

**COMMERCE, JUSTICE, SCIENCE, AND RE-  
LATED AGENCIES APPROPRIATIONS FOR  
FISCAL YEAR 2007**

---

WEDNESDAY, MAY 3, 2006

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

The subcommittee met at 2:04 p.m., in room S-146, the Capitol,  
Hon. Richard C. Shelby (chairman) presiding.  
Present: Senators Shelby and Mikulski.

DEPARTMENT OF COMMERCE

OFFICE OF THE SECRETARY

STATEMENT OF HON. CARLOS GUTIERREZ, SECRETARY

OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. The subcommittee will come to order.

I want to welcome all of you to the third hearing of the Commerce, Justice, Science, and Related Agencies Appropriations Subcommittee.

We are pleased to have with us today the Secretary of the Department of Commerce. Mr. Secretary, the subcommittee appreciates your willingness to appear as a witness and discuss the needs of your Department.

Overall, the Department of Commerce budget request for the 2007 fiscal year is \$6.1 billion. This is a decrease of nearly \$300 million from the Department's fiscal year 2006 discretionary funding level. The Commerce Department contains some of our Nation's most important economic development, economic analysis, and science and research agencies, including the Economic Development Administration (EDA), the National Institute of Standards and Technology (NIST), and the National Oceanic and Atmospheric Administration (NOAA).

The Department is staffed by some of the most dedicated and distinguished experts in their fields, including three Nobel Prize winners. These scientists, engineers, and economists are in high demand inside and outside of the Government, and I hope we can hold onto them, Mr. Secretary.

The subcommittee is concerned, Mr. Secretary, about your Department's ability to maintain the level of qualified personnel required to provide such needed services to the Nation. I hope that you can provide us some assurances today that this budget request

will not require reorganizations or restructuring that will put your ability to support these important personnel at risk.

The National Oceanic and Atmospheric Administration—or NOAA—remains one of our Nation’s preeminent science agencies and represents nearly two-thirds of the Department’s budget at \$3.7 billion. NOAA provides important support for our Nation’s fisheries, severe weather prediction, and navigation of the waters surrounding our country.

Up-to-date and accurate maps of our navigable waters are critical to the shipping industry as well as the fishing industry, and I am hopeful that the budget before us today will allow NOAA to continue their work in this area.

Some here today may be surprised to learn that nearly 90 percent of our world’s oceans remain unexplored. In fact, we have higher resolution maps of the entire surface of Mars than we do of the ocean floor. I am concerned about the lack of leadership and direction on ocean policy.

Recent reports from the Pew Oceans Commission and the U.S. Commission on Ocean Policy indicate that we are not doing enough to manage and preserve our ocean resources. As a Senator from a coastal State whose economy is strongly linked to our commercial ports, the fishing industry, and tourism, I am concerned about the health of our oceans, our fisheries, and the future of marine research.

I would like to commend the Department for their efforts surrounding the recent hurricanes. Particularly, I would like to thank the men and women of the National Weather Service (NWS) and the NOAA corps.

In an upcoming hearing, we will talk with Admiral Lautenbacher and Max Mayfield in more detail about hurricane preparedness and response. But I wanted you, Mr. Secretary, to know how much the entire gulf coast appreciates your Department’s efforts. They have been on time in their predictions and accurate.

We look forward to your testimony today. Your written testimony will be made part of the hearing record, and I hope you summarize whatever you care to.

Secretary GUTIERREZ. Thank you.

Senator SHELBY. Senator Mikulski.

STATEMENT OF SENATOR BARBARA A. MIKULSKI

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

And I, too, would welcome Secretary Gutierrez for his second hearing before the subcommittee. And just want to echo your statements in terms of concerns about NOAA and the outstanding contribution that it does in oceans and some of the others.

When we think about the Department of Commerce budget, we really think about what it needs to keep America competitive and what we need to do to be able to innovate. We know that the President has outlined an innovation strategy, as well as our own colleagues, with the famous report now called “Gathering Storm.”

But when I think about the Commerce Department, we do think about innovation, where there will be new technologies developed that will lead to new products. The National Institute of Standards and Technology will create jobs and also set the standards so that

the private sector can create jobs, manufacture or develop products or processes that then can go around the world.

Our own Patent and Trademark Office, which is under your administration, also is the key first step to protecting an inventor's intellectual property.

So, as we look at this year's budget, I want to look at what is it we are going to do to sponsor innovation and also to have an innovation-friendly government that protects patents and promotes free enterprise and the American know-how around the world.

We have fantastic agencies within the Commerce Department. Several are located in Maryland. NOAA is headquartered in Silver Spring. And we have talked about how they focus on saving lives and saving property through their weather declarations, and also the very important role that they play in oceans management and fisheries management.

The National Institute of Standards and Technology is in Gaithersburg and, again, sets those standards for reliability, security, doing important research, and then our census.

So, but what we are concerned about, and I will discuss this, is the cuts. When we look at NOAA, the National Ocean Service is cut by 30 percent. Marine fisheries by 8 percent. NOAA research by 8 percent. We are grateful that the NOAA satellites are getting an increase because that is the bread and butter of forecasts. But we are afraid that we could get out of kilter there.

In terms of NIST, we are very grateful to the fact that the President wanted to increase the National Institute of Standards and Technology budget, but it seems to be robbing Peter to pay Paul, taking out of the advanced technology program and manufacturing extension partnership. And we will talk about that.

And last, but not at all least, among the many things we could talk about, I and, I know, my colleagues are concerned about the backlog of patents and what we can do in partnership to make sure that they are standing in line to buy American products. They are not standing in line to patent those products that are going to keep us a global force.

So we look forward to your testimony and working with you.

Senator SHELBY. Mr. Secretary, we welcome you again. You may proceed as you wish.

#### SUMMARY STATEMENT OF CARLOS GUTIERREZ

Secretary GUTIERREZ. Thank you, Mr. Chairman and Senator Mikulski.

If I may, Mr. Chairman, before I get started on my written statement, I would like to let you know that all tsunami warnings and watches have been cancelled. There was an earthquake this morning in Tonga, and we just got word that all the warnings and watches have been cancelled.

So it looks like it wasn't a tsunami in the making. That is good news.

Senator SHELBY. Earthquake?

Secretary GUTIERREZ. Yes.

Senator SHELBY. Was the magnitude as high as—

Secretary GUTIERREZ. Well, they took it from 8.1 to 7.8, which is still very high. But—

Senator SHELBY. So you think things are going to be okay?

Secretary GUTIERREZ. That is what we are hearing.

Senator SHELBY. What you are hearing.

Senator MIKULSKI. Praise the Lord.

Secretary GUTIERREZ. I will probably give you the—

Senator MIKULSKI. Praise the Lord and our sensors.

Senator SHELBY. That takes care of my first question.

Secretary GUTIERREZ. Again, Mr. Chairman and Senator Mikulski, I am pleased to present President Bush's fiscal year 2007 budget request for the Commerce Department. It is a tight and targeted budget. It reflects the President's commitment to reducing the deficit while maintaining America's economic and competitive leadership.

At the Commerce Department through each of our agencies, we promote economic opportunity for the American people. To support this vital mission, the President's total budget request for our Department is \$6.1 billion, and I will briefly highlight some of the key components.

For our NIST laboratories, which, as you rightly mentioned, Mr. Chairman, have produced three Nobel Prize winners, we are requesting \$581 million. This includes an increase of \$104 million for research and development (R&D) in the physical sciences to begin to implement the President's 10-year American competitiveness initiative (ACI).

The ACI funding will help advance innovative NIST research. It will also be used to start renovation at our NIST campuses. The Boulder facility especially is in desperate need of repair.

For the International Trade Administration, the request is \$409 million. These funds will support programs to ensure that U.S. companies and workers have access to international markets, can compete on a level playing field, and have their intellectual property rights protected.

For NOAA, which did an outstanding job in providing warnings during the busiest hurricane season on record, the request is \$3.7 billion. This includes \$19.7 million to support robust fisheries in the Gulf of Mexico and part of the administration's rebuilding effort in the gulf region.

The budget proposal for the Economic Development Administration is \$327 million, including \$297 million for grants to economically distressed areas.

We are requesting \$878 million in discretionary funds for the Census Bureau, which is ramping up their 2010 census. In order to meet new fiscal priorities, no new funds are requested for the Advanced Technology Program.

We are requesting \$46 million for the Hollings Manufacturing Extension Partnership (MEP). This will maintain an effective network of MEP centers around the country.

To ensure the security, health, and safety of our employees, we are requesting \$5.9 million to begin installation of blast mitigation windows and \$18 million to correct basic code deficiencies and modernize the 73-year-old Hoover Building.

Mr. Chairman, we want to thank you and the subcommittee for your support of Commerce programs. We look forward to working

with you to provide the best and most efficient services to the American people.

PREPARED STATEMENT

And I welcome, as always, your comments and questions and would like to submit my written testimony for the record.

Senator SHELBY. Your written testimony will be made part of the record in its entirety, Mr. Secretary.

Secretary GUTIERREZ. Thank you.  
[The statement follows:]

PREPARED STATEMENT OF CARLOS GUTIERREZ

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you today to present the President's Budget request for economic, scientific, technological, and environmental programs of the Department of Commerce. Our request of \$6.1 billion in discretionary funds reflects both the Administration's commitment to promote and sustain economic growth and opportunity, and the need to restrain discretionary Federal spending. Enactment of this budget will enable the Department to effectively support its diverse mission, including programs that promote strong and equitable trade relationships; improve our scientific and technological capabilities; protect intellectual property rights; upgrade our capabilities for weather observations and forecasting; and, ensure the long-term economic and ecological sustainability of our natural resources.

I would like to highlight some of the work our bureaus have planned in the fiscal year 2007 President's Budget. Each bureau within the Department supports one of three strategic goals; I will address each bureau within its relevant goal.

*Foster science and technological leadership by protecting intellectual property, enhancing technical standards, and advancing measurement science.*

The National Institute of Standards and Technology is a high-leverage Federal research agency that performs high-impact basic research and contributes to the development of economically significant innovations in areas such as new materials and processes, electronics, information technology and advanced computing processes, advanced manufacturing integration, biotechnology, nanotechnology, and new energy sources such as hydrogen. In his State of the Union Address, President Bush announced the American Competitiveness Initiative (ACI), which provides an agenda for maintaining our leadership in intellectual and human capital, two areas that significantly contribute to our nation's innovation capacity. A centerpiece of the ACI is the President's strong commitment to double investment over ten years in the key Federal agencies that support basic research in the physical sciences—the National Science Foundation, the Department of Energy's Office of Science, and the Department of Commerce's National Institute of Standards and Technology (NIST). The President's fiscal year 2007 Budget requests \$581 million for NIST. To start implementation of the ACI, the request includes an increase of \$104 million for NIST core activities (laboratory programs and facilities, less congressionally-directed projects).

NIST accomplishments in high-impact basic research are evidenced by the three Nobel Prizes that have been awarded to its scientists in the last decade. NIST research has led to innovations that we can see today, from the high-density magnetic storage technology that makes devices such as computer hard drives and mp3 players so compact, to protective body armor for law enforcement officers and diagnostic screening for cancer patients.

NIST also plays a critical role in developing standards that are used by the private and public sectors. In fiscal year 2007, NIST will seek to focus 3,900 scientists and engineers from government, industry, and universities—an increase of 600 researchers over fiscal year 2006—on meeting the Nation's most urgent measurement science and standards needs to speed innovation and improve U.S. competitiveness.

Also in the NIST budget, the President is requesting \$46.3 million to fund the Hollings Manufacturing Extension Partnership (MEP) program. This is a reduction from the fiscal year 2006 enacted level that would be made in order to address the Nation's most pressing funding needs in this austere fiscal environment. NIST will focus the fiscal year 2007 MEP funding to maintain an effective network of centers with an emphasis on activities that promote innovation and competitiveness in small manufacturers.

