoholic beverages. On March 3, 2003, TTB, along with the Treasury Department, issued final regulations to prohibit the appearance on labels or in advertisements of any health-related statement that is untrue or tends to create a misleading impression. The regulations require that specific health claims must be truthful, adequately substantiated by scientific or medical evidence, disclose the health risks associated with both moderate and heavier levels of alcohol consumption, and outline the categories of individuals for whom any alcohol consumption poses risks. The new rules took effect June 2, 2003.

In addition, in March 2003, TTB and the Treasury Department issued proposed regulations that would clarify the status of flavored malt beverages by refining the regulatory definitions of "beer" and "malt beverage." The proposal would limit the amount of alcohol added to beer or malt beverages through flavors use. It would also require display of alcohol content on flavored malt beverage labels, and would prohibit references to distilled spirits on all malt beverage labels. The proposal garnered a considerable amount of congressional interest and TTB received over 16,000 comments from the public; the norm is 10–20 comments per Notice of Proposed Rulemaking. In the weeks and months following the closure of the comment period, staff catalogued and reviewed the comments. A decision will be published once Treasury completes the review.

This past year brought the opening of the new laboratory facility that TTB's Scientific Services Division shares with the ATF. This state-of-the-art facility, which was dedicated in June 2003, in Ammendale, Maryland, provides chemists and support staff an optimum working environment in which to process samples for its customers. The Laboratory supports TTB by providing expertise in the analytical analyses of distilled spirits, wines, malt beverages, specially denatured alcohol, non beverage alcohol, and tobacco products. TTB has a second lab in Walnut Creek, California, known as the Compliance Monitoring Laboratory that primarily conducts tests of alcohol beverages. In this regard, TTB uses a market basket sampling approach as well as other methods to evaluate products on the market and ensure that products are properly labeled, do not contain prohibited substances, and that the products do not impose a health hazard to consumers.

An important component of TTB's external relations are its partnerships in the international arena. The International Trade Division (ITD) acts as TTB's liaison on issues related to alcohol beverages, and facilitates the trade of alcohol beverages by serving as an advisor to industry members, various U.S. Government agencies and embassies. In this capacity TTB is represented at international trade meetings and participates in international trade negotiations, primarily working with the Office of the United States Trade Representative (USTR).

Again, through ITD, TTB contributed to the World Wine Trade Group's (WWTG) progress toward a labeling agreement designed to facilitate trade in wine among the member countries. The WWTG is an informal group of seven countries who have a common interest in exporting wine worldwide. The United States, Canada, Chile, Argentina, South Africa, New Zealand and Australia are members of this group.

Also, in the international trade arena, TTB continues to work with USTR in crafting a Memorandum of Understanding (MOU) with Mexico to clarify requirements for U.S. bottlers who receive bulk tequila. The United States has worked hard to convince the Mexican government to reconsider their proposal to ban the exportation of bulk tequila. Mexico cited failures by other countries in protecting the standard of tequila as a reason for suggesting the ban. Such a ban would adversely impact the U.S. distilled spirits industry's ability to profitably continue to sell and distribute tequila in the United States and all over the world, and, in turn, cause Mexico to inadvertently hurt one of their own most profitable exports. TTB participated in several meetings this year in Mexico, the United States, and Canada and played a key role in delaying the implementation of the bulk shipment ban by describing to the Mexican government our past efforts in enforcing the integrity of tequila and by stressing our continued commitment to protect this beverage and demonstrating how the TTB enforcement mechanism makes such a ban unnecessary. The MOU seeks to both clarify and prevent undue extraterritorial requirements on U.S. bulk tequila.

One of the largest components of Headquarters Operations is the Advertising, Labeling and Formulation Division. This division carries out TTB's statutory mandate to prevent consumer deception and ensure that alcohol labels provide the consumer with adequate information as to the identity and quality of the product.

In fiscal year 2003, ALFD's staff of nine label specialists reviewed 101,000 Certificate of Label Approval (COLA) applications and issued nearly 75,200 certificates. Four formula specialists reviewed over 1,800 domestic beverage alcohol formulas, and approximately 1,500 pre-import applications.

In May 2003, ALFD launched an electronic filing system for use by industry members and third parties to file applications for COLAs. This new web-based system, known as COLAs Online, provides industry members with a streamlined, more expedient and paperless means of obtaining a COLA. COLAs Online allows industry members to submit COLA applications via the Internet, as well as provides a way for ALFD employees to review the application electronically. Submitted applications are electronically approved, returned for correction, or rejected. The system also provides an online capability for industry members to obtain the status of electronically filed forms and the Public COLA Registry section of COLAs Online allows the public to view approved COLAs, including images of the alcohol labels. We currently receive approximately 15 percent of all COLA applications electronically and we expect that amount to steadily increase with time.

In addition to these divisions, TTB is supported by a world class cadre of attorneys and Office of Management personnel. Often these are the employees who serve as the glue to the functions we perform as a Bureau. Further, a majority of services we use are contracted out and managed though a Memorandum of Agreement with ATF. This arrangement facilitates TTB becoming a stand-alone Bureau within the Department of Treasury. The memorandum will be renegotiated, but TTB continues to search for, and has found, many new ways to less expensively outsource required

services including moving many management functions to the Bureau of Public Debt.

FISCAL YEAR 2005 APPROPRIATIONS REQUEST

The funding request for fiscal year 2005 is $81.9 million and 544 FTE, a $2.4 million increase over fiscal year 2004. This increase represents adjustments necessary to maintain current levels of operations. It supports TTB's core mission to protect the public and collect the revenue. The request is fiscally sound, and I believe that we have proven that while we are a small Bureau, we are focused and effective, providing results-driven service to America.

One of our priorities for fiscal year 2005 is to be completely separate from ATF's Information Technology services. ATF is not a service provider and is part of the Department of Justice. At this time, ATF has given written notice that beginning in fiscal year 2006, it will no longer service TTB's information technology needs. Also, ATF may not be able to provide administrative and other management services to TTB. We have formulated a plan that will help us cover services internally and externally by outsourcing from the public and private sectors. As resources become available, we believe we can judiciously acquire the services needed to run our Bureau, although much work needs to be done to complete this task by fiscal year 2006.

CONCLUSION

Through the judicious and responsible use of the resources Congress provides, we look forward to continuing to provide services that are not only unique in American Government, but provide a clear service to America by collecting taxes and protecting the public. It is not only my honor to lead the men and women of this Bureau, but I appreciate your support of this new Bureau and our wholehearted efforts to carry out our mission. Thank you.

U.S. OFFICE OF SPECIAL COUNSEL

PREPARED STATEMENT OF SCOTT J. BLOCH, SPECIAL COUNSEL

I am pleased to present testimony on behalf of the U.S. Office of Special Counsel and our fiscal year 2005 budget request. As the new Special Counsel, I look forward to working with the U.S. Senate in my role as independent guardian of the merit system of civil service by protecting Federal employees from unfair workplace discrimination or mistreatment, including reprisal for whistleblowing, as well as imposing corrective action to protect those employees and bringing disciplinary action against negligent supervisors.

GOALS

My goals for the agency are twofold: (1) to continue to strengthen the civil service merit system by vigorously enforcing the three statutes for which the Office of Special Counsel bears responsibility: the Civil Service Reform Act, the Whistleblower Protection Act, and the Hatch Act; (2) to provide an intense, more visible level of enforcement of the Uniformed Services in Employment and Re-Employment Rights Act (USERRA).

GUIDING PRINCIPLES FOR ACHIEVING THESE GOALS

The integrity of the civil service merit system depends on the alertness and effectiveness of its watchdogs. The most significant challenge we face into next year is to eliminate our pending case backlog and to develop methods to make the agency more efficient and effective in its main mission, while at the same time assuring complainants a fair review. No Federal employee should have to wait years, in some instances, for a valid complaint or situation to be addressed or an offending supervisor disciplined.

We will accomplish this by asking for great energy and focus of the current staff, and by bringing on new talent, skilled at locating issues and understanding problem solving, keen on protecting rights and mindful of the need to address cases that lack jurisdiction or do not meet the requisite thresholds. In all of this, we will be guided by the understanding that this is being done so that we can better service the merit system and protect whistleblowers. If we can do all of that, then we can institute a mode of operation that prevents us from allowing such a backlog of cases to surface again.

During this challenging time in our Nation, the security of the country depends on our armed forces. And our armed forces depend as never before on the vital roles played by national guardsmen and reservists. Every reservist and guardsman must know that the United States stands fully behind them, and will investigate and fight for justice on their behalf regarding their employment and re-employment after active service deployments. Without extremely strong enforcement in this area, serving in the guard and reserves becomes less attractive, and the entire military system currently in use becomes weakened.

The teeth behind our effectiveness in enforcing each of our mandates lie in our ability to litigate in pursuit of justice. To become a more effective enforcer implies an increase in meritorious litigation, which I hope to pursue.

Finally, I know that Congress also shares our desire to protect Federal whistleblowers; however, the protection does not occur if Federal employees do not know about the existence and purpose of the Office of Special Counsel. Therefore, a critical function is our extensive outreach and training efforts so that Federal employees know they can call us when they have a complaint or problem within their agency.

RELEVANT FUNDING FACTORS

For fiscal year 2005, the OSC is requesting $15.449 million, in order to fund approximately 113 full-time employees (FTE) and related non-personnel costs.

The purpose of this requested increase is to manage and process the agency's steadily increasing workload since fiscal year 2000 of prohibited personnel practice complaints, whistleblower disclosures, and Hatch Act matters, and to reduce persistent case processing backlogs—including serious backlogs in the processing of whistleblower disclosures. Given the increasing workload of OSC, 113 FTE is a modest request.

Looking at the data for the past several years, I believe several factors account for or contribute to this workload increase. They include: publicity about an increased number of high-profile cases handled by the OSC, including whistleblower disclosures, and four Public Servant Awards issued to whistleblowers by the OSC; heightened awareness and concern over national security disclosures after the events of September 11, 2001; increased public interest in elections since the 2000 presidential election, and the start of the 2004 campaigns; the OSC's 2302(c) Certification Program; and significant improvements in OSC's web site, increasing awareness by government employees and others of the OSC and its functions.

I will highlight specific areas that I believe warrant an increase in staffing:

—In April 2004, soon after I became the new Special Counsel, I established a new Special Projects Unit (SPU) specifically to examine the organization's system for handling cases, to handle the pending backlogs, and to consider and experiment with new methods for increasing the efficiency and effectiveness of all other aspects of the OSC. Several of the most experienced OSC attorneys are now assigned to the unit to help remove the current backlog of cases and to prevent such problems in the future. This includes a careful look at the agency's web site and methods of electronic filing.

—Given the increasing numbers of complaints and cases in all units of the agency, increased levels of labor and staff costs are required to ensure no backlogs will build up again.

—Regarding prohibited personnel practice complaints, increased staff costs are also required for higher compliance with the 240-day prosecution deadline currently required by statute.

—I am confident of our ability to fulfill our stated goal of providing a more visible level of enforcement of USERRA, even in (and especially in) the midst of one of the largest-ever demobilizations of reservists from overseas in the coming year. In conjunction with other Federal entities, we will aggressively prosecute USERRA claims. But this may require a higher number of staff focused in the USERRA area.

—Public awareness of the OSC's Disclosure Unit (DU) has grown in recent years and the greater awareness of national security issues, following the terrorist attacks of September 11, 2001, and subsequent events, have also caused a record number of whistleblower disclosure filings with the OSC. During fiscal year 2002–2003, for example, the DU received 535 or more disclosures each year—compared with 380 disclosures in fiscal year 2001 and an average of 360 in the preceding 4 fiscal years. Many of the disclosures filed after fiscal year 2001 have dealt with national security issues (some involving complex and sensitive classified material) that have required the work of more than one DU staff attorney.

As of September 30, 2003, the total number of cases pending in the DU was a record 690 (up drastically from 556 at the end of fiscal year 2002, and 287 at the end of fiscal year 2001). A significant number of these cases were more than a year old, including matters designated after initial review as the highest priority disclosure—an allegation of a substantial and specific danger to public health and safety likely to merit referral to the head of the agency involved for investigation. The OSC is requesting additional FTE allocation to DU backlog reduction efforts (i.e., to provide timelier resolutions of whistleblower disclosures filed with the OSC).

By law, the OSC has 15 days to review a disclosure and to determine whether there is a substantial likelihood that the information provided discloses any violation of law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health or safety. Given the increasing numbers and complexity of disclosures in recent years, as well as the time required to contact whistleblowers, examine information submitted, perform necessary analysis, and draft required correspondence, this timetable has, in reality, proven to be unattainable in most cases. This has resulted in a persistent backlog.

While the OSC is fully committed to directing whatever resources are required to immediately process and refer critical national security disclosures, additional resources (not only in staff but in facilities and other resources needed to properly handle such critical matters) are needed.

The Disclosure Unit backlog has become an issue of understandable concern to Congress. It has also been a pressing concern to the OSC, which has implemented several measures in recent years in efforts to improve upon its timeliness in processing whistleblower disclosures. For example, the DU has implemented a priority system for matters received; those priorities are tracked using the agency's automated case tracking system; additional employees have been detailed to DU work; and, as funds have permitted, a limited number of additional staff has been allocated to the unit.

—In response to recent calls for the OSC to attack the problem more aggressively, the OSC has begun the process of applying more intensive and focused strategic workforce planning to that problem, as part of a comprehensive strategy to address all areas of backlog in the agency. No strategy can succeed, however, without adequate funding to support additional staff and associated resources. The OSC's fiscal year 2005 budget request will provide funding for the additional staff needed to more adequately comply with the 15-day time limit for DU decisions, and to make progress toward the goal of reducing the Unit's backlog.

—The increased amount of litigation necessary to strongly enforce adherence to the statutes also has a cost in terms of employee resources.

—Next, in this busy election year, we expect our Hatch Act complaints and cases to increase as they always do during the national election cycle. The unit has received a significant increase in the number of complaints alleging Federal, State, and local Hatch Act violations, and a steadily growing number of requests for advisory opinions on the Act. Between fiscal year 2001–2003, the Hatch Act Unit received an average of 198 complaints per year, compared to 84 complaints on average in each of the previous 3 fiscal years. Likewise, there has been a significant increase in the number of alleged Hatch Act violations referred for field investigation—i.e., 35 in fiscal year 2003, compared to 8 in fiscal year 2002, and 10 in fiscal year 2001.

Hatch Act enforcement spawned lengthy and resource-intensive MSPB litigation activity by OSC in fiscal year 2003.

The OSC's fiscal year 2005 budget request will provide funding for the staff resources needed to handle increasing numbers of Hatch Act complaints, opinions, and enforcement efforts, including litigation.

—As mentioned, outreach within the Federal workforce is critical to the mission of OSC. Success in outreach obviously generates a greater numbers of complaints, whistleblower disclosures, allegations and requests for assistance than in previous years. I believe our excellent professional staff will rise to the occasion, but the agency needs an increase in FTEs and an increased travel budget to keep up with those demands.

—Higher labor funding is also required to better address Freedom of Information Act (FOIA) processing, investigations, and enforcement.

—The OSC's fiscal year 2004 funding was intended to pay for the cost of 113 FTE, but the agency has incurred several unfunded mandates: increased benefit costs (transit subsidy increases), new requirements for financial statements and audits, significant increase in costs under an interagency agreement for receipt of

administrative services, and unanticipated real estate taxes for its D.C. office. Salaries and benefits make up approximately 83 percent of OSC's operating expenses for fiscal year 2004, so the agency has little ability to reprogram funds when salaries and benefits for authorized FTE exceed appropriations. While these types of costs may be easily absorbed by most agencies' budgets that dwarf OSC's, these types of expenses can easily swamp a relatively tiny agency like ours, materially having an impact on achieving goals and even core missions.

—To be successful in meeting our goals of vigorously enforcing the statutes for which we are responsible, with the least possible headcount, we are moving to further automate several steps within our processes, which also bears costs in equipment and development resources.

PROGRESS MADE

As noted earlier with respect to prohibited personnel practice complaints, the OSC's ongoing and intensive efforts to improve upon its responsiveness began to yield results in fiscal year 2003. The agency processed 85 percent of those complaints within the 240-day timetable established by Congress. The OSC intends to build on these results, and achieve close to 100 percent success in this regard—all the while avoiding any backlogs.

SUMMARY

The largest part of the requested increase in the fiscal year 2005 budget, therefore, is for the full cost of the fiscal year 2004 FTE increase. The capacity to fund 113 FTEs is needed to properly manage OSC's statutory responsibilities and to reduce, if not eliminate, processing delays.

Our office exists to ensure good government. When people behave in ways that do not promote good government, or jeopardize safety and health in the Nation, we must take corrective and disciplinary action. We exist to promote good, efficient, fair government, and integrity for the Nation among the Federal workforce. The fiscal year 2005 budget request will enable OSC to reach its mission to promote good government in an expeditious way.

Thank you for your interest in the Office of Special Counsel.

FEDERAL ELECTION COMMISSION

PREPARED STATEMENT OF ELLEN L. WEINTRAUB, VICE CHAIR

Mr. Chairman, Ranking Member Murray, and members of the committee, it is my privilege to present the Federal Election Commission's (FEC's) fiscal year 2005 appropriation request. To begin, on behalf of the agency, I thank you for last year's appropriation. Your bipartisan support of the FEC budget has enabled us to continue to implement the Bipartisan Campaign Reform Act of 2002 (BCRA), which amended the Federal Election Campaign Act of 1971.

Our fiscal year 2005 appropriation request is for $52,159,000, an increase of $2,016,596 or 4.02 percent, and for 391 FTE, the same as our fiscal year 2004 FTE level. This year, as last year, the FEC is seeking only a modest increase over the fiscal year 2004 budget of $50,142,404 (less the government-wide across-the-board 0.59 percent rescission) and 391 FTE. I am pleased to report this request conforms to the President's fiscal year 2005 budget request for the FEC.

Additionally, last year Congress appropriated $800,000 (less the 0.59 percent rescission) to the Commission for the operations of the Office of Election Administration (OEA), with the understanding that any remaining funds and other assets of the OEA would be transferred, pursuant to section 801 of Public Law 107–252, to the Election Assistance Commission (EAC) once the EAC was constituted. We are pleased to report, effective April 1, 2004, the OEA and all of its assets (including $500,527 in unobligated funds, property and records), personnel and liabilities, were transferred to the EAC.

The fiscal year 2005 request represents a continuation of fiscal year 2004 funding levels, adjusted for inflation, and salary and benefit increases ($1,744,700—a 4.85 percent increase). As such, it represents a Current Services request for fiscal year 2005, with no additional funds or staff for new programs or initiatives by the FEC and represents an overall increase of only 1.92 percent for non-personnel costs. These minimal increases are detailed in our fiscal year 2005 Budget Justification.

In its annual review of legislative recommendations, the Commission has submitted 12 recommendations for legislative action. Four of those were unanimously

endorsed as priority recommendations; the remaining 8 as non-priority. The 4 priority recommendations, in brief, are that Congress: (1) allow as a permissible use of Federal campaign funds donations to State and local candidates and for any other lawful purpose that does not violate subsection (b) of section 439a; (2) increase the amount that authorized committees may give to authorized committees of other candidates; (3) modify terminology of "reason to believe" finding; and (4) require mandatory electronic filing of Senate reports. The remaining 8 recommendations, while placed in the non-priority category are, nonetheless, supported unanimously by the Commission as substantive or technical in nature. We are confident these legislative changes will result in efficiencies, not only for the FEC, but also for the regulated community.

Over the past few years, the FEC has achieved major successes, including meeting statutory and court deadlines for the BCRA implementation and legal challenges to the BCRA, as well as the expansion of the compliance program. These successes are the result of FEC efforts and support from our Congressional oversight committees. In addition, two programs have received accolades from the regulated community—the Administrative Fine Program and Alternative Dispute Resolution (ADR) Program. With the addition of these two programs, we have been able to successfully streamline the enforcement process.

I now will provide a brief overview of the FEC's three core program areas and relate those areas to the agency's fiscal year 2005 budget request.

DISCLOSURE PROGRAM

The FEC's disclosure program includes not only the review and placement of information on the public record, but also educational outreach, including campaign finance workshops and seminars, a toll-free line for consumer requests, and automatic fax transmission of our publications 24 hours a day, 7 days a week. FEC meeting agendas and related documents also are available on our web site. Our disclosure program accounts for over a third of the agency's staffing (137 FTE), distributed among the Public Records Office, Information Technology Division, Reports Analysis Division, Press Office, Information Office and those sections of the Office of General Counsel that formulate proposed regulations and draft responses to advisory opinion requests.

Improvements in productivity, aided by IT enhancements, generally have enabled the FEC to keep pace with the large increases in Federal campaign finance activity during recent election cycles, activity which has nearly doubled in the last 12 years. Total disbursements for a non-Presidential election cycle have increased from $1.1 billion in 1986, to $3.8 billion for the 2000 presidential and 3.1 billion for the 2002 congressional cycle—a 282 percent increase. We anticipate $4 billion in total disbursements for Federal campaigns in the 2004 cycle, from about 8,000 committees filing over 90,000 reports and generating 3 million itemized transactions. The 2006 cycle, a congressional cycle, should be slightly lower in volume than the 2004 presidential cycle. Every election cycle since 1992 has seen a new record in total spending in Federal elections for Congressional and Presidential elections. With your help, we are building an impressive communications system capable of handling our Information Technology (IT) needs well into the future. This system offers the capability of instantly updating our database and expanding the types of information collected. As you are aware, however, this system is expensive. The average annual cost is about $1 million to maintain the electronic filing system.

