FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR 2011

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS

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NOTE: Under Committee Rules, Mr. Obey, as Chairman of the Full Committee, and Mr. Lewis, as Ranking Minority Member of the Full Committee, are authorized to sit as Members of all Subcommittees.

LEE PRICE, BOB BONNER, ANGELA OHM, and ARIANA SARAR
Subcommittee Staff

PART 8

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FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR 2011

THURSDAY, MARCH 25, 2010.

FY 2011 BUDGET FOR THE SMALL BUSINESS ADMINISTRATION

WITNESS

KAREN G. MILLS, ADMINISTRATOR, U.S. SMALL BUSINESS ADMINISTRATION

Mr. SERRANO. Good morning. The subcommittee will come to order.

I welcome you to this hearing of the Financial Services and General Government Subcommittee. Today, the subcommittee will hear testimony from the administrator of the Small Business Administration, the Honorable Karen Mills.

Administrator Mills was sworn in on April 6, 2009, as the agency's 23rd administrator. Scheduling issues prevented us from having a hearing last year, so we are doubly glad to welcome you today.

Small businesses play a crucial role in the national economy, especially so with job creation being the most important economic goal we have as a Nation. Firms employing fewer than 500 employees comprise about 99.7 percent of all businesses in the Nation, and they employ roughly half of all private-sector employees.

The SBA promotes small business development and entrepreneurship through lending guaranties, training and counseling programs, government contracting programs, and advocacy. The agency also helps businesses and homeowners affected by disasters through its Disaster Loan Program.

The agency's budget request for fiscal year 2011 is $994 million, a $170 million, or approximately 20 percent, increase over 2010. This includes an $85.4 million increase in the 7(a) lending subsidy, which we will, no doubt, be discussing in great detail during this hearing, and a $126 million increase in administration for the disaster loans account, which I understand that you have requested because money provided to the account from the previous supplemental has run out.

This subcommittee certainly wants to ensure that you have adequate resources to respond to disasters, both in routine years as well as those years when we are extremely unfortunate and have large disasters, be they natural or manmade.

However, the budget request is not so generous to certain small business assistance programs administered by the SBA. There are cuts that concern me. For example, Microloan Technical Assistance will be cut by $12 million from the current level. As the name implies, that is a program that assists the smallest entrepreneurs.

Additionally, funding for the Program For Investment in Micro-Entrepreneurs, or PRIME, will be reduced by $4.5 million. This program provides grants and help with training and technical assistance for disadvantaged entrepreneurs, particularly those in very low-income areas. I am very troubled when programs that help low-income populations are targeted for cuts.

The SBA has an important mission, and this subcommittee wants to help you accomplish this mission. I look forward to working with you this year as our appropriations bill moves forward.

Mrs. Emerson is not here yet, but pinch-hitting in the most professional and profound way, Mr. Crenshaw.

Mr. CRENSHAW. Thank you. Thank you for those kinds words, Mr. Chairman.

Let me add my words of welcome, Ms. Mills. I know you have been involved in the business community, so we thank you for your service and for being part of this.

I think you probably know firsthand that small businesses really do generate an awful lot of new jobs, and at a time when we are just kind of emerging from this recession, then small business ought to lead the way in creating those new jobs. The bad side of that is, when there is a recession, I think small businesses kind of get a disproportionate hit in terms of loss of jobs. So I just want to welcome you here.

I have got some questions regarding a little bit of concern in some of the things that the administration is doing which, I hope, are not going to kind of stifle the new job growth that I know you want to see happen. So I am just looking forward to hearing your testimony and the ideas you have about how we can keep the economy moving as it kind of begins to turn around.

So thank you for being here.

Mr. SERRANO. Thank you, Mr. Crenshaw.

As you know, we will ask you to keep your testimony to 5 minutes or so. Your full statement will go into the record so that we can have our rounds of asking you questions.

Please proceed.

Ms. MILLS. Well, thank you very much, Chairman Serrano.

And thank you, Congressman Crenshaw, for being here today.

I really appreciate this opportunity to talk to you about our fiscal 2011 budget at the Small Business Administration. This is a budget of $994 million, and it reflects our commitment to growing businesses, creating jobs and to fiscal responsibility.

Access to capital remains a top priority for us. Already, we have had success with our raised guaranties and our reduced fees. We have been able to bring over 1,200 lenders back to SBA lending who had not made loans since the beginning of the recovery in the last year, and $23 billion has been put into the hands of small business owners.

The good news is that these Recovery Act provisions work. The bad news is that we are running out of funds, yet again, on March 28, and I really want to thank all of you who are working so hard to pass first a temporary and then a long-term extension.

The 2011 budget that we have before us supports more than $28 billion in lending through our 7(a) and 504 small business investment companies and our very important microloan programs. It also incorporates an increase in the loan sizes in 7(a) and 504 to $5 million. I should also mention that we have set a goal of increasing the number of access points, meaning the number of active lenders, by 15% by the end of fiscal year 2011, to make sure even more people can get these loans.

A second priority is our government contracting for small businesses. We are committed to working with all of the agencies to meet our goal of 23 percent of all government contracting going to small businesses with particular goals for service-disabled veterans, disadvantaged businesses and HUBzone firms. We have requested $2 million to help reach these goals while removing ineligible firms and rooting out fraud, waste and abuse. We also look forward to implementing the Women's Contracting Rule, which was put out for comment on March 8.

The third priority in this budget is counseling. We have over 14,000 SBA-affiliated counselors that are critical to meeting small business needs. This budget includes $134 million for over 900 Small Business Development Centers, 110 women's business centers—the 110th opened here in Washington, D.C., this week—and 350 chapters of SCORE, our mentoring program. These partners serve all 50 States plus Puerto Rico and other U.S. territories.

We also request $3 million for Emerging Leaders, an intensive classroom program which builds an entrepreneurship education. It is a pilot this year, and we want to expand it. It is for distressed areas. It is focused on creating jobs, increasing revenues for these companies and helping them find financing and get contracts. In 2010, we were actually reaching out to Native American-owned firms in an additional 12 cities.

The budget supports the Disaster Loan Program that is in a constant state of readiness. This budget is designed to help us keep our loan turnaround times short in disaster loans and support us at a consistent level of $1.1 billion in loans for homeowners and businesses.

This 2011 budget also advances another critical priority, and that is supporting the high-growth small businesses that drive American innovation and that help our competitiveness. We request $2 million to better develop metrics, oversight and to manage the Small Business Innovation Research Program, SBIR. From 2000 to 2006, about 25 percent of R&D Magazine's top 25 annual innovations came from firms that received SBIR awards, and other studies have shown that a first-time award of an SBIR can signal that this is a promising firm to investors.

The budget also includes $11 million for Regional Innovation Clusters. Clusters help small businesses in an area and in an industry to join forces and gain access to university research, workforce training, international markets, and more. The SBA has already served as the lead agency for the robotics cluster in Michigan's hard-hit auto supplier area. We are also a collaborating agency nationwide for an energy efficiency cluster.

In addition to our external goals, we are going to continue with an internal focus to build the SBA into a more high-performing organization by investing in people, technology and oversight.

For people, we are increasing our efforts in management training, mentoring, and succession planning. In technology, we are modernizing our core loan management system, which currently runs on Cobol. We are going to upgrade our Web presence. In oversight, we request $2 million for more lender oversight and on-site reviews, and $1 million for stronger program assessments.

In closing, we know that small businesses have created, as you said, 65 percent of the net new jobs over the past 15 years. This budget will help us give small businesses the tools they need to create more jobs and to lead us out of this recession and to provide a stronger economic base for America.

I would be happy to answer any questions. Thank you very much.

Mr. SERRANO. Thank you so much for your testimony.

Before we discuss the 2011 funding needs, I would like to get a status report on how implementation of the additional funding you have received to extend the American Recovery and Reinvestment Act provisions for the 7(a) and 504 loan programs is proceeding. Most recently, the SBA received $60 million to extend the fee reductions to March 28. The Senate has passed a bill that provides $560 million that is to last through this December.

So, first, please explain what the Recovery Act provisions do and if you will have exhausted the additional $60 million by the end of this month. Also, how much money do you need to continue this program through the end of the year? Lastly, what will be the effect if you do not receive funding to continue these fee reductions?

Ms. MILLS. In the Recovery Act—I want to thank Congress for giving us a program that turned out to be very powerful and effective—You allowed us to increase our guaranties on our 7(a) program to 90 percent and to reduce or to eliminate most of our fees on our 504 and 7(a) programs, and the results were almost immediate.

When credit froze in October 2008, most small businesses went to their banks, and they couldn't even get an answer. When we put forward this Recovery Act provision, really a year ago this month, we immediately took that decline and turned it up into what I call the "hockey stick" that did occur.

We have been able to put $21 billion out in the last year for a cost of about $500 million. The good news is that it worked. The bad news is that we ran out of money once in November, and you gave us more. Thank you. We ran out again, and you gave us some more. Thank you. The last tranche was $60 million, which is set to expire at the end of March, actually on March 28. In fact, we, in our current projections, as of this morning, will use almost all of that money. Our processing centers are working through the weekend because demand is very, very high for this loan volume, and we are currently on track to probably use most of it. So we thank you very much for putting forward another month, I believe, of $40 million. That is a bit short of what we might use in a month, that number, but we will use it until it runs out. Then we very much hope to be able to extend this program through the end of the year. The figures on that, I believe, are about $550 million, but I can get you the exact amount.

Mr. SERRANO. Right. What would be the effect, do you think, if you weren't to get the funding? I mean, how many loans would you think would then be outstanding or rejected?

Ms. MILLS. We know because—and I have sort of a graph of our monthly volume.

Every time we run out of money and, you know, we stop, the volume goes down. Now, we don't know for sure what will happen because we will revert to our traditional program levels, and so we will have an offering; but what we have found is that, in the year that we have been able to offer the 90 percent guaranty, our volume has gone up 90 percent from the period before. We know, in this time where small businesses are suffering because they can't get access to credit, that we have doubled our volume. So we know the demand is there, and we are gravely concerned that, without further measures, the gap will widen in terms of access to credit for small businesses.

Mr. SERRANO. Is there a way of letting Congress know the difference between those loan requests that were coming in as a result of the economic crisis versus the ones coming in as a result of all the disasters we have had recently, all the snow and the floods and so on? Is there a way to determine that?

Ms. MILLS. We have two separate loan programs. We account for them separately. We actually had quite a big year in disasters, even though there were no big Katrina, Rita, Wilma kinds of disasters—thank goodness—but we were at $1.1 billion in this past year for disasters, which is up from $800 million the year before, and that is because a lot of these smaller ones that you described actually caused us to play an important role.

These two things are tracked separately, and we can get you separate figures for them.

Mr. SERRANO. It is interesting you say "smaller ones." I am not holding you to that, but talk to some of the folks in northern Virginia. They didn't think it was a smaller one. It was a big one.

Ms. MILLS. That is exactly right. That is exactly right.

Mr. SERRANO. Let me ask you a question now.

What are you seeing in terms of lending to small businesses? Has the Recovery Act and the extension of its funding been effective in unfreezing the credit market for small businesses as much as you would have hoped?

What do you think has been more helpful, the fee reductions or the guaranty increases?

Ms. MILLS. Well, thank you for that question, because it is one that we ask ourselves quite a bit.

There is currently no specific data tracking on credit to small business. This is something that we very much are having a discussion about because we would like to have a metric where we can really understand what is happening in the market. But we have done some analysis, and we believe that there is a credit gap. It is hard to size it, but $100 billion gap might be possible. We know that we have probably doubled our share of the gap.

Our job is to provide credit when the market won't. It is the credit elsewhere. If the market is going to give us small business credit, then why should the taxpayer pay for subsidizing that credit? But when a good business for various reasons can't get access to credit, which happened quite a bit in this last year, then we step into play, and we know because we have doubled our volumes and because other metrics say that other banks have not done that same set of increases that we are taking and fulfilling a much bigger share of that gap.

Mr. SERRANO. By the way, before I turn to Mr. Crenshaw, my question before about the two types of loan programs was based on the fact that I know that some Members favor one over the other. It is important at times to tell them what the balance is, of one from the other.

Ms. MILLS. Right. We believe that both are very, very important. They are very different, and we actually manage them in two separate budgets.

Mr. SERRANO. Okay.

Mr. Crenshaw.

Mr. CRENSHAW. Thank you, Mr. Chairman.

Just to follow up on that line of thought, that 85 to 90 percent in the reduction of the fees, my sense is that, you know, if you increase the guaranty, it would be more stimulative than just lowering the fees; but since you really don't have a lot of information so far, can you kind of give us your speculation as to what will happen when they go back to 85 percent and the fees come back? Is that going to curtail applications?

On the one hand, you have done a great job of freeing up the capital markets into larger loans, more loans, but all that has been part of this kind of stimulus package. What do you think is going to happen? Is it going to impact the banks' willingness to lend going back to 85?

Talk about that a little bit.

Ms. MILLS. When we travel—and I go out and travel quite a bit—we hold often lender roundtables and I have met with lenders all over the country. I always ask them this question: Which is more important, the fees or the 90 percent guaranty? We get both answers, and so I think the anecdotal evidence is that both are important for different reasons.

We know that there is a gap in lending right now. We have tried to figure out why the banks aren't lending, and they are not lending for two reasons: Either they don't have the capital, or they have the capital, but they just don't want to take the risk. The 90 percent guaranty has been very effective in dealing with that second question.

We say to them, this is a good small business. You would have lent to them before. We will take the risk. In fact, our data show that the credit scores that we have done under the 90 percent guaranty are actually higher than the ones that we did in the past years.

So we are making good loans, you know, not bad loans with that, and still the banks were uncomfortable making them until we stepped up and helped them manage the risk. So we know that 90 percent is quite important for them.

For the borrower—the borrower who today is just wondering "Should I expand?"—it is a tough time. Should I take out that loan? Should I hire the next person? They have told us that they take the fee reduction in cash. They make the loan, but the amount that would have been the fee reduction, they take back as working capital, and that allows them the liquidity to go forward. We know that some of them like to get a bargain. Small business owners know when there is something good out there, and so I think it has encouraged some of them to get back on track.

Mr. CRENSHAW. Well, when you restore the fees, do you think that is going to impede small business? Is demand going to go down? By the same token, having the guaranty go back down, is that going to make banks less willing to lend?

Ms. MILLS. Yes, we believe that will be the case on both fronts.

Mr. CRENSHAW. So the demand, from your standpoint, might see it go down?

Ms. MILLS. Yes, that is our concern.

Mr. CRENSHAW. I have got you.

You mentioned you have got kind of a conflicting—on the one hand, you have got the regulators, and they are critical to the banks, you know. Then, on the other hand, the administration is critical of the banks for not making loans. What are you all trying to do to encourage the banks to increase lending? Because you get a mixed message out of the administration, it seems to me, so maybe you are the middleman who can kind of send the message out to really encourage the banks.

Are you working on that?

Ms. MILLS. Well, the President and the SBA have been very clear about what we expect from the banks. We expect the banks to be back, lending to viable small businesses, and we will be there in every way we can to support them, but they need to step up and help these small businesses, which can't thrive without access to credit, and they help us get back on track in the economy.

The banks are also hearing from the regulators, particularly at their local level, a different story, and they are getting caught in this squeeze. They say to us, "You want us to lend, but we are afraid because we are getting another message."

So we have, within the proper bounds of what is appropriate between the administration and the regulators, encouraged the regulators to realize that the message that some of the regulators have sent about particular guidance, which loosens those credit issues for banks. We need to help them make sure that that gets down to the regulators in the field, and we are speaking at every possible opportunity to get these messages out.

Mr. CRENSHAW. The last question is, you know, we have talked about larger loans, more loans, and that is all good to create jobs, I think, and more employment opportunities, but some of the critics of your agency have kind of said, Well, you have got $90 billion in total loans—and that is like a 70 percent increase from 2001—and because of all of this increased lending, the SBA system of lending has not really kept up with all the industry studies.

For instance, I read a report that your loans, at least in 2008, talked about their corresponding to a Moody's rating of a double B. This report said that it was below that of a typical private loan/government subsidized loan.

And then, I want to read you what the Government Accountability Office said in 2009: The SBA does not follow sound validation practices or use its own data to independently assess the risk rating. The effectiveness of its lender risk-rating system may deteriorate as economic conditions and industry trends change over time.

I mean, are you aware of that? Do you all keep a close eye on all of these standards? Is that true? Are you working on that? Is that a problem, or is that just a perception?

Ms. MILLS. Yes. There are two points.

First of all, our job is to take a certain amount of risk in the "credit elsewhere" box. We are supposed to take a risk for someone who is a good business but that a bank cannot lend to without our guaranty. That said, lender oversight is a critical focus for us.

In fact, in this budget, we have requested an additional $2 million for our oversight. We need to be working with best practices. We need to be able to make sure that we have a very robust and active set of activities around lender oversight, but we are focused on this as one of the areas for which we need a budget and that we are going to spend time focused on, because we do have an extensive portfolio. We delegate authority to a number of banks, and we have to make sure that we can know how those banks are lending and that we have the adequate, appropriate oversight of them.

Mr. CRENSHAW. Thank you.

Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

Mr. Fattah.

Mr. FATTAH. Thank you. It is good to see you again.

I got a chance to hear your address to the Hispanic Chamber of Commerce on Tuesday. You were talking then—and I am going to come back to it—about the health care bill, and how it will impact small businesses.

I want to just first thank you for taking on this task. You have had an extensive career in working in innovation and in working in a variety of different fields related to business development. I am not sure we have had an administrator of SBA with such an extensive background in the country. I am sure our small business community will benefit, and I think that the Hispanic Chamber address was very anecdotal in that respect because I think that the focus on the real challenges facing small businesses and Hispanic businesses are the largest growing segment the agency, but over your leadership, in terms of African American businesses, women-owned businesses and Hispanic businesses, has been really working very hard. There is room for improvement in some of the regulatory and statutory guidelines.

In terms of the new health care law, how is SBA going to be interacting with the small business community to make sure they take full advantage of the benefits?

Secondly, the President's goal, in terms of export, doubling the amount of exports, one of the things that we have worked on in Philadelphia with SBA and the Export-Import Bank is to make sure that our business community is aware of those export opportunities.

So I would be interested in your comments on both of those things.

Ms. MILLS. Thank you. It is nice to see you, Congressman.

First, to your point about minority-owned businesses, women-owned businesses and veteran-owned businesses, the SBA has had a particular and special role with underserved markets and underserved communities. One of the things that we are known for is that we are three to five times more likely, according to the Urban Institute, to make a loan to a minority-owned business or to a woman-owned business than is a conventional lender. So we consider that part of the core to our mission and have in some businesses, particularly in government contracting, special goals—in our 8(a) and other programs—which we work very hard to bring into communities so that we are actively counseling, giving loans, and giving access to government contracts.

To your question on health care, health care has been the number one concern of small business in the NFIB survey since 1986. Since 1986, access to affordable health care has been the number one concern for small business. So we know that, in businesses between three and nine people, half of them don't provide health care. It is not because they don't want to. Now they are going to have the opportunity to be able to get access to health care in an affordable market with the exchanges.

One of the interesting things is that small businesses, I think, have not understood the benefits that are coming to them, particularly in the near term, so we are developing plans to make sure that small businesses know about the tax credits that are going to be available in 2010. For the 4 million of the 6 million small businesses that have employees, two-thirds of them are eligible for tax credits, and we actually know in every region and in every congressional district where they are and how many there are, and we plan to do as much as we can on a broad basis to make sure, as part of our responsibility, that they get every dime of tax credit so they can reinvest it in their businesses and can go on and grow.

You had a question on exports.

Mr. FATTAH. Because, in Philadelphia, we have done some work on this, and we have a great candy maker who makes peanut chews, and now they are selling them in 45 different countries. We have got a saltwater fishing reel company that is selling fishing reels around the world. We have an auto parts maker, Cardone Industries, which is doing very well. They are probably 10 percent of our manufacturing workforce in the city, but they have only one other competitor in the world. So there is a lot of room for export growth.

All of the exports businesses have said this is a doable achievement for the administration, and it has not been the focus of previous administrations. I just want to know how SBA is going to make sure that the small business community participates in this opportunity to grow exports.