No fiscal year 2007 funds, however, are requested for the Advanced Technology Program (ATP). The fiscal year 2006 appropriations for ATP and estimated recoveries will be sufficient to meet all existing obligations and to phase out the program.

The Technology Administration (TA), which includes the National Institute of Standards and Technology (NIST) and the National Technical Information Service (NTIS), seeks to maximize technology's contribution to economic growth, high-wage job creation, and the social well-being of the United States. In fiscal year 2007, the key administrative and policy operations within the Office of the Under Secretary will be streamlined. TA will remain an effective advocate for technology within the Department of Commerce. TA, for instance, was the lead office at the Commerce Department responsible for working on the recent competitiveness summit hosted at the Department.

The U.S. Patent and Trademark Office (PTO) promotes the research, development, and application of new technologies by protecting inventors' rights to their intellectual property through the issuance of patents. The PTO also enables businesses and consumers to clearly identify specific products through the issuance of trademarks. In the United States, intellectual property-intensive industries—the biotechnology and information technology sectors, for example—account for over half of all U.S. exports, represent 40 percent of our economic growth, and employ 18 million Americans whose wages are 40 percent higher than the U.S. average. PTO has launched a vigorous reform effort aimed at enabling the Office to examine patent and trademark applications in a more timely manner, without compromising quality. The President's fiscal year 2007 Budget request of \$1.84 billion in spending authority for the PTO includes increases for both patent and trademark processes. By hiring additional examiners, refining the electronic patent application filing and processing system, improving quality assurance programs, and implementing higher standards for examiner certification and recertification now, the PTO will significantly reduce application processing time and increase the quality of its products and services in the out-years. Consistent with recent years, the Department proposes to fund the PTO budget exclusively through offsetting fee collections.

The National Telecommunications and Information Agency (NTIA) develops telecommunications and information policy, manages the Federal radio spectrum, and performs telecommunications research, engineering, and planning. The Department's request for NTIA supports its core activities and eliminates all new funding for Public Telecommunications Facilities, Planning & Construction, as funds for those activities are available from other sources.

The Digital Television Transition and Public Safety Fund, created by the Deficit Reduction Act of 2005, funds a number of programs with the auction proceeds of electromagnetic spectrum recovered from discontinued analog television signals. Programs supported by this Fund in fiscal year 2007 will provide consumers with vouchers to aid in their purchase of digital-to-analog television converter boxes, assist public safety agencies in acquiring interoperable communications systems, and support an interim digital television broadcast system for New York City. In 2007, most activity will be related to planning for these programs, with actual grant making expected to begin in 2008.

*Observe, protect and manage the earth's resources to promote environmental stewardship.*

The 2005 Atlantic hurricane season was the busiest on record and extended the current period of increased hurricane activity which began in 1995—a trend likely to continue for years to come. This season shattered records that have stood for decades—the most named storms, most hurricanes, and most category five storms. Arguably, it was the most devastating hurricane season the country has experienced in modern times. The devastation along the Gulf Coast from Hurricanes Katrina, Rita, and Wilma is like nothing I have witnessed before. It is catastrophic. Words cannot convey the physical destruction and personal suffering in that part of our nation.

The Department, including the National Oceanic and Atmospheric Administration (NOAA), Minority Business Development Agency (MBDA), NTIA, and Census, has served a critical role in the repair and recovery of the region. I am committed to utilizing the tools and expertise of the Department to facilitate the resurgence of the Gulf Coast region. I would also like to recognize the efforts of the professionals at NOAA for their timely and accurate predictions, which prevented further loss of life. Hurricane forecasts for Katrina and Rita were more accurate than ever for storm track, size, intensity, surge, and warning lead time, allowing for evacuation of 80 percent of New Orleans and 90 percent of Galveston. This is a key component of NOAA's mission to understand and predict changes in the Earth's environment, as well as to conserve and manage coastal and marine resources to meet our Na-

tion's economic, social, and environmental needs. NOAA continues to apply its scientific and technological expertise to a wide range of issues that serve to expand our knowledge of the world around us and strengthen our economic prosperity.

Data from NOAA's satellites are essential to public safety and the economy. Weather and climate-sensitive industries, both directly and indirectly, account for approximately \$3 trillion of the U.S. Gross Domestic Product. Average annual damage from tornadoes, hurricanes, and floods is \$11.4 billion. The Geostationary Operational Environmental Satellites (GOES) serve as some of the key sentinels that observe hurricanes and other severe weather. The President's fiscal year 2007 Budget request includes an increase of \$113 million to continue the GOES-R series system acquisition, which will have key enhancements over the GOES-N platform.

In addition to the geostationary satellites, NOAA is also a participant in the National Polar-Orbiting Environmental Satellite System (NPOESS), which will replace the current Polar-Orbiting Environmental Satellite (POES) program. The Department requests an increase of \$20 million for NOAA's share of this tri-party system (Air Force, NOAA, NASA), which will deliver more accurate atmospheric and oceanographic data to support medium- to long-range weather forecasts and severe storm warnings, further reducing loss of life and property.

The NPOESS request is based on the funding profile from last year's Budget. As you know, the NPOESS program has experienced schedule slippage and higher costs than we expected. We are currently participating in the Nunn-McCurdy review being conducted by the Department of Defense, which will be completed in June. In addition, the Government Accountability Office and our Office of Inspector General are reviewing the program. We will keep the Committee informed of the results of these reviews and our plans going forward, including any impact on our fiscal year 2007 request or out-year estimates. Our goal will be to ensure the best possible approach for meeting the Nation's civilian and military meteorological needs and protecting the taxpayer.

As part of the National Weather Service's overall plan to improve the timeliness and accuracy for all weather-related hazards, the Department requests \$12.4 million to sustain our commitment to the U.S. Tsunami Warning System. This funding level will be used to operate and maintain the equipment and networks created following the 2004 Indian Ocean Tsunami. I wish to thank this Committee for its support of the Administration's tsunami warning initiative in the fiscal year 2005 supplemental and the fiscal year 2006 appropriation.

Construction will continue in fiscal year 2007 on the NOAA Center for Weather and Climate Prediction, which just had its groundbreaking. With the requested increase of \$11 million, the facility will be ready to start operations in 2008. This project is a key component of the NWS' effort to improve its weather and climate modeling performance, to accelerate the transfer of newly developed scientific information into operations, and to improve the use of global environmental satellite data.

NOAA also serves as the lead coordinating agency for the U.S. Climate Change Science Program (CCSP), which integrates a broad range of climate-related observations, field studies and computer model projections sponsored by 13 federal agencies. CCSP has a goal of substantially improved understanding of both the causes and the potential effects of climate variability and change, on time scales extending from weeks to decades. NOAA's mission also includes the implementation of climate predictive and interpretive services for a wide range of applications, thereby providing significant benefits to users in several sectors of the economy.

Through the National Marine Fisheries Service (NMFS), the Department proposes an increase of \$19.7 million for activities in the Gulf of Mexico. As the Gulf region rebuilds, these programs will ensure that adequate science and management resources are available to promote and support sustainable and robust fisheries. Also within NMFS, the Department requests \$6 million for the Open Rivers Initiative (ORI). ORI will remove obsolete river barriers in coastal states, thus enhancing populations of key NOAA trust species and supporting the President's Cooperative Conservation Initiative.

*Provide the information and tools to maximize U.S. competitiveness and enable economic growth for American industries, workers, and consumers.*

The Economic Development Administration (EDA) supports the federal economic development agenda by promoting innovation and competitiveness and preparing American regions for growth and success in the worldwide economy. The President's fiscal year 2007 Budget expands EDA's Economic Development Assistance Programs by \$47 million to \$297 million and streamlines the program to reflect the Administration's emphasis on regional development strategies, innovation, and entrepreneurship. Regions and communities can achieve significant competitive advantage

by identifying and then aligning research, educational infrastructure, and private activities around fields in which they have unique strengths. Four of EDA's programs, representing the majority of EDA's funding, will be merged into a new Regional Development Account that will administer their competitive grant component, including support for University Centers.

The Economics and Statistics Administration (ESA) promotes the understanding of the U.S. economy and its competitive position. ESA's Bureau of Economic Analysis (BEA) provides key objective data on the Nation's economic condition, including the Gross Domestic Product (GDP), in a timely and cost-effective manner. The Department requests \$80.5 million to maintain the level of funding ESA Headquarters and BEA need to efficiently and accurately provide these statistics, as well as research and policy analysis, that are critical to public and private sector decision-making.

The Census Bureau serves as the leading source of quality data about the Nation's people and economy. The President's fiscal year 2007 Budget requests \$878 million in discretionary funds for the Census Bureau, of which the largest component is the 2010 Decennial Census Program. The re-engineering of the decennial census has made great strides: the annual American Community Survey has been fully implemented to replace the once-a-decade long form, the modernization of the geographic database of all U.S. counties is over halfway complete, and the technological developments for the short-form-only decennial census are progressing on schedule.

In 2007, only three years out from Census Day 2010, the extensive planning, testing, and development activities related to the short form consume the majority of the decennial budget—a trend that will continue through 2010. In addition to continued preparation for the 2010 Decennial Census, fiscal year 2007 will see increased activity for the Economic Census and the Census of Governments, the five-year snapshots of our economy that provide critical data.

The rapid world-wide development and transfer of technology present great opportunities and risk to the United States' economic and national security. The Bureau of Industry and Security (BIS) regulates the export of sensitive goods and technologies, striking a balance between those economic opportunities and the security of the United States. The President's fiscal year 2007 Budget requests \$78.6 million to enable BIS to effectively carry out this mission. The proposed budget includes a \$0.3 million increase for modernization of the Export Control Automated Support System, which is the tool used to process export licenses.

The International Trade Administration (ITA) supports U.S. commercial interests at home and abroad by strengthening the competitiveness of American industries and workers, promoting international trade, opening foreign markets to U.S. businesses, and ensuring compliance with domestic and international trade laws and agreements. ITA conducts domestic and international analyses to ensure that the U.S. manufacturing and service sectors can compete effectively and meet the demands of global supply chains, and to understand the competitive impact of regulatory and economic changes. ITA directly supports U.S. businesses via a Trade Information Center that provides customers a single point of access to ITA's programs and services. The President's fiscal year 2007 Budget requests \$409 million for ITA, which includes an increase of \$2 million to support the President's Asia-Pacific Partnership on Clean Development and Climate. This partnership will accelerate the development and deployment of clean technologies among partner countries. Commerce's role will be to promote the use of American products and technologies in Australia, China, India, Japan, and South Korea by providing U.S. firms with market research on those countries and coordinating trade missions to those countries.

The Minority Business Development Agency (MBDA) focuses on accelerating the competitiveness and growth of minority-owned businesses by helping to close the gaps in economic opportunities and capital access. The President's fiscal year 2007 Budget requests \$29.6 million to enable MBDA to continue pursuing additional avenues to leverage resources and expand the availability of services to minority business enterprises.

*Achieve organizational and management excellence.*

The Department's headquarters building, the Herbert C. Hoover Building (HCHB), is in critical need of major renovation and modernization. The 73-year-old HCHB is one of the last historic buildings in the Federal Triangle to be scheduled for renovation and modernization. The Department is requesting \$18 million to correct basic health and safety code deficiencies, replace failing mechanical, electrical, and plumbing systems, and incorporate major security upgrades. In addition to the renovation, the Department also requests \$5.9 million for the installation of blast resistant windows for one-third of the HCHB.