With the passage of mandatory electronic filing, we are beginning to see the benefits of timeliness and work process improvements such a sophisticated system affords. Since the institution of electronic filing, median time to process all documents has improved from 10 to 11 days to 5 to 6 days.

COMPLIANCE PROGRAM

Obtaining voluntary compliance is the foundation of the FEC's strategic and performance plans, and is at the core of our mission statement. A credible enforcement program, however, is necessary to provide sufficient incentive to the regulated community to achieve this voluntary compliance. In fiscal year 2005, we anticipate assigning 189 FTE to the compliance function, including enforcement, supervisory and support staff from OGC, Information Technology and the Audit Division. In the audit track of the compliance program, we are pleased to report sufficient resources have been provided to allow the Commission to initiate 40 to 45 audits "for cause" for the 2004 election cycle, as opposed to 25 in the 1998 cycle. Details on the compliance program are contained in the fiscal year 2005 Budget Justification.

The first major overhaul of the FEC's enforcement program occurred in May 1993. Faced with a large number of complex cases the Commission developed the Enforce-

ment Priority System (EPS), to prioritize cases for substantive enforcement action. This system is designed to provide a consistent and impartial ranking of cases based on the relative seriousness of the alleged violations, and gives us a tool to match the seriousness of a particular case to the resources available to undertake the investigation. We use the EPS in conjunction with the case management system, which enables the Commission to measure performance with regard to the substantive resolution of cases by issue and to measure timeliness of enforcement actions. Under EPS, the Commission has activated more cases, closed more cases with substantive action, and resolved some cases that would otherwise have been dismissed.

The EPS has enabled the Commission to focus limited enforcement resources on the more important enforcement actions and to close low-rated and stale cases. The increased level of civil penalties assessed by the Commission following implementation of the EPS has demonstrated the benefits of pursuing more substantive cases. In 1991, there were 262 cases closed with civil penalties totaling $534,000; in 1995, there were 229 cases closed with $1,967,000 in civil penalties. By fiscal year 2003, there were 377 cases closed with civil penalties and fines totaling $2,774,603.

Before 2000, the FEC's enforcement program was administered entirely by the Office of General Counsel. Two new components of the Commission's enforcement efforts—the Administrative Fine Program and the ADR program—are administered by the Staff Director. The goal of the ADR Program is to resolve matters quickly and effectively through bilateral negotiations. Both the ADR and Administrative Fine programs are designed to expand the FEC enforcement presence and resolve certain types of cases without resorting to the more lengthy traditional enforcement process. The Commission has met its compliance goals. Today, the Commission focuses its legal resources on the more complex enforcement matters, while using administrative processes to handle less complex matters. For example, from fiscal year 1995 through fiscal year 2000, the FEC closed an average of 197 cases each fiscal year. In fiscal year 2001, with the addition of the Administrative Fine and ADR programs, the FEC closed 518 cases, a 163 percent increase over the fiscal year 1995–2000 annual average of 197 cases. In fiscal year 2002, the FEC closed 229 cases, including enforcement, ADR and administrative fine cases. The total in fiscal year 2003 was 535 closed cases. We are confident the figure for fiscal year 2004 will be higher.

PUBLIC FUNDING PROGRAM

The Commission also administers the program providing a public subsidy to Presidential election campaigns. During fiscal year 2005, approximately 64 FTE from the Audit Division, Office of General Counsel, and Information Technology Division, will be directly involved in this program, which will entail audits of the seven candidates receiving matching funds for the 2004 election. In addition, two general election candidate committees will be audited, as will two host committees and two convention committees, for a total of 13 Presidential audits in fiscal year 2004 and 2005. This program began certifying eligible primary candidates for matching funds and processing submissions for funding awards on January 2, 2004.

On a related matter, we believe it is appropriate to bring to your attention the potential shortfall in the Presidential Public Funding Program. There was a brief shortfall with the February primary matching payments for the 2004 Presidential election, which was restored with the February deposits to the Fund. This is the only anticipated shortfall for the 2004 cycle. We did not experience a major shortfall for the 2004 Presidential election because several major candidates decided not to take Federal matching funds for the 2004 primaries; however, this may change in future elections. The Treasury Department maintains the matching fund account which is comprised of money derived from a taxpayer check-off system. Shortfalls in 1996 and 2000 occurred for several reasons. First, the eligibility requirements for receiving matching funds have not been adjusted for inflation since 1974, thus allowing more candidates to qualify for matching funds. Second, the "front-loading" of the primary and caucus nominating process which puts a premium on "early" fundraising for Presidential candidates, resulted in a high volume of funds being raised in 1995 and 1999 that were eligible for matching payments in January of 1996 and 2000. Absent legislative action, the Public Funding Program faces potential shortfalls because of declining participation in the check-off program, and the failure to index contributions to inflation while the pay-outs are indexed.

The foregoing summarizes the FEC's fiscal year 2005 budget request. For a more detailed review of this request, I would urge members of the committee to consult our more detailed Budget Justification, which includes charts delineating how our budget request would be allocated and how it compares to previous years. It also

demonstrates how the FEC has developed and used strategic and performance planning.

Again, I thank you, Mr. Chairman and the committee, for your continued support and the opportunity to present our fiscal year 2005 budget request.

OFFICE OF NATIONAL DRUG CONTROL POLICY

PREPARED STATEMENT OF JOHN P. WALTERS, DIRECTOR

I am pleased to set forth the fiscal year 2005 budget request for the Office of National Drug Control Policy (ONDCP). I want to thank the subcommittee for its strong bipartisan commitment to our shared national goal of reducing drug use in America, especially among our youth. This subcommittee provides critical funding to support ONDCP's programmatic, policy, and budget development functions.

Your support of ONDCP's $510.959 million budget request permits ONDCP to continue fulfilling our dual mission of serving as the President's primary Executive Branch support for counter-drug policy and program oversight and simultaneously managing our own programmatic responsibilities. We continue to work to achieve results of our stated goals and we are meeting those goals. For example, in February 2002, President Bush unveiled his goal of reducing youth drug use by 10 percent in 2 years in the National Drug Control Strategy. That goal has been exceeded. The 2003 Monitoring the Future Study confirms that current use (past 30 days) of any illicit drug between 2001 and 2003 among students declined by 11 percent. Similar declines were seen for past year use (11 percent) and lifetime use (9 percent).

ONDCP takes seriously its primary statutory responsibility to develop national drug control policy and a supporting budget, to coordinate and oversee the implementation of that policy and budget, and evaluate drug control programs to ensure that our efforts are coordinated and focused on obtaining measurable results. In addition to our policy role, ONDCP is responsible for managing and evaluating four key programs: The National Youth Anti-Drug Media Campaign, the Drug-Free Communities Support Program, the High Intensity Drug Trafficking Areas Program (HIDTA) Program, and the Counterdrug Technology Assessment Center (CTAC).

ONDCP is requesting $510.959 million in budget authority for fiscal year 2005. The fiscal year 2004 enacted level is $522.247 million. The budget request reflects four program accounts: Salaries and Expenses; the Counterdrug Technology Assessment Center (CTAC); Other Federal Drug Control Programs; and the High Intensity Drug Trafficking Areas (HIDTA) program.

A. Salaries and Expenses: $27.609 million

In fiscal year 2005, ONDCP is requesting $27.609 million for Salaries and Expenses to support a full complement of 125 Full-Time Equivalents (FTEs) and a pay raise. The request reflects a decrease of $222,321 below the fiscal year 2004 enacted amount. This request is essential if ONDCP is to carry out its policy, budget, and programmatic responsibilities in a manner consistent with achieving measurable results. This includes:

Operational Request: $26.259 million

Will provide compensation and benefits for all authorized FTEs including a full complement of Executive Level (EX) positions; contract services; rental payments to the General Services Administration; travel and transportation; communications and utilities; printing and reproduction; supplies, materials and equipment.

Includes resources to support 125 FTEs, an increase of 5 FTEs over the fiscal year 2004 enacted level. This FTE increase is requested to offset the loss of many of the 30 military detailee positions the Department of Defense has supported at ONDCP since 1996. Increasing the staff level to 125 FTEs will enable ONDCP to assess and respond to the drug threat facing the Nation. ONDCP will be able to monitor agency implementation of the National Drug Control Strategy programs and improve interagency coordination. ONDCP will be able to evaluate programs and identify those that work. Additionally, ONDCP will be able to provide policy guidance and oversight to the Counterdrug Technology Assessment Center (CTAC), High Intensity Drug Trafficking Area (HIDTA) Program, and Other Federal Drug Control Programs.

Provides for two new initiatives: High Speed TS Communication Line Costs and Communication Line Costs for DOD Intel-Link computers on-site. ONDCP will need to assume these costs because of budget realignments within the DOD Counterdrug budget.

Policy Research Request: $1.350 million

This request will continue and expand ONDCP's policy research program, an increase of $7,965 over the fiscal year 2004 enacted amount. ONDCP conducts research to develop and assess drug policy, identify and detail changing trends in the supply of and demand for illegal drugs, monitor trends in drug use and identify emerging drug problems, assess program effectiveness, and improve the sources of data and information about the drug situation. The requested funding will support a wide range of new and continuing policy research projects.

B. Counterdrug Technology Assessment Center (CTAC): $40 million

In fiscal year 2005, ONDCP is requesting $40 million to support the Counterdrug Technology Assessment Center (CTAC). The fiscal year 2004 enacted level is $41.752 million. The aggregate request includes funding for two distinct components: Research and Development Program ($18 million) and the Technology Transfer Program ($22 million).

Technology Research and Development: $18 million

Demand Reduction R&D Program: $12 million.—CTAC's Demand Reduction Initiatives, in conjunction with the National Institute on Drug Abuse (NIDA), will continue to improve upon existing technology available for substance abuse, dependence, and addiction research. CTAC has established a "niche" in developing and installing advanced neuroimaging instrumentation at drug abuse research facilities operating under grants from NIDA. The Demand Reduction Technology Review Committee (DRTRC) has been established in conjunction with NIDA to address and prioritize research initiatives with which CTAC can assist in the future.

Supply Reduction R&D Program: $6 million.—This funding will provide for developing technology for use by Federal, State, and local law enforcement agencies in reducing the supply of illegal drugs by developing technologies that satisfy identified law enforcement requirements for increased investigative capability. Once tested and evaluated, developed technologies become available either through the Technology Transfer Program or through independent purchase. Sponsored R&D items in fiscal year 2004 include a panoramic 360-degree video surveillance camera, a Project 25 digital audio body-wire, and a Title III telephone intercept expansion capability.

Technology Transfer Program (TTP): $22 million

The Technology Transfer Program (TTP) relies on technical and operational performance testbed evaluations and outreach to industry to acquire additional items for law enforcement. The TTP makes available state-of-the-art, affordable, easily integrated, and maintainable tools to enhance the capabilities of State and local law enforcement agencies for counterdrug missions. TTP is not a grant program; rather, it provides drug crime fighting information technology and analytical tools, communications interoperability, tracking and surveillance, and drug detection devices from a catalog of items proven to be operationally effective by Federal, State, and local law enforcement. Hands-on training and maintenance support are provided to all recipients, and TTP maintains extensive records of State and local applications and jurisdiction statistics on every aspect of the program including the status of deliveries, departments receiving equipment, and training records.

C. Other Federal Drug Control Programs: $235 million

In fiscal year 2005, ONDCP is requesting $235 million for the Other Federal Drug Control Programs. The fiscal year 2004 enacted level is $227.649 million. This account provides funds to a diverse group of ongoing programs: the National Youth Anti-Drug Media Campaign, the Drug-Free Communities Support Program, World Anti-Doping Agency (WADA) Membership Dues, the U.S. Anti-Doping Agency, Counterdrug Intelligence Executive Secretariat, National Drug Court Institute, and Performance Measures Development.

The National Youth Anti-Drug Media Campaign: $145 million

In fiscal year 2005, ONDCP is requesting $145 million for the National Youth Anti-Drug Media Campaign. The fiscal year 2004 enacted level is $144.145 million. The Media Campaign uses multi-media advertising and public communications strategies aimed at youth and parents to promote anti-drug attitudes and behavior. The Campaign is a comprehensive national effort that integrates paid advertising at national and local levels with Web sites, clearinghouses, media events, outreach to the entertainment industry, and strategic partnerships that enable messages to resonate in ways that generate awareness and ultimately change beliefs and intentions toward drug use by teens.

Recently, ONDCP released results from the Monitoring the Future (MTF) Survey, which revealed that current use of illicit drugs among 8th, 10th, and 12th graders was down a statistically significant 11 percent from 2001. This reduction surpassed the President's ambitious goal of reducing youth drug use by 10 percent in 2 years. Moreover, MTF revealed that exposure to anti-drug advertising had an effect on improving youth anti-drug attitudes and intentions.

While these results are promising, each day 4,800 kids try marijuana for the first time and more adolescents continue to enter treatment for marijuana dependence than for all other drugs combined, demonstrating the need for continued funding. Therefore, this request continues funding for ONDCP's Media Campaign, an integrated effort that combines paid and donated advertising with public communications outreach.

In January 2004, the Media Campaign launched a new effort to urge friends and parents of teenagers to take early action against drug use. This new effort targets those closest to the user—friends and parents—and encourages them to intervene at an early stage. Giving friends and parents of teens the skills necessary to recognize symptoms of drug use and underage drinking, and to take action to stop it, can make a difference in the futures of young people at an important crossroads in their lives, before they need addiction treatment and before they encounter life-altering or deadly consequences.

The Drug-Free Communities Support Program: $80 million

In fiscal year 2005, ONDCP is requesting $80 million for the Drug-Free Communities Support Program (DFCSP). The fiscal year 2004 enacted level is $69.587 million. The DFCSP provides a competitive process to award matching Federal grants of up to $100,000 per year directly to local community anti-drug coalitions for the purpose of supporting local efforts to prevent or reduce drug use among youth. The program currently supports over 600 community coalitions in all 50 States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Together, these community anti-drug coalitions serve a national network of local citizens, community leaders, and key professionals working daily to help keep young people free of the well-known dangers of drug use, including the underage use of alcohol and tobacco. Approximately 30 of the DFCSP grants have been awarded to communities where American Indian or Alaskan Native youth are the majority of young people served. Approximately 40 percent of DFCSP grants go to communities in small towns and rural areas.

Of the total amount of $80 million that ONDCP is requesting for this program in fiscal year 2005, $74.2 million will be awarded in grants to as many as 750 community anti-drug coalitions. An additional amount of $1 million is requested to continue support for the National Community Anti-Drug Coalition Institute to provide much-needed training and technical assistance to the growing number of coalitions around the country. An amount of $4.8 million is requested to support all other costs associated with grants management, program evaluation, and program administration.

World Anti-Doping Agency Membership Dues: $1 million

In fiscal year 2005, ONDCP is requesting $1 million for World Anti-Doping Agency (WADA) Membership Dues. The fiscal year 2004 enacted level is $0.795 million. The dues assessment is formula driven and accounts for the increase from fiscal year 2004. WADA receives its funding in equal amounts from the International Olympic Committee and world governments. Governments are divided into six geographic regions. The United States, along with Canada, Central America, the Caribbean, and South America, are part of the Americas region. The Americas region is required to contribute 29 percent of the governments' funding. As of fiscal year 2004, the regions dues are based upon the relative contribution levels to the Organization of American States.

Created in 2001, WADA is a partnership among world governments, intergovernmental organizations, the Olympic movement, athletes, and other entities concerned about the consequences of doping and drug use in sport. WADA's mission is to promote healthy, doping free sport at the international level. WADA's doping-control program is key to upholding the fundamental rights of athletes to participate in doping-free sport through an effective detection and deterrence program, promoting consistency and ensuring an independent, quality-controlled process seeking equity for all athletes in all sports in all countries. In addition to drug testing, WADA's budget funds education and prevention programs for athletes at all age and levels (with a particular emphasis on youth) and research related to drug use in sport.

United States Anti-Doping Agency: $1.5 million

ONDCP is requesting $1.5 million to support the United States Anti-Doping Agency (USADA). The fiscal year 2004 enacted level is $7.158 million. Since fiscal year 2002, funding to support USADA has been passed directly from ONDCP to USADA. USADA is a non-profit entity under the leadership of an independent board of directors. USADA began operations October 1, 2000, with full authority for drug testing, education, research, and adjudication for U.S. Olympic, Pan Am Games, and Paralympic athletes. Congress and the President have subsequently recognized USADA as the official anti-doping agency for the above-stated purposes (Public Law 107–67). Since its inception, USADA has received worldwide acclaim for its effective and innovative testing and education initiatives.

The $1.5 million request would support USADA's ongoing drug testing regime that includes management, sample collection, and testing procedures. The fiscal year 2005 request considers the adjudication costs as the result of increased testing and the implementation of blood testing, which is more costly (and accurate) than urine drug testing. The request would also fund drug-related research, educational programs aimed at school-aged athletes and coaches, efforts to inform athletes of the rules governing the use of performance enhancing substances, and the ethics of doping and its harmful health effects. The public awareness efforts will be particularly important since the World Anti-Doping Agency adopted a new universal Code in March 2003 that will govern U.S. amateur athletes.

Counterdrug Intelligence Executive Secretariat: $4.5 million

In fiscal year 2005, ONDCP is requesting $4.5 million for the administration and operations of the Counter-drug Intelligence Executive Secretariat (CDX). The fiscal year 2004 enacted level is $2.982 million. The CDX staff was established to coordinate the implementation of the General Counterdrug Intelligence Plan (GCIP) established in February 2000 and revalidated in May 2002. Fiscal year 2005 funding of CDX will ensure that the action items established by GCIP, as well as additional projects requested by the interagency Counterdrug Intelligence Coordination Group, can be accomplished.

National Drug Court Institute: $1 million

In fiscal year 2005, ONDCP is requesting $1 million for the National Drug Court Institute (NDCI). The fiscal year 2004 enacted level is $0.994 million. Due to the fact that nearly 50 percent of the Nation's drug courts have only been in operation for the last 4 years, the Institute's education, research, and scholarship programs request these funds to continue the expansion of its discipline-specific and topic-specific drug court training programs for practitioners; to convene regional evaluation trainings in order to provide a forum for practitioners and researchers to enhance drug court evaluation techniques; to continue to publish and disseminate monographs on important and timely drug court issues; to continue to publish and disseminate the National Drug Court Institute Review; and to continue to publish and disseminate best practices fact sheets for drug court practitioners.

Performance Measures Development: $2 million

In fiscal year 2005, ONDCP is requesting $2 million for Performance Measures Development. The fiscal year 2004 enacted level is $1.988 million. ONDCP will use the requested funding to develop and implement data sources to monitor illegal drug use and supply for national policy-makers. Projects funded with these resources will include efforts to work with selected programs to develop and/or improve needed data sources. In recent years, ONDCP has worked with the National Institute of Justice to redesign and expand the Drug Use Forecasting program into the Arrestee Drug Abuse Monitoring program. ONDCP has also worked with the DEA to improve the methodology of the Heroin Signature Program and the Domestic Monitoring Program. The requested funding will continue this collaborative interagency effort to develop and implement programmatic performance measures.

D. High Intensity Drug Trafficking Areas (HIDTA): $208.35 million

In fiscal year 2005, ONDCP is requesting $208.35 million for the operations of the High Intensity Drug Trafficking Area program ($206.3 million for grants and Federal transfers and $2.050 million auditing for services and associated activities, including development and implementation of a data collection system to measure program performance). The fiscal year 2004 enacted level is $225.015 million. Each HIDTA has an Executive Committee (EXCOM) that serves as the governing body for the individual HIDTA. The EXCOM consists of an equal number of representatives from local/State and Federal agencies. The EXCOM is responsible for the development and implementation of the HIDTA Strategy and the attendant initiatives and budgets, as well as for the fiscal operations of the HIDTA.

The HIDTA mission includes coordination efforts to reduce the production, manufacturing, distribution, transportation, and chronic use of illegal drugs, as well as the attendant money laundering of drug proceeds. In addition, HIDTAs assess regional drug threats, develop strategies to address the threats, integrate initiatives, and provide Federal resources to implement initiatives. These resources are allocated to link local, State, and Federal drug enforcement efforts and to optimize the investigative return on limited fiscal and personnel resources. Properly targeted, HIDTAs offer greater efficiency in countering illegal drug trade in local areas by facilitating cooperative investigations, intelligence sharing (coordinated at HIDTA Investigative Support Centers), and joint operations against drug-trafficking organizations.

Since fiscal year 2002, in addition to recurring HIDTA funding, ONDCP has provided additional funds to HIDTAs that have developed and conducted investigations against major drug trafficking organizations with connections to the Consolidated Priority Organization Target (CPOT) list. (The CPOT list, developed in 2001 by key Federal law enforcement entities, with input from the Intelligence Community and other Federal agencies, is comprised of the drug trafficking organizations generally agreed to represent the most significant drug threat to the United States. The list, which is maintained by the Justice Department, is updated periodically and is not public.) In fiscal year 2004, ONDCP has proposed to make approximately $16 million available to generate and advance investigations of domestic targets with a nexus to or affiliation with major drug trafficking organizations on the CPOT list. ONDCP hopes that continued discretionary funding will be available for HIDTAs through the CPOT Initiative in fiscal year 2005.