Ms. MILLS. As you know, I am part of the President's National Export Initiative, where we have pledged to double exports over 5 years, a great part of this coming from small business. Only 250,000 of the 6 million small businesses export—only 250,000. So we have worked with the Department of Commerce, the U.S. Trade

Representative, the Export-Import Bank, and the Department of State.

We have formed a working group with a plan for small businesses—to identify them, to prepare them to export, to connect them to opportunities that the Department of Commerce has in other countries, and then to support them with loans. We have our own loan programs, and we actually counseled last year 17,000 small businesses specifically in how to export. So we have online courses. We have in-person courses.

We see this as an important impetus to the economy because, if small businesses produce here goods and services and if they sell there, that is jobs.

Mr. FATTAH. Thank you very much.

Ms. MILLS. Thank you.

Mr. SERRANO. The Chair would like to remind the gentleman from Philadelphia that, under my understanding of the House Rules, any item produced in one State can be handed out to other Members, and this committee loves peanut chews.

Mr. FATTAH. Say no more, Mr. Chairman.

Mr. SERRANO. Just for the record.

Ms. WASSERMAN SCHULTZ. Mr. Chairman, I would just amend your admonition to include Philly cheese steaks.

Mr. SERRANO. I got those when the Yankees beat the Phillies in the World Series.

Mr. FATTAH. I thank the gentlelady from Florida also.

Mr. SERRANO. Bagels anyone?

Mrs. Emerson.

Mrs. EMERSON. Thank you, Administrator Mills.

I apologize for being late. I am so sorry, but thank you so much for being here today.

Let me get down to something serious here instead of Philly cheese steaks. I am hungry now.

Ms. MILLS. We believe all of these small businesses that produce food are very important and that more demand would be very good for small business.

Mrs. EMERSON. As I told you months ago in my office, I just want somebody in Cape Girardeau, Missouri, to open a cupcake store. If not them, me, then, at some point in time, because I do love cupcakes.

In response to the small business credit crisis, the administration has proposed a new program that will provide capital to small banks using surplus TARP funds to offset the program's costs. I am generally not in favor of using TARP funds for anything other than deficit reduction, but it is unclear to me—and maybe you can convince me otherwise—it is unclear to me that providing another round of capital to banks will stimulate lending when the TARP programs didn't stimulate it as much as we wanted it to.

So I am not going to ask you to make a comment about the administration's plan, because every time we try to get people to do that, they get fired, so we don't want you to be fired.

Can you tell us if you think providing capital to small banks will increase small business lending? Wouldn't increasing the amount of SBA loan guaranties and perhaps increasing the amount that SBA can lend also be helpful, if not more so?

Ms. MILLS. We believe that there is still a lending gap for small business, and we have proposed a sort of five point plan that would be part of a jobs package to help more of that capital get out to small businesses. One piece of that plan deals with the problem, and I said there are two basic reasons why banks are not lending.

One is they don't have the capital. The second is they don't want to take the risk. For those banks which don't have enough capital, it would be very helpful to have additional capital available, and the program that has been proposed has an incentive where the cost of that capital goes down to a very attractive rate if you increase your small business lending. So, if you increase your small business lending up to 10 percent, you can get a 1 percent cost for that capital. We do believe that there will be small banks that go in and get that capital and lend it out to get the lowest rate.

We also believe that it is very important to take care of the other issue, which is helping banks deal with their concerns about risk. That is where the 90 percent guaranty comes in. That is where the increased loan limits come in. That is where the increased limits for SBA express to deal with the problems of all the folks, who have had their lines of credit cut, and we also have a program to help owner-occupied businesses deal with this commercial real estate crisis that has caused banks to say, even if you are in good standing and you are the dentist who owns the dentist's office, they don't want to renew your mortgage. And we have a proposal in the jobs package that we believe, at zero subsidy, can address this in a very large way.

Mrs. EMERSON. I hope that is true with regard to commercial because I keep thinking that might be the shoe that drops here pretty—or at least intensifies pretty soon.

Let me switch over to another subject.

One of the offices within SBA is the Office of Advocacy, whose mission is to represent the small businesses within the Federal Government's legislative and rulemaking processes. I know that that office tries its best to help reduce the burdens that some of our policies impose on small firms and also to maximize benefits small businesses receive from the government.

According to their Web site—and I will quote—Advocacy research shows that firms with fewer than 20 employees annually spend 45 percent more per employee than larger firms do to comply with Federal regulations, end quote.

So, with that being said and knowing that the administration is proposing a fairly hefty amount of new regulatory policies that will come as a result of health care, greenhouse gasses, financial reforms of financial institutions, are you concerned about how those policies could impact small businesses if enacted?

Ms. MILLS. One of the roles at the SBA, both at the Office of Advocacy and all through the SBA, is to watch out for unintended consequences to small businesses, particularly of government regulation. It is part of our mandate, and it is true that, very often, small businesses have a much higher cost because they are small, and they don't have the capacity. They have to add capacity in order to comply. We have very much a seat at the table to raise those issues in this administration, and we have been actively doing so. This is part of our responsibility to small business. It is actually one of their key concerns, and it is a very constructive process at this time.

Mrs. EMERSON. So how does it work?

For example, the Office of Advocacy identifies, you know, this set of new rulemakings that are underway or what have you; do they then have direct access, or is it you, really, who then has to get with each of the agencies writing the rules to pretty well explain how this could have a negative impact? Do you feel that your voice is heard?

Ms. MILLS. It works in many ways.

The Office of Advocacy operates as an independent entity inside the SBA on these matters. So the Office of Advocacy has a very robust and well-trained staff that operates both at the Federal and at the regional and State levels on issues, broad issues and particular issues, that might have an adverse consequence to small businesses. It raises those issues, researches those issues and helps get changes, regulatory changes, that help small businesses.

We also in the SBA, as a whole, have other activities. We have an ombudsman activity where our sole mission is on a case-by-case basis to help small businesses navigate between Federal agencies where there may be a regulation issue, and we do that as a matter of course. In addition, I and my entire team are aware in every activity that we do and in every discussion that we bring the small business voice to that table, and we are always thinking with our sort of small business owner hat on: Would there be an unintended consequence? Then that information and that perspective gets put into the discussion from the earliest stages.

Mrs. EMERSON. You feel it works well?

Ms. MILLS. Yes, I feel it works well.

Mrs. EMERSON. Thank you.

Mr. SERRANO. Thank you.

Ms. Wasserman Schultz.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chairman.

First of all, Mr. Chairman, I have some questions that are fairly detailed which are related to small businesses and to the Department of Defense and to the Department of Energy in how they allocate their contracts to small businesses. I am not sure if it is—I don't think you would have the answer today if I asked you, so I will submit them for the record. But I would like to sit down with you because I have some fairly detailed questions dealing with frustrations that small businesses in South Florida have had and about the disadvantage that they are in when it comes to competing for Department of Defense and Department of Energy contracts. It is a pretty frustrating experience that has been described to me, and I would love to spend some time with your staff on that.

Ms. MILLS. Yes, we will be very happy to do that.

Ms. WASSERMAN SCHULTZ. That would be great.

Mr. SERRANO. It will be submitted.

[The information follows:]

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

Testimony of Karen G. Mills
Administrator
U.S. Small Business Administration

Before the

Subcommittee on Financial Services and General Government
Committee on Appropriations
U.S. House of Representatives

Fiscal Year 2011 Budget Hearing

March 25, 2010

Chair Serrano, Ranking Member Emerson and members of the Committee, thank you for the opportunity to discuss the President's FY11 Budget for the SBA. This budget of $994 million reflects a commitment to growing businesses and creating jobs, and to fiscal responsibility.

Access to capital remains a top priority. Already, our raised guaranty and reduced fees combined with an improving lending environment have helped bring back nearly 1,200 lending partners who have helped put $23 billion in the hands of small business owners. The good news is, these Recovery provisions work. The bad news is, we're running out of funds yet again. As you know, the Administration is proposing to extend the Recovery Act provisions through the end of the Fiscal Year; I hope we can achieve that.

This 2011 budget supports more than $28 billion in lending through the 7(a), 504, Small Business Investment Company, and Microloan programs. It also incorporates increasing the loan sizes in 7(a) and 504 to $5 million. Also, we've set a goal of increasing by 15% our active lending partners by the end of FY11 to make sure even more people can get these loans.

A second priority is small business contracting. We're committed to working across the agencies to meet the government's goal of awarding 23 percent of prime contracts to small businesses and the goals for veterans, women, disadvantaged businesses, and businesses located in HUBzones. We've requested $2 million to help meet these goals, while removing ineligible firms and rooting out waste, fraud, and abuse. We also look forward to implementing the women's contracting rule.

A third priority is counseling. Our 14,000 SBA-affiliated counselors are critical to meeting small-business needs. This budget includes $134 million to support our 900 Small Business Development Centers, 100 Women's Business Centers and 350 chapters of SCORE, our mentoring program. These partners serve all 50 states plus Puerto Rico and other U.S. territories.

We also request $3 million for Emerging Leaders, an intensive classroom-based entrepreneurship education program. This builds on a pilot that has helped entrepreneurs in distressed areas create jobs, increase revenues, find financing, and get contracts. In 2010, the pilot is reaching out to Native-American-owned firms in 12 additional cities.

This budget supports a disaster loan program that is in a constant state of readiness. The budget will help us keep low turnaround times on loans while supporting a loan volume of $1.1 billion for homeowners and businesses.

This 2011 budget also advances another critical priority – to support high-growth small businesses that drive American innovation and global competitiveness.

- It requests $2 million to develop better management and oversights for the Small Business Innovation Research program as well as finalizing implementation of performance metrics for the program. From 2002 to 2006, about 25% of *R&D Magazine*'s top 100 annual innovations came from firms that received an SBIR award. Other studies have shown that a first-time award can help signal promising firms to investors. SBA is committed to developing regular and robust measures to evaluate the SBIR program.
- This budget also requests $11 million for regional innovation clusters. Clusters help small businesses in a certain area and industry to join forces and gain more access to university research, workforce training, international markets and more.
- The SBA has already served as lead agency for a robotics cluster for Michigan's hard-hit auto suppliers. We're also a collaborating agency in a nationwide competition for an energy-efficiency cluster. Our extensive bone structure of counselors and partners will play a critical role "on the ground" in supporting federal clustering efforts.

In addition to external goals, we'll continue our internal focus on building SBA into a more high-performing organization by investing in people, technology, and oversight.

For our people, we're increasing our efforts in management training, mentoring, and succession planning. This budget also reflects a slight increase to 2,209 regular full-time employees.

In technology, we're modernizing our loan management system and upgrading our web presence.

And in oversight, we request $2 million for more lender oversight and on-site reviews, and $1 million for stronger program assessments.

In closing, we know that small businesses have created approximately 65% of net new private sector jobs over the past 15 years. This budget will help us give even more small firms the tools to create more jobs, to lead us to recovery, and to lay a stronger economic foundation for America.

Thank you and I'm pleased to take your questions.

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Ms. WASSERMAN SCHULTZ. Thank you very much.

The other issue I wanted to focus on related to some—excuse me. I was not on the right page, Mr. Chairman, so I want to turn back to the page that I should be on so that I can know where I am supposed to be. Thank you. Okay.

I want to ask you about how you educate small business owners who are making presentations to potential lenders. You know, we want to support people who are making a transition from unemployment to self employment, create entrepreneurial opportunities for unemployed Americans who want to, instead of going back to some large employer environment maybe, you know, take that opportunity to transition to a new business.

So how does the SBA do that in a proactive way?

Ms. MILLS. The SBA has 14,000 active counselors who are doing exactly what you just described. We have 900 Small Business Development Centers. They say there is probably one 45 minutes to an hour from most small businesses. They don't just have one conversation—they have long-term conversations—and we know from our data that small businesses that are in a long-term counseling relationship have better sales, better profits, more longevity. So we encourage that, and then I always say to the small businesses, "and it is free."

Ms. WASSERMAN SCHULTZ. Free is good.

Ms. MILLS. We also have 110 women's business centers, and they operate as well in the community. We have over 100 microloan intermediaries, providing technical assistance. Very often, in the microloan intermediaries, in our women's centers and also throughout, really, the whole counseling network, we are, in this time, very often helping somebody with a business plan that might have been in their drawer for a while. They were thinking about starting that business. Maybe they had started it on the side, but it had never really grown, and they had taken out that business plan, dusted it off, brought it in to one of our counselors, and we are actively helping them create that future and walk down and see what financing might be available. So this is part of the core of what we do.

Ms. WASSERMAN SCHULTZ. Great.

I want to commend you for releasing a rule that would expand Federal contracting opportunities for women-owned small businesses. I know the goal of the administration is that 5 percent of Federal contracting dollars would be directed to women-owned small businesses, but I know we are not there yet in terms of achieving that goal.

So can you talk about how the new rule would help us get there?

Ms. MILLS. Yes. This is a rule that was actually introduced in the year 2000, and we are very proud that, on March 8, we were able to put it out for public comment.

Ms. WASSERMAN SCHULTZ. Actually, let me clarify my question. You are right. So I know that that is a goal. I know it is one that the administration before this one really didn't spend a lot of time trying to achieve.

So, if you can, share with us what this administration is doing to try to get us there. That is a better way to ask the question.

Ms. MILLS. Yes.

We are very committed to this goal. In fact, we are committed to all of our government contracting goals, but we put a very high priority on getting this goal moving and out for public comment, and we anticipate that we will work on it, bring it into reality, and it will allow women in about 80 industries to compete in government contracts under those regulations, and we believe that that will help.

In the Recovery Act, we are just under the 5 percent now, and we are going to do everything we can—we are actually exceeding our other goals in the Recovery Act by a lot, so we would like to exceed all of our goals by a lot.

Ms. WASSERMAN SCHULTZ. Do you have a time frame for reaching the 5 percent?

Ms. MILLS. Yes.

Well, first, we want to get the rule out, and the time frame for that is—you know, there is a period of public comment, and then there is a period of——

Ms. WASSERMAN SCHULTZ. So you are revising the rule from 2000?

Ms. MILLS. Yes. The rule from 2000 never was actually put into place.

Ms. WASSERMAN SCHULTZ. Okay.

Ms. MILLS. So this is going to be the first time the rule actually makes it into reality, so we have been operating without a rule but still with a goal.

Ms. WASSERMAN SCHULTZ. Gotcha. Okay.

Just lastly, Mr. Chairman and Administrator Mills, I have to tell you that it would be hard for me to describe just how fantastic your SBA staff is in South Florida. They are the hardest-working, most well-prepared, the most responsive agency that I deal with in South Florida. My staff wanted me to make sure that you knew just how much we rely upon them and how much they are there for my constituents.

Last fall, I had a small business symposium that SBA was an integral part of. One thousand people came to that small business symposium. There were 1,000. It was phenomenal. I got tremendous feedback, not just on that, but on roundtables. Any time that we ask for assistance in getting information out to my constituents, the South Florida staff is there, and you should know that they are doing a great job.

Ms. MILLS. Thank you very much. We have a terrific team. We have a really terrific team at the SBA.

Ms. WASSERMAN SCHULTZ. I yield back.

Mr. SERRANO. Thank you. You said you had a hard time describing, but you did a great job. Any time you want to describe me that way, it will be fine.

Ms. WASSERMAN SCHULTZ. What I meant was, by comparison, I would have a hard time saying just how good their job is.

Mr. SERRANO. Let me follow up on your question on the whole issue of minority-owned and women-owned businesses.

How satisfied are you that we are reaching the goals we want to reach? I mean some of us get asked a lot, if not pressured, about, what are we doing in government agencies to make sure that this government tries to include everyone? You know, the word "diversity" is always thrown around, but then, at the end of the day, we find a lot of people in a lot of agencies who don't pay attention to the need to balance things often to make up for some improper behavior in the past.

How satisfied are you that, in all of those areas, we are moving in the right direction and that we can meet our goals?

Ms. MILLS. We see serving minority-owned businesses, women-owned businesses, veteran-owned businesses—a whole group of underserved businesses—as core to our mission, and we see it also as essential to the underpinning of the American economy. So we have particular goals in government contracting. We are determined to meet those goals, and we have, in the Recovery Act, actually exceeded the goal.

We have almost doubled the goal on minority-owned businesses, and we did that intentionally. We had about 300 matchmaking events, in particular in minority-owned business areas, so that we could introduce them to the Recovery Act contracting opportunities, and that worked.

So we are going to take that practice and continue it so that we can keep that momentum, but it is not just in government contracting that we think this is important. We think it is important in terms of access to capital where, very often, these are communities where there isn't as much access, where the market isn't working as well, and then it is more our job to step in and to provide credit support to good businesses. We particularly see that in microloans, where we have a very strong penetration in underserved communities and a very good effect and in our counseling operations.

Mr. SERRANO. Let me throw in something now that you mentioned.

You were very careful or, once again, very smart to mention Puerto Rico and the Territories in your presentation, which, you know, does very well with this subcommittee, especially with the chairman, but one of the problems we find in all Federal agencies under any administration is that the good news is that they are career people who are there and who do a great job; the bad news is some of the career people have been operating, in the case of the Territories, under this belief that they are far apart, that they are not only physically far away, although Puerto Rico and the Virgin Islands are very close, but that they are not in the plan to be treated fairly or, certainly, equally.

Once you say to me, We are going to make sure that we include Puerto Rico and the Territories, how do you go about making that happen when so much has to be delegated in agencies to folks who traditionally don't know how to do that? I will give you an example so that it is not an accusation.

One of the reasons we have a hard time in the health care bill and in any other bill including the Territories is, when we go to staff, central staff, and I have gone to them and have said, I want this done, they say, We don't know how to do that because it has not been done before. I say, Well, invent it; I am sure you can invent it. Make sure tomorrow—and here is the way I approach this—and I know I am going all over the place. I tell people, Make believe that we wake up tomorrow morning, and instead of having

50 States and the District of Columbia, we have 55 States and the District of Columbia. You could not say, I can't do it. You would have to do it equally across the board under a formula, so why not do it now? When the Speaker says, Do it; when Harry Reid says, Do it, then staff says, We don't know how to do that. So we are still, even in the health care bill, which does wonders for the Territories, it is still far from where it should be.

Ms. MILLS. Well, we operate in the mode that Puerto Rico and the Territories are part of the fabric of what we do every day, and I actually was able to sit down with the Governor of Puerto Rico. We have a very important small business community in Puerto Rico. It is mostly small business. We have a very active SBA presence there. So our programs go throughout that area. They are on all of our measurements, and they participate in every activity that we do. We just did a women's business center here in the District. In American Samoa, when they had the tsunami, we had 40 people there within less than 10 days, helping.

So we are prepared to go anywhere it takes in our entire United States and Territories, to deliver help to small businesses, because they are all part of the community that we serve.

Mr. SERRANO. Yes.

Let me just make a statement. In many cases, folks like you have to lead on this because, unfortunately, so many Members of Congress are totally oblivious to what the relationship is to the Territories. I can't pass up the opportunity to always remind people that, on a couple of occasions, I have been asked by sitting Members of Congress to get them currency from Puerto Rico for their collection. All I did was take a dollar out of my pocket and give it to them, to their embarrassment. We had a colleague, when the stimulus checks went out and, through our efforts, included the Territories, who said, I don't know why we are sending checks to foreign citizens. So at least they were called "citizens." "Foreign" is up for discussion later.

So, in many cases, the agencies have to lead because what may come out of Congress is not exactly what it should be since there is still a lack of information as to what the relationship is. I hope you do that.

Mrs. Emerson.

Mrs. EMERSON. Thank you, Mr. Chairman.

I want to ask you a few questions about innovation clusters.

You all received $10 million in 2010 to develop Regional Innovation Clusters, and the fiscal year 2011 request includes $11 million for this initiative. I understand the idea behind a cluster is to establish partnerships between entrepreneurial education programs, industry and training programs to all work collaboratively on a common roadmap to improve a region's economy. Of course, I want to apply for one of these myself for my region, but anyway, let me ask: How will you decide what regions will receive the assistance? Will rural areas be included as well as urban areas? Do you really think that the communities need the Federal Government to give them money in order to collaborate?

Ms. MILLS. The core of clusters are the small businesses, and the reason clusters work is that small businesses are too small sometimes to get the economies that scale provide. So, when you cluster them together, you have an easier time in bringing access to the kinds of innovation, research and development and workforce training and bank lending that they need to have to grow. So I will give you a "for instance" about a rural cluster, and this is the reason I actually got involved in clusters and government service.