Departmental Management (DM), in addition to funding the Offices of the Secretary and the Deputy Secretary, develops and implements policy, administers internal operations, and serves as the primary liaison to other executive branch agencies, Congress, and private sector entities. The Office of the Inspector General (OIG) is charged with promoting economy and efficiency, and detecting and preventing fraud, waste, and abuse. The President's fiscal year 2007 Budget request continues to support these objectives.

*Conclusion*

The President has submitted a budget that implements the Department's mission in a manner that maximizes benefits to our public. The Department of Commerce is home to a diverse collection of agencies, each with a unique area of expertise and a wide array of needs, tied together in a common commitment to ensure an environment exists that allows us to lead the world in competitiveness and innovation. The President's fiscal year 2007 Budget successfully addresses those needs in an efficient manner, mindful of the fiscal restraint required to sustain our economic prosperity. I look forward to working with the Committee to ensure that together we are providing the best services to the American people.

HURRICANE SUPPLEMENTAL FUNDS

Senator SHELBY. Mr. Secretary, I have a number of questions and I will go through them one by one.

In December, Mr. Secretary, the President signed the third supplemental bill into law. In mid-March, our subcommittee was informed that \$55 million in supplemental funds that were appropriated for NOAA had not yet been distributed to the intended recipients. This is May now.

The Senate soon will pass another supplemental bill providing additional funds necessary for ongoing activities in relation to the war in Iraq and the recovery from Hurricane Katrina and other hurricanes in the 2005 season, which proposes additional funds for NOAA.

Mr. Secretary, have all the December supplemental funds been distributed by NOAA as of now, and if not, why not?

Secretary GUTIERREZ. Mr. Chairman, my understanding is they have been distributed to all of the line offices.

Senator SHELBY. Okay. How will the Department handle the distribution of additional supplemental funds?

Secretary GUTIERREZ. We will ensure, given the dimension of this, that we do everything to get the money out there as soon as possible.

Senator SHELBY. Where it is needed?

Secretary GUTIERREZ. Yes, sir.

Senator SHELBY. Okay. Could you provide the subcommittee with a timeline of events for getting supplemental funds to the intended recipients? You can do that for the record, if you want.

Secretary GUTIERREZ. Yes, sir. If I may?

Senator SHELBY. You can do that.

[The information follows:]

TIMELINE OF EVENTS FOR GETTING SUPPLEMENTAL FUNDS TO THE INTENDED RECIPIENTS

Public Law Signed—December 30, 2005  
 Apportionment Submitted to Department of Commerce—January 21, 2006  
 Apportionment Submitted to OMB—February 01, 2006  
 OMB Approval of Apportionment—February 09, 2006  
 Signed Apportionment received in NOAA—February 10, 2006  
 Final transfer to NOAA Line Offices—February 15, 2006

ECONOMIC DEVELOPMENT ADMINISTRATION

Senator SHELBY. While the subcommittee is pleased that the 2007 budget request proposes an overall increase of more than \$46 million for the economic development assistance programs, I remain concerned that the proposal favors the creation of a new regional development account while zeroing out four other accounts—public works, technical assistance, research and evaluation, and economic adjustment.

How would this restructuring of accounts be more beneficial to our communities that rely on these grants for economic improvement? And should the subcommittee agree to the changes in the accounts as proposed in the budget request, what assurances, Mr. Secretary, can you provide this subcommittee that the restructuring will not lead to gaps in assistance, considering there were four of those programs?

Secretary GUTIERREZ. Yes, sir, Mr. Chairman. We have tried to simplify the procedure in that we had four different types of grants, which led to four different types of processes and ways of looking at public works versus infrastructure. And we believe that there is a common way of looking at these funds. Do they create jobs? Do they attract private sector grants? Do they improve the community?

Senator SHELBY. Those are good questions.

Secretary GUTIERREZ. And so, we simplified the process and just have a common way of looking at all grants as opposed to four different buckets, which have a lot of overlapping criteria.

Senator SHELBY. Will you give us some more detail on this for the subcommittee? I think that Senator Mikulski would also like that.

Secretary GUTIERREZ. Yes, of course.

[The information follows:]

ECONOMIC DEVELOPMENT ADMINISTRATION—REGIONAL DEVELOPMENT ACCOUNT

The Regional Development Account (RDA) simply consolidates funding for EDA's four primary competitive investment (grant) programs into a single, more flexible account. This will allow EDA to strengthen its long-standing focus on regional economic development investments.

EDA TODAY FISCAL YEAR 2006: MULTIPLE PROGRAM "SILOS"

Public Works \$158.3 million (fiscal year 2006)	Economic Adjustment \$44.2 million (fiscal year 2006)	Research and Tech. Assistance \$8.7 million (fiscal year 2006)	Partnership Planning \$26.7 million (fiscal year 2006)	TAA for Firms \$12.8 million (fiscal year 2006)
Development and upgrade of physical infrastructure in areas of chronic economic distress.	Strategy development, technical assistance, and physical infrastructure to respond to sudden and severe economic distress.	Research on leading edge economic development practices as well as information dissemination and efforts to provide targeted technical assistance including University Centers.	Supports Economic Development Districts to develop and execute regional Comprehensive Economic Development Strategies (CEDS).	Supports network of Trade Adjustment Assistance Centers to help manufacturers and producers respond to the world-wide marketplace.

## EDA PROPOSED FISCAL YEAR 2007: CONSOLIDATION OF PRIMARY INVESTMENT ACCOUNTS

Proposed Regional Development Account (RDA) \$257.6 million (fiscal year 2007)	Partnership Planning \$27 million (fiscal year 2007)	TAA for Firms \$12.9 million (fiscal year 2007)
Activities as funded under current Public Works, Economic Adjustment, Research and Technical Assistance programs, for both chronic and sudden and severe economic distress: Physical infrastructure development. Strategy development. Technical assistance. Research and information dissemination. University Centers.	Supports Economic Development Districts to develop and execute regional Comprehensive Economic Development Strategies (CEDs).	Supports network of Trade Adjustment Assistance Centers to help U.S. manufacturers respond to the worldwide marketplace.

The Regional Development Account (RDA) will:

- Allow investment partners (grantees) to engage simultaneously in multiple activities in support of a common initiative through just one EDA grant (e.g., infrastructure and technical assistance).
- Provide EDA additional flexibility to respond to sudden and severe economic dislocations (e.g., a significant plant closure, natural disaster covered by the Stafford Act, or a military base closure).
- Mirror the flexibility of EDA's popular and proven Economic Adjustment account.
- Build on EDA's existing regional development work through Economic Development Districts and University Centers.

## EDA'S FOCUS ON REGIONAL DEVELOPMENT

Since its inception, EDA has emphasized regional economic development approaches. The creation of Economic Development Districts (EDDs) (which are primarily multi-county areas charged with supporting a coordinated economic development strategy across an economic region) simultaneously with EDA's original authorization in 1965 was a meaningful force for regional development approaches.

For fiscal year 2007, EDA will continue its long-standing emphasis on regional economic development strategies. EDA will work with communities on economic development strategies and implementation that support the development plan of an entire economic region. This will help ensure that EDA-supported investments are compatible with and can better leverage other economic development initiatives in an economic region.

The RDA helps support the principle of regional economic development by allowing EDA investment partners (grantees) to engage in multiple EDA-supported activities through a single grant. For example, an infrastructure grant to a city to help develop an inter-modal transportation facility can be coupled with technical assistance support to help the city build strategic linkages with neighboring cities and counties—in the same grant.

It is important to note that the RDA:

- Benefits investment partners (grantees) by allowing multiple EDA programs to be executed toward a common goal with just one grant—eliminates redundant application and reporting requirements.
- Increases EDA's efficiency by providing a single, flexible program account and avoids the accounting and management challenge of managing four separate "buckets" of funding across the six EDA regions.
- Has no impact on EDA's: investment selection criteria, balance between rural and urban investments, or focus on economic distress.
- Utilizes existing EDA legislative authorities.
- Bolsters the President's request for a \$47 million increase in EDA program funds (total Economic Development Assistance program budget: \$297.5 million).

## INTELLECTUAL PROPERTY, EDUCATION, OUTREACH AND ENFORCEMENT

Senator SHELBY. I want to get to the Patent and Trademark Office. I am just going down the line because you have a lot of jurisdiction.

The U.S. Patent and Trademark Office has initiated a number of programs to assist with the intellectual property enforcement, such as the help hotline and the [www.stopfakes.gov](http://www.stopfakes.gov) and the Global Intellectual Property Academy and training around the globe, which provides curriculum and training for foreign government officials in intellectual property rights protection and enforcement.

I know these are only a few examples of the work being done to enforce intellectual property rights at home and abroad. Can you give us an update, if you would, Mr. Secretary, on the U.S. Patent and Trademark Office's intellectual property education outreach and enforcement effort? Because this is a real problem in the world as we expand our global trade.

Secretary GUTIERREZ. Yes, Mr. Chairman.

We have, as you mentioned, done several outreach efforts to small businesses. We have provided free legal services to small businesses. We have a hotline. We now have people on the ground in China, and we are focused on four countries—Brazil, Russia, India, and China—given that this is really where the illicit world economy takes place.

We have a working group with the European Union, which is the first time that they have agreed to work with us to have a clear message to the rest of the world about Europe and the United States. Up until now, we have sort of been in different camps. And I think the illicit world would use that to their benefit. We are now together. We are talking with one voice, and we have an IPR working group.

We have just agreed with Japan that we are going to do the same thing. So now they can't isolate us as well. Japan, the European Union, and the United States will continue to speak as one voice when it comes to illicit trafficking of intellectual property.

The other thing that I will mention, which we believe is very important through the National Intellectual Property Law Enforcement Coordination Council (NIPLECC), is enforcement. Because, ultimately, it is going to be our ability to enforce and our ability to stop some of these factories that are producing these products.

Our prosecutions have grown by 97 percent in 2005. Internationally, we have been able to collaborate with other countries to seize about \$50 million of merchandise. And very importantly, at our border, in 2005, we seized \$232 million, up from \$190 million a couple of years earlier.

So everything indicates that not only are we training people, we are providing service for foreign officials, helping them understand the philosophy of intellectual property. We are working with foreign governments, and we are ensuring that we are enforcing IPR and that people know there is a price to pay for this.

I knew you were going to ask about this, Mr. Chairman and Senator Mikulski. We have been putting a lot of pressure on China, and they came back with their action plan on IPR protection 2006. We think the significance of this is that this is a plan developed by them. So it tells us that they should have more ownership for it, that they should want to make it a success because it was their idea.

And I thought you would be interested. This is one of the areas, one of the things that they agreed to here is to require that all PCs have pre-installed software.

Senator SHELBY. But this is a challenge for your Department?

Secretary GUTIERREZ. Yes, Mr. Chairman. And we are going to follow up on that and ensure that it is not just on paper, but that they are executing. And I look forward to updating you in the future on any progress.

NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTAL SATELLITE SYSTEM

Senator SHELBY. Absolutely. The National Polar-Orbiting Operational Environmental Satellite System (NPOESS) program has experienced significant schedule delays and cost overruns for the 2006 budget, and yet the 2007 budget request includes an increase of \$20 million for a total request of \$337.8 million for this program. That is a good bit of money.

The more than 25 percent cost overruns in this program triggered the Nunn-McCurdy process within the Department of Defense (DOD). And I understand there is an ongoing investigation at DOD that may lead to a total reevaluation of the entire program.

In your opening statement for the record here, you say that your Department's goal will be—I quote you—“to ensure the best possible approach for meeting the Nation's civilian and military meteorological needs and protecting the taxpayer.” That is what we want you to do.

What exactly are the options being considered within NOAA in response to the increased costs and schedule delays for NPOESS? And for the record, could you tell the subcommittee how your Department is addressing additional or potential gaps in satellite coverage, given the delays that have already been experienced and the possibility of even more delays due to the Nunn-McCurdy process?