At present, 406 United States counties (about 13 percent of the total) in 43 States, Puerto Rico, the United States Virgin Islands, and the District of Colombia are designated as part of 28 HIDTAs. Since January 1990, counties in the following 28 areas have been designated as HIDTAs: Houston, Los Angeles, South Florida, New York, and the Southwest Border, which includes partnerships in South Texas, West Texas, New Mexico, Arizona, and Southern California (in 1990); Washington/Baltimore, and Puerto Rico/U.S. Virgin Islands (in 1994); Atlanta, Chicago, Philadelphia/Camden (in 1995); Gulf Coast (Alabama, Louisiana, and Mississippi), Lake County, Indiana, the Midwest (Iowa, Kansas, Missouri, Nebraska, North Dakota, and South Dakota), Northwest (Washington), Rocky Mountain (Colorado, Montana, Utah, and Wyoming) (in 1996); Northern California (San Francisco Bay Area) and Southeast Michigan (in 1997); Appalachia (Kentucky, Tennessee, and West Virginia), Central Florida, Milwaukee, and North Texas (Northern Texas and Oklahoma) (in 1998); and Central Valley California, Hawaii, New England (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), Ohio, and Oregon (in 1999); Northern Florida and Nevada (in 2001). The HIDTAs nationwide contribute significantly to the removal of drug traffickers and the trafficking organizations that drive the illegal drug market and also to the elimination of tons of illegal drugs that flow each year through high intensity drug trafficking areas to other American communities.

CONCLUSION

Thank you for the opportunity to provide this formal statement for the record. I will be happy to address any questions you may have and I look forward to working with this subcommittee as we work to meet the goal of reducing drug use in America, especially among our youth.

SURFACE TRANSPORTATION BOARD

PREPARED STATEMENT OF ROGER NOBER, CHAIRMAN

Chairman Shelby and members of the subcommittee, I am Roger Nober, Chairman of the Surface Transportation Board (Board). I thank you for the opportunity to submit this statement setting forth the Board's budget request for fiscal year 2005.

BACKGROUND ON THE BOARD

The Board is a three-member, bipartisan, decisionally independent adjudicatory body organizationally housed within the Department of Transportation (DOT) with jurisdiction over certain surface transportation economic regulatory matters.

The rail oversight of the Board encompasses rate reasonableness, car service and interchange, mergers, line acquisitions, line constructions, and abandonments. The

jurisdiction of the Board also includes certain oversight of the intercity bus industry and pipeline carriers; and rate regulation involving noncontiguous domestic water transportation, household goods carriers, and collectively determined motor carrier rates. The Board is statutorily empowered, through its exemption authority, to promote deregulation administratively.

The Board's Section of Environmental Analysis performs environmental reviews on the Board's construction, abandonment, and merger matters as required by the National Environmental Protection Act. These reviews have become more complex and require significant resources.

THE BOARD'S FISCAL YEAR 2005 BUDGET REQUEST

In fiscal year 2005, the Board requests budget resources totaling $21,283,000. This budget request mirrors the Board's fiscal year 2004 budgetary authority approved by Congress, adjusted for the fiscal year 2005 pay raise and some program increases. In this budget request, the Board also seeks resources and authority to operate at 150 FTEs, or five more FTEs than the current level.

The Board would use the additional funds to address two primary costs. First, the additional resources are requested to cover salary and employee benefit costs associated with the fiscal year 2004 and fiscal year 2005 pay increase. Unlike many agencies, there is little room at the Board's current budget level to absorb a pay increase without the additional resources, because fixed costs, including salary and rent, comprise about 95 percent of the agency's expenses. Absorbing even a small amount of the pay increase impairs the Board's ability to perform its statutory mission.

Second, the Board would use most of the additional resources to implement initiatives to expedite resolution of rail rate disputes between railroads and their largest customers and to offer a meaningful forum for the railroads' smaller customers. In fiscal year 2003, the Board adopted new rules to streamline the rail rate process, and it now provides for mediation and for technical conferences among the parties and Board staff that have produced agreements on numerous discovery and technical issues, thereby resolving matters that in the past would have taken months to litigate before the Board. Nevertheless, the press of large rate cases will continue, and we also expect parties will file small rate cases once new procedures for such cases are in place. Therefore, one of the additional FTEs would be to implement the congressional desire that the agency have an Administrative Law Judge, who would assist in fostering agreements among the parties in various agency proceedings and would expedite the resolution of small rate matters. Additional FTEs would provide the Board with another 3-person rate team for fiscal year 2005 to continue to resolve rate cases within their statutory deadlines.

The requested authorization for 150 FTEs also will provide the Board with the discretion to hire staff to replace tenured, retirement-eligible staff prior to their anticipated retirement date. Several retirements can be expected in the near future, and having the flexibility to hire qualified people when they are available is particularly important for a high-rated agency that must hire economic and technical expertise when they are available in the labor market.

Consistent with appropriation acts for past fiscal years, the Board requests a provision allowing user fee collections to be credited to the appropriation as offsetting collections and used for necessary and authorized expenses, to the extent that they are collected. The overall budget request reflects the workload that is expected and the statutory and regulatory deadlines associated with the resolution of the cases filed.

RECENT DEVELOPMENTS THAT IMPACT THE BOARD'S BUDGET REQUEST—YUCCA MOUNTAIN

Under the Interstate Commerce Act, the Board must authorize the construction of new rail lines that are part of the national rail system. Since the Board submitted its budget request for fiscal year 2005, it has been named a cooperating agency in the environmental review associated with building a rail line to the repository at Yucca Mountain, in Nye County, Nevada. The Department of Energy (DOE) has been working for years on a program to use Yucca Mountain as a repository for spent nuclear fuel and high-level radioactive waste that would be transported there from throughout the United States.

On April 2, 2004, DOE announced that its preferred mode to transport the radioactive materials from throughout the United States to Yucca Mountain was "mostly rail," and it selected as its preferred corridor for a new rail line to Yucca Mountain one beginning near Caliente, Nevada. Then on April 8, 2004, DOE announced its intent to prepare an Environmental Impact Statement (EIS), as required by the National Environmental Policy Act, for construction and operation of this rail line.

On May 5, 2004, DOE formally requested that the Board, along with the Bureau of Land Management and the Air Force, become a cooperating agency on the environmental review of the Caliente Corridor leading to the Yucca Mountain facility. DOE made this request due to the Board's statutory authority to review rail construction projects and its expertise in doing so.

Our responsibilities as a cooperating agency have already begun. The Board's Section of Environmental Analysis attended the opening meetings to determine the scope of the environmental review for this project. Three meetings were held in Nevada over 3 days the week of May 3rd in Armagosa Valley, Goldfield, and Caliente. A meeting was also held the week of May 10th in Reno, and another is scheduled for May 17 in Las Vegas. Additional meetings are planned for this month and there will be numerous meetings this year and throughout the EIS process, which the DOE expects to last at least 2 years.

DOE has not yet determined whether it will structure the line in a way that would trigger Board review. While the Board receives many applications to build new rail lines that are subject to the Board's jurisdiction, not every rail line construction project requires Board approval. The Board has jurisdiction over and must approve the construction of any common carrier rail line—a rail line on which the railroad must provide service to any shipper who requests it. However, the Board does not license the construction of a private rail line—a line over service is not available to the general public.

When the Board receives an application to build and operate a new rail line, it conducts the required environmental review of these projects and, unless the project is not in the public convenience and necessity, licenses the project. In the typical case, the Board is the lead agency for any necessary environmental review.

In conducting the environmental review, the Board is usually able to accept certain services that are paid for by the project proponent. For example, to complete the environmental review of a rail construction project, the applicant selects a third-party contractor from the Board's list of pre-approved contractors and retains it. Although the contractor works at the direction of the Board's Section of Environmental Analysis, the project proponent pays the contractor. The Board is not reimbursed for its staff time or travel.

In discharging our duties as a cooperating agency, the Board will require a third party contractor who will assist the Board by attending meetings regarding the EIS, evaluating the environmental concerns, and providing the specialized, technical expertise concerning issues affecting the rail line construction that would supplement the work of the Board's Section of Environmental Analysis. The Board is working with DOE for DOE to reimburse the Board for the costs associated with this contractor.

However, it would be difficult for the Board to accept any offer for DOE to pay for Board staff and travel since, as discussed, in the future DOE may seek Board approval for this line.

Since DOE may become an applicant before the Board, the Board does not want to risk compromising its independence in considering the merits of a DOE application by accepting financial support from DOE for additional salary and travel costs. The Board's review of such a proposal must be independent. Otherwise, if the Board issued a license, that issuance could be subject to challenge in court on grounds that the agency's independence was jeopardized by its acceptance of reimbursements beyond those reimbursements that are ordinarily permissible in any rail construction case. A successful challenge could be costly to the taxpayers and delay the project.

The Yucca Mountain EIS process will require the resources for two full-time staff and travel costs for the biweekly participation meetings. The Board's participation in the Yucca Mountain EIS will require 25 percent of the Board's current environmental staff, which would adversely affect the Board's ability to conduct the environmental reviews required for abandonment and rail line construction cases currently pending before the Board and those that may be in the pipeline awaiting formal filing. In order to fully participate, the Board would need an additional 2 FTEs and $250,000 above what it has requested for fiscal year 2005.

OVERALL GOALS OF THE BOARD

In the performance of its functions, the objective of the Board is to ensure that, where regulatory oversight is necessary, it is exercised efficiently and effectively, integrating market forces, where possible, into the overall regulatory model. In particular, the Board seeks to resolve matters brought before it fairly and expeditiously. Through use of its regulatory exemption authority, streamlining of its decisional process and the regulations applicable thereto, and consistent application of legal and equitable principles, the Board seeks to facilitate commerce by providing an ef-

fective forum for efficient dispute resolution and facilitation of appropriate business transactions. The Board continues to strive to develop, through rulemakings and case disposition, new and better ways to analyze unique and complex problems, to reach fully justified decisions more quickly, and to reduce the costs associated with regulatory oversight.

To be more responsive to the surface transportation community by fostering governmental efficiency, innovation in dispute resolution, private-sector solutions to problems, and competition in the provision of transportation services, the Board will:

—Continue to strive for a more streamlined process for the expeditious handling of rail rate reasonableness and other complaint cases, in an effort to provide additional regulatory predictability to shippers and carriers;
—Continue to process diligently cases before the Board and to ensure that appropriate market-based transactions in the public interest are facilitated;
—Continue to develop new opportunities for the various sectors of the transportation community to work cooperatively with the Board and with one another to find creative solutions to persistent industry and/or regulatory problems involving carriers, shippers, employees, and local communities; and
—Continue to work to ensure the provision of rail service that is responsive to the needs of customers.

FISCAL YEAR 2004 AND 2005 ACTIVITIES OF THE BOARD

Building upon the Board's success in fiscal year 2003—including issuing 890 decisions in fiscal year 2003, developing regulations to expedite the resolution of large rate cases,[1] investigating ways to improve the process for small rate cases,[2] and informally resolving disputes between railroads and between railroads and their customers—the Board will continue to look for ways to streamline or otherwise improve applicable regulations and the regulatory process and to promote private-sector resolution of problems. In this regard, the Board will entertain any proposed exemptions from regulation that might be appropriate and resolve as expeditiously as possible petitions for rulemaking filed by parties. The Board will also continue to look independently for ways to shorten and streamline its procedures for bringing and prosecuting both large and small rate cases, and to make the environmental review process for new rail line construction cases more streamlined as well. And it will continue to use its processes to encourage private-sector dispute resolution.

As noted, the Board is requesting resources for 5 additional staff positions in fiscal year 2005. In particular, the Board would use those resources to establish a new rate team, to hire an administrative law judge, and to add additional staff to its office that handles consumer complaints. Although the Board has attempted to use retirements within the agency to begin to realign its resources for its future needs, it cannot complete that realignment through retirements alone.

The Board is seeking staff resources for three rate team personnel, who will help move the rate docket forward. The workload involving rail rates and services is expected to increase in fiscal year 2004 and remain stable through fiscal year 2005, particularly given the likely continuing expiration of long-term coal transportation contracts. Currently, the Board has 5 coal rate complaint cases at various States of adjudication and 5 petitions to reopen and reconsider in former coal rate complaint cases, for a total of 10 rate cases under review. These proceedings will require significant staff attention and additional resources, given the complex nature of the cases, the numerous steps such as motions and discovery resolution, and the tight 9-month statutory timeframes for completion once the record is closed. Indeed, the bulge in rate cases is already producing a strain on our resources, which have historically been geared to handle two rate cases at a time. (It is for this reason that we are requesting additional resources from Congress for one additional 3-person rate team for fiscal year 2005.) Additionally, the Board will continue to handle rail cases involving questions of whether certain rail activity cannot be regulated at the State or local level because such regulation is preempted by Federal law.

In July and August, 2003, the Senate Committee on Commerce, Science and Transportation considered and reported S. 1389, The Surface Transportation Board Reauthorization Act of 2003. S. 1389 is a bill to reauthorize the Surface Transportation Board for 5 years, beginning in fiscal year 2004. Section 4 of S. 1389 addressed the small rate case issue, and directed the Board to modify its small rate case procedures to address many of their identified problems within 180 days. Sub-

[1] Ex Parte No. 638, Procedures to Expedite Resolution of Rail Rate Challenges to be Considered Under the Stand-Alone Cost Methodology.
[2] Ex Parte No. 646, Rail Rate Challenges in Small Cases.

section 4©) of that bill specifically directed that, when revising its small rate case procedures, the Board "may provide for an initial determination of such [small] rate challenges by an administrative law judge, with an opportunity for appeal of such determination by the full Board[.]" At a subsequent hearing on rail regulatory matters held in October 2003, several Senate Commerce Committee members again noted the benefits of the Board having an Administrative Law Judge to consider small rate cases in the first instance, oversee discovery, and issue preliminary decisions in matter of months compared to years with large rate cases. The Administrative Law Judge would decide the cases under a clear standard with cases being appealable to the full Board and ultimately to the courts.

The final additional staff position would provide the Board expertise on passenger rail service and would coordinate and resolve scheduling and operational issues between freight railroads and between those railroads and their customers. The Board's Rail Consumer Assistance Program is an informal mechanism for resolving disputes that has proven very effective, but additional resources will help it address the increasing number of inquires that result from it becoming more widely known.

With respect to rail carrier consolidations, we are not aware of any major rail mergers in the immediate future. Therefore, the workload in this category is expected to remain somewhat stable through fiscal year 2005 because this category includes a broad array of control transactions among larger railroads and smaller railroads. Of course, it is impossible to know whether a major merger may be proposed during fiscal years 2004 or 2005. As noted, the Board continues to resolve issues related to past Class I rail mergers. Also, the Board will continue to handle other rail consolidations involving smaller railroads that are filed with it.

Concerning other rail restructuring matters, rail abandonment decisions are expected to remain somewhat constant through fiscal year 2005. While the number of rail abandonments has remained at this level for the past number of years, the increased complexity of abandonment filings continues to require more than one decision in certain cases. The Board continues to see a high volume of "post abandonment" activity relating to trail use, as proponents avail themselves of the National Trails System Act, and also relating to offers of financial assistance to continue freight rail service.

With the notable exception of the Yucca Mountain rail line construction project, the Board projects that its line construction docket will remain constant through fiscal year 2005. We emphasize that demands on the Board to conduct environmental reviews for such transactions continue to grow, and that such activities require a significant number of resources to complete.

Other line transaction activity is expected to increase slightly through fiscal year 2005 as more carriers continue to sell unprofitable or marginally profitable lines as an alternative to service abandonment, particularly in light of the recent economic downturn. In the past few years, the Board has seen a number of line acquisitions by both small carriers and noncarriers as rail carriers restructure their rail systems.

SUMMARY

The Board's budget request would ensure the resources needed for the Board to continue to implement its responsibilities expeditiously and effectively as Congress intends. I would be happy to answer any other questions that the Committee may have about the Board's fiscal year 2005 budget request.

ATTACHMENT NO. 1

SALARIES AND EXPENSES

[Dollars in thousands]

	Fiscal Year 2003 Actual	Fiscal Year 2004 Estimate	Fiscal Year 2005 Request	Difference From
Permanent Positions	145	145	150	5
Full-time Equivalents	137	145	150	5
Personnel Compensation and Benefits	$15,268	$16,025	$17,703	$1,678
Travel	$41	$80	$87	$7
Other Costs	$3,998	$3,416	$3,493	$77
TOTAL BUDGET RESOURCES	$19,307	$19,521	$21,283	$1,762

CHANGES IN RESOURCES

For personnel compensation and benefits, $17,703,000 is requested to support the Board's permanent positions. Included in this request is $144,000 to fund the annual cost of the January 2004 pay raise and $221,000 for the January 2005 pay raise. The request also includes $50,000 for lump-sum leave payments to retiring employees.

A travel budget of $87,000 is requested primarily for on-site visits to railroads to finalize audits and review public accountants' workpapers, to physically inspect proposed rail abandonment and construction sites, and to verify environmental data provided by parties to proceedings, conduct operational reviews, meet with shippers regarding rail service issues and compliance, defend the Board's decisions in courts across the country, and generally provide presentations, upon request, on issues within the Board's jurisdiction. Due to the increased number of environmental reviews associated with new rail construction cases and attendance at field hearings on high-profiled cases, staff travel has increased and is expected to remain at the increased level through fiscal year 2005.

Funding to cover other costs is requested at $3,493,000. Included in this number are rental payments to the General Services Administration (GSA) and payments for employee training, telephone service, postage, information technology systems support and equipment, miscellaneous services and supplies, and reimbursable services acquired from other Federal agencies. The increase in other costs is mainly associated with the projected increase in rental payments to GSA and an increased level of security for all Federal agencies. The Board has increased its level of physical security in light of recommendations by GSA and the Department of Homeland Security and has implemented a Business Continuity Plan along with sheltering-in-place procedures to provide for the physical security of its employees and the continuity planning and continuance of its statutory mission.

ATTACHMENT NO. 2

FISCAL YEAR 2005 CONGRESSIONAL BUDGET JUSTIFICATION WORKLOAD SUMMARY [1]

Workload Category	Actual Fiscal Year 2003 Board Decisions and Court-related Work	Estimated [2] Fiscal Year 2004 Board Decisions and Court-related Work	Estimated [3] Fiscal Year 2005 Board Decisions and Court-related Work
Rail Carrier Control Cases	52	55	55
Rail Rates and Service	70	86	86
Rail Abandonments and Constructions	512	501	501
Other Line Transactions	186	204	204
Other Rail Activities	33	51	47
Non-Rail Activities	39	51	53
Total	890	948	946

[1] At this time, the Board believes that the number of Board decisions and court-related work is the best measure of workload at the Board. Certain activities performed at the Board that provide direct and indirect support for rulemakings and decisions in specific cases are not reflected in these workload numbers. Such activities not reflected include: enforcement activities; rail audits and rail carrier reporting oversight; administration of the rail waybill sample and development of the Uniform Rail Costing System; and case-related correspondence and informal public assistance.

[2] Estimated workloads for fiscal year 2004 and 2005 are based on historical information regarding actual filings and best estimates of probable future filings by parties. Because the Board is principally an adjudicatory body, it does not directly control the level or timing of actual case filings.

[3] Ex Parte No. 638, Procedures to Expedite Resolution of Rail Rate Challenges to be Considered Under the Stand-Alone Cost Methodology.

OFFICE OF GOVERNMENT ETHICS

PREPARED STATEMENT OF MARILYN GLYNN, ACTING DIRECTOR

Thank you for the opportunity to submit a statement in support of the request of the U.S. Office of Government Ethics (OGE) for fiscal year 2005 resources of $11,238,000 and 80 FTEs. This request represents an increase of $500,000, primarily to meet expected increases in personnel costs.

The Office of Government Ethics is responsible for overseeing the ethics program of the executive branch, a program designed to help prevent conflicts of interest and promote integrity in Government. OGE sets the requirements of the program, develops executive branch-wide policies, serves as a resource/consultant to agency ethics officials and monitors agency programs to help ensure that the agencies are carrying

out their responsibilities effectively. OGE also plays a significant role in the review and certification of the financial disclosure forms of nominees to positions requiring Senate confirmation. The day-to-day activities of the program are the responsibility of each executive branch agency. These activities include initial collection and review of financial disclosure forms; providing advice and training to agency employees on the criminal conflict of interest laws and the executive branch standards of conduct; and investigation and administrative enforcement of the standards of conduct.

The ethics program that is directed by OGE is part of the basic infrastructure that supports good governance within the Federal executive branch. The resources expended by OGE to help promote integrity and prevent conflicts of interest are small in comparison to the resources expended by investigators and prosecutors who enforce ethics and conflict of interest rules and laws. Moreover, our preventive efforts help guard against the loss of resources through inadvertent or deliberate misuse. We believe the resources we have requested are those necessary to adequately support a strong ethics program.

FISCAL YEAR 2005

We would like to highlight some of the major programs anticipated for fiscal year 2005.