In Maine, where I live, the naval air station went on the base closure list, and I was asked to help find some small businesses to go on that piece of property, and we made a cluster of Maine's boat builders, because there is new technology at the University of Maine in composites, and we were making boats out of the fastest and lightest materials of the world.

Well, there are very few small businesses less likely to cluster than the independent Maine boat builders, but it showed me, when they came together, what a powerful thing it was to promote this kind of collaboration and how much more bang for the buck we got out of all the other activities that both the Federal and the State governments were doing to promote economic development. So this has now become a hot bed of activity in regions across the country, and the question that you asked is: What is the Federal Government's role in this? Can't States just take care of it?

Well, it turns out—and I am on record because I wrote about this for Brookings—that the Federal Government spends about $77 billion in aid that goes down to the local level where these clusters are occurring, but it is not very well linked, leveraged, and aligned. So we find that we, the SBA, being on the ground in these communities, can play an important role.

A quick other example: In Michigan, one of the 2010 budget items will go to a robotics cluster, the first of which we already started in Michigan with automotive suppliers. These automotive suppliers produce sensors so that when your car goes close to something it beeps. Well, it turns out that the Department of Defense is very interested in robotics developed by these automotive suppliers because they might help them detect things like roadside bombs and other unmanned activities that they are interested in doing. So we have formed a set of small businesses in Michigan into a robotics cluster, connected to the university there, which has a robotic specialty, and that will help a very distressed region in need of transformation.

So these clusters work in rural Maine. They work in centers like Silicon Valley and high-tech places, and they work in distressed areas for the automotive suppliers of Michigan.

Mrs. EMERSON. That was a good article in the Washington Post this morning about you in talking about this. Because I was fascinated in having read it, I wanted to ask you about it.

Now, I know that the Economic Development Administration also has in its budget $75 million for Regional Innovation Clusters. How do you all work together?

Ms. MILLS. We are working very closely with EDA, John Fernandez there, and also with the collaborative effort that is coming out of the White House that has seven agencies included in it for cluster development. We are one of the participating agencies in the new E–RIC, Energy Regional Innovation Cluster. Energy has put up $125 million to have a new innovation hub, and this is for energy-efficient homes. We are going to provide funding for small businesses to get a piece of that activity, and we are going to run it through our local small business document centers. So we can do clusters that we initiate, and we can do clusters where we collaborate and participate.

Mrs. EMERSON. So, if I am a community or a group of communities in a rural area, would I want to go to my small business, SBIC or—I mean where would I even start if I had an idea? How would I start, and then what happens?

Ms. MILLS. We plan to create, with part of the 2010 money and continue in 2011, a series of competitive activities, contracts, where we will have regions compete. So there will be a request for proposals, and we will publicize that in communities. We are likely to do some in conjunction with other agencies and some independently. We hope to do them with criteria that will allow both rural and inner city clusters to be validated, because we know there is cluster opportunity in all kinds of regions. So this is at the beginning stages of activity, and we are very, very excited about the prospect of moving it forward.

Mrs. EMERSON. It sounds very exciting and a very, very interesting and positive way to change the economic climate in certain areas in the country.

So thank you.

Mr. SERRANO. Thank you.

Mr. Boyd.

Mr. BOYD. Thank you, Mr. Chairman.

Ms. Mills, welcome. I really only have one question.

I know that the SBA has been in the process of trying to reengineer the HUBzone program.

Can you discuss the status of that initiative for reengineering and also how this process has affected the HUBzones?

Ms. MILLS. Well, thank you.

We ask for in this budget, actually, more money for oversight and compliance in order to root out issues of noncompliance and fraud, waste and abuse in programs including the HUBzone.

As I have said in other testimony, we need to make sure that our programs, including HUBzone, have oversight in three areas; upfront, eligibility. In the middle, we want to review with on-site visits. You might know, in HUBzone, in the 6 months before I got there, we had made seven on-site visits, and in the next 6 months, we did 800. So we are clamping down in that area. The third is to pursue and have consequences for those who break the rules and who are in the program inappropriately, and we are going to go after them, because we have people who need to be in that program.

In the reengineering of that program, we are getting a handle on these three things, and it has taken an enormous lift in this past year. We have tightened down in the front end, and that has created a backlog. We are well into working through that backlog but not completely through it. Therefore, if anyone has experienced delays in HUBzone certification, that is due to this sort of tightening down process that we did to make sure that we don't have ineligible firms in the program. So we are in the process of working through the backlog, and we expect to be through it in a matter of months—a few months, not longer.

Mr. BOYD. So you have increased, you said, oversight, exponentially and just making sure that the program is doing what the current rules say it is supposed to do. So there is nothing really that we need to do or anything we can help you with? Those HUBzones are an important tool that we have used for a number of years in the rural areas, and obviously, they are probably more important now than ever.

Ms. MILLS. This budget request does include a small amount of additional funding to help us with these ongoing efforts because they take personnel and attention.

Mr. BOYD. Thank you very much.

Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

I would now like to recognize Mr. Culberson under the 5-minute rule.

Mr. CULBERSON. Thank you, Mr. Chairman. Excuse me for running late. I have got so much going on at the same time.

Thank you for your service.

I wanted to ask, if I could: $2.3 billion has been appropriated to the Small Business Administration since October 1. How many jobs have been created with those funds? How do you measure that number?

Ms. MILLS. Well, our budget is usually under $1 billion.

Mr. CULBERSON. I am counting the stimulus money you received and the appropriation from last year. It looks like there was $125 million in DOD. It is a lot of money. You have gotten a tremendous shot in the arm.

Ms. MILLS. Yes. I really want to thank you for that.

So let me explain the main amount of activity that we have spent on over the past year.

As I said earlier, you allowed us in the Recovery Act to increase our loan guaranties to 90 percent and to reduce or eliminate most of the fees. In October 2008, lending just froze, and we had small businesses in this credit crunch that couldn't get the capital they needed. When you passed that, which was a year ago now this March we put it into place, immediately we were able to get lending flowing again, so we were able to put $22 billion into the hands of small businesses for a cost to taxpayers of $500 million. So that is about $500 million of that activity that you described.

I don't know if I have exactly the numbers. We do track it on our dashboard—the loans saved and approved. I don't have the full year, but I can get that for you because, when a business owner comes in and gets a loan, they have to tell us how many jobs they are going to save or retain. Now, to be honest with you, we don't go back and audit that, but we know it is pretty consistent over time, so we track it, and we make sure that we report that. That does not, by the way, go into the Recovery Act totals, because it doesn't meet the particular criteria, but it is in a footnote, so we are happy to be at least recognized, and it is quite substantial. I would be happy to get you those exact numbers.

Mr. CULBERSON. I see also on this year's budget you have asked for increased funds to overhaul the loan monitoring system, and it, apparently, has been a longstanding problem at the agency.

Can you talk to us—and forgive me if someone has asked you about the loan monitoring system problem already. What assurance can you give us that additional funding is actually going to work? What are you doing administratively to assure that this can operate more efficiently?

Ms. MILLS. It is a very important question because we have $90 billion of loans and loan guaranties, and it is really sort of a core engine. We deal with 5,000 of the 8,000 banks, so we are focused on our loan oversight activities. We have a number of pieces of it. We have a loan system that gives us certain rankings, and we have an on-site visit activity where we actually go out and audit lenders.

We are currently doing a complete overview, and one of the things that we have requested funding for, as you mentioned, is a focus on lender oversight, lender oversight and rooting out fraud, waste and abuse in government contracting programs. Those are our two sort of critical oversight fiscal responsibility themes this year.

We are looking at all of our systems. There are a lot of best practices throughout the industry now on credit oversight, and we have reached out to experts in order to make sure that our choices and our activities and our systems rise to those levels, and we are going to be focusing on that for this year but also, really, on an ongoing basis. This is just an area where we have to do continuous improvement.

Mr. CULBERSON. From your experience and in doing as much as you do and knowing the importance of ensuring that small businesses have access to credit and can borrow money, what impact have you seen so far of the tremendous amount of borrowing that the Federal Government has done?

Particularly this new administration and this new Congress have created more debt in less time than any Congress in history and have spent more money in less time than any Congress in history. Last year, the Federal Government borrowed and rolled over about $7 trillion worth of debt and the mother of all open-ended entitlements, which was created on Sunday, and that will even accelerate, I think, the bankruptcy of the United States, or it will be Greece in no time. What effect is all that borrowing going to have, do you think, on the access of small businesses to credit?

Ms. MILLS. Right now, the access of small businesses to credit really revolves around two issues.

It revolves around banks which are concerned about their capital levels and banks that are concerned about risk. So it is really very focused, particularly in community banks, on a much more local level. Banks are still sorting themselves out from the credit crisis, and our job in this new jobs plan is to make sure that those two issues get addressed.

Mr. CULBERSON. What effect, though, is all that borrowing of the Federal Government having on the availability of money to small businesses?

I even noticed the other day Bloomberg reported that, for the first time, the U.S. Treasury's people would rather buy bonds issued by Warren Buffett than by the U.S. Treasury. Moody's said that we will have a very good chance of losing our AAA bond rating. That was before they created the mother of all entitlements on Sunday.

What effect will the borrowing of the Federal Government have on the access of small businesses to credit?

Ms. MILLS. At this time, the two issues that I have described which are the main causes of concern for banks to be able to lend to small businesses, are not related to that. They are much more focused on this access to capital issue and on the risk taking. So they are really more of a local focus.

Mr. CULBERSON. I know the regulators are encouraging banks to get out of real estate or to reduce the amount of real estate in their portfolios. I know that a lot of the restrictions and access to credit, of course, is direct—that the most immediate problem all of the banks have is the pressure that the regulators are putting on them to get real estate out of their portfolios.

Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

Ms. Lee.

Ms. LEE. Thank you, Mr. Chairman.

Good morning.

Ms. MILLS. Good morning.

Ms. LEE. Let me first thank all of the employees and the people at the SBA for your hard work, especially during these very extraordinary, challenging times. But these challenges really do present many opportunities for SBA, and I think you are doing, you know, a phenomenal job.

Mr. Chairman, let me just say, before I came to Congress, I was a small business owner, an 8(a) contractor. It was a nightmare. I employed between 400 and 500 people. I was in business for 11 years, but as a woman and as an African American, it was horrible to be able to survive that long based on the hoops I had to jump through and the discrimination that I was faced with and the lack of assistance by most of the Federal agencies. I mean, this was really very difficult, but we made it, and we did it.

Now, being on this committee, Mr. Chairman, I want to focus on that 8(a) program, and I want it to be a little bit more supportive of minority-owned firms than what it was during the time when I was in business.

A couple of things I would like to ask you.

First of all, I never can find how you break down 8(a) contracts and contractors based on the background of those individuals in terms of the dollar amounts that would go to African American companies, to Latino companies, to Native American companies or to Asian Pacific American companies. So we need to disaggregate that data. I think we talked a little bit about that before. We absolutely have to see that because some small businesses, you know, from what I remember, had better access than other small businesses to the Federal contracting arena, so I would like to get that information.

Secondly, I want to find out about the ARRA funding and the contracts that were let to minority-owned companies, because there is some information data that we have that show that about 1.1 percent went to African American companies and 1.4 percent to Latino companies. We met with the President, and we received a subsequent report clarifying that it was about 16 percent overall to minority-owned companies, but we still need that information, you know, put forth and disaggregated in terms of who got that money and where, because we can't find it in our communities.

I share this because—and I ask these questions, because minority-owned companies in areas of high unemployment create jobs, and during this economic recession, they have to have the support of the ARRA funding, the Federal contracting arena, access to capital, the TARP funding. You know, the banks that lend to many of our companies just won't lend anymore because—I mean, I have no clue. We bailed them out, and they still don't lend. So it is madness out there, and I would like to get some understanding of what is happening with the 8(a) program.

Finally, you know, this bundling of contracts that really has prevented minority-owned companies from accessing the Federal contracts, how are you debundling some of these now or are you? Do you have the staff capacity to do that? Because that is a real problem for small- and minority-owned companies to go after these contracts which, if not bundled, would have access to smaller contracting opportunities to help them create jobs and build stronger and more viable businesses.

Thank you again.

Ms. MILLS. Thank you.

I want to just say one thing about how much I appreciate the comments about the 11-year history that you had in your company and about how difficult it was to build and maintain, and this is a pretty robust company that you are talking about.

Our mission at the SBA, is to make sure small businesses, and owners like you, have the help that they need, have the tools they need, have us at their backs in helping them get access to credit, to get access to counseling and to get access to government contracts, which in many cases can be that boost they need to get to that next level of volume. That is why we have the 8(a) program. It is actually a business development program, and it is not just the access to the contracts but access to mentoring, access to help and access to our other resources, which can be bank introductions, because, as you grow, you need more capital.

Ms. LEE. Which I had none of.

Ms. MILLS. That is right.

It is extremely difficult to grow a business, so we need to help, particularly in communities that don't have as much access. That is our job. We are very focused on meeting the contracting goals across all of our constituency—veterans, women-owned businesses, minority-owned businesses, and socially and economically disadvantaged businesses.

In the Recovery Act, we do track them. We have the numbers on the sub-constituencies of African American-owned businesses, Hispanic-owned businesses, and Asian-American owned businesses. I only have the total here. We have a goal of 5 percent. We are at 11.6. So we are doing quite well in the Recovery Act.

As I mentioned earlier, we actually had a targeted series of activities which worked quite well. With the Vice President and Commerce and other agencies, we actually did matchmaking events—300 of them—particularly focused on minority-owned businesses because you needed to help them find out what the Federal contracts were that were going to come up in the Recovery Act and make sure that they were put together. This is a win-win. It is good for the Federal Government. It is good for the taxpayer. It is good for the agencies to get the brightest and the best and the most innovative small businesses and CEOs connected with them so they can get the best bang for their buck.

Ms. LEE. May we get a copy of that report, please?

Ms. MILLS. Absolutely.

Ms. LEE. Mr. Chairman, I don't know. At some point, I would like to focus on the 8(a) program as a subject of this hearing, maybe, and see what we can do at the approps level to help make sure you are able to accomplish the goals that the 8(a) program has set forth, because I know the 8(a) program has been, in the past, severely underfunded in terms of staff capacity and in terms of, you know, what you need to make that program a success. I am not sure if it is reflected in your budget request or not, but I would hope that, during the next year, we can look at that and see if we can kind of make sure that happens.

Mr. SERRANO. Thank you.

Ms. LEE. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

Your legislative proposals increase disaster loan terms from 3 to 7 years; increase the maximum 7(a) loan size from $2 million to $5 million; increase the maximum 504 loan size from $2 million to $5 million for regular projects and from $4 million to $5.5 million for manufacturing projects; and increases the size of microloans from $35,000 to $50,000. The subsidy rates presented in your budget justification assume enactment of these proposals.

So the question from appropriators is: How are you doing with the authorizers? Are they supportive? How likely do you think they are to successfully act on these proposals before the end of the fiscal year?

Also, should these changes not be enacted, how much additional money will Congress be required to appropriate? A scary word. Why is this the case when you are making fewer of the smaller loans that do not perform as well?

Lastly, why would you put forth a budget with what are most likely false assumptions in place? After all, if the 7(a) provision doesn't become law, this creates a need for an additional $41 million to be appropriated. That is a mouthful.

Ms. MILLS. Thank you.

This question deals with our request to increase loan size. The President has asked that we raise the loan sizes from $2 million to $5 million.

The rationale for this is there is a market gap. We have been doing a pretty good job in filling it so far, but there is more to be done. We believe that one of the tenets is to use the programs that we already have and that we can execute quickly and efficiently with taxpayer dollars to reach more small businesses. There is a gap in businesses that need $3 million, $4 million and $5 million loans.

The Franchise Association has asked us—and they have asked Congress to help them—because they used to get most of their funding from places like CIT, which has undergone its own troubles, and from other players who are no longer providing capital in those larger loan sizes.

So we need to step up to do that. That will not be at the expense of small businesses. We are not going to crowd out the smaller loans by the bigger ones. We have capacity under our caps to increase our numbers for larger loans and to not crowd out the smaller loans. It is true that larger loans perform better. So the way the math works, when you do raise your loan size, you are assuming in the modeling a better mix of activity because the larger loans reduce the subsidy that you need.

That amounts to approximately the following differences: You mentioned $41 million. If the loan sizes are not increased and they remain at $2 million, this budget subsidy would be short $41 million. If they are raised to $3 million, however, they are only going to be short—I think it is—$6 million or $7 million. If they are raised to $4 million, that amount goes down as well. So the biggest leap is between two and three.

We are working very hard with the appropriators to find a way to address their concerns. I think the appropriators are very concerned about the crowding-out issue, and we are looking at ways to, we can limit the amount of the jumbo loans we can do. We are willing to talk about any fixes that would make sure that we don't crowd out the smaller loans. We are going to be there for those folks, but we do believe we need to serve the $3 million, $4 million and $5 million market as well because there is a market gap there at the moment.

Mr. SERRANO. All that to say you are hopeful the authorizers will come through?

Ms. MILLS. We are looking forward to working with Congress and in making these recommendations come to pass. We have done a lot of homework to understand the need for these, and we believe they are the right mix of activities to go forward with.

Mr. SERRANO. And the discussions are taking place in both Houses?

Ms. MILLS. Yes, they are.

Mr. SERRANO. Let me ask you a question about the PRIME and microloans.

The President's budget proposes to reduce funding for the Program for Investment in Micro-Entrepreneurs, or the PRIME program, which helps low-income folks with training and technical assistance, such as management effectiveness, financial literacy, marketing, customer service, and bookkeeping. It proposes reducing microloan technical assistance.

The question is: Why reduce money for these programs now when only last year they began receiving a healthy funding level? I mean, just when you were doing good.

Ms. MILLS. Despite the way the budget looks, we actually are funding these at a "level" level, and here is the missing piece: In the Recovery Act, we got an additional $24 million in microloan assistance that does not appear in the 2010 budget or in the 2011 budget. We are going to be awarding that in this next several months. Microloan technical assistance is delivered on a quarterly basis, so it will actually be delivered over much of 2011. This budget was constructed to keep the funding for microloan technical assistance actually at a higher level amount, and the additional $10 million sort of picks up in the back half of 2011. We agree it is a terrific program.

Mr. SERRANO. Well, it is, and we were very supportive of it. So I hope, as we move forward, you keep in mind that there is support on this subcommittee for those programs.

Mrs. Emerson.

Mrs. EMERSON. Thank you, Mr. Chairman.

Back when the President made his State of the Union Address, he made a big pitch to double the exports from the United States all across the world.

Number one, tell us a little bit about how your Office of International Trade and network of export assistance centers work to help achieve that goal.

Number two, what more can you do, if there is more that you can do, to help small businesses compete globally and market their goods overseas?

Ms. MILLS. We are part of the President's National Export Initiative, which commits us to double our exports over the next 5 years. Only 250,000 small businesses actually export now, and so there is a lot of room for growth. Growth is occurring at a quite strong rate, and small businesses account for about 30 percent of exports. We are working very closely with a cross-agency effort, including the Department of Commerce, including the Trade and Development Agency, including the Export-Import Bank, and actually including the Department of State as well and the U.S. Trade Representative. We are extremely active, as an export cabinet, in driving to these goals, and we have kind of a four-step program.

The first step is to identify more small businesses that are ready. Companies that have the potential to export. We, the SBA, play a very big role in that because we know where the small businesses are, so our Small Business Development Centers, our export offices and our banks will be very important in that activity.

The second thing is to help prepare them to export. We have a series of training activities that we do, both online and in person. Last year, we trained about 17,000 small businesses in how to export. We also collaborate with the Department of Commerce on this.

The third is to provide them with export opportunities. Here, we are going to work with Commerce and the State Department. These departments are making commitments to share with our small businesses all of their resources. These government staffs plan trade missions and will include our small businesses. Our ambassadors are going to be going to their local areas when they are home, and are going to be talking about their countries and making connections for our small businesses. Everybody has understood that small businesses need to be a big part of the growth.

The last piece is to provide these small businesses with tools. That means our financing program, which we run through our 7(a), but we have special subcategories for export support and the Export-Import Bank as well.