Is that too much?

Secretary GUTIERREZ. No, Mr. Chairman. It is very good.

When we heard about the overruns and we had knowledge of this, we called in the chief executive officers (CEOs) of both Raytheon and Northrop Grumman, which are the two companies that are on this and—

Senator SHELBY. You are used to that from your business background?

Secretary GUTIERREZ. Yes, I was. And we just let them know that this is not the way we like to do business. This is not something that we like to see, and they are going to do everything possible to do what they can to keep the overruns at a minimum.

We know that this triggers the Nunn-McCurdy Act, and we will have a better understanding of how much we are talking about here in June.

Senator SHELBY. What is the rationalization for the overruns? Do you know offhand?

Secretary GUTIERREZ. Their basic argument was that they believe that the initial estimate was too low.

Senator SHELBY. Okay.

Secretary GUTIERREZ. But it is an overrun, and for us, that is the bottom line. And as a result, we thought it was appropriate to call them in and let them know that we are disappointed.

So we are working very closely with them. And I am going to have another meeting with them. Deputy Secretary Sampson has met with them again. He is going to go out and visit their factories. So——

Senator SHELBY. See what is——

Secretary GUTIERREZ. Yes. We are not going to let up on them.

Senator SHELBY. Well, your business background could certainly come in handy, Mr. Secretary, here.

Secretary GUTIERREZ. I am not used to these overruns.

Senator SHELBY. Don't get used to them.

Secretary GUTIERREZ. I used to have to go to my board for a 10 percent overrun, and it would be a very tough week every time I did that. So we want to make it tough on them.

Senator SHELBY. I have more questions, but I am going to rest and let Senator Mikulski be recognized for questions.

#### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Senator MIKULSKI. Well, thank you, Mr. Chairman. "Rest" isn't usually part of your vocabulary.

First of all, I am very pleased at the exchange between you and Senator Shelby on the NOAA satellite issue. This is a source of great concern. We need to have the most modern satellites, and they are the key to our weather prediction. But if we get into the overruns, well, you know the consequences.

In looking at the NOAA budget, I was puzzled by what seems like a 6 percent cut in NOAA, but really, it is disproportionate. The 30 percent cut in ocean services, 8 percent in marine fisheries, and 8 percent in NOAA research.

Could you share with us the rationale of cutting 30 percent in oceans, particularly after the rather firm reports that came from the Joint Ocean Commission and the Pew Foundation, as well as marine fisheries and NOAA research, which, of course, is so important to climatic change and others?

Could you tell us the rationale, and what are the consequences of these cuts? Will there be layoffs? Do they agree, sir? What is the deal?

Secretary GUTIERREZ. Senator, we believe that we can carry on the mission and many of the initiatives that we have started. Of our \$3.7 billion budget, about \$1.8 billion is related to oceans and fisheries. So a big bulk of NOAA is really oceans and fisheries.

And we have a lot of activities going. We just submitted for reauthorization our Organic Act. We submitted the Magnuson-Stevens Act for reauthorization, as well as the Marine Mammal Protection Act. We have the Proposed National Offshore Aquaculture Act. We have extramural grants in place for research. We have four different scholarship programs.

So while we are working within a tight budget, we believe that we have our focus on the right things, and we have got plenty going to be very active throughout 2007.

Senator MIKULSKI. But a 30 percent cut in National Ocean Service is a big cut. That is not at the margin. What will be the consequences?

Secretary GUTIERREZ. I believe, if we were to go back and look at it, that some of the difference you cite would be versus the fiscal year 2006 enacted budget. So we are, rightly or wrongly, comparing the President's budget requested amount to the base budget. So they may have been these one-time projects for fisheries.

But our big projects, and especially coming off the ocean policy, our big projects, our big commitments are being funded, and we are not looking at the major layoffs or anything that would be distracting and that would take us off our fundamental mission and the big projects that we have going.

Magnuson-Stevens, aquaculture, marine mammals, our scholarships—those are funded and very well—

Senator MIKULSKI. Sea grants—

Secretary GUTIERREZ. Sea grants, yes.

Senator MIKULSKI. Well, Mr. Secretary, a little bipartisan group—Senator Dodd and myself, Senator Sununu, Senator Gregg—went to both Admiral Watkins and Leon Panetta and asked them to do a report for us on their reports, if you will—like Alexander and Bingaman went to the national academies—and said give us the 10 ideas now to really make sure that we save our oceans or enhance our oceans.

They are going to, Mr. Chairman, have this report ready sometime this summer, and which I would like to share. But then, you know, because there is endless reports. There is endless five points this and three-point programs for that. And I agree with you that we need to have at least a core basic set of programs we are going to support, and then at the end of the year or the end of a 3- to 5-year period we can honestly say what we have accomplished.

And I know from, again, private sector background, you are a benchmark guy. And I think we would like to share the same, which is to say what are some of our national goals in terms of these and then really make a commitment on a bipartisan basis to work on these.

Secretary GUTIERREZ. That would be great.

#### NATIONAL WEATHER SERVICE

Senator MIKULSKI. So we are going to keep you posted on it.

In terms of NOAA weather, we know that the budget includes a \$3 million increase for the National Weather Service, which we think is important and much needed. But we are concerned that some smaller programs were eliminated like the Susquehanna basin, which essentially goes from New York down through Maryland and are the sensors along those rivers that kind of give the river almost like a "river watch."

Well, it is. It is the Susquehanna River watch that alerts communities to flooding. A couple of years ago, when we had the big snow and the big meltdown, the Susquehanna alerts really saved a great deal of lives in Maryland because we had the early warning.

It is one of those earmarks that everybody gets cranky about. But we want to be sure that when we are looking at weather, we

are looking at the big picture on this. And I am going to alert you to some of these.

But we are concerned that there is now a move to privatize the National Weather Service in the National Weather Service Duties Act. Are you familiar with that?

Secretary GUTIERREZ. I have heard, just not officially, not formally. But I have been made aware.

Senator MIKULSKI. Does the administration have a position on that bill yet?

Secretary GUTIERREZ. I don't believe there has been a statement of administration policy (SAP) issued for that. As I think about it, the National Weather Service is a public service. Everyone has access to it. So I haven't thought much about it as a private service.

#### PATENT EXAMINERS HIRING

Senator MIKULSKI. Well, we just want to alert you to that. I, too, think that the National Weather Service is a public service that should be in the public domain and operated as such. And the old saying is, "If it ain't broke, don't fix it?"

We know very few that the private sector value-adds to the National Weather Service and even develops either niche products or something like that for which we are appreciative.

Let me go to the patents. Five hundred thousand backlog, and we know we have increased the new hires. Is that correct?

Secretary GUTIERREZ. Yes.

Senator MIKULSKI. One thousand new examiners?

Secretary GUTIERREZ. Yes.

Senator MIKULSKI. And we also know that there were fees charged for that. But isn't the fee authority going to expire? Not for the overall collection of the patents.

The patent, PTO is funded through, is paid by inventors. The authority to get current fee levels were expired. I think we raised fee levels. Am I correct in that?

Secretary GUTIERREZ. Yes.

Senator MIKULSKI. So that we could add more people. I think it is going to expire this year.

Secretary GUTIERREZ. I think it is renewed—

Senator MIKULSKI. Can you kind of tell us where you are with this?

Secretary GUTIERREZ. My understanding is that—

Senator MIKULSKI. And whether we need to continue to hire and use this as a tool or mechanism?

Secretary GUTIERREZ. It is an annual renewal in the appropriations bill. So we get a 1-year extension, essentially, every year. We collected about \$1.5 billion of fees. So this is—

Senator MIKULSKI. B? Like in "Barb?"

Secretary GUTIERREZ. Yes. I hope that is right.

Senator MIKULSKI. Yes, that sounds about right.

Senator SHELBY. That is a lot of money.

Secretary GUTIERREZ. And we have 4,000 examiners. We are hiring 1,000 over the next 5 years. And unfortunately, you are right. The pendency is growing from about 29 months to 32 months. So it is not going in the direction we want.

We are hiring more examiners. We are trying to make the process a lot smoother at the beginning, trying to avoid patents that we don't need to put through the process, getting more quality in the beginning.

We have a conflict here between the quality of the patent and the pendency. So we want to lower pendency, but not at the expense of quality, especially technology.

Senator MIKULSKI. We don't want to have other BlackBerry cases and so on.

Secretary GUTIERREZ. Exactly. So technology folks are very concerned about the quality aspect. Everyone is concerned about the quality aspect.

So we are working on that. We are hiring more people. We have just gone online for the first time. We have what we think is the most efficient patent application system, where people can apply online.

Senator MIKULSKI. They couldn't do that before?

Secretary GUTIERREZ. Not to the extent that they can today. And we launched just about 1 month ago. That should help our pendency. We have monthly reports on productivity, monthly reports on production. People are rewarded for that. They are measured on that. These metrics are cascaded throughout the PTO offices.

So, more and more, it is being managed by the numbers and quality of the patents. We agree with your challenge that as we improve quality, we also have to take down pendency. We just can't afford to have our pendency continue to increase.

Senator MIKULSKI. See, this is part of the innovation-friendly government. And people in Maryland who are inventors and then someone in the bio fields, which is another dynamic, is they have to stand in two lines. One to get their patent, the other to get their FDA approval. So that, in and of itself, is time.

What they have shared with me is that, say, if they are waiting for their patent, some of their intellectual property has already been stolen. And so, that is an issue. It is a big issue.

Do you feel that the 1,000 examiners that you hired will be enough, or do you think you need to have more?

Secretary GUTIERREZ. We believe that, for now, it should be enough. But if we see that it isn't, we will be coming back to you.

#### PATENT EXAMINERS QUALIFICATIONS AND RETENTION

Senator MIKULSKI. Well, what are the tools then for retention? First of all, share, as you did with me, with Senator Shelby what are the basic qualifications to be a patent examiner?

Secretary GUTIERREZ. We have actually gone back and looked at this. We hire mostly engineers and lawyers. About 19 percent of the engineers we hire also have a law degree.

Senator MIKULSKI. See, so this is a big bucket of talent here?

Secretary GUTIERREZ. Oh, this is—

Senator SHELBY. Important talent.

Secretary GUTIERREZ. Yes, very important. And we actually retain people for about 6½ years. So they come, an average of tenure with PTO is about 6½ years. So they know they are getting the best training you can get, working with very smart people. They

are at the leading edge of seeing what technologies are happening and who is innovating.

If they don't have a law degree, we provide them with financial help to get a law degree. We give them training to help them manage people. We are constantly trying to upgrade their skills. So it is a way of keeping them there.

Our starting salaries average about \$56,000. And that ranges anywhere from \$35,000 to \$70,000, depending on their GPA, depending on their skills. That is about 10 percent below the private sector.

So we know that we have to fill that gap with other ways—

Senator MIKULSKI. You mean for a young associate in a law firm—

Secretary GUTIERREZ. For a young associate coming in, that is right.

Senator MIKULSKI. That would be focused on intellectual property?

Secretary GUTIERREZ. About 10 percent. They make about 10 percent more in the private sector.

So we have to fill that 10 percent through other ways—by training, by giving them a great work environment, by giving them a sense that they are in the right place at the right time.

Senator SHELBY. Well, that is very important.

Secretary GUTIERREZ. And we pay them for performance, a 10 percent bonus. We would like to see that go up to about 17—

Senator SHELBY. For good people?

Secretary GUTIERREZ. That is right, for the people who are performing.

Senator MIKULSKI. Six and a half, are you satisfied with that, or would you hope that they would stay longer? And don't you need a career service to be able to mentor—

Secretary GUTIERREZ. Yes. That is right.