During any fiscal year in which a Presidential election occurs, OGE anticipates a large influx of Presidential appointees, regardless of the outcome of an election. OGE's role in clearing Presidential nominees is designed to help them understand the application of the conflict of interest requirements to their Government service and to secure their agreement to taking the necessary steps to resolve potential conflicts of interest. Our goal is to review nominee statements in a timely manner to avoid any unnecessary delay in the nomination/confirmation process. OGE's resources are shifted from other programs during this period to handle the increased workload in our financial disclosure review systems. Once an individual is appointed, OGE follows through to see that any agreements made by an appointee to address potential conflicts of interest are carried out. In addition, during this period, OGE will continue to conduct a second level review of over 1,000 annual and termination financial disclosure statements filed by Presidential appointees each year.

As a part of the change that typically occurs after a Presidential election, OGE also will provide ethics training through OPM, and the White House if requested, to incoming Presidential appointees, new noncareer SES and Schedule C appointees, and White House staff. Additionally, we expect to help agencies provide accurate post-employment advice to employees who are leaving the government.

In the education and training area, OGE will develop instructor and participant guides to be used by departments and agencies to deliver their annual ethics training, as well as training evaluation instruments to measure what employees learned from various instructor-led and web-based training courses. In training ethics officials, OGE will develop and conduct additional instructor-led ethics training courses for ethics practitioners, trainers, counselors, financial disclosure reviewers, and enforcement officials in headquarters and the regions.

To reach ethics officials outside the Washington area, OGE plans to offer regional symposia for approximately 240 ethics practitioners in the field. OGE maintains an e-mail list service to communicate with 2,000 practitioners and enforcement personnel world-wide. OGE also will host the 15th Annual National Government Ethics Conference for approximately 700 ethics practitioners in September 2005.

The Office has added an employee survey to its evaluations of individual agency ethics programs. Begun on a more limited basis this fiscal year, these surveys will be carried out throughout fiscal year 2005 in approximately one-third of the 35 Federal agencies evaluated. The information gathered through the surveys helps provide OGE with a better basis on which to judge the effectiveness of the individual agency programs under review and the overall executive branch ethics program.

OGE desk officers will maintain their day-to-day communications with agencies assigned to them. This continuing liaison between OGE and agency ethics staffs enables OGE to respond to the needs of the agencies in a timely and accurate manner. In addition, this interaction provides OGE with an early warning that an agency ethics program is deficient or has problems that require specialized attention.

OGE will continue to provide international technical assistance at the request of the Departments of State and Justice. In fiscal year 2005, OGE plans to participate in Global Forum IV, the Follow-up Mechanism for the Inter-American Convention Against Corruption and the evaluation mechanisms of the Council of Europe's Group of States Against Corruption. The United States will also be reviewed under the latter two mechanisms during fiscal year 2005.

These are just some of the programs and activities envisioned for fiscal year 2005. We are pleased with the past success of the executive branch ethics program and look forward to the challenge of maintaining and enhancing the quality of the program.

NONDEPARTMENTAL WITNESSES

[CLERK'S NOTE.—The following testimonies were received by the Subcommittee on Transportation, Treasury and General Government, and Related Agencies for inclusion in the record. The submitted materials relate to the fiscal year 2005 budget request.

The subcommittee requested that public witnesses provide written testimony because, given the Senate schedule and the number of subcommittee hearings with Department witnesses, there was not enough time to schedule hearings for nondepartmental witnesses.]

PREPARED STATEMENT OF THE INTERNATIONAL LORAN ASSOCIATION

On behalf of the International Loran Association (ILA), I am writing in conjunction with your work on the fiscal year 2005 Department of Transportation, Treasury and Related Agencies Appropriations bill. I respectfully request that this submission be made part of your hearing record in conjunction with the subcommittee's work.

The ILA is asking the committee to support $25 million in funding from the fiscal year 2005 Federal Aviation Administration (FAA) budget—the same level as requested last year—as the next increment necessary to continue modernization and enhancement of Loran.

In recent years, the committee has provided about $120 million to modernize and upgrade Loran because it is a multimodal navigation system with demonstrated cost/benefits important for our national transportation safety and security objectives. In fact, at this juncture, it would cost about $100 million to decommission the system, approximately the same amount that will be required to complete the modernization. However, the most compelling reason to continue providing resources to complete this work is because Loran is the only multimodal system we have in the United States that can support the global positioning satellite (GPS) system in all modes of transportation, as well as in timing applications affecting the majority of our population.

In previous years, our submissions for the hearing record have documented numerous security, economic and technical issues as to why the operation of our national infrastructure and the safety of our citizens should not be placed at risk by depending solely on GPS for vast transportation, timing and navigation needs. The Volpe Center's "Vulnerability Assessment of the Transportation Infrastructure Relying on the Global Positioning System" in 2001 framed those issues regarding overdependence on a single system, and an ever-growing body of evidence continues to be amassed to validate the continuation of Loran as the most complementary and cost effective system available to support GPS and eliminate national vulnerabilities. Indeed, ongoing studies have verified that not only is Loran the only other multimodal system we have, but also that Loran is the most complementary and most cost effective system we have.

As you and other committee members are aware, the FAA, the U.S. Coast Guard (USCG), academic and industry experts have conducted an active Loran evaluation program spanning several years and a final report on that evaluation program is to be submitted to the U.S. Department of Transportation (DOT) on March 31, 2004. There are two major aspects to the report: one is the technical evaluation to ensure a modern or enhanced Loran system can meet the performance requirements of the FAA and USCG; and the other is a Loran benefit-cost study completed by the Volpe Center in 2003. It is fair to say that the technical evaluation section will be very positive, particularly because virtually all of the contributing studies have been continuously presented at numerous professional conferences and other technical fora. In addition, previous DOT-sponsored economic studies on Loran have been uniformly positive, and given the identified need for a national GPS backup, it is virtually assured that the economic section of the Loran evaluation study will be very favorable as well.

Other recent government documents also indicate there is widespread acknowledgement that Loran is indeed the best system the country can utilize to backup and support GPS.

For example, in April 2003, a Memorandum of Agreement (MOA) regarding the recapitalization, modernization, and operation of Loran was finalized and approved by the FAA, USCG, and DOT. This interagency MOA states: "The parties recognize the multi-modal nature of the Loran navigation system and the necessity of managing Loran as a national asset in a multi-modal manner. The purpose of this agreement is to set forth terms by which the parties will provide service in order to provide a multi-modal backup to the Global Positioning System (GPS) based services". In referencing the Volpe Study on GPS vulnerabilities cited above, the MOA states: "both the FAA and USCG acknowledged that GPS is indeed vulnerable to intentional and unintentional interference and that backup systems are required for both the National Airspace System (NAS) and the Marine Transportation System (MTS) . . . The FAA and USCG also recognize that Congress, aviation, maritime, and other users regard Loran-C as a national asset that must be preserved as a part of the nation's critical infrastructure".

In January 2004, the DOT released a report for Secretary Mineta entitled: "Radionavigation Systems: A Capabilities Investment Strategy," which also contained some important findings, even though much of the report's information was approximately 1 year old. First, it once again clearly identified Loran as the only multimodal backup to GPS and the best theoretical backup to GPS. Second, although the Loran report is less than 1 month away, it includes a recommendation to "Complete the evaluation of enhanced Loran to validate the expectation that it will provide the performance to support aviation Non-Precision Approach (NPA) and maritime Harbor Entrance and Approach (HEA) operations. If enhanced Loran meets the aviation NPA and maritime HEA performance criteria, and is cost effective across multiple modes, the Federal Government should operate Loran as an element of the long-term radionavigation system mix". In addition, the report looks forward and identifies Loran as a backup for the new aviation Automatic Dependent Surveillance—Broadcast (ADS–B) system and the new marine Automatic Identification System (AIS), both of which will be widely used in the future. Finally, the report suggests exploration of the collocation of GPS augmentation and Loran facilities, which would not only maximize their synergies but also optimize cost savings to the Nation.

From an international perspective, there is also recognition regarding the need and benefits of Loran. Ultimately, that realization will provide a major economic opportunity for U.S. technology because of equipment standardization and market globalization, similar to what has occurred with GPS. For example, in August 2003 the European Maritime Radionavigation Forum published a study entitled: "GNSS Vulnerabilities & Mitigation Measures: A Study for the European Maritime Radionavigation Forum," and among its conclusions were: "There is a significant risk of losing GNSS for limited periods and in limited areas . . . The consequences of losing GNSS will become greater as reliance on it increases . . . Loran could provide an effective backup in Europe, at a capital cost estimated at 50m".

In addition, the ILA was invited to participate in a meeting in Japan last fall, where representatives from Japan, China, Korea, Russia, and the United States were asked to address the question of GPS vulnerabilities and how to solve the problem. Virtually the entire conference focused on one system: Loran.

In summary, recognition of the various safety, security, economic, and political benefits that Loran can provide to the Nation has continued to grow rapidly, based on solid scientific and economic studies by our government, academia, industry, and other governments. A positive Loran report will be delivered to the DOT on March 31, 2004, and the DOT has committed to making a long-overdue Loran policy decision. It is now a certainty that Loran provides the Nation with the ability to mitigate GPS vulnerabilities in multimodal transportation and timing applications that play key roles in the continuing operations of the national infrastructure, and that the technology does so at a remarkably low cost.

Loran's future, and its ability to complement GPS, depends on the continuation of the modernization program, which is already well underway. As previously documented, that modernization program will reduce Loran's operations and maintenance costs from approximately $27 million a year to approximately $15 million annually, and enable multimodal support at a fraction of the cost other single mode system require. Moreover, the enhanced Loran system that will evolve from the modernization program will provide better performance than the single mode systems, and provide a national roadmap to future GPS-based systems that can incorporate Loran as a backup, such as ADS–B and AIS.

As you and all committee members well understand, GPS has recognized vulnerabilities that could potentially affect the safety of tens of millions of Americans and the security of our critical national infrastructure. In combination with a modernized Loran system, GPS and Loran can together form the basis of a national infrastructure that is extremely robust, now and well into our future.

For these reasons, we urge the committee to support fiscal year 2005 funding in the FAA budget of no less than $25 million to continue a Loran modernization program that will help assure our Nation's transportation safety and infrastructure security objectives are achieved in a most cost-effective manner for government providers, private users, and taxpayers.

PREPARED STATEMENT OF BERNARD H. BERNE, M.D., PH.D.

OPPOSITION TO BUDGET REQUEST FOR APPROPRIATION TO FEDERAL BUILDINGS FUND FOR FOOD AND DRUG ADMINISTRATION CONSOLIDATION, MONTGOMERY COUNTY, MARYLAND

I am a resident of Arlington, Virginia. I serve the Food and Drug Administration (FDA) as a Medical Officer and as a reviewer medical device approval applications. I am submitting this statement as a private individual.

I ask your subcommittee to deny the administration's request to provide $88,710,000 to the General Services Administration's (GSA's) Federal Buildings Fund for the construction of a FDA Consolidation in Montgomery County, Maryland. This request appears on page 961 of the President's Budget for fiscal year 2005.

The General Services Administration (GSA) is now designing and constructing this facility. GSA would use the additional funds to continue this wasteful project in suburban White Oak, Maryland. Please deny these funds for the following reasons:

Economic Considerations

FDA will need to pay rent to GSA if it occupies this facility. The rents would likely be higher than rents that GSA and FDA pay to private property owners, since GSA would not need to enter into competitive bidding processes.

Congressional authorizing committees need to evaluate the current costs of the consolidation and compare them to the costs of maintaining FDA's current facilities. No Congressional committee has done this during the past 15 years.

Lack of Need for Relocating FDA to White Oak Facility

All or nearly all of FDA's offices that would move to White Oak are presently located in satisfactory leased facilities. Some, such as my own, are now in excellent buildings. There is no clear need or economic reason to relocate these offices to White Oak or to consolidate any part of FDA at this location.

White Oak is an unsatisfactory location for FDA's headquarters consolidation. The project would promote urban sprawl.

FDA's White Oak facility would occupy 125 acres next to a golf course in a suburban residential neighborhood in Montgomery County, Maryland. The FDA site is outside of the Capital Beltway on a largely forested 750-acre property surrounded by heavily congested roads and highways. The site is 3 miles from the nearest Metro station, and has only infrequent bus service.

An FDA consolidation at White Oak would bring 6,000 FDA employees to this Washington area suburb. Most would need to commute for much longer times and distances than they presently do. White Oak is more than 20 miles from most present FDA facilities.

I and thousands of other FDA employees presently commute to work by Metro, as our workplaces are near Metro stations. This will be impossible at White Oak.

FDA employees driving to White Oak will add traffic congestion and air pollution to the Washington Metropolitan Area. This is especially unfortunate because the Washington Metropolitan Area already has the second worst traffic congestion of all urban areas in the United States. The Federal Government will need to subsidize many improvements to roads and public transit to accommodate the many FDA employees and associated businesses that would relocate from better locations to this distant suburb.

FDA employee surveys have revealed widespread opposition to this relocation. Three years ago, a survey of those employees who would relocate first to White Oak showed that 70 percent opposed the move. Many stated that the relocation would impair FDA's ability to regulate drugs and medical devices.

It is clear that the location of the facility will have long-lasting adverse effects on FDA's ability to recruit and retain qualified employees. Further, many more FDA

employees will telecommute than presently do. They will rarely work at the new facility. This will greatly diminish FDA's efficiency and will contradict a major goal of the FDA consolidation at White Oak.

The Washington Metropolitan area has a number of better sites at which FDA can consolidate. Some of these, such as the Southeast Federal Center in the District of Columbia, are near other Federal facilities and Metrorail stations.

Legal Issues

On February 23, 2001, I and a number of other FDA employees joined the Sierra Club and the Forest Conservation Council in a law suit that is intended to stop the White Oak project. For a number of reasons, FDA's occupancy of any buildings at White Oak would be illegal. The U.S. District Court for the District of Columbia is presently considering this suit.

The White Oak facility would house the Office of the Commissioner of Food and Drugs, as well as most other FDA headquarters offices. This would violate 4 U.S.C § 72, which states:

"All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided in law."

4 U.S.C.§ 72 is derived from the 1790 Act that established the District of Columbia as the Nation's capital. The first Congress enacted this law, which President George Washington signed.

There is no law that expressly provides that FDA's headquarters offices shall be exercised outside of the District of Columbia.

The FDA Revitalization Act (Public Law 101–635; 21 U.S.C. § 369b), authorizes the Secretary of HHS to enter into contracts to acquire property and to construct and operate a consolidated FDA headquarters facility. This Act does not provide the location of the consolidated facility.

I ask Congress not to appropriate funds to support an illegal activity. The 1790 Act had the worthy purpose of ensuring that all central offices of the Federal Government would consolidate in the Federal capital District, and not elsewhere. The consolidated FDA facility would be one such office that is "attached to the seat of government".

Article 1, Section 8, of the Constitution gives Congress exclusive jurisdiction over the District of Columbia. Your committee should take no action to support the location of FDA's headquarters at a location that is outside of the District. Any such action would tend to vitiate this section of the Constitution, which 4 U.S.C. § 72 is intended to support.

Executive Order 12072, Aug. 16, 1978, (40 U.S.C. §490 note) states in Section 1–1, Subsection 101:

"Federal facilities and Federal use of space in urban areas shall serve to strengthen the nation's cities and to make them attractive places to live and work. Such Federal space shall conserve existing urban resources and encourage the development and redevelopment of cities."

White Oak is not in or near any city. An FDA consolidation at White Oak (which is in an "urban area", the Washington Metropolitan Area) would not strengthen any cities. The FDA facility would not encourage the development or redevelopment of any cities.

Executive Order 12072, Section 1–1, Subsection 101, contains the word "shall" in several locations. FDA therefore can not legally locate its headquarters in suburban White Oak.

Executive Order 12072 and several Federal statutes require that heads of Federal agencies consult with local city officials to obtain their recommendations for and objections to all proposed new Federal facilities. Neither GSA nor FDA officials ever consulted with officials of the District of Columbia or of the City of Rockville in Montgomery County, Maryland, concerning the White Oak facility.

This lack of consultation violated Executive Order 12072 and several laws. It prevented District and Rockville officials from recommending alternative sites for the consolidated facility within their own jurisdictions and from objecting to the selection of the White Oak site.

The Public Buildings Act of 1959, as amended, requires that the Committee on Environment and Public Works of the U.S. Senate approve prospectuses that describe the location and maximum costs of any large buildings that GSA may wish to construct before Congress can appropriate funds to design and construct such buildings. That Committee has never approved a prospectus that describes FDA's White Oak facility.

Paragraph 7 of Senate Rule XVI requires that committee reports on general appropriations bills identify each provision "which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session." If your committee proposes any appropriation of funds for an FDA consolidation, your Committee Report needs to identify this appropriation as being one that is not made to carry out the provisions of any existing law, treaty, or act or resolution that the Senate has previously passed during this session.

The Treasury and General Government Appropriations Act, 2000 (Public Law 101–58), the Consolidated Appropriations Act, 2001 (Public Law 106–544), the Treasury and General Government Appropriations Act, 2002 (Public Law 107–67), the Consolidated Appropriations Resolution, 2003 (Public Law 108–7), and the Consolidated Appropriations Act, 2004 (Public Law 108–199) appropriated funds to GSA that could support FDA's consolidation in Montgomery County, Maryland. However, all of these Acts contain provisions that state:

"Provided further, That funds available to the General Services Administration shall not be available for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus."

The Public Buildings Act of 1959, as amended, requires a prospectus that describes FDA's White Oak facility because the project's cost exceeds $1,500,000. No prospectus that described this facility had been approved before Public Law 101–58, Public Law 106–544, Public Law 107–67, and Public Law 108–199 were enacted into law. Therefore, GSA may only legally use the funds appropriated in these Acts for "required expenses for the development of a proposed prospectus". GSA cannot legally use the funds to design and construct any buildings.

The report of the Committee on Appropriations of the House of Representatives (House Report 107–152, July 23, 2001), which accompanied the bill (H.R. 2590) that became Public Law 107–67, states on p. 65 under the heading: "General Services Administration" "Federal Buildings Fund" "Construction and Acquisition" "Recommendation" the following: "All construction projects funded in this bill are subject to authorization by the Committee on Transportation and Infrastructure".

FDA's White Oak project was one of the construction projects funded under Public Law 107–67 (H.R. 2590). Despite this, GSA is presently designing and starting to construct the FDA consolidation without an approved prospectus and without receiving authorization by the Committee on Transportation and Infrastructure. GSA's actions are contrary to the House Appropriations Committee's statement in House Report 107–152, and, further, are illegal.

Some GSA officials claim that the FDA Revitalization Act (Public Law 101–635) authorizes appropriations to GSA without the need for prospectus approvals. This claim is incorrect. Public Law 101–635, which amended the Federal Food, Drug and Cosmetic Act, authorized appropriations that permit the Secretary of HHS to enter into contracts to construct and operate a consolidated FDA facility.

Public Law 101–635 specifically limits the role of the Administrator of General Services in the FDA consolidation to consultation with the Secretary of HHS. Public Law 101–635 does not authorize any appropriations that can permit GSA to conduct any such activities, nor does it authorize any appropriations to GSA's Federal Buildings Fund. Clearly, GSA will use any new funds illegally, just as it is using the previously appropriated funds.

The National Environmental Policy Act (NEPA) of 1969 requires that Federal agencies compare in an Environmental Impact Statement (EIS) alternative locations for any large new Federal facility. However, the EIS for the White Oak FDA facility did not make any such comparisons.

The EIS only compared the environmental impacts of an FDA consolidation at White Oak with the "no action" alternative. Following this legally inadequate comparison, GSA and FDA officials selected White Oak as the location for the facility.

GSA and FDA officials therefore violated NEPA when they selected the White Oak site. Congress should not appropriate funds to support this illegal selection.

A Federal court may prevent FDA from consolidating its facilities at White Oak for one or more of the above reasons. Congress should not provide funds for FDA to occupy the White Oak facility until the Federal courts decide whether the project can proceed.

I therefore ask that your subcommittee not provide the requested $88,710,000 to GSA in this legislation. Thank you.

PREPARED STATEMENT OF THE AMERICAN PASSENGER RAIL COALITION

Chairman Shelby and Members of the Subcommittee on Transportation, Treasury and General Government, thank you for the opportunity to provide testimony on fiscal year 2005 funding for Amtrak, the Nation's intercity passenger railroad. My name is Harriet Parcells and I am Executive Director of the American Passenger Rail Coalition (APRC), a national association of railroad equipment suppliers and rail businesses.

For fiscal year 2005, Amtrak has requested $1.79 billion. Of this total, nearly $800 million is for capital investments to continue the work taking place under the leadership of Amtrak President David Gunn to bring Amtrak into a state of good repair. Amtrak's request for operations is $570 million, $11 million less than Amtrak requested in fiscal year 2004 and an indication that Mr. Gunn's efforts to improve efficiency, reduce costs and implement management reforms at Amtrak are yielding positive results. APRC supports Amtrak's budget request and asks the subcommittee to fund Amtrak at $1.79 billion. While we recognize that funding constraints face the subcommittee, APRC believes that funding Amtrak much below $1.79 billion would jeopardize the substantial progress taking place at Amtrak. The administration's fiscal year 2005 budget of $900 million for Amtrak is nearly 50 percent below Amtrak's budget request and $318 million or 26 percent below Amtrak's current appropriation of $1.218 billion. Funding Amtrak at $900 million would provide virtually no funding to continue the important capital investments identified in Amtrak's Five Year Strategic Capital Plan and that Amtrak has been undertaking since 2003. Amtrak President David Gunn has stated that funding at $900 million would lead to a shutdown of the national system. APRC also supports strong funding for the rail safety and research and development programs at the Federal Railroad Administration.