Mrs. EMERSON. So, if I am a small business, do I come to you, or are the regional SBA representatives always on the lookout? Is it kind of, you know, we meet up at a Chamber meeting one day where I am the SBA guy, and I hear this great story about this company in Cape Girardeau, Missouri, and then, you know, he makes that or she makes that pitch that, you know, "If you are doing this, we can help you do that"? I mean, I am curious as to how it works.

Ms. MILLS. Well, it is all of the above.

We are actively soliciting in our districts and local offices and are training our Small Business Development Centers in the tools. We have collaborated on sort of a road show with Export-Import Bank, and we have gone to nine cities, and have done export live training, and we are going to do more of that. We are partnering with the Department of Commerce which has a 1 (800) number on trade, so that is going to become the answer call center. There is a Web site as well where we have crosslinks to make sure there is kind of one focused place where small businesses can navigate all of the aid that they need. They do need help understanding how to fill out the forms, understanding what the export restrictions are and what you can and can't do, and providing them with introductions and opportunities to take their exports overseas.

These are not all high-tech. My favorite one is a hydraulic press manufacturer in New Hampshire, and he is a third-generation owner. He has done such a great job innovating that he is exporting to six European countries.

Mrs. EMERSON. Thank you.

Do I have any more time?

Mr. SERRANO. Go ahead.

Mrs. EMERSON. I just wanted to ask you a little bit about the Disaster Loan Program because, pre you, the SBA was severely, severely criticized for its slow disaster loan approval, you know, right after Katrina and Ike, for example. I know that you all have been, in the meantime, working very, very hard to streamline your disaster loan processes. It seems, since I have flooding or tornadoes or ice storms myself, we face similar circumstances in my congressional district.

So, number one, do you feel comfortable where SBA is now or at least feel that you all are better prepared for any kind of major disaster on the scale of Katrina? If you do, what are you all doing or how have you developed the process to ensure that eligible victims actually get their loans quickly while at the same time making sure that there is not any fraud involved?

Ms. MILLS. We are prepared in a way that we never were in the past. Let me give you some of the data.

Before Katrina, we had about 880 trained staff. We now have 2,400. Before Katrina, we had about 366 workstations that people could go to. We now have 2,100 ready. Before Katrina, we had about 400 people who could be on our information system at the same time. We can now have 12,000. We also have reengineered our process. For Katrina, our process was about 85 days. Now our goal is 14 days for homes and 18 for business, but we are running at 7 days for homes and 10 days for business.

So I really have to commend our disaster staff. They did an extraordinary job at completely redoing that operation and the systems, and we are now ready to address a catastrophic disaster we hope will never occur.

I will also say one other thing. We are now ready to mobilize our entire SBA network. That means district offices in the affected area. That means Small Business Development Centers and SCORE representatives have all been trained in preparedness so we can bring all of our resources, not just our disaster folks, to bear in the case of extreme disaster.

Mrs. EMERSON. What happens if the communications are down? I live on an earthquake fault, and we are getting ready to do a real exercise to not only deal with an earthquake but also with the Mississippi River's flooding extremely. I mean, it will flood in that circumstance, but we are not ready at the State level at all. I have some communities which are kind of ready, but, obviously, we would probably bust your budget, quite frankly, if we had an earthquake the magnitude of that which we had back in 1811 and 1812.

Be all that as it may, what about that whole communications network? Do you all have that put into place given the fact that most people will not have it?

Ms. MILLS. Preparedness is a place that we have been very focused and on two levels.

The first is our own preparedness where we are coordinating across the agency and with FEMA for how we will communicate, and we do do exercises and plan for communications issues.

The second thing is that we do public service announcements on preparedness to small business. What we tell small business is, "you need to have a plan." They need to actually write down a disaster plan, and we give them the template on our Web site. They need to have copies of their records somewhere else in case they get lost, and there are a series of things you need to do. They need to know what is going to happen because their employees need to be communicated with, and they have to have a plan, if there is a flood or is a problem, for what is to be done.

So we are spending a lot of time and attention on that. I will say now, in terms of funding, we have reserves. We spend about $1.1 billion, and I believe we have reserves to cover about $8 billion. So we could take on a pretty big task right now.

Mrs. EMERSON. Thank you.

Mr. SERRANO. Mr. Culberson.

Mr. CULBERSON. No further questions. Thank you, sir.

Mr. SERRANO. We all need to be somewhere at noon, including yourself. So I want to do something in wrapping up a little different than we usually do.

Since we didn't have a hearing last year, let's go back and make believe we are there, and I am going to give you my last 5 minutes, basically, to tell us where you want to take the SBA and where you are.

Ms. MILLS. Well, as you will see in the front of your budget book, we have spent a lot of time thinking about what our goals and priorities are for this 2011 budget, and it reflects on the base that we are building this year. We call them the three Cs, the D and the I.

We want to be able to provide access to capital. We want to be able to meet our contracting goals. We want to be able to help small businesses with counseling, which is extremely valuable to them. We want to stay in a constant state of preparedness for our disaster operation. The last one, the "I," is we want to help our high-growth/high-impact small businesses be able to innovate and to create opportunity for this country to be able to compete in the future.

Those are our five external goals.

Our internal goals are to continue to improve the SBA to become a high-performing organization. There we want to invest in people. You have heard about some of the training, but we have training activities now for about 500 of our people going on this year, 500 of our 2,000 people. We hope to get up to more like 800. Training is investing in your people, which is a critical tenet for us.

Investing in information technology across all activities, including our main loan system where we have got about $7 million in here for our LMAS main loan system which as I said, runs on Cobalt. We have kept that in good shape moving forward.

The last thing is investing in oversight and fiscal responsibility. There are two pieces to that: lender oversight and rooting out issues of fraud, waste and abuse in all of our activities, including our contracting programs.

Lastly, we believe that it is our job to act as the voice of small business across the administration. That includes worrying about unintended consequences of regulations and burdens on small businesses, but it also includes underserved communities, and we have a special point in there that this is core to our mission. We believe, with the assets and the tools that we have put forward here, we can make a real impact. So we need in 2010 and in 2011 to help this economy by growing small businesses, by creating jobs, by providing the foundation stone that brings us into recovery and that allows America to compete in the global market going forward.

Mr. SERRANO. Well, we thank you for that statement.

We stand ready to assist you in accomplishing your goals, because they are goals that are good for this country and that are, therefore, good for our future. We thank you for appearing before us today and for your testimony. Like I said, as time goes on during this process, we will be supportive.

All members can submit for the record all questions that we have not asked.

Ms. MILLS. Thank you very much for the support.

Mr. SERRANO. Thank you.

The meeting is adjourned.

SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT

HEARING

ON

THE FY 2011 BUDGET REQUEST OF THE SMALL BUSINESS ADMINISTRATION

Questions for the Record

for

The Small Business Administration

April 27, 2010

Questions for the Record
Submitted by Chairman Serrano

1. Contractor employees.

- **Please provide a list of how many contractor employees have worked within each program office within SBA for fiscal years 2006 through 2010.**

    - Fiscal Year 2006 – 1401 contractor employees
    - Fiscal Year 2007 – 459 contractor employees
    - Fiscal Year 2008 – 500 contractor employees
    - Fiscal Year 2009 – 546 contractor employees
    - Fiscal Year 2010 – 650 contractor employees

- **How much did the SBA spend on these contractor employees in each fiscal year? Please include contract support/administrative costs in addition to direct contract costs.**

    - Fiscal Year 2006 – $65,306,007
    - Fiscal Year 2007 – $39,503,094
    - Fiscal Year 2008 – $40,913,150
    - Fiscal Year 2009 – $46,371,613
    - Fiscal Year 2010 – $35,067,926

- **How many contractor employees currently work in space alongside of, and perform similar functions as, regular civil service employees of SBA?**

There are a total of 321 contractor employees currently working in space alongside of, and perform similar functions as, regular civil service employees SBA.

- **What steps has SBA taken to ensure that contractor employees follow ethical standards that are at least as strong as the standards and laws that govern Federal employee conduct?**

SBA has taken the following steps to ensure contractor employees follow ethical standards. In addition to standard contract provisions regarding stands of conduct, contractor employees are required to sign Rule of Behavior and Non-Disclosure Agreements and to take computer security and ethics training. Public Trust Background Investigations are conducted on all contractor personnel. Contractor employees meet with senior SBA personnel to ensure role, duties and federal guidelines are understood and adhere to while performing assignments.

2. Competitive contracting.

- For fiscal year 2009, did SBA enter into contracts that were not fully and openly competed?

  Yes.

  - If so, what were the reasons for entering into such contracts?

  Only one source available.

  - What is the total amount of money spent on such contracts?

  $12,359,504.57

- Were there contracts entered into during 2009 that were open to a competitive process but where there was only one respondent (the eventual awardee) to the solicitation? If so, please provide a list of these contracts, including their cost.

Yes. McKinsey & Company – SBAHQ09F0205 - $600,000.00.

- Please provide a listing of all fiscal year 2009 outside contracts of $50,000 or more. In the listing, please indicate which contracts were not fully and openly competed.

Vendor Name	*Amount of Award*	*Comments*
1790 ANALYTICS LLC	86,052.25	
1ST CHOICE STAFFING AGENCY	78,020.80	
1ST CHOICE STAFFING AGENCY	233,400.00	
1ST CHOICE STAFFING AGENCY	78,000.00	
ACCLARO RESEARCH SOLUTIONS, INC	150,000.00	
ACCUITY	246,944.76	
ACE PRODUCTS LLC	100,000.00	
ACUITY,INC	63,018.00	
ACUITY,INC	780,010.00	
AD PRO	50,000.00	
AGRICULTURE/NFC	430,941.92	
AGRICULTURE/NFC	378,801.63	
AHMAD ASSOCIATES LTD	780,000.00	

AHMAD ASSOCIATES LTD	206,807.88	
AHMAD ASSOCIATES LTD	474,871.42	
AHMAD ASSOCIATES LTD	325,584.26	
AHMAD ASSOCIATES LTD	295,000.00	
AHMAD ASSOCIATES LTD	207,222.74	
AHMAD ASSOCIATES LTD	345,711.66	
AHMAD ASSOCIATES LTD	531,774.73	
ALLMOND & COMPANY	90,000.00	
ALTURA COMMUNICATION SOLUTIONS	50,166.96	
ALUTIIQ SECURITY & TECHNOLOGY,LLC	235,405.33	
ALUTIIQ SECURITY & TECHNOLOGY,LLC	59,104.17	
ALUTIIQ SECURITY & TECHNOLOGY,LLC	439,579.00	
ALUTIIQ SECURITY & TECHNOLOGY,LLC	68,984.00	
ALUTIIQ SECURITY & TECHNOLOGY,LLC	163,595.00	
ALUTIIQ SECURITY & TECHNOLOGY,LLC	163,421.00	
ALUTIIQ SECURITY & TECHNOLOGY,LLC	149,999.59	
AMBER ENTERPRISES, INC	87,078.82	
AMERICAN WAREHOUSE	100,000.00	Not competed
ASSOCIATION SMALL BUSINESS DEV	177,243.00	
ASSOCIATION SMALL BUSINESS DEV	100,230.00	
AT&T MOBILITY	120,000.00	
BETTER OFFICE SYSTEMS	100,000.00	Not competed
BUSINESS VALUATION CENTER	150,000.00	
BUSINESS VALUATION CENTER	300,000.00	
BUSINESS VALUATION CENTER	150,000.00	
CABLING CONCEPTS, LLC	98,903.32	
CABLING CONCEPTS, LLC	148,353.02	
CARAHSOFT TECHNOLOGY CORP	242,640.30	
CARAHSOFT TECHNOLOGY CORP	114,190.97	
CATAPULT TECHNOLOGY LTD	199,438.82	
CATAPULT TECHNOLOGY LTD	98,223.92	
CATAPULT TECHNOLOGY LTD	119,030.00	
CATAPULT TECHNOLOGY LTD	392,458.91	
CATAPULT TECHNOLOGY LTD	50,000.00	
CATAPULT TECHNOLOGY LTD	350,000.00	
CATAPULT TECHNOLOGY LTD	57,253.12	
CATAPULT TECHNOLOGY LTD	64,463.65	
CC&C MANAGEMENT SERVICES	60,000.00	
CC&C MANAGEMENT SERVICES	160,000.00	
CC&C MANAGEMENT SERVICES	80,000.00	
CC&C MANAGEMENT SERVICES	498,989.56	

COFFEY CONSULTING , LLC	50,000.00	
COFFEY CONSULTING , LLC	70,000.00	
COGNOS CORPORATION	128,333.16	Not competed
COLSON SERVICES CORP	71,750.00	
COLUMBIA TELECOMMUNICATIONS CORP	196,999.00	
COMPUSEARCH SOFTWARE SYSTEMS INC	310,532.16	Not competed
COMPUSEARCH SOFTWARE SYSTEMS INC	546,144.00	
COMPUTER TECHNOLOGY SERVICE, INC	99,649.37	
CONCENTRANCE CONSULTING GROUP	239,633.08	
CONSAD RESEARCH CORP	60,138.00	
COPPER RIVER INFORMATION TECHNOLOGY, LLC	1,827,567.18	
COPPER RIVER INFORMATION TECHNOLOGY, LLC	226,000.00	
COPPER RIVER INFORMATION TECHNOLOGY, LLC	1,435,557.90	
CORPORATE RESEARCH BOARD	94,600.00	Not competed
CORPORATE VISIONS INC	55,000.00	
CORPORATE VISIONS INC	56,570.00	
CP LEASING INC DBA GOLDBELT WOLF	244,000.00	
CP LEASING INC DBA GOLDBELT WOLF	185,260.00	
CP LEASING INC DBA GOLDBELT WOLF	72,046.00	
CP LEASING INC DBA GOLDBELT WOLF	91,154.00	
DATA NETWORKS CORP	136,446.06	
DATA NETWORKS CORP	222,039.84	
DATA NETWORKS CORP	239,614.65	
DATA NETWORKS CORP	136,446.06	
DATA NETWORKS CORP	226,764.10	
DATA NETWORKS CORP	139,349.16	
DATA NETWORKS CORP	244,712.83	
DATAEQUIP INCORPORATED	523,564.80	
DIAMOND INFORMATION SYSTEMS LLC	76,414.40	Not competed
DIAMOND INFORMATION SYSTEMS LLC	316,200 00	
DIAMOND INFORMATION SYSTEMS LLC	135,000.00	
DIGITAL MANAGEMENT INC	1,232,700.00	Not competed
DIGITAL MANAGEMENT INC	234,476.08	
DIGITAL MANAGEMENT INC	65,000.00	
DIGITAL MANAGEMENT INC	616,213.00	
DIGITAL MANAGEMENT INC	50,000.00	
DIGITAL MANAGEMENT INC	499,936.35	
DIVERSIFIED CAPITAL	1,069,136.00	Not competed
DLT SOLUTIONS	60,769.84	Not competed
DRT STRATEGIES	1,287,701.00	
DRT STRATEGIES	329,234.00	

DRT STRATEGIES	145,385.00	
DRT STRATEGIES	58,727.00	
DSG	130,000.00	
DSG	84,499.80	
DSG	120,000.00	
DUN & BRADSTREET INC	250,000.00	
DUN & BRADSTREET INC	344,461.18	Not competed
DUN & BRADSTREET INC	618,468.00	
DUN & BRADSTREET INC	189,535.00	
DUN & BRADSTREET INC	400,000.00	
DUN & BRADSTREET INC	90,000.00	
DUN & BRADSTREET INC	732,788.82	Not competed
DUN & BRADSTREET INC	451,037.57	Not competed
DUN & BRADSTREET INC	1,048,850.76	Not competed
DUN & BRADSTREET INC	107,000.00	
DUN & BRADSTREET INC	740,191.00	Not competed
DUN & BRADSTREET INC	348,465.00	
DUN & BRADSTREET INC	250,000.00	
DUN & BRADSTREET INC	149,790.00	
EAGLE EYE PUBLISHERS INC	90,731.00	
ECHOTA TECHNOLOGIES CORP	139,814.40	
ECOVATE INC	126,043.26	
ECOVATE INC	60,000.00	
EDWARDS & HILL COMMUNICATIONS, LLC	59,030.40	
EDWARDS & HILL COMMUNICATIONS, LLC	56,974.01	
EDWARDS & HILL COMMUNICATIONS, LLC	58,186.22	
ELECTRO RENT CORP	130,752.00	
ENC MARKETING & COMMUNICATIONS, INC	367,153.00	
ENC MARKETING & COMMUNICATIONS, INC	126,761.13	
EQUIFAX CREDIT INFORMATION	200,000.00	Not competed
EQUIFAX SETTLEMENT SERVICES	314,100.00	
EQUIFAX SETTLEMENT SERVICES	345,900.00	
ERIMAX INC	137,997.33	
ERNST & YOUNG LLP PNC BANK	51,775.00	
ERNST & YOUNG LLP PNC BANK	70,000.00	
EXECUTIVE PERSONNEL SERVICES INC	75,000.00	Not competed
EXPERIAN	53,163.00	Not competed
EXPERIAN	75,000.00	Not competed
FEDERATED IT	501,529.82	
FEDERATED IT	99,329.00	
FEDERATED IT	35,000.00	

FEDERATED IT	593,893.79	
FEDSOLVE LLC	629,148.00	
FEMA	204,160.00	
FIRST AMERICAN FEDERAL SOLUTIONS	394,300.00	
FIRST AMERICAN FEDERAL SOLUTIONS	345,900.00	
FOR THE RECORD INC	50,000.00	
FORD MANAGEMENT SERVICES, LTD	99,703.23	
FORRESTER RESEARCH, INC	89,250.33	
FOUR POINTS TECHNOLOGY	53,618.56	
FUENTES-FERNANDEZ & COMPANY	100,000.00	
FUENTES-FERNANDEZ & COMPANY	69,663.29	
FUENTES-FERNANDEZ & COMPANY	70,000.00	
FUENTES-FERNANDEZ & COMPANY	165,000.00	
GLACIER TECHNOLOGIES	534,000.00	
GLACIER TECHNOLOGIES	700,000.00	
GOVERNMENT ACQUISITIONS INC	245,390.93	
GOVERNMENT CONTRACTS CONSULTANTS LP	150,000.00	
GOVERNMENT CONTRACTS CONSULTANTS LP	290,000.00	
GOVERNMENT CONTRACTS CONSULTANTS LP	50,000.00	
GOVERNMENT CONTRACTS CONSULTANTS LP	300,000.00	
GOVERNMENT CONTRACTS CONSULTANTS LP	182,066.83	
GREENE AND LETTS	250,000.00	
HERITAGE GLOBAL SOLUTIONS, INC	50,000.00	
INNERCITY ENTREPRENEURS	199,957.00	Not competed
INNERCITY ENTREPRENEURS	500,000.00	Not competed
INNOVATIVE CONSULTANTS INT'L, INC	50,000.00	
INNOVATIVE CONSULTANTS INT'L, INC	60,000.00	
INTERNATIONAL BUSINESS EXPRESS INC	298,919.54	
INTERNATIONAL BUSINESS EXPRESS INC	217,166.97	
INTERNATIONAL BUSINESS EXPRESS INC	254,887.39	
INTERNATIONAL BUSINESS EXPRESS INC	174,227.04	
INTERNATIONAL BUSINESS EXPRESS INC	290,378.40	
INTERNATIONAL BUSINESS EXPRESS INC	225,421.74	
INTERNATIONAL BUSINESS EXPRESS INC	244,241.64	
ITECHNOLOGIES INC	87,800.00	
ITECHNOLOGIES INC	527,100.00	
ITECHNOLOGIES INC	176,000.00	
ITECHNOLOGIES INC	90,000.00	
ITECHNOLOGIES INC	472,900.00	
JOE PEEK	88,950.00	
JOYCOMM	100,000.00	