Senator MIKULSKI [continuing]. These talented, young, bright people? Or mid-career people that are changing? There might have been somebody who is a whiz in electrical engineering, maybe one of our leading defense contractors gets their law degree and wants to move over and do something like this?

Secretary GUTIERREZ. I agree. The 6½ years is higher than I would have expected. I would like to see more. And I think it is a good—

Senator SHELBY. Six and a half years is average, right?

Secretary GUTIERREZ. Yes, that is the average tenure.

Senator SHELBY. So some stay a long time.

Secretary GUTIERREZ. Some stay longer. Some leave, unfortunately, sooner. But we would like to see more.

Continuity is always a good thing, and things are changing so quickly. Yes, we have gone from 300,000 patents several years ago to about 412,000 patent applications.

Senator MIKULSKI. That is a lot of ideas.

Secretary GUTIERREZ. So people are innovating. There is more innovation. The applications are getting more complex. So it requires better skill sets to just understand the technology.

Senator MIKULSKI. So what can we do to retain now? We have got these 1,000 people. And of that 1,000, we would want, you

know, as you would say, staying longer for the public investment we are about to make in their training.

Secretary GUTIERREZ. Right.

Senator MIKULSKI. What do you see as the key retention tools, and are there ways that we could be helpful to you?

Secretary GUTIERREZ. I think we have to continue to make it a great working environment, where they feel like they are learning. If they want to go on to get their law degree, we will help them do that financially.

They are constantly getting seminars to upgrade their skills, whether it be people management if they are engineers, getting legal seminars if they are lawyers. Getting engineering seminars, marketing seminars that they really become experts at what they do.

And I would like to do everything possible from the standpoint of the working environment. And if we need to, to come back and look at the bonuses.

We have a 10 percent performance bonus. To keep up with the private sector, we may have to take that up higher. And I would like just a little bit more time to go back and see where the discussions are in order to talk about it with the union and then come back to you on that.

Senator MIKULSKI. Well, this issue of adequacy of personnel and recruitment and retention is, I believe, a real high priority. Our colleagues in the Judiciary Committee create them all, but your idea of the working environment, I would like to just bring to your attention, one, the GAO report that was commissioned last June for Congressman Sensenbrenner and Congressman Wolf, our counterpart—

Secretary GUTIERREZ. Right.

Senator MIKULSKI [continuing]. On progress made in hiring, the challenges to return. And one of their number one issues that they raise, Mr. Secretary, is communication. And they state that there seems to be a culture of poor to uneven communication between management and the examiners. And they cite that as really affecting morale, productivity, and retention.

We bring this report to your attention, and we think it is a very good guidepost for us to follow. And when I read it, I saw that, yes, money, recruitment, and so on is there. And then the employee organizations also had their newsletter, and replete through the newsletter is the need for more communication between management and the examiners.

So I am going to bring these to your attention and know that this is a lot of hard work going into it. The other side of the Capitol is also interested in this, and I think it really focuses on the human capital, Mr. Chairman.

Senator SHELBY. Very much so.

Senator MIKULSKI. And my questions in the future and, even more importantly, this year will be how are we doing on this report and implementing it, and whether you think maybe the report was off the mark, nevertheless?

Because as I travel my State and talk to those Nobel Prize winners, not only in this and other places, they say that one of the most important tools to an innovation-friendly government, in addi-

tion to the pipeline issue of talented people, is the Patent Office. Everybody talks about the Patent Office. So we let it at that.

My last question in this round—the chairman wants to go another—is NIST. Isn't that a spectacular agency? That is where those three Nobel Prize winners are. But I am concerned that as we cut ATP and shrink the manufacturing extension partnership and so on, that is why I said are we robbing Peter to pay Paul here?

Secretary GUTIERREZ. If I may just step back a little, Senator, on this?

ADVANCED TECHNOLOGY PROGRAM AND MANUFACTURING EXTENSION  
PARTNERSHIP

Senator MIKULSKI. Because we eliminate the ATP——

Secretary GUTIERREZ. Yes.

Senator MIKULSKI. And we shrink the manufacturing extension, the legacy of our colleague, Senator Hollings. So——

Secretary GUTIERREZ. The President mentioned this in the State of the Union that NIST is one of the three agencies that is getting an increase in funding because NIST does basic research. We have an iPod today, thanks to what NIST did many years ago. We have many of our security systems on automobiles came out of research that NIST has done.

So what they do is basic research for technologies that will be applied across many industries. And we think that is the role of the Federal Government. Long-term basic research, 10, 15 years down the road, the types of projects that private sector typically does not have the patience for or the money, the competitive environment. They typically do product development, a lot shorter period of time.

Senator MIKULSKI. They value-add to our basic research.

Secretary GUTIERREZ. Exactly. So one-third of the country's R&D is Federal Government. Two-thirds is private sector. That one-third, we would like to keep it on basic research and let the private sector use what we produce to develop products.

ATP was almost like a venture capital fund. It was trying to pick winning companies, and we felt that the role of the public sector wasn't necessarily picking winners or losers, but providing technologies.

MEP, we are keeping at a smaller rate because that also tends to be product development, operational. It does demand for us to pick who gets the money and who doesn't. But we have a network in place that we don't want to let go of because it can still be used.

But to the extent that we can, we would like to stay on basic research, things that only we can do. We now have 1,800 guest scientists and engineers at NIST, who are there trying to pick up any experiences, any learning to take back to be able to use.

And as we look around the world, there isn't another country—we asked the European Union the other day, how do you do it? Do you have your NIST? Do you have a private sector linkage? They don't.

I think we have an advantage in the linkage between our basic research agencies, such as NIST, Department of Energy, the National Science Foundation (NSF), our private sector companies, and

our universities. And we are seeing more and more of that partnership taking place.

That is why we have shifted money to basic research from what we would call picking winners and losers and——

Senator MIKULSKI. What about the manufacturing extension partnership?

Secretary GUTIERREZ. The \$46 million that we put in the budget is to keep the network in place. That is about one-third of the funding because State governments and private sector usually put in another third and one-third is from fees.

But the important thing is the network will be there, and the private sector can access the network. The funding will not necessarily come from the Federal Government as much as it did before, but it will still be there. The network will still be there, and the funding, to some extent, will be there.

But most of our money is going into basic research that will give us a country-wide competitive advantage against the rest of the world. Nanotechnology, quantum research, biometrics—the types of things that the private sector just doesn't have the time or the patience or the competitive environment to be able to do.

Senator MIKULSKI. Thank you, Mr. Chairman.

#### OCEAN-RELATED ACTIVITIES

Senator SHELBY. Thank you, Senator Mikulski.

I have a few more questions. In what way does the 2007 budget request provide sufficient funding to address NOAA's ocean-related activities and responsibilities with respect to the Joint Ocean Commission's report?

Secretary GUTIERREZ. No, that is great. Thank you.

Out of NOAA's \$3.7 billion request we allocated about 50 percent to oceans and fisheries. We are working on many of the Ocean Policy Commission's recommendations. We have resubmitted for reauthorization the Organic Act for NOAA, the Magnuson-Stevens Act Reauthorization, and the Marine Mammal Protection Act Reauthorization.

We are now hoping to work with Congress to get authorization for offshore aquaculture, which is also very important——

Senator SHELBY. That is a whole lot of promise there.

Secretary GUTIERREZ. We actually are a net importer of fish.

Senator SHELBY. I know.

Senator MIKULSKI. And growing.

Secretary GUTIERREZ. Some of the fish we import is farmed fish. So we think we should be doing a lot more.

Senator MIKULSKI. And some of it is a little——

Secretary GUTIERREZ. Yes, well. So it is an area of opportunity for us. So we believe that we have the right priorities and the big projects that we need to continue funded in the area of oceans, Mr. Chairman.

Senator SHELBY. And we have got the coast and the bays, too.

Secretary GUTIERREZ. Yes.

Senator SHELBY. Mr. Secretary, what progress are you making in addressing some of the recommendations put forward by the Joint Ocean Commission, like the report card's low marks for inter-

national leadership, research, science, and education? I know you weren't there all this time.

Secretary GUTIERREZ. We just had our Asia-Pacific economic cooperation (APEC) forum's marine resource conservation working group meeting, which includes other agencies, but NOAA is a big part of it. We are leading the whole effort toward tsunami detection with the rest of the world. It goes beyond oceans.

So I believe that we and our people are constantly taking a leadership role in coordination meetings and seminars. The rest of the world looks to us for oceans leadership, technology, knowledge. Of the 50 recommendations within the administration's ocean action plan where NOAA is the lead or a partner, we have implemented 37 to date. So we are very focused on it.

#### DEPARTMENTAL MANAGEMENT

Senator SHELBY. The 2007 budget request includes \$18 million for the renovation and modernization of the Herbert C. Hoover Building, headquarters to the Department of Commerce.

The subcommittee notes the funding was requested in 2006, but not appropriated. What would the level of funding here provide for you, and how many years of follow-on funding would be needed to complete the renovation?

Secretary GUTIERREZ. Yes. And this is the last one, Mr. Chairman, of the Federal Triangle Historic buildings that has not been renovated.

Senator SHELBY. Well, they have got to be renovated.

Secretary GUTIERREZ. The plan actually takes us out to 2017. So we are spreading it out so that we don't have the burden of a big cost in 1 year.

Senator SHELBY. It is still a lot of money, though.

Secretary GUTIERREZ. Yes, it is about \$700 million total, of which about \$200 million will be picked up by Commerce.

Senator SHELBY. It would cost a lot of money—we wouldn't want you to move. But if you built a new building somewhere, it would cost a lot of money, too.

Secretary GUTIERREZ. That is absolutely right. And it is—

Senator SHELBY. Plus, you would lose the history.

Secretary GUTIERREZ. That is absolutely right. So we have \$18 million, which gets us going, and we have it spread out to 2017.

#### NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

Senator SHELBY. The President announced the American competitive initiative as a new program that would continue to build the Nation's science and technology base. Senator Mikulski has already talked about this.

This will be done through investments in federally funded research and investments to ensure the country has a technologically skilled workforce. We have got to do it on our own.

To accomplish this, several agencies were tasked with leading this initiative. One of those falls under you, the Department of Commerce—the National Institute of Standards and Technology.

What is your basic role with regard to the American competitiveness initiative? And how much of your budget and time is dedicated to this? We think it is important.

Secretary GUTIERREZ. Yes. Yes, Mr. Chairman. I agree. And this is one area where we have actually tasked every department inside of Commerce to play a role. I think we all play a role in helping our country become more competitive.

Directly, we have the \$104 million that we have added to NIST for projects, and those are, as I mentioned before, nanotechnology, quantum research, biometrics. Things that the private sector can take and apply across many industries.

We are also sort of out of our lane. We are working with the private sector to motivate them to get volunteer teachers into K through 12. Part of the ACI—

Senator SHELBY. How do we do that? How do you do that?

Secretary GUTIERREZ. Well, we go out and talk to companies. We were with Intel the other day, in an auditorium of maybe 500 engineers. We said please go out and be part of the ACI. We want—

Senator SHELBY. They could be tremendous role models, can't they?

Secretary GUTIERREZ. Yes. Because students are not really sure where a math or a science career will take them.

Senator MIKULSKI. They don't know.

Senator SHELBY. They don't know.

Senator MIKULSKI. They don't know what is going on.

Secretary GUTIERREZ. So this would be an opportunity to do that—working with Congress to make the R&D tax credit permanent. We have renewed that, I think, a dozen times over the last 10 or 12 years. We believe the private sector needs more predictability.

Senator SHELBY. So they can plan.

Secretary GUTIERREZ. So that they know if they are starting a 5-year project, they will have a tax credit in 5 years. So—

Senator SHELBY. But we have to do that, don't we, Mr. Secretary, to compete in the world of tomorrow that we see on the horizon?