AMTRAK RIDERSHIP IS STRONG ON TRAINS NATIONWIDE

Amtrak is a valued means of transportation used by million of Americans annually. For travel in metropolitan corridors, Amtrak provides a cost-effective, efficient alternative to congested highways and airports. For residents of rural communities, Amtrak trains are often the only convenient, affordable, all-weather public transportation available. In fiscal year 2003, 24 million passengers rode Amtrak trains, the highest level in Amtrak's history. Ridership gains occurred on routes across the system. Each month from June-December 2003, gains in rail ridership ranged from 7–12 percent over levels for the same period in 2002. Amtrak ticket revenues also rose each month from June-December 2003. Thanksgiving ridership was Amtrak's highest ever for this holiday—Amtrak carried approximately 595,000 passengers over the 7 days from Tuesday, November 25-Monday, December 1. Ridership on Amtrak's long-distance trains was particularly strong, with increases of 14 percent or more over last year.

Some policymakers question the need for long-distance trains, yet the strong growth in ridership on these trains underscores the important mobility and economic benefits they provide, especially for America's small cities and rural communities (see table 1).

TABLE 1.—AMTRAK MONTHLY RIDERSHIP GROWTH JUNE-DECEMBER FISCAL YEAR 2003 COMPARED TO FISCAL YEAR 2002

[Amount in percent]

Month	Systemwide Total	Long-distance Trains
June	+6.8	+13.6
July	+7.1	+9.4
August	+7.3	+14.1
September	+11.4	+22.2
October	+10.7	+30.9
November	+11.7	+32.0
December	.....	+16.3

Source: Amtrak and NARP News (Jan. 2004 issue).

California's Pacific Surfliner trains, operating between San Diego and Los Angeles and Santa Barbara, continue to experience record-breaking ridership. Two million passengers rode these trains in fiscal year 2003, a 25 percent increase over fiscal year 2002. Ridership on other major rail corridors in the State—the San Joaquin service and the Capitol Corridor—also had strong ridership growth. Ridership on

the Texas Eagle rose 20 percent in fiscal year 2003 over 2002 levels. In the Midwest, eight trains that serve the region experienced a 16 percent rise in ridership from May-December 2003 compared to 2002. In the Northeast, Acela Regional trains carried more passengers than any other Amtrak service in the Nation—nearly 6 million riders—up 3.7 percent over last year. The Pennsylvanian train ridership surged 64 percent, benefitting from a routing change that terminated the train in Pittsburgh rather than Chicago.

Ridership Gains Continue in Fiscal Year 2004.—Gains in Amtrak ridership continued in first 4 months of fiscal year 2004 (Oct. 2003-Jan. 2004). Northeast Corridor ridership was up over 6 percent; ridership on long-distance trains was up nearly 20 percent.

AMTRAK'S ABILITY TO CONTINUE CAPITAL INVESTMENTS IS CRUCIAL

Amtrak President David Gunn and the Amtrak Board of Directors began implementing a program of capital investments in fiscal year 2003 that, if sustained over the next several years, will bring the national Amtrak system into a state of good repair. These capital investments are essential to improving the reliability, safety and efficiency of the national Amtrak system. Amtrak's accomplishments to date in making capital improvements are significant. In fiscal year 2003, 147,600 concrete ties were installed in the Northeast Corridor, replacing old wood ties. Twenty-two miles of continuous welded track were installed and track bed was improved. These investments will provide a smoother ride for travelers and reduce track maintenance costs. Track improvements to a third track have increased capacity and enabled speeds to rise from 60 to 110 mph. Thirty-three miles of signal cables were replaced, 37 miles of electric catenary hardware renewed and 22 bridges retimbered. Substantial improvements were and continue to be made to rolling stock. Twenty-one wrecked Amfleet and Superliner railcars were rebuilt and 23 food service cars were remanufactured and restored to service on routes around the country. One hundred and three railcars and locomotives went through heavy overhauls or were remanufactured. APRC urges Congress to provide Amtrak with sufficient funding in fiscal year 2005 to enable the railroad to continue these essential capital investments.

RAIL CAPITAL INVESTMENTS PRODUCE U.S. JOBS AND OTHER BENEFITS

The U.S. rail manufacturing and supply industry contributes to the health of the U.S. economy, with over $20 billion in annual sales (approximately $7 billion to U.S. intercity, commuter and transit passenger railroads) and over 150,000 workers employed. Capital investments made by Amtrak support jobs for Americans in factories and businesses in States across the country. Investments in transportation infrastructure are vital to the efficient movement of people and goods and a robust, competitive economy. Every billion dollars invested in transportation infrastructure projects creates approximately 42,000 jobs.

In the Pacific Northwest, investments in new rail infrastructure and equipment by Washington, Oregon and public and private partners to improve the quality and speed of rail service in the Pacific Northwest High Speed Rail Corridor resulted in a tripling in intercity passenger rail ridership over levels 10 years ago. With further investments, the region anticipates rail ridership to grow to 2.2 million by the year 2018. The Midwest Regional Rail Initiative, a plan to link cities and communities throughout the Midwest with improved passenger rail service, is projected to stimulate substantial public and private investment and create 2,300 permanent new rail service jobs, 6,300 construction jobs (over 10 years) and 18,200 indirect jobs. Public investments to bring the Acela high-speed rail service to the Northeast Corridor generated economic benefits for States and businesses around the country. Contracts were signed with over 70 suppliers in more than 20 States.

AIR-RAIL INTERMODAL CONNECTIONS PROVIDE MANY BENEFITS

Intermodal transportation hubs that provide an easy transfer for travelers between modes—from airplanes to intercity passenger trains or intercity trains to local transit systems—enhance the efficiency of the overall transportation system and provide many benefits to travelers. While progress in developing intermodal connections has been made since enactment of the "Intermodal Surface Transportation Efficiency Act of 1991", much work remains in this area. Only a few U.S. airports, such as Newark Airport in New Jersey and Burbank Airport in California, provide an easy transfer between Amtrak trains and airplanes. At Newark Airport, Continental Airlines and Amtrak have created a code-sharing arrangement, the only one in the Nation, which covers rail travel for Continental passengers between Newark Airport and six cities on the Northeast Corridor. A study comparing travel by

several different modes (Amtrak, NJ Transit or by car) to Newark Airport from nearby cities (Newark, NYC, Philadelphia, Trenton) found that considerable time can be saved when rail transportation is used. An added benefit is that adverse weather and road conditions which cause great time increases for auto travel generally don't impact rail. At Maryland's BWI Airport, travelers can easily connect between trains and airplanes by a bus service that operates between the airport and Amtrak's BWI train station. This service works well and is used by many travelers. In Pennsylvania, part of the plan for the new Harrisburg International Airport terminal is a $10 million train station, which will connect to the new airport terminal by a glass-enclosed moving sidewalk. A larger number of U.S. airports have convenient rail transit connections to the airport: Atlanta's Hartsfield Airport; Chicago's Midway and O'Hare Airports; St. Louis Lambert Field Airport; Washington DC's Reagan National Airport and others. These types of intermodal connections are commonplace throughout Europe and other parts of the world where airports have become true multi-modal transportation centers. U.S. transportation policy and funding should continue to encourage development of intermodal centers and easy connections between modes to boost the efficiency of the U.S. transportation system and ease travel for passengers.

RAIL INFRASTRUCTURE BONDS TO COMPLEMENT APPROPRIATED FUNDS FOR RAIL

The need for funding to improve railroad infrastructure greatly exceeds what is available through annual Federal appropriations. States lack adequate funding to make these investments alone. An innovative Federal-State partnership is needed. Several bills have been introduced in the Senate and the House of Representatives that would fund investments in rail infrastructure through tax-credit bonds or private activity bonds. In the Senate, two comprehensive rail authorization bills have been introduced. The American Rail Equity Act of 2003 (AREA) or S. 1505 was introduced by Senator Kay Bailey Hutchison and cosponsors. S. 1505 establishes a non-profit Rail Infrastructure Finance Corporation (RIFCO) that is authorized to issue $48 billion in tax-credit bonds for rail infrastructure investments over 6 years. It also authorizes $12 billion for Amtrak over 6 years. A second bill, the American Railroad Revitalization, Investment and Enhancement Act of the 21st Century (ARRIVE 21) or S. 1961 was introduced by Senator Ernest Hollings and cosponsors and creates a non-profit public-private partnership, the Rail Investment Finance Corporation (RIFCO), that is authorized to issue $30 billion in tax-credit bonds over 6 years. S. 1961 also reauthorizes Amtrak at $1.5 billion per year for 6 years. In the House, the Transportation and Infrastructure Committee approved RIDE–21 (HR 2950) which authorizes $59 billion in rail infrastructure improvements and establishes authority for States or State compacts to issue $12 billion in tax-credit bonds and $12 billion in private activity bonds over 10 years for investments for high-speed rail infrastructure. APRC strongly supports enactment of legislation that would establish a non-profit corporation authorized to issue bonds for investments in rail infrastructure. The bonds would help address the large unmet need for investments in rail infrastructure to improve passenger and freight rail service and capacity and would complement rail funding available through the annual appropriations process.

Chairman Shelby and members of the subcommittee, thank you for the opportunity to provide testimony on the needs of our Nation's passenger rail system.

PREPARED STATEMENT OF THE COALITION OF NORTHEASTERN GOVERNORS (CONEG)

As the subcommittee begins the fiscal year 2005 transportation appropriations process, the Coalition of Northeastern Governors (CONEG) is pleased to share with the subcommittee testimony on the fiscal year 2005 Transportation and Treasury Appropriations bill. The CONEG Governors commend the subcommittee for its past support of funding for the Nation's highway, transit, and rail systems. Although we recognize the extensive demands being made upon Federal resources in the coming year, we urge the subcommittee to continue the important Federal partnership role that is vital to strengthening the multi-modal transportation system. This system is a critical underpinning to the productivity of the Nation's economy and the security and well-being of its communities.

First, the Governors urge the subcommittee to fund the combined highway, transit and safety programs at levels that will continue the progress in recent years to improve the condition and safety of the Nation's highways, bridges and transit systems. These improvements, documented in the U.S. Department of Transportation's 2002 Conditions and Performance Report to Congress, were made possible by the substantial level of investments made by the Federal-State partnership in highway,

bridge and transit infrastructure under the Transportation Equity Act for the 21st Century (TEA21). Continued and substantial investment in these infrastructure improvements—in both urban and rural areas—is necessary if the Nation's surface transportation system is to safely and efficiently move people and the substantial growth in freight movement that is projected in the coming decade. According to the Conditions and Performance Report, a combined Federal highway and transit program of $53 billion annually is needed simply to maintain our Nation's highways and transit systems in the current conditions.

Within the transit program, the Governors strongly urge the subcommittee to provide funding levels that at least maintain the basic program structure and address the solvency of the mass transit account. Further, the Governors urge the subcommittee to continue the traditional 80/20 Federal-State match for the New Start Program and the Bus and Bus Facilities Discretionary Grant Program. These programs have been instrumental in ensuring that needed funds are invested to improve and extend transit services in both our urban and rural communities.

Second, the Governors strongly urge the subcommittee to provide at least $1.8 billion in fiscal year 2005 for intercity passenger rail. Intercity passenger rail is a vital part of the Nation's transportation system, particularly in the Northeast and Mid-Atlantic region, where it provides essential mobility, enhances capacity of other modes, and provides much needed redundancy to the Nation's transportation system. In recent years, the Congress has imposed discipline on the management of Amtrak operations, with the result being greater financial accountability and oversight of the Federal Government's investment in intercity passenger rail. While the Congress, administration and States continue to work cooperatively to determine the future of intercity passenger rail and Amtrak in the Nation's transportation system, a funding level of $1.8 billion in fiscal year 2005 will help provide a period of stability for intercity passenger and commuter rail operations. This funding level is critically needed to maintain services and begin a program of essential investments in equipment and infrastructure to bring the system back to a state of good repair for reliable service. The United States Department of Transportation Inspector General has noted that over $1 billion in capital funds is needed annually just to sustain the current intercity passenger rail system, regardless of who operates that system. The States are already major investors in the current intercity passenger rail system, with the Northeast and Mid-Atlantic States having invested over $4 billion in intercity passenger rail operations and infrastructure since 1991.

Third, the Governors urge the subcommittee to continue funding for investments in Intelligent Transportation Systems (ITS) that can maintain and enhance the capabilities and security of the Nation's transportation system. ITS helps States and communities along the densely populated Atlantic Coast region improve the safe and reliable operations on highway and transit systems on a daily basis. The Northeast's rural areas and communities also benefit significantly from ITS investments. The region's ITS systems, including those provided by TRANSCOM and the I–95 Corridor Coalition, have demonstrated their critical role, both in the emergency management and recovery phases, when security demands put added pressure on the region's transportation networks.

Fourth, safety on the Nation's highways, transit and rail systems remains a priority of the Governors. The safety of the aging rail tunnels along the Northeast Corridor is a particular concern, and we urge the subcommittee to fund life safety improvements for the Amtrak-owned Baltimore and New York tunnels. The Governors also support maximum funding for the Section 130 Highway-Rail Crossing Program. As part of the Federal-State partnership to correct hazardous conditions on the Nation's highways, investments in highway-rail crossings can reduce injuries and death from accidents even as they allow higher train speeds and increased reliability.

Fifth, the Governors urge the subcommittee to provide sufficient funding for border crossing and gateway infrastructure projects. A strong program—one that invests in transportation projects addressing both security and transportation needs—can contribute to safer, more efficient and secure flows of people and goods across international borders and through gateways.

Sixth, the Governors also support the President's funding request of $20 million for the Surface Transportation Board. The Board is essential for oversight and effective implementation of decisions affecting the ongoing process of railroad consolidations that will affect local and regional economies across the Nation.

Finally, the Governors support continued Federal investment in transportation research and development programs, particularly the Federal Railroad's Next Generation High Speed Rail program. This program enhances safety and helps stimulate the development of new technologies, which will benefit improved intercity rail service across the Nation.

The CONEG Governors thank you, Ranking Member Patty Murray, and the entire subcommittee for the opportunity to share these priorities and appreciate your consideration of these requests.

PREPARED STATEMENT OF THE NATIONAL TREASURY EMPLOYEES UNION

NTEU represents 150,000 Federal employees in 29 Federal agencies and departments, including the men and women who work at the Internal Revenue Service. I appreciate the opportunity to provide the subcommittee with comments on the IRS budget for fiscal year 2005.

There are several items in the administration's IRS budget that NTEU believes would be detrimental to the IRS' mission. The two most egregious items include the administration's proposal to contract out tax collection to private tax collection agencies, and an inadequate budget request that will prevent the IRS from continuing to improve its customer service record while bolstering enforcement efforts.

PRIVATE TAX COLLECTION

The Treasury Department's fiscal year 2005 budget proposal to allow the IRS to use private collection agencies to collect Federal income taxes is risky, costly, and unnecessary. NTEU strongly opposes this plan. This proposal would risk exposing sensitive taxpayer information, would subject taxpayers to the abusive tactics of private debt collectors, and would cost U.S. citizens much more money than if IRS employees did the job.

IRS employees are the most reliable, cost-effective means for collecting Federal income taxes. IRS employees can collect outstanding debt more cheaply than private contractors. With an appropriation of $296 million for compliance, the IRS could collect an additional $9.47 billion in revenue per year. That's a $31 return per dollar spent, compared to only $3 revenue per dollar spent for private collection agencies. Furthermore, there is the potential for abusive treatment from private debt collectors. There is a very real risk of exposing sensitive taxpayer information to those who might misuse it. In this era of identity theft, I do not believe the Federal Government should engage in practices that could needlessly expose confidential taxpayer information.

A February 2003 Treasury Inspector General for Taxpayer Administration (TIGTA) report faulted the IRS for failing to conduct background checks on more than 2,100 private contract employees working in offices in Maryland who had access to sensitive information. In 1996 and 1997 tax years, Congress authorized a pilot program to test private tax collection. The 1996 program resulted in such egregious abuses by private debt collectors that the 1997 program was cancelled. According to an IRS Internal Audit Report (Ref. No. 080805, 12/19/97), the private debt collectors under contract to the Federal Government committed hundreds of violations of the Fair Debt Collection Practices Act—including calling a taxpayer at 4:19 a.m.

There is widespread opposition to privatization of tax collection. Several taxpayer advocacy groups: the Tax Executives Institute; the National Association of Enrolled Agents; Citizens for Tax Justice; Consumer Federation of America; Consumers Union; National Consumer Law Center; National Consumers League; and large segments of the taxpaying public oppose the privatization of collection duties. Specifically, Global Strategy Group, Inc. conducted a poll last year that found 66 percent of respondents disapprove of allowing the Internal Revenue Service (IRS) to hire private debt collection companies. When details of the IRS's plan were provided, the number in opposition rose to 79 percent. The results of this poll strongly indicate that Americans across all political, geographic and income lines oppose this proposal.

While the IRS is liable for damages caused by an IRS employee's misuse of sensitive taxpayer information, taxpayers would not have proper redress with the Federal Government for misuse of their confidential information by contractors. Instead, taxpayers would be left to seek damages against the private collection agency. It is plain and simple. This plan to privatize tax collection at the IRS will hurt U.S. taxpayers and will hurt IRS workers.

Having cited these failed attempts for private tax collection, I would urge the subcommittee to prohibit any appropriation funds from being used for contracting out tax collection services to recover U.S. debt.

RIFS

While NTEU agrees with IRS' goal of enhancing tax compliance and enforcement, we don't agree with the approach of eliminating front-line employees in order to pay for additional compliance efforts. As the number of tax returns continues to grow, the number of IRS employees continues to shrink. As the IRS Oversight Board pointed out in its 2003 Annual Report, the IRS workload has increased by 16 percent while at the same time the number of full time equivalent employees has decreased by 16 percent from 1999 to 2002. This is caused by a number of circumstances, including an increasingly complex tax code and an increasing number of tax returns—paper as well as electronic returns. This has led to a serious decline in the size of the IRS workforce as a way to cope with increasing budgetary demands.

NTEU strongly encourages the subcommittee to increase the IRS budget by 10 percent over fiscal year 2004, as recently recommended by the IRS Oversight Board in its fiscal year 2005 Budget/Special Report (March 2004). The administration expects the IRS to do more with fewer resources and this is simply an unrealistic demand placed on the IRS workforce. If Congress wants more out of the IRS, then they are going to have to pay for it. The IRS Oversight Board makes a compelling case for increasing the IRS budget because it will ultimately mean an increase in Treasury revenues.

I would encourage Congress to work with the administration to anticipate costly events—such as pay increases or costly changes to the tax code—and budget accordingly. This did not happen last year. For instance, NTEU encouraged the IRS to make a supplemental funding request for administering last summer's child tax credit refunds to taxpayers. To our dismay, the request was not made and IRS was forced to do more work without any additional resources. This places a great burden on an IRS workforce that is expected to provide business results while improving customer service. This is unrealistic and unfair. Improving customer service, enhancing tax return processing and increasing tax compliance will only occur if Congress and the administration support increased funding for staffing, advanced technology and equipment, and better training.

The IRS is using the excuse of bolstering compliance to justify a recently announced reduction in force (RIF) of roughly 1,600 IRS Case Processing and Insolvency support employees in 92 locations across the country—only to turn around and hire 1,000 new employees to do the same work in four consolidated IRS Service Center sites. NTEU opposes the RIF and urges the IRS to keep its employees in the field, serving the local taxpayers. NTEU urges Congress to appropriate the needed funding to keep these employees in the field.

Presumably, IRS intends to save money and increase efficiency with this move, but there is no evidence of cost savings and IRS' business case assumptions are faulty. IRS has failed to provide information on the cost of hiring and training new employees when the current employees already know how to do the job.

In responding to the announcement of the RIFs, former IRS commissioner Donald Alexander was recently quoted as saying, "Centralization is not always more efficient, especially when it moves support people away from those they are supporting."

As one of the rationales for the current centralization, the IRS indicates that Case Processing had not been reorganized since the 1970's. However, several attempts have been made to centralize Case Processing over the years, but have failed and this function has remained in the field. In fact, Case Processing functions were located in Service Centers until the IRS reorganized 25 years ago to locate these functions closer to the employees who perform collection and exam work. Reorganizing for the sake of reorganization is a waste of time and money, neither of which the IRS can afford to squander.

Case processing support employees assist Revenue Agents and Revenue Officers in resolving issues related to overdue taxes. One of the more important duties performed includes releasing liens on property once overdue taxes are paid so that a taxpayer can secure a loan and calculate interest penalty abatements.

Insolvency employees are responsible for monitoring tax compliance throughout the life of the bankruptcy, including trust fund taxes and pyramiding of business taxes. Insolvency employees must adhere to strict deadlines in order to avoid violations of the automatic stay and possible sanctions. Failure to take timely and appropriate actions could result in the IRS being sued for damages and/or attorney fees. Centralizing Insolvency work means that the new employees will need to know the local rules and standing orders of the various bankruptcy courts that take precedence under the Bankruptcy Code. It is unreasonable to expect employees to be able

to follow the rules of dozens of different States and courts, likely resulting in delays and errors and a greater cost to the IRS.