KAUFFMAN & ASSOCIATES INC	491,457.12	
KEARNEY & COMPANY	138,924.00	Not competed
KEARNEY & COMPANY	61,076.00	Not competed
KINGDOMWARE TECHNOLOGIES INC	149,999.50	
KONICA MINOLTA BUSINESS SOLUTIONS	85,224.00	
KONICA MINOLTA BUSINESS SOLUTIONS	85,224.00	
KONICA MINOLTA BUSINESS SOLUTIONS	53,437.00	
KPMG LLP	1,360,000.00	Not competed
KPMG LLP	473,674.00	Not competed
KPMG LLP	70,000.00	Not competed
KPMG LLP	518,933.00	Not competed
LOCH HARBOUR GROUP, INC	106,980.20	
LOCH HARBOUR GROUP, INC	152,697.44	
LOCH HARBOUR GROUP, INC	64,658.56	
LS3 INC	50,000.00	
LS3 INC	235,000.00	
LS3 INC	415,998.00	
MAC SOURCE COMMUNICATIONS, INC	50,115.00	
MACRO INTERNATIONAL,INC	112,664.00	
MCKINSEY & COMPANY	300,000.00	Not competed
MCKINSEY & COMPANY	300,000.00	Not competed
MERCHANDISE MART PROPERTIES,INC	162,327.58	Not competed
METROPLEX OFFICE SYSTEMS	169,920.00	
MYTHICS, INC	197,026.54	
MYTHICS, INC	99,900.00	
MYTHICS, INC	104,868.97	
MYTHICS, INC	15,889.24	
NEW WORLD APPS, INC	135,430.20	
NORTHERN TAIGA VENTURES,INC	316,000.00	
NORTHERN TAIGA VENTURES,INC	1,178,876.00	
NORTHERN TAIGA VENTURES,INC	3,476,000.00	
NORTHERN TAIGA VENTURES,INC	112,677.80	
NORTHERN TAIGA VENTURES,INC	112,677.80	
NOVAD MANAGEMENT CONSULTING	457,243.10	
NOVAD MANAGEMENT CONSULTING	600,000.00	
NOVAD MANAGEMENT CONSULTING	384,173.49	
ONIX INC	72,175.00	
ORACLE CORPORATION	58,808.91	Not competed
ORACLE CORPORATION	384,736.00	Not competed
ORACLE CORPORATION	427,360.00	Not competed
PANUM TELECOM LLC	123,696.00	

PANUM TELECOM LLC	96,000.00	
PAPER CHASE SHREDDING & RECYCLING	100,000.00	
PAPER CHASE SHREDDING & RECYCLING	150,000.00	
PATRIOT SYSTEMS GROUP, LLC	554,553.00	
PRESORT SERVICES INC	1,540,079.98	
PRISM COMMUNICATIONS, INC	322,000.00	
PRISM COMMUNICATIONS, INC	717,000.00	
PRISM COMMUNICATIONS, INC	229,000.00	
PRISM COMMUNICATIONS, INC	88,518.00	
PRISM COMMUNICATIONS, INC	369,482.00	
PROCUREVIS, INC	50,000.00	
QUANTRIA STRATEGIES, LLC	97,450.00	
QUANTRIA STRATEGIES, LLC	97,750.00	
REBEL A COLE	65,547.00	
REGENCY CONSULTING, INC	71,526.00	
REGENCY CONSULTING, INC	237,036.00	
REGENTS OF THE UNIVERSITY OF MICHIGAN	50,000.00	
ROSEN CENTRE HOTEL	208,187.00	
SAG CORPORATION	94,832.58	
SELECT COMPUTING INC	492,855.00	
SELECT COMPUTING INC	476,838.00	
SELECT COMPUTING INC	313,000.00	
SELECT COMPUTING INC	61,100.00	
SELECT COMPUTING INC	173,769.00	
SELECT COMPUTING INC	449,000.00	
SELECT COMPUTING INC	177,466.00	
SELECT COMPUTING INC	62,400.00	
SITA BUSINESS SYSTEMS	100,000.00	
SKILLSOFT	57,447.00	
SPECTRUM SYSTEMS INC	77,913.13	
SPEEDY TAX & ACCOUNTING SERVICES PLLC	342,000.00	Not competed
SRA CORP	311,600.13	
SRA CORP	810,549.00	
SRA CORP	1,175,495.00	
SRA CORP	1,200,505.00	
SRA CORP	827,795.00	
SRA CORP	318,229.92	
SYBASE INC	160,156.03	
SYCAMORE ASSOCIATES INC	110,000.00	
SYCAMORE ASSOCIATES INC	132,086.51	
SYMPLICITY CORPORATION	190,575.00	

SYMPLICITY CORPORATION	63,525.00	
SYSTEMS RESEARCH AND APPL CORP	622,961.97	
SYSTEMS RESEARCH AND APPL CORP	2,012,172.46	
SYSTEMS RESEARCH AND APPL CORP	1,244,841.53	
SYSTEMS RESEARCH AND APPL CORP	678,694.00	
SYSTEMS RESEARCH AND APPL CORP	746,806.74	
SYSTEMS RESEARCH AND APPL CORP	311,600.13	
SYSTEMS RESEARCH AND APPL CORP	622,961.97	
SYSTEMS RESEARCH AND APPL CORP	397,493.91	
SYSTEMS RESEARCH AND APPL CORP	361,240.00	
SYSTEMS RESEARCH AND APPL CORP	54,733.00	
SYSTEMS RESEARCH AND APPL CORP	60,226.35	
SYSTEMS RESEARCH AND APPL CORP	636,216.48	
SYSTEMS RESEARCH AND APPL CORP	1,271,327.52	
SYSTEMS RESEARCH AND APPL CORP	2,054,984.64	
TECHNOLOGY SPECIALISTS INC	130,540.81	
TECHNOLOGY SPECIALISTS INC	70,531.69	
TECHNOLOGY SPECIALISTS INC	50,431.56	
TESTPROS, INC	236,374.28	
TESTPROS, INC	241,403.52	
TKC INTEGRATION SERVICES	337,964.34	
TKC INTEGRATION SERVICES	71,789.00	
TKC INTEGRATION SERVICES	73,575.00	
TKC INTEGRATION SERVICES	147,770.00	
TKC INTEGRATION SERVICES	209,965.00	
TOUCHSTONE GLOBAL LLC	196,075.00	
TOUCHSTONE GLOBAL LLC	288,000.00	
TOUCHSTONE GLOBAL LLC	190,000.00	
TRACK MARKETING GROUP, INC	90,000.00	
TRANS UNION	75,000.00	
TRUSTED MISSION SOLUTIONS, INC	732,730.00	
TRUSTED MISSION SOLUTIONS, INC	492,855.00	
TRUSTED MISSION SOLUTIONS, INC	382,000.00	
TRUSTED MISSION SOLUTIONS, INC	418,000.00	
TRUSTED MISSION SOLUTIONS, INC	240,597.00	
TRUSTED MISSION SOLUTIONS, INC	293,090.76	
TRUSTED MISSION SOLUTIONS, INC	118,910.00	
TRUSTED MISSION SOLUTIONS, INC	211,641.00	
TRUSTED MISSION SOLUTIONS, INC	65,000.00	
TRUSTED MISSION SOLUTIONS, INC	54,167.00	
TRUSTED MISSION SOLUTIONS, INC	245,716.00	

TRUSTED MISSION SOLUTIONS, INC	299,326.73	
TRUSTED MISSION SOLUTIONS, INC	121,440.00	
TRUSTED MISSION SOLUTIONS, INC	631,286.00	
TRUSTED MISSION SOLUTIONS, INC	50,400.00	
TRUSTED MISSION SOLUTIONS, INC	216,144.00	
TRUSTED MISSION SOLUTIONS, INC	707,000.00	
TRUSTED MISSION SOLUTIONS, INC	623,493.00	
UNISYS CORP	256,462.00	
UNISYS CORP	478,185.00	
UNISYS CORP	493,000.00	
UNISYS CORP	318,789.05	
UNISYS CORP	250,000.00	
UNISYS CORP	250,000.00	
UNISYS CORP	758,000.00	
UNISYS CORP	325,571.80	
UNISYS CORP	261,918.00	
VALUE FINDERS APPRAISAL SERVICES, INC	345,900.00	
VALUE FINDERS APPRAISAL SERVICES, INC	506,000.00	
VALUFINDERS, INC	506,000.00	
VEE MODEL MGMT CONSULTING	100,000.00	
WPS INC	860,303.00	
WPS INC	450,000.00	
WPS INC	720,000.00	
WPS INC	450,000.00	
WPS INC	289,398.42	
WPS INC	137,000.00	
WPS INC	1,349,599.00	
WPS INC	350,000.00	
WPS INC	557,223.00	
WPS INC	79,628.00	
WPS INC	500,000.00	
WPS INC	400,000.00	
WPS INC	1,196,000.00	
WPS INC	1,666,684.00	
WPS INC	78,550.00	
TOTAL AMOUNT OF AWARDS	***104,703,853.30***	

3. Small business contracting.

- **What resources is the Agency requesting in its budget to allow SBA to oversee the accuracy of reporting on small business contracting by federal agencies?**

  There is no specific line item in SBA's budget request specifically for oversight. The Office of Federal Procurement Policy requires agencies to annually certify to the accuracy and completeness of their data in the Federal Procurement Data System-Next Generation. Part of the time of several Government Contracting employees will continue to be used to work with the Office of Federal Procurement Policy. In addition, some part of the funds for government-wide efforts to improve government acquisition and procurement practices will be used to improve systems to reduce errors.

- **What funding has SBA identified as needed to limit errors by contracting personnel in awarding small business set asides to large firms, and to identify potential fraud by contractors for referral to the Inspector General for investigation?**

  Government Contracting personnel resolve size protests which can be initiated by a contracting officer or an interested party when there is a question of whether a small business set-aside is awarded to a business that is other than small. When a business is found other than small, and does not change its registration in the central contract registry, SBA refers the information to its Inspector General.

  In addition to the answer above, SBA personnel will continue to provide training to contracting personnel and work with OFPP to improve and revise the current required training curricula.

- **What has SBA done to verify that these amounts are sufficient?**

  As stated above, there is not a specific line item but was considered in developing the overall staffing and operating expense requirements.

4. Procurement Center Representatives (PCRs).

- **Has SBA increased the number of PCRs since 2009? If so, by how much and what is the total number of current PCRs?**

At the end of FY2009, SBA had 58 PCRs. As of March 1, 2010, SBA had 62 PCRs.

- **Are there resources in SBA's FY 2011 budget request to hire additional PCRs?**

SBA tries to maintain 66 PCRs and has requested funds to do so. However, PCRs are in the 1102 contracting job series, which is a job series in which employees are in short supply and move from agency to agency as well as to the private sector.

- **How many PCRs are needed to effectively monitor the small business contracting activities in the thousands of procurement facilities across the country?**

The PCRs budgeted for should be sufficient. SBA will be conducting a study in FY2010 to study the question in greater detail .

5. Loan Default Rates.

- **During this economic downturn, are you seeing an increase in default rates in SBA's loan programs compared to historical levels?**

Yes during the economic downturn, default and purchase rates for SBA guaranteed loans have increased in line with similar measures in the conventional loan market.

- **Are default rates on SBA-backed loans higher than on regular bank loans and if so why?**

SBA guaranteed loans are only made to borrowers who can not obtain similar credit in the conventional marketplace. Because these borrowers are inherently more risky, default and purchase rates for SBA loans are slightly higher than those of conventional loans, even in good economic times.

6. Dealer Floor Plan Financing Pilot Program.

- **We understand that this pilot program has not been utilized to the extent it could be. We've heard complaints about many aspects of the program: that the pilot needs to extend beyond September 30, 2010 and that the loan limits need to be higher. What are your plans to address these concerns and increase utilization of the pilot?**

The dealer floorplan pilot program utilizes SBA's current maximum allowable loan limits and structures. We have heard from some regional and national participating SBA lenders with active floor plan lending units that these limits have made it impracticable for them to participate in the program. However, the pilot has been embraced by scores of community banks that have used SBA's guarantee to extend these critical credit lines to important automotive, recreational vehicle, mobile home and marine dealers in their communities. We are working with lending partners and affected industries to continually address pilot program issues and to make the program available more broadly. As we near the end of the fiscal year, SBA is evaluating the first year of this program and will be considering revising, extending or terminating the program. The adoption of higher SBA loan limits will be an important consideration in that decision.

7. Business Gateway .

- **Business Gateway has been funded as an e-government initiative with 22 agencies, including SBA, contributing funding. What are the advantages of directly funding Business Gateway under SBA, rather than relying on participating agency contributions? What are the disadvantages?**

The advantages to directly funding Business Gateway under SBA include that it has eliminated the need for a time-consuming inter-agency governance process. This would allow the Business Gateway to more effectively serve the needs of small businesses in their dealings with the government, by broadening the information and services offered beyond pure compliance information. It has alleviated the time required by partner agencies to participate in the governance and funding process and freed up time to invest in providing relevant content to small businesses. This funding model has allowed for better alignment with the mission and goals of the SBA and a more strategic approach to leveraging the Business Gateway to fill gaps in services than was possible under a government-wide approach. It has eliminated the need to continue a fairly labor-intensive process of negotiating and signing MOUs and funding documents, which requires coordination within the OCIO, OCFO and General Counsel's office within SBA. It has allowed for immediate access to funds and enabled longer-term financial planning vs. the previous state, which involved a very compressed time period between when funds came in and when they needed to be spent. It has removed a significant risk that existed under the previous model when the level of support for Business Gateway among the other appropriations subcommittees was not clear.

The disadvantages to direct SBA funding are that the prior arrangement of inter-agency governance and funding gave partner agencies more of a stake in the content of the Business Gateway.

8. Limiting improper payments through effective reviews of lender guaranty purchase requests.

- **What resources has SBA identified in its budget to ensure that SBA reviewers are not making improper payments when they pay loan guaranties?**

SBA has worked to identify and review improper payment rates and issues on its loan processes. SBA has committed financial resources to maintain appropriate staffing levels in our loan processing centers and to strengthen risk management and quality assurance functions.

9. 8(a) Business Development Program.

- **What is the SBA doing to properly train agency staff and to ensure that there are sufficient staff and resources to oversee the 8(a) program, as well as conduct adequate oversight to ensure that procuring agencies are fulfilling their responsibilities?**

SBA regularly conducts training for SBA staff involved in servicing 8(a) Program participants. Over the past three fiscal years, 19 sessions have been held. (see breakdown below of training conducted). On the average, each session is attended by nearly 125 people who are directly responsible for working with 8(a) firms.

SBA's Office of Field Operations continues to evaluate staffing levels and identify training needed to adequately service 8(a) Program participants.

In an effort to ensure greater oversight as it relates to 8(a) contracts issued by procuring agencies, SBA's Office of Business Development revised the language in the Partnership Agreements (between SBA and the procuring agencies) to clarify roles and responsibilities. The revised Partnership Agreements specifically require the procuring agencies to monitor 8(a) firms' compliance with contract performance. SBA's Office of Business Development consistently conducts training for the procuring agencies with regard to rules and regulations governing the 8(a) Program and training on the revised language in the Partnership Agreements. This training is intended to ensure that contracting officers and technical representatives are adequately advised of their responsibilities concerning 8(a) contract compliance. Just this fiscal year, the SBA has already provided training to six cabinet level agencies.

10. National Women's Business Council.

- **The request for the Women's Business Council increases from $1 million to $1.9 million. What has the Council done with the funding it received in FY 2009 and FY 2010? In detail, what does the Council plan to do with the funds if it receives the full request?**

Total Administrative	$ 609,000 00

Programmatic Activities		
Council meetings, member travel	$	60,000.00
Staff travel and conference/event fees	$	40,000 00
Research & Other Programs		
Conference calls, transcriptions, other meeting miscellaneous	$	3,500 00
Online Repository/clearinghouse	$	400,000 00
Annual Business Summit	$	40,000.00
New census data analysis	$	60,000 00
New Research	$ 400,000 00	
Projects		
Regional Roundtables w/WBCs (approx 15)	$ 200,000 00	
Town Halls (3)	$ 100,000 00	
NWBC/OWBO Small Business Week Award	$	50,000 00
International Council for Small Business	$	500 00
Total Programmatic	$ 1,354,000.00	
Total Expenses	$ 1,963,000.00	

Town Hall meetings

The goal of each town hall meeting is to provide an informal setting in which to hear directly from women entrepreneurs as to what issues and challenges they face and what public policies they perceive as barriers to growth. Often, many women business owners outside the Beltway are not aware of the policy organizations and resources available to them. These town hall meetings provide a forum for the Council members to listen to perceived obstacles and to hear recommendations for future growth directly from the women entrepreneurs themselves. These meetings provide additional outreach opportunities for partner organizations (such as OWBO, the SBDCs, the SBA regional offices, other national organizations which represent women entrepreneurs as well as other federal agencies such as the IRS). A report is ultimately written and submitted to the Council with policy recommendations originating directly from each meeting, respectively. These meetings also allow the Council to leave Washington and to meet informally with women entrepreneurs, and to share some of their personal experiences, enhancing NWBC outreach.

Regional WBCs Roundtables

As the mission of the NWBC states, the Council is responsible for advising the SBA Administrator in issues of interest to women entrepreneurs. Historically, the NWBC has supported the SBA WBC program and has made recommendations, based in research provided by the Council, for growth of those programs. In collaboration with SBA's Office of Women Business Ownership, Regional Roundtables would further strengthen that relationship by allowing the Council to identify programmatic needs specific to the clientele in each locale, and making recommendations to OWBO based on those findings. The NWBC would work closely with OWBO in targeting key WBCs to sit down and to listen to the particular needs and interests of the attendees and would produce a report listing the recommendations, which would then inform Council recommendations for policy change and growth.

Centralized Research

The NWBC was created almost 22 years ago, and has thrived as the informal umbrella organization for the numerous national organizations, based on data-driven research. Quite simply, without research, the Council would not exist, nor the hundreds of women's organizations which have sprouted up as a result of the creation of the Council.

Previously, the Center for Women's Business Research was the leading organization which collected data for this community. The Center itself was an outgrowth of NAWBO, the "grandmother" of the women's' entrepreneurship community. Additionally, the Fed used to collect much of the data through the Survey for Small Business Research, but budget reductions have eliminated that study. The Council does have a long-standing relationship with the Census Bureau in which Council staff is able to identify special tabs in collecting raw data, but has had to contract the corresponding analysis out to other research firms.

To date, the viability of the Center is in question. One part-time employee works on what amounts to work from their only client, the NWBC. Studies in this field are haphazard, and many are commercially driven by for-profit clients.

The recommendation for the FY2011 budget is to create a central research clearinghouse which would serve the entire community, and all women entrepreneurs, in the National Women's Business Council. One source of credible, solid research would enable the community to track economic trends, legislation, and activities which would complement and support policy recommendations.

By placing the research element under the aegis of the NWBC, additional longitudinal studies could be conducted, research could be accessible on a much timelier basis than Census results, and the Council would provide a centrally located source for media and academic inquiries.

This idea is not new to the Hill: in the 2008 draft reauthorization language, the idea of an "electronic clearinghouse" to be housed in the NWBC was offered.

The budget impact would be considerable, and is reflected in the proposed FY2011 budget. At least one additional staff person should be hired, a website should be developed, and audit of existing research should be made, and additional research should originate in the NWBC.

By increasing and centralizing the research capability of the NWBC, the commitment to the growth of women's entrepreneurship is unquestionable. The NWBC can and should provide a much needed service to women entrepreneurs.

- **How many spots on the Council are vacant?**

There are seven spots, plus the chairmanship, vacant on the Council. Additionally the terms of three people currently serving are ending in June 2010.

11. Loan Management and Accounting System (LMAS).

- **What steps is SBA taking to ensure that the LMAS program is completed on schedule and within budget, and that it will meet stakeholder expectations?**

From the inception of the LMAS modernization program, the SBA determined that an incremental approach would be critical to the program's success, and to the agency's ability to properly manage the risks associated with a large multi-year IT project. A key component of this approach has been the creation of milestones that the agency has used to ensure that the project is being properly managed, is on time, is within budget, and is meeting stakeholder expectations. Instead of treating LMAS as a single large project whose success or failure depends on a final delivery that is far in the future, the SBA has broken the LMAS program into smaller, more manageable projects, which are funded separately, and which are intended to provide meaningful deliverables and decision points as the program progresses. Importantly, this approach was also designed to enable the SBA to adjust our plans and implementation strategy based on lessons learned, as well as on changing circumstances and funding levels. For large-scale multi-year transformation initiatives like LMAS, such an incremental approach represents a best practice, and ensures that risks are actively mitigated throughout the program's lifecycle. This incremental approach has proven successful, and continues to serve as the core of the SBA's strategy for the LMAS program.