Secretary GUTIERREZ. Absolutely.

Senator SHELBY. In China and India and everywhere else?

Secretary GUTIERREZ. Absolutely.

Senator SHELBY. If we don't, we are going to lag behind.

Secretary GUTIERREZ. Absolutely. We are competing today. Our economy is doing very well in the face of intense competition. But it is 5 years from now, 10 years from now, 20 years from now—

Senator SHELBY. We have got to worry about.

Secretary GUTIERREZ. Absolutely.

#### ECONOMIC DEVELOPMENT ADMINISTRATION

Senator SHELBY. In 2007, the budget request for EDA salaries and expenses is only \$9,000 more than 2006.

The subcommittee recently approved a reprogramming request of \$700,000 that we were told was necessary to provide sufficient salaries and expenses for the balance of 2006, which means the 2007 request is now \$691,000 below the 2006 number.

Given this reprogramming of funds, how can the funding level requested for 2007 be sufficient? I know that we are appropriators, and you think, well, gosh, why are we asking you to ask for more money? But we think you need to have the requisite money to do your job here. And can you do that?

Secretary GUTIERREZ. Yes, of course, Mr. Chairman.

Senator SHELBY. In other words, what funding level is necessary to maintain the current EDA operations in 2007? Can you do it like that? And why and how?

Secretary GUTIERREZ. Yes, Mr. Chairman. With the current budget, we can keep our office network in place.

Senator SHELBY. Okay.

Secretary GUTIERREZ. Our salaries and expenses, as a percent of the total budget, is about 9 percent, which we think is right up there. We wouldn't like to see it go higher because then we have got more money tied up in expenses than we would like to have. So we think we have the right balance, and we think we can make it work.

#### DEPARTMENTAL MANAGEMENT

Senator SHELBY. Going back to the Herbert C. Hoover Building, the Commerce Building. You are seeking \$5.9 million for blast mitigation windows, which you certainly need. Is that the total funding level? Or will there be additional funds in this area, too?

Secretary GUTIERREZ. That is actually additional for the windows.

Senator SHELBY. In other words, how many years is that? We have been told there is a request of a \$5.9 million increase for blast mitigation windows.

Secretary GUTIERREZ. Yes, yes.

Senator SHELBY. Is that the total level of funding, or will there be additional?

Secretary GUTIERREZ. It is for blast mitigation windows for one-third of the building.

Senator SHELBY. Okay. So that is one-third, and there will be additional funding?

Secretary GUTIERREZ. Yes, Mr. Chairman. And this came out of the "Window Blast Hazard Mitigation Study" for the Herbert C. Hoover Building issued by the General Services Administration in February 2003.

#### BUREAU OF THE CENSUS

Senator SHELBY. Oh, yes. I know you need it. You don't want to put your people at risk.

The Bureau of the Census. The budget request for the 2010 census is starting to grow, of course, in anticipation of the 2010 census, which is just a few years away. The increases are quite significant while, at the same time, the census is proposing to reduce or to eliminate work that it has done previously.

What efforts are being made, Mr. Secretary, to ensure that the 2010 census is as cost effective and accurate as possible while maintaining other capabilities that the bureau provides? Because they do a lot of other ancillary things.

Secretary GUTIERREZ. Absolutely. And this is an area, Mr. Chairman, where I believe we have made quite a bit of progress for the 2010 census, and I brought a little exhibit. This is something we used to use in our sales force in the supermarkets. I didn't have anything to do with it. It was already in place here. But—

Senator SHELBY. It worked, didn't it?

Secretary GUTIERREZ. It works. So, instead of carrying a pad and having to jot down, they will have these small computers and hand-helds. And they will be putting the information, as they get it, into this hand-held computer, which will be consolidated and tabulated in a central location.

So we are miles ahead from where we were, say, 10 years ago for our census, and we have already started now to train people, to get people in place. We are now doing the American community survey on a monthly basis, which is a long—

Senator MIKULSKI. Guess who just got her survey questionnaire.

Secretary GUTIERREZ. That is right.

Senator MIKULSKI. I got mine.

Secretary GUTIERREZ. And that allows us to make the 10-year questionnaire shorter, easier, quicker. So we get more accurate information. That will be extremely important.

So we are getting geared up, and I believe that the folks at Census have done a great job, and this is a major innovation that will just put us ahead in terms of—

Senator SHELBY. Senator Mikulski, do you have any other questions?

#### PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS

Senator MIKULSKI. First of all, the chairman's questions on economic development and the census paralleled my own. And also his remarks on competitiveness.

I think where there is a true opportunity for partnership between the executive and legislative branch on a bipartisan basis is in this area to make us more innovative. Because our goal is to be able to create what we hope will be the economic infrastructure, if you will, for there to be jobs in this country. And that is kind of where we are.

My question, though, that didn't come up goes with another national security issue. And that goes with interoperability of communications with our first responders. And for we in the capital region this is a very intense need and, as you know, is a national need. And after 5 years, almost 4½ now since 9/11, we are still not interoperable.

The National Telecommunications Information Administration (NTIA), we understand, is about to give out a lot of money for grants. They will award with interoperability grants. The money will come from spectrum auction. But we are concerned that the standards haven't been developed.

There was supposed to be this voluntary effort between the telecommunications industry, association, something called "Project 25" to develop this. But as of this January, little progress has been made. And when NIST tests the equipment that is coming down the pike, it doesn't seem to meet the standards.

So here is my question. What are we doing really to develop interoperable standards? So no matter if you are a local volunteer fire department, funding yourself with fish fries, or you are a big government like New York and New Jersey, or we in the capital region can talk to each other.

What has been developed in standards? And what are we going to do with this billion dollars? I am afraid that this could be an-

other techno-boondoggle where people go out and buy gear that can't communicate. And we are already concerned in the capital region that there are significant gaps here.

Senator SHELBY. We want it to work. You know that.

Senator MIKULSKI. So we want to know what will the money buy? Who is going to be eligible? And are the standards ready? And if they are not ready, shouldn't we make sure that the standard is in place before we start giving out the money?

Secretary GUTIERREZ. Yes. We have the \$1 billion, and we are actually doing a test in Washington, DC. This is the first time we have done a Federal/non-Federal test in the D.C. area to see what we can make interoperable, how much we can push this.

And based on that test, which we need to push hard, we will come up with the framework, the standards that we can provide to business, get businesses' input and get to work on the national program. So we would roll out our D.C. test and it is just very fortunate that we are able to do it in the District.

Senator MIKULSKI. When are you going to do that?

Secretary GUTIERREZ. We are doing it as we speak. We are doing a test now. This is obviously interagency. It is Commerce. It is the Department of Homeland Security. It is Department of Justice. We can provide you that for the record.

Senator SHELBY. That would be good.

[The information follows:]

PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS STANDARDS AND TESTING

A report on this topic will be transmitted by letter from Secretary Gutierrez.

Secretary GUTIERREZ. And a longer document on what is involved in the test.

PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS SCENARIOS

Senator MIKULSKI. But is the test to establish the standards?

Secretary GUTIERREZ. Yes. The test will give us guidelines for the development of standards that we will develop in conjunction with the private sector.

We believe the private sector needs some direction from us, and they need a little bit of help. And this test will give us the knowledge we need to tell the private sector how we should move forward because the private sector hasn't been as aggressive as we would like them to be.

Senator MIKULSKI. Have you started to give the grants out yet?

Secretary GUTIERREZ. No.

Senator MIKULSKI. Well, I would encourage you, let us not give out the money.

Secretary GUTIERREZ. We haven't.

Senator MIKULSKI. Because my observation, at least in the capital region, again, is there are a million salesmen out there with a lot of gizmos. Some are quite good. Some are questionable. And they go to everything from county governments to small towns in the counties, and they say, "Buy this. Buy this. It will be okay."

And you know, we believe in competition, so not a single product. Again, not winners and losers, but that it all be interoperable, depending on what you buy. And that for national security reasons,

in other words, homeland security reasons, that each gizmo, the more gadgets it has on it, the more expensive.

But that there be a core element that whatever you buy for first responders and local government, that it be a core element that enables us to transmit voice and data so they know what to do.

Secretary GUTIERREZ. I think the test will enable us to be more certain about what to buy and what not to buy.

Senator MIKULSKI. Are you personally—

Secretary GUTIERREZ. Yes.

Senator MIKULSKI. Is this thing operated out of your office?

Secretary GUTIERREZ. It is being operated out of John Kneuer's office, NTIA. But I am very close to this and—

Senator MIKULSKI. Well, Mr. Secretary, I know you have a lot on your plate, and I know you are traveling the world in the many issues we have talked about, protecting intellectual property, doing very important things for the good of our economic security. But this is a big one.

Secretary GUTIERREZ. I would agree with that.

Senator MIKULSKI. It is 4½ years since 9/11, and you would think that, number one, we can accelerate putting it in place. But working with NTIA, if you could personally keep an eye on it, so that it doesn't get bogged down. But at the same time, we really do achieve this goal. I think it is one of the most important things that you could accomplish, if I might be so bold.

Secretary GUTIERREZ. I will stay very close to it. And if I may, I will send you a summary for the record of the test.

Senator SHELBY. That would be good.

Senator MIKULSKI. Yes. Well, you know the importance of communication.

Senator SHELBY. That is right. Got to have it.

Senator MIKULSKI. You know all about it, what you guys went through with Katrina. It could be a predatory attack, or it could be a natural disaster.

Senator SHELBY. We certainly need interoperability, don't we, Senator?

Senator MIKULSKI. Yes, we certainly do.

That concludes my questions.

Senator SHELBY. Mr. Secretary, we thank you for your appearance today.

#### ADDITIONAL COMMITTEE QUESTIONS

We are going to keep the record open because we have some other Senators that couldn't be here who would like to submit some questions for the record, and we will hope that when we get them to you that you could respond to them no later than June 16, as we are working on the fiscal year 2007 appropriations.

[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

FISCAL YEAR 2006 SUPPLEMENTAL—NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION

*Question.* What financial mechanisms did the Department of Commerce use to create this almost three month delay in allocating December supplemental funds to the appropriate NOAA folks on the Gulf Coast?

*Answer.* The Department of Commerce employed the standard financial and procedural mechanisms to approve, apportion and distribute the funds provided by Congress in Public Law 109–148. This enactment took just over six weeks, from the date of the signed appropriation to final distribution (please see timeline below).

*Question.* Have all of the December supplemental funds been distributed? If not, why not?

*Answer.* Yes. The funding was distributed to NOAA Line Offices on February 15, 2006. NOAA began conducting activities using those funds immediately.

*Question.* How will the Department handle the distribution of additional supplemental funds?

*Answer.* NOAA has formed an internal working team to expedite the distribution of funds. The Team has developed procedures to track the expenditures and ensure all internal control processes are set up to handle any additional funding.

*Question.* Please provide the Committee with a timeline of events for getting supplemental funds to the intended recipients.

*Answer.* The final transfer of funding to the intended recipient depends on the individual items listed in the supplemental. NOAA is working hard to award all contracts and transfer funding as soon as possible. The timeline for the enactment of funds from the December supplemental is as follows:

- Public Law 109–148 signed—December 30, 2005
- Apportionment Submitted to Department of Commerce—January 21, 2006
- Apportionment Submitted to OMB—February 1, 2006
- OMB Approval of Apportionment—February 9, 2006
- Signed Apportionment received in NOAA—February 10, 2006
- Final transfer to NOAA Line Offices—February 15, 2006

## ECONOMIC DEVELOPMENT ADMINISTRATION

*Question.* How would this restructuring of accounts be more beneficial to our communities that rely on these grants for economic improvement?