The IRS has failed to provide information on how local taxpayers will be affected by its plan. Despite a lack of information from the IRS on the affect on taxpayers, NTEU believes that this RIF will indeed affect taxpayers nationwide.

Federal-State disclosure agreements—and the statutes that govern these agreements—differ by State. Centralizing the Insolvency work will mean that employees in the centralized sites will need to be responsible for knowing and adhering to all 50 variations. It will take longer for cases to close if they have to be shipped to a centralized site and this could hurt the taxpayer who is waiting for her case to be closed.

Currently, if a taxpayer has a question about the process, she can find one of the Case Processing employees locally and get her question answered. If these jobs are shipped out of State, it will be much more difficult for the taxpayer to get her question answered, or for the cases to be resolved in a timely and complete manner.

Finally, this removes accountability at the local level. If a member of Congress is contacted by a taxpayer constituent with an IRS case processing problem, that member will be directed to some out of State Service Center where the new employee has no comprehension of the region, much less the local personnel involved in closing a case, or the member of Congress making the inquiry.

NTEU agrees with the IRS that there is a great need to bolster enforcement efforts, but this RIF does not guarantee new or enhanced enforcement positions. Once again, this is a waste of time and money for the IRS. This is unfair to the current employees who are trained and successfully performing the Case Processing and Insolvency work; this is unfair to the taxpayers who rely on the services provided by their local Case Processing workers.

IRS also has plans for a RIF of approximately 2,200 employees at the Memphis Submission Processing Center. NTEU strongly disagrees with the IRS' decision to conduct this RIF. The IRS claims that it is taking this action because there has been an increase in electronic filing of tax returns, and it no longer needs employees to process paper returns. However, according to the General Accounting Office (GAO–02–205), the IRS has fallen far short of meeting its electronic filing goals. IRS is using unrealistic, optimistic assumptions to project the increase in electronic tax return filing and then using these assumptions to justify the RIF.

I commend the House of Representatives Appropriators who recognize the risks of reducing IRS staffing of manual submission processing. In House Committee Report 108–243, they have asked IRS to report back prior to "initiating any premature and ill considered reductions in force . . ." (see H. Rept. 108–243, IRS MANUAL SUBMISSIONS PROCESSING).

NTEU recognizes that electronic filing will eventually become a reality of IRS' modernization efforts. But we strongly believe that any resulting reorganizations should occur when there is a genuine need for a shift to an e-filing workforce and every effort should be made to avoid a RIF by retraining and placement of current employees.

These examples of reducing the IRS workforce demonstrates the need for Congress to commit to funding the IRS at adequate levels so the IRS is not made to choose between bolstering enforcement and providing the superior service our taxpayers expect and deserve. I hope the subcommittee will give serious consideration to the Oversight Board's recommendation and increase the IRS fiscal year 2005 budget by 10 percent over fiscal year 2004.

PAY PARITY

The administration has proposed a completely inadequate 1.5 percent raise for civilian Federal workers in 2005, and a 3.5 percent pay raise for members of the military. NTEU supports the higher raise for all employees and I applaud the Senate's budget resolution calling for civilian-military pay parity in 2005.

This vote—and in particular, the bipartisan nature of the vote—not only sends an important message to Federal employees that they are valued and respected but it is another important step in the government's continuing efforts to recruit and retain the high-quality employees the public wants and expects in Federal agencies.

The Senate budget resolution is in step with a recently approved House resolution, which supports the concept of pay parity between Federal civilian and uniformed military employees. By a vote of 299–126, the members of the House went on record in support of equal pay raises for both groups of public employees in 2005. The House vote reflected the importance of pay parity and signaled that members of Congress understand the need for fair pay in the competition with private sector employers for the most talented workers.

The vote by the full Senate on the pay issue preceded the rejection earlier this year of language supporting civilian-military pay parity by the House Budget Committee in its 2005 budget resolution.

Congressional action on Federal pay reflects the role that civilian employees play not only serving the public in their specific agencies, but in the continuing fight against terrorism. They work in a variety of capacities that impact national security, including such roles as helping secure the country's borders, protecting the food supply, and much more. Again, I commend those Senators who voted for the pay parity resolution and urge the appropriators to fund civilian pay on par with military pay at a 3.5 percent increase for fiscal year 2005.

CONTRACTING OUT

Finally, after a bipartisan compromise was reached on the fiscal year 2004 Omnibus Appropriations bill, the White House insisted that the conference committee strip language that would have provided a level playing field for Federal employees whose jobs are made available for private competition.

One bipartisan provision that was stripped from the bill would have required contractors to show significant cost savings (the lesser of 10 percent or $10 million) over the in-house competitor in order to be awarded a competition. Instead, agencies will now only have to take cost savings into consideration during public-private competitions since the requirement was removed from the bill language. This allows the agencies to outsource the work regardless of whether or not it saves the Federal taxpayers money—or costs the taxpayers more money.

Another provision that was stripped from the Omnibus bill would have provided the Federal employees an independent and impartial venue to appeal an agency's contract award decision. Stripping this provision sends a clear message to Federal employees that the administration wants private contractors to retain their unfair advantage in public-private competitions.

The administration further weakened the Omnibus bill by limiting the guarantee that all Federal employees would have the opportunity to submit their own best bids. The altered bill language limits the right of employees to come up with their own cost-saving bid to those employees in only the agencies funded by the Transportation-Treasury bill. This means, for competitions in most agencies, contractors will still be able to submit their best bids while Federal employees will not be allowed to offer their best bid.

NTEU strongly encourages the appropriator to include legislative language that will level the playing field for Federal employees who are expected to compete against private contractors. It is simply unfair to give private contractors an unfair advantage in public-private competitions when Federal employees can do the same job with better and less costly results.

CONCLUSION

On behalf of the dedicated Federal employees NTEU represents, I am proud to submit these views for the hearing record. I encourage the committee to make a strong investment in the Federal workforce by appropriating the 10 percent increase as requested by the IRS Oversight Board; preventing private tax collection; prohibiting the IRS from moving forward with the unnecessary RIFs; providing pay parity for Federal workers; and giving the Federal workers a level playing field when competing for their jobs with private contractors.

Without a doubt, the frontline employees are committed to working with management and Congress to increase efficiency and customer satisfaction. NTEU is committed to striking a balance between taxpayer satisfaction, business results and employee satisfaction. I encourage Congress to join us in this commitment.

PREPARED STATEMENT OF THE AIR TRAFFIC CONTROL ASSOCIATION, INC.

INTRODUCTION—AVIATION AT THE CROSSROADS

The Federal Aviation Administration is at a crossroads—and the future of U.S. aviation hangs in the balance.

The administration has delivered to Congress a proposed fiscal year 2005 budget that cuts $393 million (14 percent) from FAA's capital investment account, and provides less than current services funding for ATC system operations and maintenance. Funding for RE&D, already down to $117 million last year, is reduced another $2 million.

The FAA and the new Air Traffic Organization (ATO) are attempting to respond to this new funding reality in the only way possible. The organization is getting

leaner. The mantra is managing to the reduced level of resources, rather than responding to demand with increased service. Every modernization initiative must be justified by an immediate and measurable payback. Projects that deliver economies and efficiencies for the air traffic service provider will be favored over those that offer new, improved, and/or long-term customer benefits. And under the administration's proposal, long term investment in promising concepts and technologies is not receiving the "mission drive focus" required for what FAA is predicting to be an overall increase in passenger traffic of 4.3 percent per year (5.2 percent increase internationally) over the next 10 years. The ATO already has deferred to future years the digital programming and data link elements of NEXCOM, not waiting for future funding decisions by Congress. FAA was a leading, global proponent of this technology and yet we are deferring a solution that only a few short years ago was deemed vital to address the imminent dearth of available radio frequencies.

On the other hand, Homeland Security requirements and the War on Terrorism are placing new burdens and requirements on an already stressed air transportation system. If past is prologue, the current downturn in passenger traffic is temporary and aviation demand will come roaring back. Most airports already are reporting passenger traffic increases, and many are again experiencing congestion and delay. Earlier this year, under DOT order two hub carriers American and United agreed to a 5 percent reduction in flight schedules in order to cut down on delays that reached the highest level ever recorded. Because these cuts did not improve delays enough, DOT last week ordered the airlines to reduce flights another 2.5 percent. This is not a long-term solution to meeting passenger and airline demand for more capacity at one of the world's busiest airports, much less a panacea for the entire aviation system.

The path U.S. aviation has been placed on with this proposed budget is clear: we will limp into the future with an air transportation system that is inefficient, at capacity, and unprepared for a tripling of demand in the future. The weight of increasing airline operations due to the greater usage of smaller regional jets, and the increasing burdens on aviation from the Department of Homeland Security will paralyze the aviation system.

If instead we dare to envision a safe, secure, efficient, and capable air transportation system in the future, we must be bold in our approach, and we must act now. We cannot allow terrorists to scare us out of the skies. We must not so constrain ourselves that in seeking safety that we harness mobility. The answer is to be found in technology, investment, vigilance, and perseverance in the face of uncertainty—the very attributes that have carried aviation so far in its first century.

THE CHANGED FACE OF U.S. AVIATION

The Nation has come to view aviation in a new light over the past 3 years. No longer is air transportation predominantly about travel and tourism. Aircraft have been used as weapons against civilians, and we must do everything reasonably possible to prevent it from happening again. The Departments of Defense and Homeland Security rely on civil aviation facilities and agencies to perform their mission. Aviation is much more critical and important for United States and world commerce today. America's vision of a global economy is based on the ability of aviation to serve as the bridge connecting nations, cultures and people. This vision—that is inclusive of, but transcends security—must be the guiding force in developing a fresh perspective, and new principles to guide Federal air traffic control investment policy and planning.

—*We demand more of the air transportation system than ever before.*—The Nation's aviation infrastructure must meet National Defense and Homeland Security needs while continuing to function as the economic engine that drives the National economy. Many of the requirements, or safety procedures dictated by the added requirements are new, for example upgraded surveillance systems; data collection, transmission, and sharing capabilities; reliable high speed communications networks; and extensive plans, procedures, and facilities for Homeland Security and National Defense. This means developing and implementing new and improved air traffic systems that deliver operating benefits for users and efficiencies for FAA while strengthening security. It also means building an air transportation system for the future that allows passengers and shippers to go anywhere, any time, and hassle free. All of this is a tall order. But for the safety and security of the public, and the viability of the National economy, we must not deliver less.

—*Regular, robust investment in aviation infrastructure is a National imperative.*—The threat of terrorism has become an unfortunate fact of life in the world today. Continual vigilance and preparedness are a necessity. For aviation this

means regular investment in developing and implementing equipment and technologies that can help counter ever changing, and increasingly sophisticated dangers. Timely, continuous investment in the public air transportation infrastructure is no less important for civil aviation. FAA expects air traffic demand to grow steadily over the next 10 years, with tower operations to increase 28 percent, instrument operations to increase 29 percent, and air route traffic control center operations to increase 34 percent. We will not meet the requirements of this capacity increase sufficiently under the administration's current budget approach.

MEETING THE CHALLENGE

The Nation's air transportation system simply cannot fulfill National Defense and Homeland Security requirements, and accommodate ever increasing civil aviation demand on a diet of continually diminishing resources. Even with the improvements and efficiencies anticipated from implementation of the new Air Traffic Organization, the administration's funding proposal for fiscal year 2005 is unrealistic. FAA's mission is growing, demand is growing, and the only thing shrinking is the budget to fund new technology and equipment to handle this growth. ATCA therefore urges Congress to act upon the following:

—*FAA's Facilities and Equipment account must be funded at the authorized level.*—ATCA urges the Congress to appropriate, at minimum, the full, authorized amount of $2.993 billion for FAA Facilities and Equipment (F&E) in fiscal year 2005.[1] FAA must equip the aviation system for the War on Terrorism and still continue fielding needed air traffic system improvements. And just as important, FAA must begin to lay the groundwork for a capable future air transportation system. FAA already is behind the power curve installing the modernized systems that deliver on the promise of its Operational Evolution Plan—systems that are the necessary foundation for improved functionality, safety and efficiency. Promising projects and technologies such as controller pilot data link communications (CPDLC), Next Generation Communications System (NEXCOM), and the System Wide Information Management system (SWIM) are being deferred. Others, like the User Request Evaluation Tool (URET), the FAA Telecommunications Infrastructure (FTI), ADS–B programs (Safe Flight 21), and Terminal Doppler Weather Radar (TDWR) product improvements could be completed and continue delivering cost and efficiency benefits to FAA and users sooner if additional funding were applied. All of these projects are necessary, and will have to be completed eventually. Interrupting these efforts over and over again only increases the ultimate cost, and postpones benefits. The ATO also must have the resources to continue a vigorous NAS System Architecture and systems integration activity. Because the new organization is structured according to lines of business, an overarching planning function is necessary to assure that requirements 5 to 10 years hence are anticipated and provided for, and that new elements being delivered into the system interface correctly and work together. Otherwise, equipment must continually be redesigned and retrofitted at great expense.

—*Aviation capabilities and resources of related agencies must be protected and leveraged.*—NASA's Aeronautics research capability has become essential to FAA's mission, and must be funded adequately. DOD's $69 billion research and development activity must be consistently mined for concepts and core technologies transferable to the civil sector. Synergy and cooperation between Federal and civil research organizations in the United States, and those of friendly governments around the world should be investigated, enabled, and encouraged. The world is a different place today than yesterday. The United States should not be seen as "going it alone." The ATC organizations around the world have many ideas, programs, and procedures that merit consideration and coordination in order to ensure everyone's stated goal of global interoperability.

—*The Federal Government must prepare for large funding requirements associated with core future technologies.*—There is universal agreement that some core capabilities are essential to meeting future Homeland Security/National Defense requirements, and to accommodate air transportation demand we know is coming. The first of these key technologies is an aviation system-wide information

[1] Cutting funding for FAA F&E by 14 percent in fiscal year 2005 as the administration proposes could have an unintended, fiscally disastrous consequence of invoking application of an enforcement provision in authorization law that prohibits funding for FAA Operations if Airport Grants and F&E appropriations are less than the authorized amount. Clearly, the administration's proposal is out of step with congressional intent that air transportation system modernization and improvement be a National Priority.

network, through which all stakeholders, including the DOD, DHS, and law enforcement, can derive whatever data and information needed for the National Defense, security, and safe, efficient aircraft operations. The second is a capable, reliable data communications system connecting aircraft to the air traffic control system. The third is a sophisticated toolset enabling collaborative decision making among participants in the ATM system. All of these technologies are crucial for Defense and Homeland security missions. All will enhance aviation safety and security. And all can be used to increase operating efficiency, and overall system efficiency and capacity. But a clear direction to proceed with development and implementation, and a healthy flow of resources must be applied now, if these technologies are to be available to meet current and future demand.

—*A Federal Government-wide, aviation community-supported air transportation system future planning activity must be supported and adequately resourced.*—Secretary of Transportation Mineta is leading an interagency effort (including NASA, and the Departments of Defense and Homeland Security) to design the Next Generation Air Transportation System. This activity will be carried out through a Joint Planning and Development Office (JPDO), with the advice of the FAA Research and Advisory Committee. Secretary Mineta's initiative should be supported, with the expectation that it will be well managed, adequately resourced, and that it will yield a product that can be the basis of community consensus and capable of being implemented. It is recommended that this effort be coordinated with other future design activities around the world, with the object of assuring global compatibility of ATM systems and a seamless future operating environment. The future system plan should contain a realistic roadmap for transforming current thinking and technology into the future air transportation system, with recommendations for policies and programs to facilitate the transition to a new system and equipment for all aircraft operators. ATCA urges the entire aviation community to support the activities of the JPDO.

—*The Nation's aviation research and development capability must be recreated and empowered.*—Congress is urged to authorize and appropriate $500 million per year for the foreseeable future to establish and resource a bold, aggressive, well-managed Federal aviation research and development activity. Critical National Defense and Homeland Security needs require that FAA and NASA continually be on the forefront in developing and implementing cutting-edge surveillance, communications, and information technologies. There is simply no question that break-through concepts and technologies will be essential if we are to safely and efficiently accommodate a tripling of civil air traffic by the year 2020. Developments of this nature take 10 to 15 years or more to bring to fruition, so major investments in R&D capabilities—labs, equipment, people—must be made today.

CONCLUSION

Global aviation is facing challenges of historic proportions. Terrorism is a constant threat. Depressed demand as a result of 9/11 and economic recession have left governments and aviation enterprises financially debilitated, and reluctant or unable to make investments in infrastructure and capital equipment. The U.S. aviation system has survived and is now growing at a pace last seen pre-9/11, yet investment in the future is being cut. An increased investment in FAA Airport Improvement Program funding cannot be viewed as a complete solution to addressing future capacity when the users and passengers are measuring our system on a curb-to-curb basis.

The success of the Nation's air transportation system depends on achieving a collective commitment to secure a reliable, robust funding stream for air transportation system modernization, the determination and focus to complete projects already underway, and a forward looking vision. The aviation system requires total commitment and full funding in order to meet tomorrow's demand, and this is a commitment we must make today in order to be successful.

Again, we cannot allow the terrorists to scare us out of the skies or to divert our financial resources away from building the safest and most efficient air traffic control system to meet growing demand. Safety and security are inextricably linked, and overcrowded skies and airports cannot be the result of terrorist threats, or they have won and most assuredly we have lost.

We must not so constrain ourselves that in seeking safety we harness mobility. The answer is to be found in technology, investment, vigilance, and perseverance

in the face of uncertainty—the very attributes that have carried aviation so far in its first century.

PREPARED STATEMENT OF THE CALIFORNIA GOVERNMENT AND PRIVATE SECTOR COALITION FOR OPERATION CLEAN AIR

Mr. Chairman and members of the subcommittee, on behalf of the California Government and Private Sector Coalition for Operation Clean Air's (OCA) Sustainable Incentive Program, we are pleased to submit this statement for the record in support of our fiscal year 2005 funding request of $31,000,000 for OCA as part of a Federal match for the $180 million already contributed by California State and local agencies and the private sector for incentive programs. This request consists of $31,000,000 from the Department of Transportation (DOT) for alternative fuel vehicle funding.

California's great San Joaquin Valley is in crisis. Home to over 3.3 million people, its 25,000 square miles now has the unhealthiest air in the country. Even Los Angeles, long known as the smog capital of the Nation, can boast better air quality by certain standards. While peak concentrations of air pollutants are still greater in Los Angeles, for the past 4 years, the San Joaquin Valley has exceeded Los Angeles in violations of the ozone 8-hour Federal health standard.

A combination of geography, topography, meteorology, tremendous population growth, urban sprawl and a NAFTA corridor of two major highways with over 5 million diesel truck miles per day, have collided to produce an air basin in which over 300,000 people, nearly 10 percent of the population, suffer from chronic breathing disorders. In Fresno County, at the heart of the San Joaquin Valley, more than 16 percent of all children suffer from asthma, a rate substantially higher than any other place in California. The extreme summertime heat creates smog even though smog-forming gases are less than half the amount in the Los Angeles basin. There is no prevailing wind to flush the natural geologic bathtub and, as a result, pollutants and particulates stagnate, accumulate and create unhealthy air.

Degradation of human health is not the only consequence of poor quality air. In December 2003, the San Joaquin Valley Air Pollution Control District Board decided to become the first Air District in the Nation to voluntarily declare itself an "extreme" non-attainment area. This designation, if approved by USEPA, will defer until 2010 the date for attainment of Federal standards of air quality, but comes at a cost of imposing permitting on thousands of more businesses and even further discouraging business expansion or relocation. More Valley's businesses will be required to obtain permits and comply with increasingly burdensome regulations imposed by Federal and State law and the Air Pollution Control District, resulting in added cost in compliance, reporting and record keeping. At the same time, the area is burdened by chronic unemployment rates of nearly 20 percent. Encouraging business expansion in or relocation to the San Joaquin Valley to combat unemployment will be extremely difficult in the face of such regulatory burdens.

The San Joaquin Valley is home to the most productive agricultural land in the world. Over 350 crops are produced commercially on 28,000 farms encompassing more than 5 million irrigated acres. While the agricultural industry has made great strides at considerable expense to replace old diesel engines and manage fugitive dust and other emissions, farming does contribute to the problem. However, it is a $14 billion industry that forms the backbone of the Valley's economy, and its vitality is crucial.

Industry alone is not the source of the Valley's poor air quality. Population growth rates exceeding those in the rest of the State and most of the Nation, in an area without effective mass transit, where cheap land has led to a landscape of suburbia and sprawl, results in excessive over-reliance on the automobile. Trucking has increased dramatically with the increase in population, and Federal free trade policies. Other factors such as fireplace burning in the winter, open field agricultural burning because of lack of sufficient alternatives, and wild fires resulting from lack of controlled burning in the nearby foothills and mountains all contribute to the problem.