The SBA has also implemented project management best practices that are intended to ensure that the program delivers on time and on budget, and that it meets stakeholder expectations. These best practices include:

- The use of fixed price performance based contracts
- Active vendor management and oversight
- The establishment of a program management office (PMO)
- The establishment of a formal change control board (CCB) for the LMAS program
- The establishment of a program governance structure and executive steering committee that includes the chief executives of each stakeholder organization
- The implementation of robust risk identification and mitigation processes

- The establishment of a formal deliverable review process to ensure a structured review/comment/approval cycle for all deliverables
- The incorporation of quality assurance (QA) and verification & validation (V&V) processes throughout the program's lifecycle
- Active communication and outreach to users and stakeholders
- The use of earned value management (EVM)
- The completion of integrated baseline reviews (IBRs) for all LMAS projects

The SBA's incremental approach and application of best practices to the LMAS modernization effort have resulted in the completion of a number of important milestones, as follows:

- We have completed the acquisition of vendor support for the program. These services include support from three separate vendors who provide 1) system hosting and integration, 2) program and project management support, and 3) quality assurance.
- We have transitioned our oracle financial hosting environment from IBM to SRA. In this new environment, we have installed the hardware and software necessary to develop and test the new system.
- We have completed a proof of concept using Oracle's E-Business Suite / the Oracle Loans solution. This proof of concept allowed the SBA to verify that this solution will be able to support our loan programs and comply with the Federal Credit Reform Act of 1990.
- We have developed a blueprint for the program, which includes a list of proposed projects, timelines, and initial plans and estimates for the projects / increments that need to be completed.
- We have completed the detailed assessment phase of our Oracle R12 project. This upgrade will be completed by January, 2011.
- We have completed the first phase of detailed requirements gathering for the disaster loans modernization effort.

As each of these milestones was completed, the SBA reviewed the project to determine whether any adjustments were needed, and to ensure that lessons from the work we had completed were used to best effect. As an example, as we were completing work on the program's blueprint project, the SBA performed a study of the LMAS modernization program to determine how best to leverage the lessons we had learned so far. This study validated our overall approach, and made suggestions for improvements, which we are in the process of implementing. In addition, before proceeding with the next phases of our disaster loans servicing modernization efforts, we are evaluating the lessons we have learned from the first phase of this effort, which ended in February, as well as evaluating how best to incorporate the feedback we have received from the Office of Management and Budget (OMB) into our next steps. Importantly, because we have implemented an incremental approach that has included separately funded milestones and phases, the SBA will not incur costs associated with the next steps of our disaster loans servicing modernization effort, until we have completed our analysis of the lessons we have learned, the other feedback we have received, and have decided how best to move forward, if at all. Were it not for the SBA's incremental approach to the LMAS modernization program, it would be much more difficult to incorporate lessons learned and other feedback into the project as we move forward.

Importantly, the agency works closely with OMB – providing monthly briefings on the program – and provides Congress with quarterly reports on program progress. While these activities do not ensure program success, they do provide a significant level of oversight, and opportunities for taking corrective actions, if needed.

- **Of the various acquisition, organizational, and business risks SBA has identified for this project, which will be the most challenging?**

The LMAS modernization program shares many of the risks associated with similar large-scale multi-year IT implementation efforts, whether they be in the public or private sectors. Typically, such risks include:

- *Schedule overruns*
- *Budget overruns*
- *Functionality gaps*
- *Scope creep*
- *Incomplete or Changing Requirements & Specifications*
- *Project Complexity*
- *Lack of in house skills*
- *Resistance to change*
- *Lack of Executive Support*
- *Lack of User Involvement*
- *Lack of Resources*
- *Unrealistic Expectations (schedule, cost, functionality)*
- *Lack of Planning*
- *Lack of IT Management and/or expertise*
- *Unclear Objectives*

In addition to these risks, the SBA has identified the following as currently being the most challenging:

- *Changing priorities.* The LMAS modernization program is a large-scale multi-year IT program. To be successful, the SBA must adequately justify the costs associated with the program, and must do so in a way that results in a reliable funding stream for the full lifecycle of the investment. In times of changing budget priorities, it can be difficult to justify prioritizing the LMAS investment above other high priority investments. This challenge is exacerbated by the inherent risks and uncertainties that are associated with any large-scale multi-year IT initiative, especially given the high number of such efforts that result in failure.
- *Changing context.* As technology evolves, and new lessons are learned, guidelines for large-scale system development efforts and for financial management systems in particular, have been undergoing change. For large-scale multi-year IT initiatives such as LMAS, these changes can provide great benefits, as well as challenges.
- *Insufficient SBA resources.* The SBA is a small agency with a big mission. To accomplish our mission, the SBA relies on the efforts of a relatively small workforce. When small businesses need access to capital, or the victims of disasters require our assistance, our staff are there to meet the need. In times of high demand for capital or disaster assistance, these core mission functions take priority. Prioritizing our work in this way is the right choice, but can conflict with the needs of the LMAS modernization program.
- *Technical challenges.* The LMAS program is intended to help the SBA replace our aging legacy systems with a more modern infrastructure that can help the agency better manage our approximately $90 billion loan and loan guarantee portfolio. This large-scale multi-year transformation effort involves significant technical challenges, including the implementation of an entirely new system for managing the agency's loan portfolio, and the myriad of projects that are required to make the implementation a reality (e.g. data conversion and migration; the design, development, and testing of application extensions; etc.).
- *Vendor support and management.* The SBA has retained a number of vendors to help ensure that the program is a success. While the SBA has taken steps to ensure that vendor interests and incentives are properly aligned with agency and program goals; ensuring the proper level of vendor support is a continuing challenge.

The SBA has implemented plans and processes to actively manage and mitigate all of the risks associated with the LMAS modernization program. As discussed previously, the SBA's primary mitigation strategy involves the choice to utilize an incremental approach. The SBA chose an incremental approach in order to decrease the risk of program failure, and to enable the SBA to adjust our plans and implementation strategy based on lessons learned, as well as on changing circumstances and funding levels. In addition, the SBA maintains a detailed risk registry and tracks all risks that are identified, including specific mitigation strategies for each risk. Risk management is a core component of our program and project management strategy, which includes robust tracking and management of risks, as well as regular risk management meetings.

Importantly, the agency works closely with the Office of Management and Budget (OMB) – providing monthly briefings on the program. We also provide Congress with quarterly reports on program progress. While these activities do not ensure program success, they do provide a significant level of oversight, and opportunities for taking corrective actions, if needed.

- **What has SBA done to limit the security vulnerabilities of the legacy systems while waiting for the implementation of the LMAS?**

The SBA's Office of the Chief Information Officer (OCIO) works to ensure that all Information Technology (IT) systems operated by or on behalf of the agency comply with all applicable statutes, regulations, and guidelines (e.g. the Federal Information Security Management Act [FISMA], Office of Management and Budget [OMB] directives, and guidelines published by the National Institute of Standards and Technology [NIST]). In this regard, the SBA's legacy systems have been certified and accredited (C&A) in accordance with NIST guidelines, are authorized to operate, and have maintained their C&A and authorization since those requirements became effective.

Like all systems, there are residual risks and vulnerabilities that the agency manages. However, currently, there are no high-severity risks or vulnerabilities associated with the legacy systems (risks are categorized as high-severity, moderate-severity, or low-severity). While there are some moderate-severity and low-severity risks. the agency is actively working to mitigate these risks. As a part of the agency's mitigation strategy, the SBA utilizes NIST's Risk Management Framework (RMF) to identify and reduce security risks for all systems. As a part of this framework, the SBA performs continuous monitoring, which includes monthly vulnerability scans, change control monitoring, risk assessments, and management of plans of actions and milestones (POA&M). The legacy systems also undergo periodic testing of their security controls, as well as frequent reviews of their interconnection agreements.

12. 504 Refinance.

- **We understand that the Administration is going to make a proposal to temporarily allow eligible small businesses to use 504 loan guarantees to refinance existing owner-occupied commercial real estate mortgages and avoid potential foreclosure, which will be funded at $16 million. Please explain this proposal to us in more detail and indicate how long you intend to make the loans eligible for this purpose.**

The President announced a proposal to temporarily allow small businesses to reduce the impact of the troubled commercial real estate (CRE) market on small businesses by temporarily allowing qualifying small businesses to use 504 loan guarantees to refinance existing owner-occupied commercial real estate mortgages and avoid potential foreclosure.

Thousands of creditworthy small businesses face potential foreclosure if they are unable to refinance their CRE mortgage. This is the result of declining property values and a tight lending market – both of which are the result of the recession. The outlook for commercial real estate values is still uncertain – which is a major part of the refinancing problem this program can help address. We do know that given existing real estate value declines, many small businesses – even those that are performing well and have been making all their payments - may have a difficult time refinancing existing mortgages that are maturing.

This proposal would provide a good vehicle for banks to do the type of refinancing that is necessary to avoid foreclosure for thousands of small businesses. SBA-backed refinancing for commercial real estate loans can help these performing small businesses keep their doors open. Small Businesses with existing 504 loans could also use this program to help refinance their commercial first mortgages.

In order to protect against program risks, SBA will have a number of safeguards in place. First, lenders seeking to refinance their own debt will have to take on a greater share of the refinancing risk. Second, SBA's Certified Development Company partners will work to ensure that appraisals are independent and projects are sound. Third, SBA will review all applications for this program (there will be no delegated lending) to ensure that risk is managed properly.

Real estate that is financed through SBA's 504 program must be in use by the small business owner. The small business must occupy at least 51% of the property and in some cases more. Examples of owner-occupied commercial real estate include doctor's offices, restaurants and hotels.

As part of this program, additional fees will cover incremental refinancing costs. Borrowers and lenders will both have to cover these fees, and lenders may have to write down or subordinate certain parts of existing debts.

The Administration is proposing to make this a temporary program that is available through the end of Fiscal Year 2012 if necessary. This program addresses a specific current need that is an after-effect of the economic crisis. In a different economic climate, most small businesses would be able to refinance their commercial mortgages without SBA assistance.

13. New Programs.

You are renaming and revamping a program from the previous Administration now called Emerging Leaders which you request $3 M for, and included funding for what appears to be an across-the-board effort by the Administration called the Acquisition Workforce Initiative.

- **Please explain what each program does and why you think it should be funded at the expense of long-standing programs.**

Acquisition Workforce Initiative:
$1.8 million for an Administration wide effort to improve government acquisition and procurement practices, including additional FTEs.

The people of the SBA remain the Agency's most valuable asset. Any reduction in this area without additional funding for training will result in the agency failing to capitalize on recent training successes for improving employee performance and job satisfaction. In addition, any reduction in funding will weaken the effort to improve SBA's acquisition workforce capacity, which is part of a government wide initiative.

Questions for the Record
Submitted by Ranking Member Emerson

Program Duplication

Throughout the Federal government there are numerous agencies working to promote economic development. The Department of Commerce has the Economic Development Administration, the Minority Business Development Administration and the International Trade Administration. The Department of Agriculture has rural development programs and HUD operates urban development programs.

- How do you coordinate SBA's efforts with all of these other economic development agencies to ensure that local governments and businesses are aware of all of the opportunities provided by the Federal government?

There is a coordinated effort through the White House and the Office of Management and Budget to ensure that the federal government provides valuable assistance to the nation's entrepreneurs.

The SBA will be unveiling a new website soon. The expanded and updated web presence will ensure that small businesses can access the most up-to-date information on what programs are available to them.

- How do you ensure that Federal agencies are not duplicating the same initiative?

There is a coordinated effort through the White House and the Office of Management and Budget to ensure that the federal government provides valuable assistance to the nation's entrepreneurs.

Loan Modernization and Accounting System

Your budget request includes $37 million for the development of a loan modernization and accounting system to upgrade your outdated IT systems that track tens of billions of dollars in outstanding loans. I understand that this project is not expected to be completed until 2014 and will cost hundreds of millions of dollars. Historically the Federal government has difficultly developing new complex information technology projects such as IRS's Business System Modernization program, the FBI's failed case management system, the National

Archives' Electronic Records Archive, and the Census Bureau's failures to develop a handheld computer device for enumerates to use for the 2010 census.

- Why is the program taking so many years to implement?

From its inception, the LMAS modernization program was designed to be a multi-year effort. While multi-year efforts do have a higher degree of risk, and can raise concerns; to date, the LMAS modernization program has not experienced significant cost or schedule increases. To ensure that the program remains on track, the SBA is utilizing an incremental approach. As discussed in a previous response, the SBA chose an incremental approach in order to decrease the risk of program failure. A key component of this approach has been the creation of milestones that the agency has used to ensure that the project is succeeding. Instead of treating LMAS as a single large project whose success or failure depends on a final delivery that is far in the future, the SBA has broken the LMAS program into smaller, more manageable projects, which are which are funded separately, and which are intended to provide meaningful deliverables and decision points as the program progresses. Importantly, this approach was also designed to enable the SBA to adjust our plans and implementation strategy based on lessons learned, as well as on changing circumstances and funding levels. While this approach may appear to involve long timelines, given the complexity and magnitude of change the SBA is implementing, it is not overly long, especially when compared to similar undertakings in both public and private sector organizations.

Importantly, the agency works closely with the Office of Management and Budget (OMB) – providing monthly briefings on the program. We also provide Congress with quarterly reports on program progress. While these activities do not ensure program success, they do provide a significant level of oversight, and opportunities for taking corrective actions, if needed.

- Do you have the right staff with the necessary information technology, and program and contract management expertise?

The SBA designed the LMAS modernization implementation approach to be incremental. As discussed in a previous response, the SBA chose an incremental approach in order to decrease the risk of program failure, and to enable the SBA to adjust our plans and implementation strategy based on lessons learned, as well as on changing circumstances and funding levels. We have taken this same incremental approach to staffing. As the LMAS modernization program has progressed, the SBA has taken steps to ensure that the right resources are available to the program when they are needed. Initially, this meant providing the program with program and contract management staff to identify solutions, build the business cases, and to acquire the necessary vendor support. As we move into the next phases of the program, the SBA is taking steps to continue to meet the program's staffing needs. This includes developing updated staffing and resource plans, which include requirements for staff and vendors with the appropriate information technology skills.

- What are you doing to make sure this program will be successful and not another failed government IT system?

From the inception of the LMAS modernization program, the SBA determined that an incremental approach would be critical to the program's success, and to the agency's ability to properly manage the risks associated with a large multi-year IT project. A key component of this approach has been the creation of milestones that the agency has used to ensure that the project is being properly managed, is on time, is within budget, and is meeting stakeholder expectations. Instead of treating LMAS as a single large project whose success or failure depends on a final delivery that is far in the future, the SBA has broken the LMAS program into smaller, more manageable projects, which are funded separately, and which are intended to provide meaningful deliverables and decision points as the program progresses. Importantly, this approach was also designed to enable the SBA to adjust our plans and implementation strategy based on lessons learned, as well as on changing circumstances and funding levels. For large-scale multi-year transformation initiatives like LMAS, such an incremental approach represents a best practice, and ensures that risks are actively mitigated throughout the program's lifecycle. This incremental approach has proven successful, and continues to serve as the core of the SBA's strategy for the LMAS program.

The SBA has also implemented project management best practices that are intended to ensure that the program delivers on time and on budget, and that it meets stakeholder expectations. These best practices include:

- The use of fixed price performance based contracts
- Active vendor management and oversight
- The establishment of a program management office (PMO)
- The establishment of a formal change control board (CCB) for the LMAS program
- The establishment of a program governance structure and executive steering committee that includes the chief executives of each stakeholder organization
- The implementation of robust risk identification and mitigation processes
- The establishment of a formal deliverable review process to ensure a structured review/comment/approval cycle for all deliverables
- The incorporation of quality assurance (QA) and verification & validation (V&V) processes throughout the program's lifecycle
- Active communication and outreach to users and stakeholders
- The use of earned value management (EVM)
- The completion of integrated baseline reviews (IBRs) for all LMAS projects

The SBA's incremental approach and application of best practices to the LMAS modernization effort have resulted in the completion of a number of important milestones, as follows:

- We have completed the acquisition of vendor support for the program. These services include support from three separate vendors who provide 1) system hosting and integration, 2) program and project management support, and 3) quality assurance.
- We have transitioned our oracle financial hosting environment from IBM to SRA. In this new environment, we have installed the hardware and software necessary to develop and test the new system.
- We have completed a proof of concept using Oracle's E-Business Suite / the Oracle Loans solution. This proof of concept allowed the SBA to verify that this solution will be able to support our loan programs and comply with the Federal Credit Reform Act of 1990.
- We have developed a blueprint for the program, which includes a list of proposed projects, timelines, and initial plans and estimates for the projects / increments that need to be completed.
- We have completed the detailed assessment phase of our Oracle R12 project. This upgrade will be completed by January, 2011.
- We have completed the first phase of detailed requirements gathering for the disaster loans modernization effort.

As each of these milestones was completed, the SBA reviewed the project to determine whether any adjustments were needed, and to ensure that lessons from the work we had completed were used to best effect. As an example, as we were completing work on the program's blueprint project, the SBA performed a study of the LMAS modernization program to determine how best to leverage the lessons we had learned so far. This study validated our overall approach, and made suggestions for improvements, which we are in the process of implementing. In addition, before proceeding with the next phases of our disaster loans servicing modernization efforts, we are evaluating the lessons we have learned from the first phase of this effort, which ended in February, as well as evaluating how best to incorporate the feedback we have received from the Office of Management and Budget (OMB) into our next steps. Importantly, because we have implemented an incremental approach that has included separately funded milestones and phases, the SBA will not incur costs associated with the next steps of our disaster loans servicing modernization effort, until we have completed our analysis of the lessons we have learned, the other feedback we have received, and have decided how best to move forward, if at all. Were it not for the SBA's incremental approach to the LMAS modernization program, it would be much more difficult to incorporate lessons learned and other feedback into the project as we move forward.

Importantly, the agency works closely with OMB – providing monthly briefings on the program – and provides Congress with quarterly reports on program progress. While these activities do not ensure program success, they do provide a significant level of oversight, and opportunities for taking corrective actions, if needed.

WEDNESDAY, MARCH 17, 2010.

FY2011 BUDGET FOR THE SECURITIES AND EXCHANGE COMMISSION

WITNESS

MARY SCHAPIRO, CHAIRMAN, UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Mr. SERRANO. The subcommittee will come to order.

Welcome to this hearing of the Financial Services and General Government Subcommittee. Today, the subcommittee will hear testimony from the chairman of the Securities and Exchange Commission, the Honorable Mary Schapiro.

We welcome you. We are trying to turn up the heat—I mean actually the heat, not "the heat," but the heat.

At our SEC hearing a year ago today, Chairman Schapiro was new to the job, and was being bombarded with the emerging story about the gigantic Madoff Ponzi scheme and the SEC's repeated failure to detect it. Fortunately, we have not had any comparable investment scandals emerge since then, but we have seen the scandal of 10 percent unemployment that is rooted in the meltdown of the securities market. I hope that this year's hearing can focus on two issues:

First, how is the SEC reforming its internal operations, especially in light of the substantial increase in funds that have been provided?

Second, how does the SEC propose to reform the securities markets to better serve the American people? The meltdown in our securities markets in 2008 and 2009 was the driving force in the financial crisis that has brought the worst economic downturn in almost 80 years. Although the unemployment rate has stopped rising, we still find almost 1 in 10 people in our labor force without work, and 1 in 6 are either unemployed or underemployed. Clearly, there is more work to be done.

The Securities and Exchange Commission must be nimble to adjust to rapid changes in the securities markets. To effectively enforce the current rules, the SEC must run even faster to keep up with the sophistication of the clever criminals like Madoff, Stanford and Hegelian Hedge Fund. In the last 2 years, this committee has boosted SEC funding by more than 20 percent, in part, to strengthen the size, skills and technology of its enforcement and analytical staff. This hearing will examine how effectively the Commission is using those funds and how it proposes to use additional funds next year.

In addition to better enforcing its own rules, the SEC has an obligation to address the economic problems caused by the securities markets. Too often, discussion of SEC's responsibilities focuses narrowly on investor protection. From the beginning, however, the SEC has also had more profound responsibilities. Remember that the SEC was created in the wake of the Great Depression that had also been triggered by a meltdown in securities markets. The Securities Exchange Act of 1934 set out the purposes of the SEC in very broad terms "to protect interstate commerce, the national credit, the Federal taxing power to protect and make more effective the national banking system and Federal Reserve system and to ensure the maintenance of fair and honest markets in such transactions."