*Answer.* Under the RDA, EDA will simplify its application process for communities while maintaining its current selection criteria and traditional balance between rural and urban projects. The restructuring of accounts into the RDA will provide additional benefits to communities because it will:

- Allow grantees to engage simultaneously in multiple activities in support of a common initiative with just one EDA grant (e.g., infrastructure and technical assistance).
- Provide EDA additional flexibility to respond to sudden and severe economic dislocations (e.g., a significant plant closure, natural disaster covered by the Stafford Act, or a military base closure), especially when those economic dislocations occur near the end of the fiscal year.
- Mirror the flexibility of EDA’s popular and proven Economic Adjustment account.
- Eliminate redundant application and reporting requirements for grantees.
- Increase EDA’s efficiency by providing a single, flexible program account and avoid the accounting and management challenge of managing four separate “buckets” of funding across the six EDA regions.

*Question.* Should this Committee agree to the change in accounts as proposed in the budget request, what assurances can you provide that this restructuring won’t leave gaps in assistance?

*Answer.* EDA is a discretionary program for which there will always be a greater demand than supply when it comes to funding. It is important to note that if the RDA were enacted, it would have no impact on EDA’s investment selection criteria, balance between rural and urban investments, or focus on economic distress. Additionally, the RDA would not affect the general level of funding per project.

Additionally, the RDA would better ensure that small jurisdictions and rural areas have a “seat at the table” within the larger regional economic development framework. The RDA would increase the focus on regional approaches, allowing rural areas to better build on shared strengths and link up with regional economic hubs. This focus would in turn enhance the economic prospects of rural and dis-

tressed areas as they attempt to integrate into the larger economic region and participate in the growing national economy.

Please see also the attached document, "Economic Development Administration—Regional Development Account".

*Question.* Given this recent reprogramming of funds, how can the funding level requested for fiscal year 2007 be sufficient to continue current operations without a reorganization or restructuring, when it is less than what we have been told is necessary for fiscal year 2006?

*Answer.* For fiscal year 2007, EDA will defer or cancel planned projects, including automation and training initiatives, defer staff hires until later in the year or to the following year, recruit interns in lieu of higher-graded staff, identify every available resource and potential operational efficiency, and, if absolutely necessary, reduce staff in order to maintain a six regional office footprint and operate within the parameters of the President's fiscal year 2007 budget request.

*Question.* What funding level is necessary to maintain current EDA operations in fiscal year 2007?

*Answer.* EDA continues to support the President's budget request for fiscal year 2007. The Salaries and Expenses request is \$29.7 million. The request level would necessitate programmatic and organizational changes. To maintain the current regional office structure and level of service provided without changes may require additional resources.

UNITED STATES PATENT AND TRADEMARK OFFICE

*Question.* Can you give us a status update on the U.S. Patent and Trademark Office's intellectual property education, outreach, and enforcement efforts?

*Answer.* The USPTO is diligently working to help curb intellectual property theft and strengthen intellectual property (IP) protection and enforcement in every corner of the globe. As the largest IP office in the world, the USPTO is leading efforts to develop and strengthen domestic and international intellectual property protection.

Under the American Inventors Protection Act (AIPA) of 1999 (Public Law 106-113), the USPTO is directed to advise the President, through the Secretary of Commerce, and all federal agencies on national and international intellectual property policy issues, including intellectual property protection in other nations. The USPTO is also authorized by the AIPA to provide guidance, conduct programs and studies, and otherwise interact with foreign intellectual property offices and international intergovernmental organizations on matters involving the protection of intellectual property.

Through its Offices of International Relations, Enforcement, and Congressional Relations, the USPTO: (1) helps negotiate and works with Congress to implement international intellectual property treaties and develop domestic intellectual property related legislation; (2) provides technical assistance to foreign governments that are looking to develop or improve their intellectual property laws and systems; (3) provides capacity-building training programs to foreign intellectual property officials on intellectual property enforcement; (4) advises the Department of State and the U.S. Trade Representative (USTR) on drafting and reviewing intellectual property sections in bilateral and multilateral investment treaties and trade agreements; (5) advises the USTR and the Department of State on intellectual property issues in the World Trade Organization (WTO); (6) works with USTR, the Department of State, and American industry on the annual review of intellectual property protection and enforcement under the Special 301 provisions of the Trade Act of 1974; and (7) consults with the Department of Justice and other federal law enforcement entities who are responsible for intellectual property enforcement.

*The Strategy Targeting Organized Piracy (STOP!) Initiative.*—The USPTO is actively involved in the Administration's STOP! initiative, the most comprehensive U.S. Government-wide initiative created to combat trade in pirated and counterfeit goods. The initiative is a collaboration of the Departments of Commerce, Justice, Homeland Security, and the Office of the USTR. The goal of the STOP! program is to prevent international piracy and counterfeiting and protect U.S. businesses, especially small and medium-sized enterprises, overseas. The STOP! initiative has brought together all the major players at the highest levels—the federal government, private sector, and trade partners—and this increased level of coordination has produced some of the initiatives described below and real results in our world-wide efforts to promote and protect IP.

*Help Hotline.*—As part of STOP!, the USPTO manages a hotline (1-866-999-HALT) that helps small- and medium-sized businesses leverage the resources of the U.S. Government to protect their intellectual property rights in the United States and abroad. Callers receive information from IP attorneys at the USPTO with re-

gional expertise on how to secure patents, trademarks and copyrights, and on the enforcement of these rights.

*Stopfakes.gov.*—The USPTO has established a link on its website to [www.stopfakes.gov](http://www.stopfakes.gov) which provides in-depth detail of the STOP! initiative. One key feature of the website is the country specific “Toolkits” that have been created by our embassies overseas to assist small- and medium-sized businesses with intellectual property rights issues in China, Korea, Mexico, Taiwan, and Russia, with additional toolkits to be posted soon. STOP! also seeks to increase global awareness of the risks and consequences of intellectual property crimes through a section of its website, [www.stopfakes.com/smallbusiness](http://www.stopfakes.com/smallbusiness), that is specifically designed and operated by the USPTO to answer common questions of small businesses so they can better identify and address their intellectual property protection needs.

*No-trade-in-fakes.*—The no-trade-in-fakes program is being developed in cooperation with the private sector. This is a voluntary, industry driven set of guidelines and a corporate compliance program that participating companies will use to ensure their supply chains and retail networks are free of counterfeit or pirated goods. In addition, Customs and Border Protection (CBP) maintains a trademark recordation system for marks registered at the USPTO to assist the CBP in its efforts to prevent the importation of goods that infringe registered marks. The USPTO has begun mailing notices to new trademark registrants directing them to the services that CBP offers, and has established a website link on the USPTO homepage which contains the CBP form for recordation.

*Public Awareness Campaign.*—While counterfeiting and piracy pose a serious threat to all American businesses, small businesses are particularly at risk since they often lack the knowledge and expertise to effectively combat them. Because small businesses typically do not have personnel or maintain large operations in other countries, theft of their intellectual property overseas can go undetected. As part of the STOP! initiative, the USPTO has launched an intensive national public awareness campaign to help educate small businesses on protecting their intellectual property both here and abroad.

The USPTO began a conference series targeting small- and medium-sized businesses where participants learn what intellectual property rights are, why they are important, and how to protect and enforce these rights. Several workshops have been conducted throughout the country and the USPTO will continue to hold small-business outreach seminars to give American businesses face-to-face contact with intellectual property experts. This effort is expected to reach hundreds of American entrepreneurs in fiscal year 2006.

The USPTO has also participated in a China road show in several U.S. cities for companies ranging from small businesses contemplating entering the China market to large corporations with established presence in China. Topics have included a review of recent laws and regulations promulgated by the Chinese government that affect protection and enforcement of intellectual property, what the U.S. Government is doing to improve intellectual property protection and enforcement in China, how to best protect business assets to avoid intellectual property problems, how to recognize product infringement, and steps to take if infringement occurs.

*Posting of IP Experts.*—In partnership with the Department of Commerce’s U.S. and Foreign Commercial Service and the Department of State, the USPTO is working to post additional IP experts in selected, high-profile countries where U.S. IP challenges are greatest. These countries include China, Brazil, India, Thailand, Russia and Egypt. The experts will advocate U.S. IP policy and interests, conduct training on IP rights matters, assist U.S. businesses and otherwise support the Embassy or Consulate action plan on IP rights.

*Global Intellectual Property Academy.*—In the fall of 2005, USPTO created the Global Intellectual Property Academy (GIPA), which consolidates and greatly expands USPTO’s curriculum of training and capacity building programs on intellectual property rights protection and enforcement. Through the GIPA, USPTO will bring foreign government officials including judges, prosecutors, police, Customs officers, patent, trademark and copyright officials and policy makers to the United States to learn, discuss and strategize about global IPR protection and enforcement. In fiscal year 2006, the USPTO expects this effort to reach several hundred foreign IPR officials. GIPA programs cover the gamut of patent, trademark, copyright and IPR enforcement issues facing the global economy, and are offered by USPTO acting in close cooperation with other U.S. federal government agencies.

*Training, Workshop and Seminar Events.*—Various completed and planned training, workshops, seminars and other IP-related events are ongoing.

## NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTAL SATELLITE SYSTEM (NPOESS)

*Question.* In your opening statement, you say that your Department's goal will be to "ensure the best possible approach for meeting the Nation's civilian and military meteorological needs and protecting the taxpayer." What exactly are the options being considered within NOAA in response to the increased cost and schedule delays for NPOESS?

*Answer.* In addition to the program of record, a range of options were considered in the Nunn-McCurdy certification process. The options (over 40 were considered) are best characterized as: reducing the number of satellites on orbit; changing the capabilities of the instruments on the satellite; and delaying launch dates. After five months of careful and extensive deliberations, the Tri-Agency group participating in the Nunn-McCurdy certification process chose an option that reduces the number of orbits from three to two; continues cooperation with the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT) for the mid-morning orbit; minimizes any potential gaps in coverage; and reduces requirements for the Conical-scanning Microwave Imager/Sounder (CMIS) resulting in a recompute of a less complex system. The cost to procure several secondary sensors is not included in the certified program; however, the program will plan for and fund the integration of these sensors on the spacecraft. Further, any additional funding gained through contract renegotiation or in unutilized management reserve would be used to procure these secondary sensors.

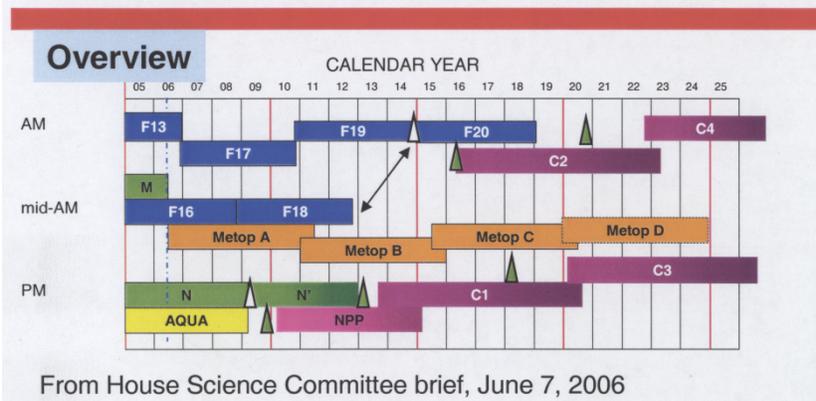
*Question.* Would NOAA be better off going it alone on the NPOESS program, rather than continuing the partnership with the U.S. Air Force and NASA? What would be the cost for NOAA to take on a satellite program of this magnitude on its own?