Despite the challenges listed above, much progress has been made. The State has spent nearly $80 million on improvement and compliance programs. Local government and private industry have spent over $100 million on technology and compliance. As specific examples, over one half of the diesel operated irrigation pumps used by agriculture have been replaced with cleaner engines. The City of Tulare has converted its entire fleet of vehicles to natural gas as have several other private fleet operators. A $45 million Federally financed comprehensive study of ozone and

particulate matter is nearing completion. As a result, the number of 1-hour EPA health standard exceedences has been reduced by 40 percent since 1989.

But much more needs to be done. The District estimates that daily emissions must be reduced by 300 tons to achieve attainment. There is no single or short-term quick fix. The entire Valley (an area the size of the State of Connecticut) is part of the problem and the entire Valley will need to be part of the solution.

The Department of Transportation is an important partner in achieving air quality improvement. The Federal Clean Air Act requires that transportation plans be consistent with State Implementation Plans. Mobile sources are the single largest contributor to the San Joaquin Valley's air pollution problem. Depending upon the season, mobile sources contribute up to 60 percent of the emission inventory in the Valley. Heavy-duty vehicles make up half of these emissions.

California and the San Joaquin Valley bear the emissions burden associated with the significant volume of goods that flow into and out of the country through vehicular traffic. It is estimated that 6 million truck-miles a day are traveled in the Valley. The emissions associated with these activities are projected to grow significantly with port expansions and upcoming changes associated with the implementation of the North American Free Trade Agreement (NAFTA) that will allow, for the first time, foreign trucks with less rigorous emission controls to travel through the San Joaquin Valley.

Finally, heavy-duty mobile source emissions reductions are some of the most cost-effective emission reduction programs currently available. The cost-effectiveness of emission reductions achieved through clean heavy-duty projects that are requested through the Department of Transportation is approximately $13,650/ton of emission reduced. In many cases this is one-half of the cost associated with similar emission reductions achieved through the regulation of industrial sources of pollution. If our request is fully funded, it will provide up to 11,000 tones of emissions reductions over the 12 year life of the projects.

Operation Clean Air is a coalition of business, government, health care, and environmental groups throughout the eight county San Joaquin Valley Air Pollution Control District. Its goal is to clean the Valley's air and increase its economic prosperity. The coalition seeks to catalogue efforts that have produced positive effects and identify those strategies that could produce even greater effects if supported by sufficient resources. At the heart of its efforts will be an array of sustainable, voluntary practices and activities that can and will be undertaken by all of the residents of the San Joaquin Valley, both public and private, to improve air quality.

This unique public-private partnership has invested considerable resources in this project to date, and will continue to do so, but Federal funding is both imperative and justified to help address what is essentially an unfunded Federal mandate.

For fiscal year 2004, our Coalition is seeking funding of $31,000,000 from the Department of Transportation (DOT) for alternative fuel vehicles throughout the San Joaquin Valley Air Basin. We are also seeking funding for alternative fuels infrastructure through other avenues, which will allow accelerated introduction of alternatively fueled vehicles in municipal fleets, public school fleets, and private fleets. The widespread use of lower-emitting motor vehicles will provide significant improvement to air quality in the San Joaquin Valley while furthering the goals of the Department of Transportation to reduce emissions from public fleets. Development of alternative fuel infrastructure will augment the low-emission vehicle program by providing much needed compressed natural gas (CNG) and liquefied natural gas (CNG) fueling facilities.

Thank you very much your consideration of our requests.

PREPARED STATEMENT OF THE CALIFORNIA INDUSTRY AND GOVERNMENT CENTRAL CALIFORNIA OZONE STUDY (CCOS) COALITION

Mr. Chairman and members of the subcommittee, on behalf of the California Industry and Government Central California Ozone Study (CCOS) Coalition, we are pleased to submit this statement for the record in support of our fiscal year 2005 funding request of $500,000 from the Department of Transportation (DOT) for CCOS as part of a Federal match for the $9.4 million already contributed by California State and local agencies and the private sector. We greatly appreciate your past support for this study ($250,000 in fiscal year 2004) as it is necessary in order for the State of California to address the very significant challenges it faces as it seeks to comply with air pollution requirements of the Federal Clean Air Act.

Most of central California does not attain Federal health-based standards for ozone and particulate matter. The San Joaquin Valley has recently requested redesignation to extreme and is committed to updating their 1-hour ozone State Imple-

mentation Plan (SIP) in 2004, based on new technical data. In addition, the San Joaquin Valley, Sacramento Valley, and San Francisco Bay Area exceed the new Federal 8-hour ozone standard. SIPs for the 8-hour standard will be due in the 2007 timeframe—and must include an evaluation of the impact of transported air pollution on downwind areas such as the Mountain Counties. Photochemical air quality modeling will be necessary to prepare SIPs that are approvable by the U.S. Environmental Protection Agency.

The Central California Ozone Study (CCOS) is designed to enable central California to meet Clean Air Act requirements for ozone SIPs as well as advance fundamental science for use nationwide. The CCOS field measurement program was conducted during the summer of 2000 in conjunction with the California Regional PM_{10}/$PM_{2.5}$ Air Quality Study (CRPAQS), a major study of the origin, nature, and extent of excessive levels of fine particles in central California. This enabled leveraging of the efforts of the particulate matter study in that some equipment and personnel served dual functions to reduce the net cost. From a technical standpoint, carrying out both studies concurrently was a unique opportunity to address the integration of particulate matter and ozone control efforts. CCOS was also cost-effective since it builds on other successful efforts including the 1990 San Joaquin Valley Ozone Study.

CCOS includes an ozone field study, data analysis, modeling performance evaluations, and a retrospective look at previous SIP modeling. The CCOS study area extends over central and most of northern California. The goal of the CCOS is to better understand the nature of the ozone problem across the region, providing a strong scientific foundation for preparing the next round of State and Federal attainment plans. The study includes five main components:

—Designing the field study;
—Conducting an intensive field monitoring study from June 1 to September 30, 2000;
—Developing an emission inventory to support modeling;
—Developing and evaluating a photochemical model for the region; and
—Evaluating emission control strategies for upcoming ozone attainment plans.

The CCOS is directed by Policy and Technical Committees consisting of representatives from Federal, State, and local governments, as well as private industry. These committees, which managed the San Joaquin Valley Ozone Study and are currently managing the California Regional PM_{10}/$PM_{2.5}$ Air Quality Study, are landmark examples of collaborative environmental management. The proven methods and established teamwork provide a solid foundation for CCOS. The sponsors of CCOS, representing State, local government, and industry, have contributed approximately $9.4 million for the field study. The Federal Government has contributed $4,874,000 to support some data analysis and modeling. In addition, CCOS sponsors are providing $2 million of in-kind support. The Policy Committee is seeking Federal co-funding of an additional $2.5 million to complete the remaining data analysis and modeling. California is an ideal natural laboratory for studies that address these issues, given the scale and diversity of the various ground surfaces in the region (crops, woodlands, forests, urban and suburban areas).

There is a national need to address national data gaps and California should not bear the entire cost of addressing these gaps. National data gaps include issues relating to the integration of particulate matter and ozone control strategies. In addition, new national ambient air quality standards will require air quality assessments for time periods of greater duration, and the impact of weekend travel activities on air quality will play a part in the ability to simulate air quality for longer durations. That is why, concurrent with the CCOS air quality field study, a $600,000 traffic activity study was conducted for the purpose of gathering detailed, hourly travel activity patterns during the field study. It is also why the CCOS allocated an additional $250,000 to develop a link-based digital map of roadways throughout the domain (using state-of-science Geographic Information System, or GIS, software) that included the activity patterns from the traffic study on specific roadway segments. However, due to the scarcity of weekend data in the transportation community and travel demand models, these projects were not able to address the spatial change in travel patterns during a weekend. In addition to the weekend activity issue, developing mobile source emissions inputs for longer-term air quality modeling studies will require more efficient mobile source emissions processing, including better use of GIS software and technology.

For fiscal year 2005, our Coalition is seeking funding of $500,000 from DOT through highway research funds. The CCOS would use the $500,000 requested for fiscal year 2005, in conjunction with other funding, to study and integrate travel activity patterns into modeling inputs. The CCOS would also use a fiscal year 2005 earmark to develop more efficient mobile source emissions processing tools and im-

prove the consistency and linkages between travel demand models used in the transportation community and emissions factor models used for conformity purposes in the air quality community. DOT is a key stakeholder because Federal law requires that transportation plans be in conformity with SIPs. The motor vehicle emission budgets established in SIPs must be met and be consistent with the emissions in transportation plans. Billions of dollars in Federal transportation funds are at risk if conformity is not demonstrated for new transportation plans. As a result, transportation and air agencies must be collaborative partners on SIPs and transportation plans. These plans are linked because motor vehicle emissions are a dominant element of SIPs in California as well as nationwide. Determining the emission and air quality impacts of motor vehicles is a major part of the CCOS effort.

Thank you very much for your consideration of our request.

PREPARED STATEMENT OF EASTER SEALS

Chairman Shelby, Ranking Member Murray and members of the subcommittee, Easter Seals appreciates this opportunity to share the successes and needs of Easter Seals Project ACTION.

PROJECT ACTION OVERVIEW

The Transportation appropriations process initiated Project ACTION in 1988 by providing funding to the Federal Transit Administration to undertake this effort with Easter Seals. We are indeed grateful for that initiative and the ongoing strong support of this subcommittee in subsequent years.

Following its initial round of appropriations, Congress authorized assistance to Project ACTION in 1990 with the passage of ISTEA and reauthorized the project in 1997 as part of TEA21. The strong interest and support of all members of Congress has been greatly appreciated by Easter Seals as it has pursued project ACTION's goals and objectives.

Since the project's inception, Easter Seals has administered the project through a cooperative agreement with the Federal Transit Administration. Through steadfast appropriations support, Easter Seals Project ACTION has become the Nation's leading resource on accessible public transportation for people with disabilities. The current project authorization level is $3 million, and Easter Seals is pleased to request the appropriation of that sum for fiscal 2005.

The strength of Easter Seals Project ACTION is its continued effectiveness in meeting the congressional mandate to work with both the transit and disability communities to create solutions that improve access to transportation for people with disabilities of all ages and to assist transit providers in complying with transportation provisions in the Americans with Disabilities Act (ADA).

The activities of the project are guided by input from a 19 member national steering committee that includes representatives from transportation and disability organizations. Easter Seals Project ACTION has worked effectively with the Department of Transportation under four Presidents, and numerous Department of Transportation (DOT) Secretaries and Federal Transit Administration (FTA) Administrators. Today, Project ACTION is working closely with Secretary Mineta and FTA Administrator Dorn and their teams. Secretary Mineta, who worked on the original authorization of Project ACTION, has worked closely with us since taking over DOT.

Easter Seals Project ACTION was also heavily featured in the President's New Freedom Initiative Progress Report released in 2004. This demonstrates how closely the administration is working with Project ACTION to reach our shared goal of a safe, accessible, reliable, efficient and affordable transportation for and by citizens with disabilities at the local, State, regional and national levels throughout the United States.

SUPPORT FOR EASTER SEALS PROJECT ACTION

Easter Seals Project ACTION's successes are diverse and the value of the Project to both the transit and disability communities can be well documented. For instance, Barry Barker, Executive Director of the Transit Authority of River City (Louisville, KY) states that, "Easter Seals Project ACTION's support has enhanced our ability to maximize the quality of service we provide to all of our customers. The project helps us provide our customers with the mobility necessary to fully participate in the community."

Maureen McCloskey, National Advocacy Director of the Paralyzed Veterans of America states that, "The forum that Easter Seals Project ACTION has provided

has created a dynamic dialogue between the disability and transit communities that has resulted in increased access to transportation for people with disabilities."

EASTER SEALS PROJECT ACTION WORKING AT THE COMMUNITY LEVEL

Among the programs pursued by the project in the recent period have been efforts aimed at increasing community capacity to meet the transportation needs of people with disabilities. For instance, in 2001, Easter Seals Project ACTION initiated the first Mobility Planning Services (MPS) Institute. The latest Institute took place in November of 2003 and approximately 25 communities took part in the 2-day event. This was the second group of communities to go through the MPS training. The first group of 20 communities remains active and working with Project ACTION to continue their work at the community level. To participate in the Institute, each community had to identify a leadership team to attend the training. The leadership team had to consist of representatives from transit providers, disability service providers and disability advocacy organizations. This team approach will assure that all stakeholders are involved in implementing MPS. The greatest success so far of the MPS concept has been that it provides the disability community and the transportation industry an opportunity to develop tools for working together where in the past there had often been a lack of communication and in some cases even animosity. By implementing MPS, communities do a better job of meeting the transportation needs of people with disabilities and therefore better meet the transportation needs of all residents. Communities that participate in MPS receive ongoing in-depth technical assistance from Project ACTION staff ranging from access to Project ACTION materials to on-site training and facilitation by Project ACTION staff.

EASTER SEALS PROJECT ACTION WORKING AT THE STATE LEVEL

Project ACTION is partnering with the FTA on several initiatives designed to increase the capacity of States to support accessible transportation for people with disabilities.

The first initiative is a series of regional dialogues being held throughout the country. These dialogues built on the success of 2002's successful National Dialogue on Accessible Transportation. The goal of these events was to bring people with disabilities and transit providers together at the regional level to foster communication that will hopefully lead to jointly developed solutions to unique barriers to accessible transportation identified together in each region.

Project ACTION is also working with FTA to support the success of the multi Federal Department "United We Ride" initiative. Project ACTION helped facilitate a national meeting in March of Governor appointed representatives from State Departments of Labor, Transportation, Education and Health and Human Services. Forty-six States and territories participated in this forum that was one of five elements of an FTA effort to bring together Federal and State agencies to help identify, plan and alleviate barriers to human service transportation coordination. Project ACTION is assisted in the dissemination of the FTA developed Framework for Action planning process guide to help States and communities build and operate coordinated transportation systems and has already begun to provide technical assistance on its use throughout the country.

EASTER SEALS PROJECT ACTION WORKING AT THE NATIONAL LEVEL

Easter Seals Project ACTION actively works with both the disability and transit communities to determine existing needs for products and training. Easter Seals Project ACTION also convenes special topic meetings to address concerns and identify strategies on issues identified by various stakeholders. This year's special topic meetings will focus on the development of a "One System for All", concept that emerged from the Project's National Dialogue conducted last Summer. The meeting will involve a small group of disability and transit advocates to further develop the concept and also begin to address the design and provision of technical assistance and other resources necessary to advance the availability of seamless community transportation systems for people with and without disabilities. Another special topic meeting will bring together travel trainers to develop a curriculum for the further training of these specialists that enhance the participation of people with disabilities using fixed route transportation. Convening special topic meetings enable Easter Seals Project ACTION the flexibility to address emerging issues as they arise.

Some of the materials that Easter Seals Project ACTION has developed during the past year include:

—A collection of "success stories" that share, in the own words of people with disabilities, stories about their successful use of transportation and the positive difference it made in their lives;
—New resources and guidance on good practices for conducting physical functional assessments for determining paratransit eligibility;
—A collection of innovative practices in operating paratransit;
—A redesigned resource called "You Can Ride," a reference guide on how to use public transportation for people who can't read; and,
—All resource materials available from Easter Seals Project ACTION activities are available free of charge through the Project ACTION catalog.

As mentioned, Project ACTION staff also are involved in continuously providing technical assistance to transit providers, nonprofit human service organizations, people with disabilities, and the general public. The forms of technical assistance provided are provided based on the determination of what would be the most helpful in the situation being addressed. Assistance from Project ACTION ranges from the delivery of basic information in the form of brochures from our national clearinghouse to telephone, e-mail, participation in the training program and on single or ongoing on-site work.

CONTINUING NEED FOR EASTER SEALS PROJECT ACTION

Access to transportation is a vital issue for people with disabilities. For many people with disabilities, a lack of accessible, affordable pubic transportation is the primary barrier to employment, education and participation in community life. In his New Freedom Initiative, President Bush recognized the importance of accessible transportation for people with disabilities, and has proposed an increase in Federal support for promoting innovative and alternative transportation solutions for people with disabilities. As these proposals are implemented, it will become increasingly important that the resources and skills, relationships and knowledge that Easter Seals Project ACTION has fostered remain strong. Should the appropriations process support this New Freedom Initiative, Project ACTION is committed to working with DOT on implementation.

There is a growing need for outreach by Project ACTION to specific populations. While Project ACTION has historically worked with rural communities to help address their transportation issues, the lack of access for rural residents with disabilities is still unacceptable. Easter Seals national headquarters and Project ACTION are working together to coordinate efforts to better serve rural residents with disabilities in a variety of service areas including transportation. Further, as the population ages, there is also a need to provide develop and provide additional specific resources and assistance to transit providers and older passengers. Since most people will experience some level of disability as they age and require accessible transportation, Project ACTION's resources will again be invaluable as transit providers struggle to meet the needs of this new wave of riders.

FISCAL 2005 REQUEST

In order to continue the outstanding work of Easter Seals Project ACTION, Easter Seals national headquarters respectfully requests that $3 million be allocated in fiscal 2005 to the Department of Transportation for project activities.

Mr. Chairman, thank you for the opportunity to present this testimony to the subcommittee. Your efforts have improved the accessibility of transportation for persons with disabilities and the ability of the transportation community to provide good service to all Americans. Easter Seals Project ACTION looks forward to continuing to work with you toward the pursuit of these objectives.

PREPARED STATEMENT OF THE AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

Mr. Chairman and members of the subcommittee, on behalf of the American Public Transportation Association (APTA), thank you for the opportunity to provide written testimony on the need for investment in Federal Transit Administration (FTA) programs under the Transportation, Treasury and General Government Appropriations bill for fiscal year 2005.

ABOUT APTA

APTA's 1,500 public and private member organizations serve the public by providing safe, efficient, and economical public transportation service, and by working to ensure that those services and products support national economic, energy, environmental, and community goals.

APTA member organizations include public transit systems and commuter railroads; design, construction and finance firms; product and service providers; academic institutions; and State associations and departments of transportation. More than 90 percent of the people who use public transportation in the United States and Canada are served by APTA member systems.

OVERVIEW

Mr. Chairman, the fiscal year 2005 Transportation, Treasury and General Government appropriations bill provides an opportunity to advance key national goals through increased Federal investment in the Nation's surface transportation infrastructure, including public transportation. A study conducted by Wirthlin Worldwide in February 2004, found that most Americans (80 percent) see quality of life benefits from increased investment in public transportation, and 76 percent of those surveyed support public funding for the expansion and improvement of public transportation. Clearly, Americans support Federal policies that create good, high-paying jobs, especially U.S. jobs that cannot be exported. Investment in our national public transportation and highway systems creates jobs—47,500 per $1 billion of Federal investment. This investment does more than create jobs, it helps improve the economy by reducing congestion, promoting energy conservation, and providing transportation options to workers and tens of millions of other Americans.

As a Nation, we need to maintain and improve the transportation system that has served this country so well. Congress has made a substantial investment in public transit systems around the country, and those systems serve tens of millions of customers each day; but much needs to be done to maintain and increase the return on that investment. With ridership at record levels, the American Association of State Highway and Transportation Officials (AASHTO) estimates that an annual capital investment of more than $44 billion is needed to adequately maintain, improve and expand public transportation across America.

Demand for surface transportation options—including modern, safe, and efficient public transportation service—is at an all-time high. New transit service is being added in areas around the country, including Houston, Minneapolis, Phoenix, and Charlotte. More and more communities are voting for new and expanded transit service every year. Demand for transit options is a product of growing frustration with increased congestion that negatively affects our quality of life by wasting time and money, and a desire for mobility options. The Wirthlin Worldwide poll also demonstrates that voters support public transportation regardless of whether they live in urban, suburban, small urban or rural communities, and that they are more likely to vote for Congressional candidates who support such investment.

Similarly, as the population ages, older Americans will need more and better transit service. As driving becomes less of an option for many older Americans, they as well as persons with disabilities are seeking good public transportation options so that they can continue to fully participate in society. Yet many older Americans and people with disabilities live in areas where public transportation services are limited or non-existent, despite the fact that access to good transit service can mean the difference between living independently and moving into assisted living. Nearly two-thirds of residents in urban, small urban and rural communities have few if any transportation options—41 percent have no access to transit, another 25 percent live in areas with below-average transit services. Clearly, our Nation's small-town and rural areas have real and growing transportation needs.

FISCAL YEAR 2005 TRANSIT INVESTMENT

APTA believes it is crucial to provide significant investment in the Nation's transit and highway infrastructure in the fiscal year 2005 appropriations process. That investment advances key national goals by producing jobs, providing more mobility options to all Americans, improving the environment and reducing dependence on foreign oil, and by providing a solid return on the investment.

APTA's recommendations for reauthorization of the Transportation Equity Act for the 21st Century (TEA21) propose to grow the transit Federal transit program to $14 billion by fiscal year 2009. The Senate has passed a TEA21 reauthorization bill that would authorize $8.65 billion for transit in fiscal year 2005, and we urge the subcommittee to invest no less than that amount for the Federal transit program in fiscal year 2005.

Mr. Chairman, in that regard we thank you for your outstanding leadership as chairman of the Senate Banking Committee in crafting the transit portion of that legislation, which addresses critical public transportation investment needs.