If events in the securities markets over the last year and a half have taught us anything, it should be that what happens in securities markets can have major consequences for commerce, credit, tax revenues, the banking system, as well as investors. We count on the SEC and the agencies most closely tied to the securities markets to take a broad view of its responsibilities concerning the health of the economy and not merely investor protection. Those infamous toxic assets that caused our financial system to seize up in 2008 were securities, after all.

How did so many assets become so toxic? Could proper regulation have avoided this crisis?

The Commission must thoroughly examine what went wrong in the securities markets to allow the meltdown in 2008 and 2009 to occur. It must change its rules and advise Congress of changes in the law needed to prevent anything like this from happening again. In other words, we are looking to you for answers, and this country is looking to you and to the Commission for protection.

Speaking of protection, I yield to the person who protects me every time we have a hearing, the ranking member, Mrs. Emerson.

Mrs. EMERSON. Thank you, Mr. Chairman.

Chairman Schapiro, thanks so much for coming back to the committee today. I will tell you it is a very challenging time, and you are doing a good job leading the SEC, and we are grateful for your efforts and for the efforts of your entire staff at the SEC.

You know, while the markets are performing better than they were at this time last year, I think all of us must admit that we have a long way to go before we can fully restore consumer confidence or investor confidence, because I think of investors not just as Wall Street executives but as, really, the men and women whom I represent in my congressional district who are saving money to send their children to school, who are saving money to buy new homes, and who are trying to save for retirement. The task of trying to improve transparency in our securities markets is a great one, and it is a challenging one, as well as uncovering fraud and deception while not overregulating our markets and hindering economic recovery.

So millions of Americans are looking to you to improve the integrity of the markets, and I will look forward to working with you and with my pal Joe Serrano to ensure that you have all of the tools and resources you need to ensure that our investors are protected and that the markets are properly functioning.

However, I have to point out that, since the failure of companies such as Enron or Global Crossing or Arthur Andersen, Congress has provided the SEC with additional regulatory tools with the enactment of the Sarbanes-Oxley legislation, and it has more than doubled the annual appropriation for the SEC. Last year alone, the SEC received an almost 15 percent funding increase. I want to continue to be helpful to you and to provide your agency with the tools and resources that you believe are needed, but I also want some assurances that your resources are being effectively utilized.

So, once again, welcome back. I look forward to your testimony.

Thanks, Mr. Chairman.

Mr. SERRANO. Thank you.

Chairman Schapiro, you know the drill. You have 5 minutes. Your whole testimony will be put in the record. We will have plenty of time to speak to you.

I must note—and this is not a reflection on the hearing—the attendance here today. It is just that there are many hearings taking place at the same time, and I would suspect there are a few hearings taking place in the leadership office, at the White House and in other parts of this country right now having to do with a little bill we have floating around, and I know you understand that.

Ms. SCHAPIRO. I understand.

Mr. SERRANO. Please proceed.

Ms. SCHAPIRO. Thank you very much.

Chairman Serrano, Ranking Member Emerson and members of the subcommittee, thank you for the opportunity to describe how the President's fiscal year 2011 budget request of $1.258 billion would allow the SEC to better pursue our mission of protecting investors, regulating markets and facilitating capital formation.

When I testified before the subcommittee a year ago, we were just emerging from an economic crisis that threatened our financial system and the entire American economy. The markets were still trying to regain a firm footing, and confidence in the institutions of government generally, and the SEC specifically, was badly shaken. Thanks to the strong support this subcommittee has provided to the Commission over the past year, we have been able to take significant steps to make the SEC more vigilant, sharp and responsive.

We have brought in new leaders across the agency. We have streamlined our procedures and have reformed our operations. We began modernizing our technology and training our people. We set out to regulate more effectively. We fully engaged in the debate on regulatory reform, and we initiated one of the most significant investor-focused rulemaking agendas in decades.

In the last year as well, we have created a new division of Risk, Strategy, and Financial Innovation to get ahead of the next financial challenge we may need to confront. Our Enforcement Division undertook a top-to-bottom review that resulted in a restructuring effort that is breaking down silos and has eliminated a layer of management to free up professionals for frontline duty. In addition, through the creation of specialized units, the restructuring is enabling us to have a deeper focus in critical areas, such as market abuse, structured and new products, and foreign corrupt practices. A similar review is being conducted by the new management of our Office of Compliance Inspections and Examinations as a prelude to necessary restructuring there.

These efforts are already paying dividends. For example, in my first 12 months, our enforcement output has increased significantly. We brought more than twice as many temporary restraining orders and asset freezes in 2009 as in 2008. We issued well over twice as many formal orders of investigation. We won $540 million more in disgorgement orders. Penalty orders more than doubled, and we filed nearly 10 percent more actions overall, including nearly twice as many involving Ponzi schemes.

We have made real progress, but restoring investor confidence and rebuilding the trustworthiness of financial institutions and markets will require a sustained regulatory commitment.

The challenge we face grows larger every day. The dollar value of the average daily trading volume in stocks, exchange-traded options and security futures has reached $245 billion. Since 2003, the number of registered investment advisers has increased by 50 percent, and their assets under management have grown by almost $19 trillion. Yet we still rely on fewer than 4,000 dedicated individuals to monitor more than 35,000 regulated entities.

With the ability to hire more staff, we will deepen our pool of institutional expertise—hiring experts in financial services and related areas and bringing on economists, academics and market professionals with significant experience with today's markets and products. It also will allow us to conduct more investigations and trials, to reduce the gap between the number of examiners and the firms we oversee and to increase our capacity to monitor and respond to emerging trends and practices; and the proposed $12 million increase in information technology investments will allow us to not just do more work but better work.

We have completed the first phase of creating a single, searchable database for tips and complaints, and we are working to add risk analytics to help us quickly and efficiently identify high-value tips and to search for trends and patterns across the data. We are enhancing collection, internal analysis and subsequent distribution of disclosure documents filed with the SEC. This will allow us to aggregate data across firms and, over time, to monitor macro trends, to search for hidden risks and to track systemic changes.

We also plan to complete improvements to the case and exam management tools available to our enforcement and examination programs. While we will never reach or match the e-discovery technology available to the big law firms we face, the ability to search and use the vast amounts of data we access and collect will make our team more competitive in court.

While putting state-of-the-art technology in the hands of SEC staff, we are giving them the training they need as well to keep up with and to constantly monitor the evolving financial environment. In the year ahead, we will also continue to pursue an energetic rulemaking agenda, looking after the interests of investors and responding to changes in the American financial marketplace.

While the SEC is a relatively small agency, as you have noted, we are charged with protecting millions of investors every day, including the nearly one-half of all American households that own securities. I am pleased with the progress we have made to date, but we recognize that much work remains to be done to continue to restore investor confidence in our markets. The funding level in the President's budget request is critical for us if we are to succeed in these efforts and are to continue to improve our performance in an increasingly complex financial world.

Thank you both very much for the support you have shown me, and I would be happy to answer your questions.

Mr. SERRANO. Thank you so much for your testimony.

[The information follows:]

Testimony Before the Subcommittee on Financial Services and General Government

by Chairman Mary Schapiro U.S. Securities and Exchange Commission

Committee on Appropriations U.S. House of Representatives

March 11, 2010

Chairman Serrano, Ranking Member Emerson, Members of the Subcommittee:

Thank you for the opportunity to testify today in support of the President's FY 2011 budget request for the Securities and Exchange Commission. I am grateful for the support that you and this Subcommittee have provided to the Commission. I welcome this opportunity to answer your questions and provide you with additional information on how the SEC would make effective use of the $1.258 billion that the President has requested for the coming fiscal year.

When I testified before this Subcommittee a year ago, we were just emerging from an economic crisis that threatened our financial system and the entire American economy. The markets were still trying to regain a firm footing, and confidence in the institutions of government generally—and the SEC specifically—was badly shaken.

Over the past year, we have taken significant steps to make the SEC more vigilant, sharp, and responsive—and focus the agency squarely on its mission to protect investors, maintain orderly markets, and facilitate capital formation. We brought in new leaders across the agency. We streamlined our procedures. We worked to reform the ways we operate. We began modernizing our systems. We set out to regulate more effectively. We fully engaged in the debate on regulatory reform, and we initiated one of the most significant investor-focused rulemaking agendas in decades.

While we made real progress over the past year, restoring investor confidence and rebuilding the trustworthiness of financial institutions and markets will require a sustained regulatory commitment. FY 2011 will be a critical year in our continuing efforts to reinvigorate the Commission and its programs.

My testimony will provide an overview of the actions and initiatives that we began over the past year, thanks to the support that this Subcommittee has provided. I will then discuss the President's FY 2011 request and the important work which these resources would make possible.

New Leadership, Organizational Structures, and Expertise

Without a doubt, the most critical element to our success in improving the Commission's operations is the agency's talented and capable staff. During the past year, I am pleased to have been able to bring on board new senior managers who are playing a vital role in our efforts to transform the agency.

We brought in new leadership to run the agency's four largest operating units—the Division of Enforcement, the Office of Compliance Inspections and Examinations ("OCIE"), the Division of Corporation Finance, and the Division of Trading and Markets. We also selected a new General Counsel, Chief Accountant, head of the Office of Investor Education and Advocacy, and directors for the New York, Miami, and Atlanta regional offices. The efforts of these new senior managers, together with the efforts of the other office heads, are already making the SEC a more agile, responsive and intelligent agency.

This new leadership team is committed to a culture of collaboration—sharing information and sharing ideas. To encourage that culture, I established several cross-functional teams to focus on issues such as target date funds, life settlements and the development of a consolidated audit trail. We have begun integrating our broker-dealer and investment adviser examinations and are moving to consolidate our multi-office oversight of clearing agencies.

Significantly, we've created and staffed a new division – the Division of Risk, Strategy, and Financial Innovation – to bore through the silos that for too long have compartmentalized and limited the impact of our institutional expertise. A principal lesson learned from the financial crisis is that, because today's financial markets and their participants are dynamic, fast-moving, and innovative, the regulators who oversee them must continue to improve their knowledge and skills in order to regulate effectively. The Division of Risk, Strategy, and Financial Innovation will re-focus the agency's attention on and response to new products, trading practices, and risks. Already, this new Division has attracted renowned experts in the financial, economic, and legal implications of the financial innovations being crafted on Wall Street.

In addition, we are working to establish a deeper reservoir of experts throughout the agency to conduct risk analysis, spot emerging trends and practices, and reduce the likelihood that a problem might grow into a more potent risk.

We also are committed to improved training and education of agency staff in order to close competency gaps and expand knowledge of industry activities and trends. Training needs to be current, continuous, and mandatory – and it needs to equip the SEC's workforce with the tools they need to enforce the federal securities laws and protect investors.

Last year, we launched an effort to ensure that employees throughout the agency receive timely and relevant training which will allow them to fulfill the agency's mission. This agency-wide initiative includes a new integrated structure to identify training needs and to approve professional education and leadership development programs. The new training initiative also seeks to improve collaboration with other regulators and has enabled hundreds of employees to take advantage of external professional certification programs.

Reinvigorating the Enforcement Program

Enforcement of the securities laws is the foundation of the SEC's mission. Swift and vigorous prosecution of those who have broken the law is at the heart of the agency's efforts to restore investor confidence. But in recent years, the SEC's enforcement program had suffered under a variety of procedural, structural, and budgetary constraints.

Over the past year, we've significantly improved our law enforcement capabilities. We sent a clear signal to our staff that we value toughness and speed by removing procedural roadblocks impeding their investigations. For example, we delegated to senior staff the authority to issue subpoenas, so investigations can be launched without the prior – and time-consuming – approval of the Commission. We also abolished the requirement that staff obtain Commission approval before entering into settlement talks involving civil monetary penalties against public issuers.

We added a host of measures to encourage corporate insiders and others to come forward with evidence of wrongdoing. These new cooperation initiatives establish incentives for individuals and companies to fully and truthfully cooperate and assist with SEC investigations and enforcement actions, and they provide new tools to help investigators develop first-hand evidence to build the strongest possible cases as quickly as possible.

Last year, I hired as the Director of the Enforcement Division, Robert Khuzami, a longtime federal prosecutor who had served as Chief of the Securities and Commodities Fraud Task Force of the U.S. Attorney's Office for the Southern District of New York. Under his leadership, we are undertaking the most significant structural reforms of the enforcement program since 1972 – reforms designed to maximize resources and enable us to move swiftly and vigorously against securities fraud. Highlights of the initiatives currently being implemented include:

- ***Specialization***. The Division has created five new national specialized investigative groups which will be dedicated to high-priority areas of enforcement, including Asset Management (including hedge funds and investment advisers), Market Abuse (large-scale insider trading and market manipulation), Structured and New Products (including various derivative products), Foreign Corrupt Practices Act violations, and Municipal Securities and Public Pensions. The specialized units will utilize enhanced training, specialized industry experience and skills, and targeted investigative approaches to better detect links and patterns suggesting wrongdoing -- and ultimately to conduct more efficient and effective investigations.

- ***Management Restructuring***. The Division has adopted a flatter, more streamlined organizational structure under which it has reallocated a number of staff who were first line managers to the mission-critical work of conducting front-line investigations. While a layer of management has been eliminated, the Division is maintaining staff to manager ratios that will allow for close substantive consultation and collaboration, resulting in a management structure that facilitates timeliness, quality, and staff development. The Division also has hired its first-ever Managing Executive, who is focusing on the Division's administrative, operational, and infrastructure functions. These tasks previously were handled on an ad hoc basis by investigative personnel and were an inefficient drain on investigative resources.

- ***Office of Market Intelligence.*** The Enforcement Division has established an Office of Market Intelligence, which will serve as a central office for the handling of complaints, tips, and referrals that come to the attention of the Division; coordinate the Division's risk assessment activities; and support the Division's strategic planning activities. In short, this office will allow the Division to have a unified, coherent, coordinated response to the huge volume of complaints, tips, and referrals we receive every day, thereby enhancing the Division's ability to open the right investigations, bring solid cases, and effectively protect investors.

In my first 12 months, compared to the previous year, the SECs enforcement activity increased significantly. We sought more than twice as many temporary restraining orders and asset freezes; we issued well over twice as many formal orders of investigation; we won $540 million more in disgorgement orders while penalty orders more than doubled; and we filed nearly 10 percent more actions overall, including nearly twice as many involving Ponzi schemes.

Of course, numbers alone don't capture the complexity and range – or the importance – of the actions we brought. For example, we have brought a number of cases involving issues regarding the subprime mortgage market and in other areas which played important roles in the recent economic crisis. Significant cases include:

- Mortgage-related actions involving American Home, Countrywide, and New Century.

- Charging Boston-based State Street Bank and Trust Company with misleading investors about their exposure to subprime investments while selectively disclosing more complete information only to certain favored investors. As a result of this one action, more than $300 million will be distributed to investors who lost money during the subprime market meltdown.

- Charging Brookstreet Securities and ten brokers with misrepresenting that complex collateralized mortgage obligations were appropriate investments for retail customers seeking safe and secure financial products.

- Charging the investment adviser for the Reserve Primary Fund with failing to properly disclose to investors and trustees material facts relating to the value of the fund's investments in Lehman-backed paper. We also charged the adviser with misrepresenting that it would provide the credit support necessary to protect the $1 net asset value of the Primary Fund when, in fact, the adviser had no such intention. In bringing the enforcement action, the SEC also sought to expedite the distribution of the fund's remaining assets to investors by proposing a pro-rata distribution plan, which the Court has approved. As of late January, investors have been provided with recovery of more than 98 cents on the dollar.

In addition to the significant cases we have brought arising out of the financial crisis, we have continued to bring cases in many other important areas.

- In the municipal securities arena, we recently settled fraud charges with J.P. Morgan Securities for its role in an unlawful pay-to-play scheme in Jefferson County, Alabama. J.P. Morgan paid $50 million directly to Jefferson County, forfeited more than $647 million in claimed termination fees, and paid a penalty of $25 million. At the same time, the SEC also charged two of J.P. Morgan's former managing directors with fraud arising out of this scheme and had previously charged others, including the former Birmingham mayor – who just last week was sentenced to 15 years in prison and fined $360,000 – a JP Morgan banker, and the local operative who served as go-between.

- In the area of accounting and financial fraud, auditor Ernst & Young LLP recently paid an $8.5 million settlement – one of the largest ever paid by an accounting firm – and six current and former partners were sanctioned for abdicating their responsibility to function as gatekeepers while their audit client, Bally Total Fitness Holding Corporation, engaged in fraudulent accounting.

Finally, in the Galleon and Cutillo cases, we charged more than a dozen hedge fund managers, lawyers and investment professionals in two overlapping serial insider trading rings that collectively constitute one of the largest insider trading prosecutions in Commission history. In the parallel criminal prosecutions, ten individuals have already pled guilty and nine additional individuals have been indicted.

Strengthening Examinations and Oversight

Strong regulation is essential to the fair, orderly, and efficient operation of markets. A vigorous examination program can not only reduce the opportunities for wrongdoing and fraud, but also provide early warning about emerging trends and potential weaknesses in compliance programs. Over the past year, we have begun reforming the Office of Compliance Inspections and Examinations in response to ever-changing Wall Street practices and lessons learned from the Madoff fraud.

- We are placing greater reliance on risk assessment procedures and techniques to better identify areas of risk to investors.
- We now require examiners to routinely verify the existence of client assets with third party custodians, counterparties, and customers. Additional efforts are being developed to ensure compliance with the Commission's new rules to strengthen custody controls of an investment adviser's client assets.
- We are more rigorously reviewing information about firms before sending examiners out to the field, so that we can use our limited resources more effectively and to target those firms with the greatest risks.
- We have enhanced the training of examiners and re-focused on basics such as exam planning, tracking, and accountability.

We also plan to make significantly greater progress during the current fiscal year under the leadership of our new OCIE director, Carlo di Florio, who has recently joined the agency. At my request, he is undertaking a top-to-bottom assessment of the Office's operations to determine where additional opportunities exist to strengthen our exam program. As I will discuss later, there is such a huge disparity between the number of examiners and the number of entities that we must examine that we must ensure that we are using our limited resources wisely.

Improving Agency Systems and Management

A key priority for me as Chairman is to ensure that our staff has the tools they need to conduct oversight of vast financial markets. Between FY 2005 and FY 2009, investments in new information technology systems dropped by more than half, resulting in a growing gap between our mission and the ability of our systems to help us accomplish it. Thanks to the resources provided by this Subcommittee, this fiscal year we have been able to begin investing in several new or improved IT projects and systems.

One of the first initiatives I launched was a strategic review of the agency's systems for reviewing complaints, tips, and investigative leads provided by whistleblowers or other sources. Having an effective process to identify the most important tips can give the agency an early jump on frauds and other violations of securities laws, help guide compliance exams, and provide important information across the agency to aid staff working to protect investors and maintain market integrity.

We just completed the first phase of our effort, which was centralizing into a single, searchable database our existing tips and complaints that were previously in multiple databases. This means that complaints we receive in Chicago are now downloaded into the same database as complaints received in Miami or any of our other offices, and the information investors share with our investor assistance hotline can be searched alongside complaints received by our markets hotline in our Division of Trading and Markets. Additionally, this week, we released for the first time a set of agency-wide policies and procedures to govern how employees should handle the tips they receive.

Simultaneously, we have been working on a new intake system that will allow us to capture more information about tips and complaints. The new system will provide more robust search capabilities so that tips can be better assessed or triaged. In addition, this new system will add enhanced workflow abilities so we can track how tips and complaints are being used throughout the agency. We expect to deploy this system later this year. Meanwhile, we also are in the early stages of designing the third phase of this system, which will add risk analytics tools to help us quickly and efficiently identify high value tips and search for trends and patterns across the data.

In addition, we are enhancing the collection, internal analysis, and subsequent distribution of disclosures filed with the SEC, so that this unique set of data can be aggregated both across firms and over time – allowing us to monitor macro trends, search for hidden risks, and track systemic changes in filings.