*Answer.* As a precaution during the Nunn-McCurdy certification process, NOAA (with the assistance of NASA) looked at the ways to maintain continuity of polar satellite data other than the converged NPOESS program. Any scenario where NOAA would go it alone would be costly and yield less capability than the partnership program. The restructured program maintains the Tri-Agency partnership of the original program. NOAA continues to support the Tri-Agency program and benefits by the 50:50 funding partnership between the Air Force and NOAA.

*Question.* How are we addressing potential gaps in satellite coverage given the delays that have already been experienced, and the possibility of even more delays due to the Nunn-McCurdy process?

*Answer.* The number one priority in all of the Nunn-McCurdy certification analysis and deliberations was to avoid a gap in operational data delivery. The restructured program provides high confidence that no gap will exist. A 90 percent confidence level schedule for avoiding an operational data gap has been laid out for the restructured program. Before the launch of the first NPOESS, NOAA seeks to delay the launch of its last polar satellite, NOAA N Prime; rely on the NPOESS Preparatory Project (NPP); and through a partnership with EUMETSAT, will receive data from METOP. An updated NPOESS satellite schedule is attached.

## NPOESS Revised Schedule



## U.S. OCEAN ACTION PLAN

*Question.* Why is the gap so consistently great between the administration's annual requests to support our oceans with that of the true needs of our ocean community?

*Answer.* NOAA has a diverse mission ranging from managing fisheries to predicting the severe weather. The Administration's requests provide a balanced set of priorities to sustain core mission services and address our highest priority program needs. However, even with a restrained fiscal environment, the fiscal year 2007 President's budget includes over \$184.9 million in increases for ocean and coastal needs.

NOAA will continue to work within the Administration and with Congress to ensure the ocean community's highest needs are addressed.

*Question.* In what way does the fiscal year 2007 budget request provide sufficient funding to address NOAA's responsibilities in relation to the Joint Ocean Commission's Reports, or does the current request follow the same trend as 2005 and 2006 as identified by the recent report?

*Answer.* Both the fiscal year 2007 President's budget and NOAA's activities support the President's U.S. Ocean Action Plan, which responded to the recommendations of the U.S. Commission on Ocean Policy. NOAA has requested \$1.7 billion in ocean and coastal related programs and activities in the fiscal year 2007 President's budget request in support of the U.S. Ocean Action Plan (OAP); this is an increase of \$184.9 million over the fiscal year 2007 base. The OAP reflects the Administration's focus on achieving meaningful results—making our oceans, coasts, and Great Lakes cleaner, healthier, and more productive. The Plan itself is a budget-neutral document, and does not commit any new investments to fulfilling its objectives.

*Question.* What progress has NOAA made in addressing the recommendations put forward by the U.S. Commission on Ocean Policy, specifically the Report Card's low marks for "International Leadership" and "Research, Science and Education?"

*Answer.* As you know, the Administration responded to the Commission's report with the U.S. Ocean Action Plan. The OAP reflects the Administration's focus on achieving meaningful results—making our oceans, coasts, and Great Lakes cleaner, healthier, and more productive. It recognizes the challenges in developing management strategies that ensure continued conservation of coastal and marine habitats and living resources while at the same time ensuring that the American public enjoys and benefits from those same resources.

Not all of our work towards implementing the OAP is budgetary in nature. A key achievement has been to address the Ocean Commission's call to improve coordination of Federal agencies with ocean-related missions through the creation of the interagency Committee on Ocean Policy and its subsidiary groups. NOAA is lead or co-lead, for roughly half the assigned items from the President's plan, and has made significant strides on several OAP actions:

- The NOAA Organic Act establishing NOAA within the Department of Commerce was transmitted to Congress in April 2005.
- Magnuson-Stevens Fishery Conservation and Management Act reauthorization and legislation to establish a national offshore aquaculture program was introduced.
- An Administration bill for the reauthorization of the Marine Mammal Protection Act was submitted in June 2005.
- NOAA is playing a key role in the Gulf of Mexico Alliance and the planning for the formation of a Northeast Regional Oceans Council.
- NOAA Fleet: NOAA received \$34 million in fiscal year 2005 to build the third Fisheries Survey Vessel, which is expected to be delivered in late 2007. NOAA also exercised an option for about \$30 million to build the fourth planned vessel under an existing contract. Construction will begin in 2006 with delivery planned during the second half of 2008.

Many of the remaining action items—including improving International Leadership and Research, Science and Education—are long-term projects which are more about changing the way the world manages our ocean resources:

- Ocean Education.*—The Ocean Hall exhibition—developed in concert with NOAA—has opened at the Smithsonian, and is slated to be open for 30 years, with a web portal that provides virtual access to the museum's marine collections.
- Regional Partnership in the Gulf of Mexico.*—The Gulf Governors' Action Plan has been developed by the five Gulf States as part of the Gulf of Mexico Partnership. The Action Plan was unveiled on March 28, 2006, at the State of the Gulf Summit in Corpus Christi, Texas.

- Partnership Creation.*—State Department funding of \$320,000 for a White Water to Blue Water Initiative small grants program will allow ongoing partnerships to continue and new partnerships to be developed among international and multi-sectoral partners which will promote integrated watershed and marine ecosystem-based management.
- Link the Global Marine Assessment (GMA) and Global Earth Observation System of Systems.*—Through international cooperation, the GEOSS will collect and disperse data information from terrestrial, atmospheric, climate, and ocean observations. The GMA, under development since the World Summit on Sustainable Development, will seek to establish a regular, comprehensive process of reporting and assessment of the state of the global marine environment.

## CONGRESSIONAL EARMARKS

*Question.* What can Congress do to fully fund the needs of the agency, including those activities that have been eliminated or under-funded by the administration, in a manner that would not cause the administration to view those activities as Congressional “add-ons?”

*Answer.* The first priority is to fully fund the fiscal year 2007 President’s budget request. The request level of \$3,684 million contains modest investments in core programs and ocean-related activities. The President’s budget is focused on meeting National needs for NOAA services. In many cases, the Congressional “earmarks” and “add-ons” address a single purpose in a defined geographic area. While some have merit and support NOAA’s mission, the fiscal year 2007 request focused on the highest priority programs to meet National needs.

## DEPARTMENTAL MANAGEMENT

*Question.* Within the Departmental Management Salaries and Expenses account, there is a \$3.6 million increase for E-Government Initiatives. Is this funding level for the E-Government Initiatives of the Department of Commerce only? Are any of these funds a “tax” to be paid to the Office of Management and Budget?

*Answer.* The Department of Commerce has included a funding request for e-government initiatives and lines of business (LoB) for fiscal year 2007. The breakdown is as follows:

Agency	Initiative/LoB	Amount
EPA	E-Rulemaking .....	\$855,000
DOC/ITA	International Trade Process Streamlining .....	740,000
SBA	Business Gateway .....	329,000
HHS	Grants.gov .....	521,000
GSA	Integrated Acquisition .....	174,000
GSA	E-Authentication .....	749,000
GSA	Financial Management LoB .....	83,000
OPM	Human Resources LoB .....	130,000
HHS	Grants Management LoB .....	60,000
Total Commerce .....		3,641,000

These funds represent the total Commerce funding contribution to the managing partner agencies, which develop the initiatives and lines of business. Funding amounts are based on initiative and line of business costs and were jointly determined by the managing partner agency and the agencies making use of the services provided by the initiative and lines of business. The funds are used by the managing partner agencies to support operations and implementation of the initiatives and lines of business. As a user of services provided by these initiatives and lines of business, Commerce benefits through economies of scale, avoidance of duplication of effort, and improved services to its citizen constituents.

These funds will be sent through memoranda of understanding to the managing partner agencies. The Office of Management and Budget does not receive any of the Commerce funds.

*Question.* The fiscal year 2007 budget request includes \$18 million for the renovation and modernization of the Herbert C. Hoover Building, headquarters for the Department of Commerce. The Committee notes that funding was requested in fiscal year 2006, but not appropriated. What would this level of funding provide?

*Answer.* This funding level would allow DOC to fund its share of costs related to the first phase of construction (primarily build out and furnishing of a consolidated data center and internal swing space); fund the fiscal year 2007 portion of the DOC

share of costs for the GSA Lease Prospectus approved by Congress (moving one-third of the HCHB employees to leased swing space, providing unoccupied areas for renovation of one-third of the HCHB at a time); and to fund a Project Management Office (PMO) that will manage DOC responsibilities throughout the life of the renovation. The fiscal year 2007 funding request consists of three major components listed below.

	Amount
Build-out and furnish the courtyard 6 space .....	\$5,900,000
Lease space costs .....	10,400,000
Contract support for PMO .....	1,700,000
<b>TOTAL</b> .....	<b>18,000,000</b>

*Question.* How many years of follow-on funding would be needed to complete the renovation of the Herbert C. Hoover Building?

*Answer.* The renovation project is expected to continue through 2017.

*Question.* Within the Departmental Management Salaries and Expenses account, there is a \$5.9 million increase for blast mitigation windows for the Herbert C. Hoover Building. Is this the total funding level necessary, or will there be an additional request in fiscal year 2008? How many years of funding and at what level may we expect to see in this account?

*Answer.* Approximately one-third of the facility will be protected with the start-up funding requested in fiscal year 2007. Additional funding requirements and timing of installation of additional windows will need to be determined in the context of the overall Hoover Building renovation.

*Question.* Why are blast mitigation windows necessary for the Department, when other D.C. offices—even the U.S. Capitol—use more cost effective alternatives?

*Answer.* Blast mitigation windows are required to protect the lives of our employees and other occupants. It is the most cost-effective protection for this unique facility. All other Federal buildings in the Federal Triangle area have upgraded windows.

The HCHB requires this level of countermeasure to mitigate the risk to our employees. Vulnerability factors include:

- Location immediately adjacent to two intersection HAZMAT routes (14th Street and Constitution Avenue) and nearby rail line that transports HAZMAT cargo.
- No available standoff, dedicated police officers or permanent/temporary street closures (available at U.S. Capitol).
- Proximity to known terrorism targets.

Independent studies on the HCHB by GSA and the Federal Protective Service (now DHS) recognized the vulnerability to hazardous window failure and documented the requirement for blast windows to provide cost-effective security.

- Federal Protective Service (now DHS): Security Survey/Risk Assessment Report, 2001. “Window protection is inadequate.”
- GSA: Window Blast Hazard Mitigation Study, 2003. The HCHB “is vulnerable to hazardous window failure . . . windows, therefore, require an upgrade.”
- GSA: Modification of HCHB HVAC to Obtain Positive Building Pressurization and Air Filtration, 2003. “Existing windows are in ‘poor condition’ and need to be replaced to improve the pressurization that will mitigate chemical, biological, and radiological contaminants.”

ECONOMIC DEVELOPMENT ADMINISTRATION

*Question.* You have stated that EDA can operate within the parameters of the President’s fiscal year 2007 budget request and maintain a six office regional footprint. What impact, if any, will there be, on service delivery, operations and human resource levels by maintaining six offices with this level of resources for this number of offices?

*Answer.* EDA is committed to honoring congressional intent by maintaining a six-office regional footprint while at the same time supporting the President’s budget request. EDA will do this by dedicating available resources to essential activities such as proposal review and approval, grant award, grant administration and required reporting, achieving efficiencies and process improvements throughout its operations. EDA will ensure adequate funding of these essential services through reductions to non-essential and lower priority activities. This could include reductions to one-on-one customer assistance before and during the application process, process automation, training, post-award customer support and oversight. As a last resort, EDA may be required to consider staff reductions.

CONCLUSION OF HEARINGS

Senator SHELBY. For the information of Senators and others, this subcommittee's next hearing is scheduled for June 7 in the Dirksen Senate Office Building, room 192 at 10 a.m. on overview of the 2006 hurricane season.

Until then, the subcommittee stands in recess.

[Whereupon, at 3:09 p.m., Wednesday, May 3, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]