PUBLIC TRANSPORTATION INVESTMENT CREATES JOBS AND GROWS THE ECONOMY

Americans are growing increasingly concerned about jobs. An Associated Press poll taken March 19–21 showed that 35 percent of Americans view economic conditions as the most important factor on which they will vote. A Washington Post poll taken April 15–18 shows that the economy and jobs are the most important issues that 26 percent of voters want to hear about in the upcoming election, more than any other topic. Polls by Newsweek and Harris this year have produced similar results for the last several months. Jobs are the No. 1 concern of Americans.

Policy makers know that increased investment in our Nation's transit and highway transportation infrastructure will help the economy and will produce jobs. The Department of Transportation has demonstrated that for every $1 billion in Federal highway and transit investment, 47,500 jobs are created or sustained. This view is shared by Senate Environment and Public Works Committee Chairman James Inhofe (R-OK), who stated upon passage of SAFETEA that the bill "will create nearly 2.8 million job opportunities for the American people." He went on to call TEA21 reauthorization the "biggest job creation bill of this Congress."

The jobs that investment in public transportation can create are high-paying, stable, and cannot be exported. The jobs created are not just those needed to operate new and expanded transit service, which are significant; but also in the private manufacturing sector, which supports and supplies the public transportation industry. For instance, transit buses are built in, among other places, Anniston, Alabama; Wichita, Kansas; Brownsville, Texas; Lamar, Colorado; St. Cloud, Minnesota; Hayward, California; Imlay City, Michigan; Pembina, North Dakota; and Oriskany, New York. Engines for those buses may be built in Detroit or Columbus, Indiana. Spending on transit also benefits hundreds of other private sector companies around the United States that build rail cars, fareboxes, vehicle parts and equipment or provide software, engineering, and construction services for the transit industry. According to a Cambridge Systematics Inc. study, for every $10 spent on transit capital projects, $30 in business sales is generated. Every $10 invested in transit operations results in $32 in private business sales.

Mr. Chairman, public transportation serves another important economic purpose: alleviating highway congestion. According to the Texas Transportation Institute's "2003 Urban Mobility Report", congestion costs $69.5 billion annually—more than 3.6 billion hours of delay and 5.7 billion gallons of excess fuel consumed. The report says without public transportation, there would be 1 billion more hours (30 percent) more delay. The average driver is losing more than 1½ weeks of work (62 hours) each year sitting in gridlock. The average cost of congestion per peak road traveler is $1,160 a year. All of that congestion holds up more than 64 percent of the Nation's freight that moves by truck on highways, which represents annual value to the economy of more than $5 trillion. As the Free Congress Foundation's Paul Weyrich and Bill Lind demonstrate in their study, "How Transit Benefits People Who Do Not Ride It", public transportation, by alleviating congestion, brings real benefits not just to those who use it, but also to those who do not use it.

But public transportation does not just improve the economy by taking cars off the road—it provides transportation options to low-income workers who cannot afford to drive to work. According to the Surface Transportation Policy Project, the proportion of household expenditures devoted to transportation has grown from 14 percent in 1960 to almost 20 percent today. A recently published Bureau of Transportation Statistics Issue Brief found that Americans who commute by car or truck spent about $1,280 per year in 1999, while those who were able to use public transportation to get to and from work spent just $765 per year. Clearly public transportation provides real and needed savings for the many entry-level workers coming into the workforce who are so critical for the Nation's economy.

PUBLIC TRANSPORTATION IS IN DEMAND

Last November voters in several communities, including Denver, Houston, Grand Rapids and Kansas City, approved by large margins new local taxes to provide new and expanded public transportation services. These were just a few of efforts across the country to increase funding for transportation infrastructure, and follows successful actions in other cities over the past 5 years to expand transit service, including Phoenix, Charlotte, Dallas and Minneapolis.

That these referenda have been approved should come as no surprise. Polls have consistently shown that the American public not only supports increased public transportation services but also supports providing the resources to pay for it. As mentioned earlier, the recent Wirthlin Worldwide study showed that 80 percent of Americans surveyed see quality of life benefits from increased investment in public transportation; 76 percent support public funding for the expansion and improve-

ment of public transportation; two-thirds support pro-public transportation Congressional candidates; and a majority (52 percent to 41 percent) of Americans believe transportation investment is preferable to tax cuts to stimulate the economy. These findings hold true across areas of all sizes—urban, suburban, small town and rural. A poll taken in spring 2003 by APTA and the American Automobile Association (AAA) showed that 95 percent of those surveyed said traffic congestion, including commutes to and from work, had grown worse over the last 3 years, with 92 percent believing it was either very important (71 percent) or somewhat important (21 percent) for their community to have both good roads and viable alternatives to driving.

The Wirthlin Worldwide poll demonstrates that support for public transportation has increased dramatically not only in our biggest cities, but in smaller urban communities and rural areas as well, where 40 percent of America's rural residents have no access to public transportation, and another 28 percent have substandard access. It is estimated that rural America has 30 million non-drivers, including senior citizens, the disabled and low-income families, all of whom need transportation options. According to a survey of APTA members, bus trips in areas with populations less than 100,000 increased from 323 million to 426 million in a recent 5-year span.

While demand for new and expanded service is increasing, the resources required to simply maintain the present level of service are immense. A 2002 AASHTO report estimates that $44 billion is needed annually to meet current transit capital needs for new projects and improvements to existing systems as well to expand the availability of transit service to more Americans.

PUBLIC TRANSPORTATION PROVIDES MOBILITY OPTIONS

Public transportation provides mobility options to persons who choose not to, or cannot, drive because of age or a disability. For many in this population, public transportation may be the only option to living a fully independent and productive life. For many Americans, public transportation can be the difference between staying in their own homes or moving into an assisted living community.

According to the AARP's Beyond 50.03: A Report to the Nation on Independent Living and Disability, released in August 2003, as people move from their 70's into their 80's, the percentage of licensed drivers falls to 50 percent from just over 90 percent. With the baby-boom generation approaching retirement age, this means the population of elderly Americans who do not have a driver's license will soon grow significantly.

Persons with disabilities face similar mobility problems. Many cannot drive or afford vehicles that are fitted to their needs. Public transportation can provide them the options they need to stay active and independent. However, according to AARP's report, 32 percent of people with disabilities over 65 report that inadequate transportation is a problem. The report states further that while public transportation is more economically efficient in areas with high population density, many older Americans with disabilities live "outside of central cities in communities where public transportation is found least often." This is becoming a growing problem, and it is clear that we need to begin to address the important transportation needs in these areas.

PUBLIC TRANSPORTATION PROVIDES GOOD VALUE

Unlike other modal transportation projects funded through the Department of Transportation, major capital transit projects funded by the FTA are subject to a rigorous Federal review process. A comprehensive alternatives analysis process is undergone, with various transportation alternatives weighed and considered. The overall review process typically involves 5 or more years of planning, environmental studies and technical analysis. The projects must be included both in State and local transportation programs and plans. To qualify for project approval and a full funding grant agreement, project sponsors must demonstrate not only financial capacity to construct the project but also to maintain and operate the service once put in place. Much of the process turns on ridership and project cost estimates. In that regard, we are pleased to note that ridership and project cost and benefit estimates for recent new start and bus rapid transit projects have been very accurate, and we will continue to work with the FTA and our members to make sure that forecasting is as accurate as possible. The result of this rigorous process is that the completed transit projects provide real value and an excellent return on the dollar, often in areas not typically recognized: increased value and income for property owners; expanded markets, rising productivity and increased revenues for business and commercial owners/occupants; and enhanced tax revenues for local governments—from rising land values, expanded development and an upsurge in business transactions.

While we support this rigorous review process and the excellent projects that result from it, we remain concerned that it does not apply to other transportation projects under the jurisdiction of the Department of Transportation. We think it would be good public policy to have all major Federally funded transportation projects subject to similar Federal review processes.

PRESIDENT'S BUDGET PROPOSAL

The President's fiscal year 2005 budget proposal proposes to freeze funding for Federal transit programs at the fiscal year 2004 level of $7.266 billion. In its proposal for a 6-year authorization bill, which was submitted to Congress 9 months earlier, the administration had proposed to fund Federal transit programs at $7.369 billion in fiscal year 2005, $103 million more than the amount for transit in the fiscal year 2005 budget proposal.

Mr. Chairman, now is not the time to shortchange investment in public transportation! While the administration continues to advocate for policies that will support a healthy economy and produce more jobs, its budget proposal for transit does not adequately address the need to improve our Nation's transit systems, and create jobs in the process. We again emphasize the 47,500 jobs created by every $1 billion invested in the public transportation infrastructure or the $30 million in private business sales that are generated for every $10 million invested in transit.

Mr. Chairman, we strongly believe that growth of the Federal investment in public transportation can help advance many of the Nation's key goals, and that freezing Federal funding for transit simply defers the growing backlog of unmet transit capital needs. We urge the subcommittee to fund the Federal transit program in fiscal year 2005 at no less than $8.65 billion, the amount provided in SAFETEA (S. 1072), the Senate-passed TEA21 reauthorization bill.

CONCLUSION

Public transportation should and can play a key role in meeting the goals of the administration and Congress in providing jobs and economic development, energy independence, and mobility options for millions of American. Mr. Chairman, we look forward to working with the subcommittee as it takes up the fiscal year 2005 appropriations bills, and urge you to invest in surface transportation programs at the highest levels possible.

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF RAILROAD PASSENGERS

Thank you for the opportunity to submit this statement. We support the Amtrak request for $1.798 billion. We also support efforts to make the Federal Government a true funding partner with States to permit development of high speed rail corridors, for which many States already have well-advanced plans. Finally, we strongly favor Federal support for the CREATE/Chicago Project to modernize Chicago's railroad infrastructure, and we support continuing efforts to bring to fruition a North Station/South Station Rail Link in Boston.

$900 MILLION IS A SHUTDOWN BUDGET FOR AMTRAK

Secretary of Transportation Norman Y. Mineta has made clear his agreement that $900 million would be a shutdown budget. At his interest-group budget briefing on February 2, I asked him about a seeming disconnect between the administration's budget recommendation and Amtrak President & CEO David L. Gunn's statement last fall that $900 million is a shutdown budget that "won't work." Mineta responded, "Gunn is right on the numbers" but we are sending a message about the importance of our reforms. The following table illustrates the problem with $900 million:

[In millions of dollars]

	Amount
Operating	570
Debt Service	262
Environmental	22

[In millions of dollars]

	Amount
Total	854

NOTE.—Amtrak has taken on no new commercial debt since David Gunn's May, 2002, arrival, and has no plans to. The cost of debt service peaks in Fiscal 2005 and declines thereafter. Most of the environmental portion of Amtrak's capital budget involves work that Amtrak is legally obligated to undertake, so could not be set aside in favor of fleet or infrastructure work that otherwise would be considered more vital to the system's continued, viable operation.

Gunn in February said Amtrak has "a strategy of moving resources from emergency repairs to programmed maintenance." This obviously makes for more reliable service, while maximizing revenues (fewer en-route problems means satisfied customers) and reducing maintenance costs. However, much of the programmed maintenance is considered capital, so a maintenance budget at or close to zero forces either an immediate shutdown or an immediate downward spiral in service quality.

But this means the system would collapse on zero capital, and 2,000 employees would be let go. That's essentially what the administration's $900 million would require.

PASSENGER RAIL SECURITY

We agree that rail security has been underfunded and join with those noting the huge gap between Federal spending on aviation security and on railroad security—$11 billion versus $115 million, according to one representative at today's House subcommittee hearing. We understand that the Bush Administration's Transportation Security Administration request for fiscal year 2005 is $5.3 billion, of which all but $147 million is for air security.

The most obvious needs in rail security relate to infrastructure—especially bridges, tunnels, stations and yards—and training for front-line personnel.

Infrastructure.—Issues in the Northeast Corridor are well-known. At major stations nationwide, items for consideration include: an increased police presence with K–9 units, video surveillance at key points of entry and exit, vapor detectors, coordinated plans for first responders in case of an event.

Attention must also be paid, as Amtrak notes, to "non-public locations, such as loading docks, adjacent yards and buildings."

Consider this recent news item regarding a major commuter railroad:

"Train yards in New Haven and Bridgeport have major security problems 2 months after Federal Homeland Security chief Tom Ridge asked rail operators to be on a heightened state of alert following the Spain train bombings that killed 191 people, WTNH–TV reported Thursday. A reporter and cameraman walked into the New Haven rail facility at 3 a.m. on a recent day and found no security or police guarding the Metro-North trains that carry nearly 40,000 Connecticut commuters into New York each weekday.

"No one stopped the news team, which was able to walk around the rail yard for about two hours, the station reported. The reporter, Alan Cohn, climbed aboard one of the engines . . . The television station found a similar lack of security at the Bridgeport rail yard . . . It's the job of Metro-North and Metropolitan Transit Authority police to patrol [these] rail yards. Metro-North President Peter Cannito promised that changes would be made."

This report raises the obvious question: how secure are other rail yards?

There is also a Federal interest in the security level of the Nation's vast, privately-owned railroad system which is important both to Amtrak's national network and to freight transportation. For example, loss of major Mississippi River bridges, especially south of Memphis where the number of crossings is small, could wreak havoc with freight commerce.

Personnel.—Our understanding is that Israel, the U.K., and Germany are nations where training front line staff has actually deterred bombers and saved lives. This has been a sensitive issue in the United States. Their approach needs to be studied to see what aspects of this work could usefully be transferred. This does not mean "pre-boarding" interviews; that is not feasible for reasons discussed below. But Amtrak's on-board employees in many cases have several hours or more of intermittent contact with passengers and thus the possibility—with the right training—of identifying potential wrongdoers.

What is not realistic.—Many Americans begin their thinking about rail passenger security by citing baggage (and shoe!) X-ray procedures they experience at airports but obviously not at train stations. Amtrak (and most commuter railroads) have two extremes: places like New York's Pennsylvania Station where passenger volumes and proximity to commuter trains would make anything approaching airline-style

security both impractical and largely ineffective. Conversely, many small stations have such small passenger volumes as to make any security equipment seem wasteful. As Mesa Airlines CEO Jonathan Ornstein recently noted (in a March 9 Washington Post report about holes in security at small airports), "When there are more TSA people than passengers, you have to ask yourself, does that make sense?"

We note with approval that TSA seems to agree. For example, TSA Undersecretary Asa Hutchinson said that the device that sniffs for explosives and is in a month-long test at New Carrollton, Maryland, is not permanent but simply to gain knowledge for TSA "so that in the event there is a specific threat or a specific need, we have the knowledge, the capability to put inspections in place in a particular threat environment."

THE PUBLIC WANTS THE RAIL CHOICE

Amtrak's ridership reports starting around May show strong increases—a further sign both that Gunn is succeeding in stabilizing the railroad, and that people want the service. For the first 5 months of fiscal year 2005 (October-February), ridership increases on the long-distance trains ranged from 6 percent to 34 percent, with only two routes below 10 percent. Short-distance route changes ranged from −3 percent to +22 percent, with 7 of 16 routes showing double-digit percentage increases. (Actually, the New York-Pittsburgh route was up 104 percent but this is not exactly an apples-to-apples comparison.) Two routes showed slight declines.

In March, systemwide ridership was up 3.2 percent and revenues were up 5.8 percent versus 1 year ago.

THE NATIONAL NETWORK

We reiterate our strong belief that funding Amtrak's national network is a Federal responsibility, and that implementation of any "reform" which requires a multiplicity of States to provide operating grants is tantamount to shutting down the system. The suggestion—heard more than once from Secretary Mineta—that a train could run "closed door" through non-paying States is not workable because, almost without exception, revenues lost from skipping any State would far exceed the negligible cost savings. The Empire Builder in crossing the thin northern tip of Idaho might conceivably skip Sandpoint, Idaho, with minimal damage but it's hard to think of any other benign example.

Similarly, we do not believe a "route closing commission" could shed any significant new light. The system is already so skeletal that deletion of any surviving route would mean wholesale elimination of service to major cities and States. Indeed, as we have testified previously, we favor an expansion of the network.

Amtrak's Sunset Limited is often cited by Amtrak's critics as wasteful because it would be cheaper to fly passengers from Orlando to Los Angeles. However, relatively few passengers travel that entire distance. Other city-pairs the route serves do not have direct flights, or affordable flights, or in some cases any flights. In addition, some passengers are physically unable to fly. And elimination of the Sunset Ltd. would create a domino effect as the loss of connecting passengers and ability to share facility costs with the Sunset would unravel the economics of the Texas Eagle, City of New Orleans, and Crescent.

The large subsidy-per-passenger figures sometimes cited for given Amtrak long-distance routes include "fully allocated" costs. These are misleading because they often are interpreted to mean that discontinuance of a given route would reduce Amtrak's operating grant requirement by the product of the number of passengers times the fully allocated loss per passenger. Using the Silver Star fiscal year 2002 figures at page 471 of the House subcommittee's April 10, 2003, hearing record, the math would be $189 times 252,240.

The product does not represent an avoidable cost, since many allocated costs will not disappear but simply get re-allocated to surviving routes. Obvious example: a share of the Amtrak president's salary. Also, a high proportion of long-distance-train passengers make connections with other trains, so discontinuing one train negatively impacts revenues on other trains.

This helps explain why "FRA-defined train contribution" figures were developed, by Federal Railroad Administration working with Amtrak when they were implementing the agreements under which DOT approves funds before Amtrak gets them. In the case of the Silver Star, the FRA defined contribution is actually positive: $12 per passenger or 2 cents per passenger-mile. (Measures stated in terms of passenger-mile are normally used in intercity travel statistics because they take into account the dramatic variations in trip lengths.)

Thank you for considering our views. Please let us know if we can provide further information that would be helpful to the committee's work.

PREPARED STATEMENT OF SIGNATURE FLIGHT SUPPORT

THE EFFECTS OF CLOSING DCA TO GENERAL AVIATION

Ronald Reagan Washington National Airport was closed to general aviation ("GA") on September 11, 2001 and has not reopened since. It is the only airport in the country that has been shut down to general aviation. Following the September 11 attacks, the FAA also closed the three small general aviation airports within 15 miles of Washington: Potomac Airfield, Washington Executive Airport and College Park Airport ("DC–3 airports"). Although the DC–3 airports have been allowed to re-open, they are subject to unique tight restrictions and cannot land any incoming traffic. No other airports in the country are subject to comparable restrictions.

General aviation businesses that were operating at Reagan National and the smaller DC–3 airports have suffered substantial losses as a result of these closures and restrictions, which is entirely the result of government edicts. The use of their property has been "taken" by the Federal Government. They should be compensated for these losses.

Prior to 9/11, as the sole provider of ground support services for general aviation at Reagan National, Signature Flight Support handled an average of 175 flights per day, and employed 55 aviation service professionals. Two employees now handle approximately 20 flights per month. During the last 6 months, virtually all of these flights have been government officials. The flights primarily are aircraft belonging to the Bureau of Immigration and Customs Enforcement, the Drug Enforcement Agency, the FBI, NASA, and miscellaneous dignitaries.

Although Signature's rent has been abated by the Metropolitan Washington Airports Authority, Signature has suffered substantial losses to revenues and workforce. In the 2½ years since closure, Signature Flight Support alone has lost after tax profits, offset by modest gains at our Washington Dulles and Baltimore facilities, in excess of $10 million.

COMPENSATION IS NEEDED AND APPROPRIATE

The Fifth Amendment to the Constitution provides that no "private property shall be taken for public use without just compensation." The closure to general aviation and its effect on Signature is legally known as a regulatory taking. The general aviation shutdown has left Signature with a facility and a business that cannot possibly be used for any other purpose. Given this situation, the Federal Government should compensate Signature and other similarly affected business for the losses that have resulted. Compensation should be paid for the lost profits and actual losses incurred since the closure of Reagan National to general aviation.

Congress immediately recognized the need for compensation in the wake of 9/11, when it passed the 2001 Emergency Supplemental, which included $40 million to the Metropolitan Washington Airports Authority to compensate its concessionaires for the temporary closure and reduced commercial flight schedule at Reagan National immediately after 9/11. However, this fund compensated businesses only for the period immediately following 9/11; no funds were made available to businesses that continued to suffer substantial losses at Washington area airports. These losses were uniquely suffered at these airports. This failure can and should be addressed this year. Funding for these losses has now been fully authorized.

Last year, Congress recognized the importance of compensating businesses for the significant losses suffered post 9/11 as a result of the closure of general aviation. The FAA reauthorization bill, The Vision 100—Century of Aviation Reauthorization, provides for the reimbursement of losses incurred by general aviation entities. The bill was enacted last December.

The compensation provision specifically states, "the Secretary of Transportation may make grants to reimburse . . . general aviation entities for the security costs incurred and revenue foregone as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001.[1] Item 1 is "general aviation entities that operate at Ronald Reagan Washington National Airport."[2] The statute authorizes that $100,000,000 to be appropriated for reimbursements to carry out the section. This year, Congress should follow through by making this authorization a reality, particularly for the highest priority category, which is the only category where general aviation has been totally banned since 9/11.

A provision should be included in the Fiscal 2005 Transportation Appropriations legislation that compensates those businesses that have suffered losses as a result

[1] Public Law No. 108–176 (H. Res. 2115) (December 12, 2003).
[2] Public Law No. 108–176 (H. Res. 2115) (December 12, 2003).

of the termination of general aviation activity at Reagan National Airport. This provision should provide for a minimum of $10 million, the approximate amount lost by Signature Flight Support since the closure of Reagan National on 9/11.

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