During my first year, I also focused much attention on improving the agency's basic internal operations – the processes that guide our work, support the agency's infrastructure, and determine how we are organized. The public appropriately holds the SEC to a very high standard for integrity and professionalism, and we must hold ourselves to that very high standard as well. In the past year, we took major steps to implement a compliance program to guard against inappropriate securities trading by SEC staff. We have acquired and deployed a computer compliance system to track, audit, and oversee employee securities trading and financial disclosures in real time, and are hiring new staff to oversee compliance efforts. We are also strengthening internal rules governing employee securities trading and, in May 2009, we submitted proposed rules to the Office of Government Ethics ("OGE") that would prohibit staff from trading in the securities of companies under SEC investigation – regardless of whether an employee has personal knowledge of the investigation – and require the preclearance of all trades.

Also during the past year we hired a new Chief Freedom of Information Act (FOIA) Officer and have undertaken a comprehensive overhaul aimed at strengthening our FOIA program and our commitment to open government.

I have approved a new internal audit follow-up rule that sets forth roles, responsibilities, and procedures to ensure that SEC staff take timely and appropriate corrective action to address recommendations by the Government Accountability Office or the SEC's Office of Inspector General.

In addition, as a result of the weaknesses in controls over financial reporting as determined by our auditors, the agency is undertaking significant efforts to automate processes that have been performed manually, in a manner that is fully integrated with our core financial system.

Engaging in a Significant Investor-Focused Rulemaking Agenda

Of course, the changes we have initiated have not just been internal. The past year has witnessed one of the Commission's most significant rulemaking agendas in years. Here are some highlights:

Adopted:

- ***Custody controls:*** We adopted a rule in the wake of the Madoff fraud that will provide greater protections to investors who entrust their assets to investment advisers. The rule leverages our own resources by relying on independent, third-party accountants serving as a "second set of eyes" to confirm client assets and review custody controls in situations where the possibility for misappropriation of client assets is most acute because of the adviser's possession of, or control over, client assets.

- ***Proxy enhancements:*** We adopted rules that require companies to provide investors with more meaningful information about the leadership structure of boards, the qualifications of board nominees and the relationship between a company's overall compensation policies and risk taking.

- ***Discretionary voting by brokers for directors:*** We approved a New York Stock Exchange rule to eliminate broker discretionary voting for all elections of directors, whether contested or not. This helps to ensure that investors with an economic interest in the company vote on the election of directors.

- ***Short selling/Fails-to-deliver:*** We adopted a rule that will restrict short selling when a stock is experiencing significant downward price pressure. This rule will also enable long sellers to stand in the front of the line and sell their shares before any short sellers once a circuit breaker is triggered. In addition, we addressed the potentially harmful effects of abusive "naked" short selling, adopting rules that require that fails-to-deliver resulting from short sales be closed out immediately after they occur. Since this rule was adopted, the number of failures to deliver securities has dropped significantly.

- ***Money market funds:*** We adopted new rules that will help avoid a recurrence of the serious problems exposed in 2008, when the Reserve Primary Fund "broke the buck." The rules will strengthen the oversight and resiliency of these funds by, among other things, increasing credit quality, improving liquidity, shortening maturity limits, and requiring stress testing of money market fund portfolios and the disclosure of the funds' actual "mark-to-market" net asset value.

- ***Central Clearing of Credit Default Swaps:*** We took action to address counterparty risk and improve transparency in the multi-trillion dollar credit default swap market by approving conditional exemptions that allowed certain clearinghouses to operate as a central counterparty for clearing credit default swaps.

- ***Credit Rating Agencies:*** We adopted rules, and proposed others, to create a stronger, more robust regulatory framework for credit rating agencies—including measures designed to improve the quality of ratings by requiring greater disclosure, fostering competition, addressing conflicts of interest, shedding light on the practice of rating "shopping," and promoting accountability.

Proposed:

- ***Proxy access:*** We proposed rules to facilitate the effective exercise of the rights of shareholders to nominate directors to the boards of the companies they own. If adopted, this rule would increase shareholders' ability to hold boards accountable.

- ***Flash orders***: We proposed rules that would effectively prohibit all markets from displaying marketable flash orders.

- ***Sponsored Access***: We proposed a new rule that would effectively prohibit broker-dealers from providing customers with "unfiltered" or "naked" access to an exchange or ATS.

- ***Dark pools***: We proposed rules to generally require that information about an investor's interest in buying or selling a stock be made publicly available, instead of available only to a select group operating within a dark pool.

- ***Pay to Play***: We proposed rules to address "pay to play" practices where investment advisers are managing or seeking to manage public monies that fund state and local pension plans and other important public programs.

Our aggressive rulemaking agenda makes it clear that the Commission is now willing to address challenging issues and make tough choices.

SEC Resources

The financial crisis reminded us just how large, complex, and critical to our economy the securities markets have become. Over the last 20 years, the dollar value of the average daily trading volume in stocks, exchange-traded options, and security futures has grown by over 25 times, reaching approximately $245 billion a day. The number and size of market participants have grown as well. For example, since 2003, the number of registered investment advisers has increased by 49 percent, and their assets under management have jumped by over 57 percent, to $33 trillion.

Yet, while the markets were growing exponentially in size and complexity, the SEC was getting smaller and its technology was falling further behind. We are only just now returning to the budget and staffing levels of five years ago. As you know, between FY 2005 and FY 2007, the agency experienced three years of flat or declining budgets, losing 10 percent of its employees, which severely hampered our enforcement and examination programs. In the context of rapidly expanding markets, limited SEC staffing levels hindered the agency's ability to effectively oversee the markets and pursue violations of the securities laws.

Fortunately, thanks to support from the members of this Subcommittee, we have begun to rebuild our workforce and to invest in needed new technologies. Yet, the SEC is still responsible for overseeing more than 35,000 entities with just over 3,800 professionals. Additional resources are essential if we hope to make the SEC a dynamic and effective regulator of our financial markets.

The President is requesting a total of $1.258 billion for the agency in FY 2011, a 12 percent increase over the FY 2010 funding level. If enacted, this request would permit us to hire an additional 374 professionals, a 10 percent increase over FY 2010. That would bring the total number of staff to just over 4,200. The request also will permit us to continue expanding our investments in surveillance, risk analysis, and other technology, as well as in better training for SEC staff.

Of this total request, $24 million would be contingent upon the enactment of financial reform—so that if reform is passed, we would have the resources to begin implementing our enhanced authorities.

It is important to note that the proposed increase in spending would be fully offset by the fees we collect on transactions and registrations. In FY 2011, we estimate that we will collect $1.7 billion—an increase of $220 million over FY 2010.

Let me spend just a little time breaking out the numbers across the agency:

In the Enforcement Division, the budget request would enable us to add 130 new professionals so we can reinforce our investigations process, support more cases, and strengthen the intelligence analysis function. With these new staff resources – along with the Division restructuring and initiatives outlined above that will make the Division more efficient and effective – the Division projects that we will be able to open 75 additional inquiries, conduct 130 additional formal investigations, and file charges in 70 additional civil or administrative cases.

In addition to fully staffing the new Office of Market Intelligence and its critical risk assessment and strategic planning functions, we plan to use additional Enforcement Division resources in the following ways:

- Hire Individuals with Specialized Industry Experience: One of the SEC's priorities is to seek persons with specialized financial industry experience. We intend to hire enforcement staff with specialized expertise in financial products, including structured products and hedge funds, trading strategies, risk, and financial analysis. Building upon the existing strengths of the Division, specialists will increase the Division's depth of understanding of the patterns, links, trends, and motives of wrongdoers. Moreover, the specialists can utilize their unique experience to more quickly target, analyze, and bring to light unlawful activities.

- Hire Additional Trial Attorneys: It is essential that the SEC be able to act decisively on its growing caseload and that the Division have the resources to present effective cases at trial and to negotiate potential settlements from a position of strength. We intend to hire additional experienced trial counsel, not only to enable the Division to carry a caseload that includes increasingly complex cases, but also to allow the SEC and the Division to demand tough but appropriate sanctions with the confidence that we have the resources to litigate if necessary. It is critical that the Division convey to defendants that we are prepared to go to trial and to win. With our increased case load, our trial unit needs to expand to ensure that we are able to maintain a program of rigorous enforcement for the protection of investors.

- Increase Administrative Staff: Division lawyers spend too much time on tasks more efficiently handled by support and paraprofessional staff. We can leverage our resources by transferring document management, case filings, and other administrative tasks to support staff with the appropriate expertise, thereby freeing up our attorneys to tackle critical front-line work of investigating cases, bringing enforcement actions and allowing all levels of the staff to leverage their specialized knowledge.

- Train Strategically: It is critical that the Division invest in employee development to prepare its staff to respond to continuing changes in the securities industry, sophisticated new products and novel trading strategies. In addition, the Division needs to ensure that all staff have access to training to improve on the competencies and skills required for their jobs and to maximize individual potential.

- Information Technology: Information technology is also a priority for the Division. We are spending significant resources on a number of ongoing projects – improving the Division's case management system, managing ever-increasing amounts of electronic evidence with sophisticated new tools, and establishing a more centralized system for reviewing and analyzing tips, complaints, and referrals. We intend to commit whatever resources are necessary and available to ensure a timely conclusion to these upgrades. We also anticipate major future projects, including a new state-of-the-art IT Forensics Lab, enhanced data and trading analytics, and improved document and knowledge management to further enhance efficiency and consistency across the Division.

In our Examinations unit, the budget request would allow us to add 70 staff to help us begin closing the gap between the number of examiners and the growing number of registered firms we oversee. With these new resources, OCIE expects to be able to expand the scope and coverage of examinations, conducting an additional 50 investment adviser exams and 25 mutual fund exams. We also anticipate using these resources to fully staff the oversight function for credit rating agencies, allowing us to examine half of them in FY 2011. If the financial regulatory reform legislation now under consideration requires hedge fund advisors to register, we will begin to build an inspection program.

It is important to note, however, that even with an increase in the number of exams these additional resources will enable us to conduct, we anticipate examining only nine percent of SEC registered investment advisers and 17 percent of investment company complexes in FY2011.

In the newly created Division of Risk, Strategy, and Financial Innovation, the budget request would enable us to add 20 new professionals. The new staff positions would allow the Division to establish a deeper reservoir of experts who can conduct risk and economic analysis and spot emerging trends and practices in support of rulemaking and enforcement activities. We anticipate hiring professionals with significant knowledge and expertise in financial markets and products, including economists, academics, lawyers, and financial market professionals.

Among the other divisions, the budget request would permit us to add almost 50 positions to the Divisions of Investment Management and Trading and Markets. These positions will help us enhance oversight of money market funds, clearing agencies, broker-dealers, credit rating agencies, and, if brought under the agency's jurisdiction, hedge fund advisers and OTC derivatives. The Division of Corporation Finance would add 25 professionals to allow it to focus more, and with greater frequency, on the financial statements and other disclosures of large and financially significant companies.

Finally, the FY 2011 budget request proposes to spend an additional $12 million on information technology investments, focused on several key projects. Our top priority, as I described earlier, will be the third phase of our new system for analyzing tips, complaints and referrals.

We also intend to continue our efforts to build a suite of surveillance and risk analysis tools that will substantially improve the agency's ability to find connections, patterns, or trends in the data we collect. The agency has numerous internal information repositories which result from disclosure filings, examinations, investigations, economic research, and other ongoing activities. With better tools, we will be able to mine this data, link it together, and combine it with data sources from outside the Commission. This will enable staff to more effectively identify risks to investors, trends in the markets, and to identify patterns of activities meriting further examination or investigation.

We also plan to complete improvements to the case and exam management tools available to our enforcement and examination programs. We intend to modernize our financial systems and implement a new system to handle the significant increase in the volume and complexity of evidentiary material obtained during the course of investigations. We also need tools to significantly improve the efficiency of loading, storing, and archiving the roughly three terabytes of data received per month during the course of investigations in order to improve turnaround time to staff and to contain costs.

Managing Agency Growth

While the budget request anticipates significant growth in the size of the SEC, the agency is properly positioned to implement this spending plan. To accomplish the hiring of hundreds of new staff during the course of FY2011, the SEC is enhancing its human resources staff and, consistent with its current authorities, streamlining its hiring process. Improvements will include simplifying the application process and maintaining a searchable database of applicants, so that it is possible to interview for a vacancy as soon as it appears rather than having to go through the lengthy posting process each time. Being able to better tailor, target and speed recruiting will enhance the quality of applicants and help the agency acquire the necessary talent to perform effectively in an increasingly complex financial environment

Conclusion

Thank you, again, for your past support, and for allowing me to be here today to present the President's budget request.

While the SEC is a relatively small agency, we are charged with protecting millions of investors every day, including the nearly one-half of all households that own securities. I am pleased with the progress that we have made to date, but recognize that much work remains to be done to continue to reinvigorate the SEC and restore investor confidence in our securities markets. The funding level in the President's budget request is critical for us if we are to succeed in these efforts, and continue to improve our performance in an increasingly complex financial world.

I am happy to answer any questions that you might have.

Mr. SERRANO. Now, you went a long way in answering the first two questions that I have.

Could you be more specific in terms of how new resources will be used? You know, the $200 million increase in the SEC appropriation over the last 2 years has already funded a 12 percent increase in staff. You estimate that the President's budget request for another $140 million would bring about a 21 percent staff increase over the 3 years.

So how is the restructuring going to specifically take place? If you could, go more in-depth than what you said in your opening statement?

Ms. SCHAPIRO. I would be happy to.

First of all, the technology of the agency is really inadequate to the task that we are faced with on a daily basis. So we will use significant resources to bring our technology into this century, at a minimum, through efforts, for example, to take all of those hundreds of thousands of tips and complaints we receive every year and put them into a central database, have a capacity to triage those complaints, and work on the ones that have real value for us in shutting down potential Ponzi schemes or other frauds.

We will also address the difficulties that our enforcement and examination staff face with the ability to manage their volumes of caseloads and exams in order to ensure that we are devoting our resources appropriately to the highest risk areas.

As I mentioned in my remarks, there is the ability to conduct e-discovery. We have about 90 FTEs or so that are responsible right now, mostly contractors, for helping us deal with the three terabytes of data that our enforcement program receives on a monthly basis in the conducting of its investigations and cases. If we had a better electronic system, we could reduce those FTEs, and we would be far more efficient in being able to search that data and bring our cases.

As important are the people resources that we need. As I mentioned, we have fewer than 4,000 employees and 35,000 regulated entities. We need to bolster our programs in a number of areas:

Within enforcement, a significant amount of our resources would go to adding trial attorneys and support for the investigations program. We believe that that will enable us to bring many more cases on an annual basis.

In the examination program, we are severely outmatched by the industry. For example, we have about 400 examiners who are responsible for 11,000 investment advisers and 8,000 mutual funds, and mutual funds are the places where most Americans have their securities investments. We need to get better ratios there so we have better coverage of those industries, and we would use a significant portion of our human resources for that purpose.

In addition, we have created a new division of Risk, Strategy, and Financial Innovation. We are trying to bring very different skillsets into the agency throughout the organization but also to reside a group of them in one place to support all of the other functions of the agency with different sorts of skillsets—financial analysts, people who understand trading strategies, people who understand new product development, people who understand the inner workings of credit rating agencies, for example. By having a sufficient number of slots to dedicate to this area, we think we can bolster broadly across the agency our risk assessment capabilities, which is, frankly, what should drive all of our programs. We will never have enough people to do everything, so we have to have the capability to understand where the risks are and where we will apply our resources.

I am sorry. It is a very long answer.

Mr. SERRANO. No. No. I understand. It is a complicated issue.

You know, as I hear you speak, I am thinking now, when we think of the market, we think of my city of New York, but there are actually people investing and brokers all over the country, both in the mortgage market and in other markets.

Do you concentrate on the larger areas? Does the SEC look at everything? I mean, while you are looking at Wall Street again to make sure what happened doesn't happen again, could there be somebody in Dallas or in Illinois doing something improper and how do you keep on top of that? I always pick on Waukegan, Illinois. That is because it is Jack Benny's hometown and, you know, I am old enough to remember Jack Benny, so I apologize to the people of Waukegan. I always do that.

Ms. SCHAPIRO. And I remember Jack Benny as well.

Absolutely, the problems—and the problems we have confronted over the last 2 years in particular have been focused on large Wall Street firms, and they have created—and they have the potential to create great risks to our system by the very nature of their size—the number of business lines that they are in, the esoteric products that they deal in and their interconnectedness with insured depository institutions and others.

So we have had a lot of focus, I think, all of us in Congress and in the regulatory agencies and the bank agencies on Wall Street. But we also have to worry very much about what is happening on Main Street because there are 11,000 investment advisers regulated at the Federal level, and another 14,000 regulated at the State level. There are 5,500 brokerage firms spread all across the country interacting on a daily basis with retail investors and with municipalities and State governments as well.

We try to get the right balance, and I wouldn't suggest we always do, between our focus on the large systemically important institutions and the local brokers, dealers and investment advisers and mutual funds.

One way we do that is through the presence of our regional offices. We don't have one in Waukegan, but we do have one in Chicago and around the country, and those regional offices are very close to the local financial community, and so they are able to have a great deal of focus on what is happening in their local communities, and that is an important part of the balance for us.

So a number of the new resources that we have been able to gain over the last year, and as I say, for which we are very grateful—will go out to our regional offices where they can be deployed in Main Street investor protection.

Mr. SERRANO. Let me ask you one more question before I turn it over to Mrs. Emerson.

Economists have put partial blame in many places—mortgage brokers, credit rating agencies, securities firms, packaging, overrated asset backed securities, hedge funds, investment advisers, et cetera. Tricky question: Whom do you hold most responsible? Does the SEC have a role in either holding individual actors responsible or preventing such behavior in the future?

Ms. SCHAPIRO. Well, there are lots of people who share responsibility for what we have been through, and so I would agree with the list that you really just read us, whether it is credit rating agencies, Wall Street firms, regulators, to an extent as well.

With respect to how we hold people responsible or will we hold people responsible, the answer is absolutely. Within the financial services community, and looking at the conduct that arises out of the financial crisis, we have many investigations going on, and we have brought many cases already against mortgage originators for failure to disclose declining portfolio values or decreasing delinquencies for poor accounting practices against money market fund that engaged in conduct that caused it to break the buck and cause essentially the potential for a run on money market funds during 2008.

We have brought cases against insider traders taking advantage of information they knew arising out of the credit default swap market, for example. So we have held many institutions and individuals responsible in the past year, and we will continue to very vigorously investigate all of the conduct that we think violated the securities laws and gave rise to many of the related problems that we have seen, whether it was with respect to accounting and disclosure, the conduct of rating agencies, the conduct of individuals selling toxic assets without adequate disclosure to the full extent of our capabilities.

Mr. SERRANO. Elected officials are always very careful never to blame the public or to put any blame on the public, except if they are immigrants, then you can beat them up, you know. But that is my comment, you know, not that you should but some people do, much to my dismay. But during that whole bubble that we had where everything was going so great, was it a lack of information on the public's part or did the public bear a little responsibility in saying some of these deals are too good to be true? I mean, buy a house now. We will make the first mortgage payment for you. You know, no interest. Your first mortgage payment will be next year and we will throw in season tickets to the hockey team or whatever. You know, is it that I am too cynical or too suspicious? Because I would have said what is going on here?

Ms. SCHAPIRO. I do think there are certainly instances where members of the public were not sufficiently skeptical of the products that were being offered to them and sold to them. I think there were also many instances where very complex products were sold to people who simply did not understand and relied on the advice and the guidance they were getting from somebody who was offering to sell them a mortgage. So again, I think there is plenty of responsibility to go around.

Mr. SERRANO. Okay. Thank you.

Mrs. Emerson.

Mrs. EMERSON. You know, I will say, just in comment to what you were saying, Mr. Chairman, you know, after my dad passed away and my mom decided that perhaps she didn't want to live all by herself in our house, so she sold the house and then put the money that she made from it into—with an investor, and because my mother was not very well educated as far as investments went, they lost all of it. She lost all of that money, and it was really—you know, just absolutely heartbreaking and, you know, she—in some ways, I think blamed herself, but at the end of the day, she got—she was sold a bill of goods and, you know, the whole firm in which she had put her money went down and the head of it went to prison and that sort of thing, but it is really very, very sad.

I wanted to ask you a few questions, if I could, about Lehman Brothers in regard to the report that was released last week, accusing the Lehman Brothers execs of manipulating their balance sheet, malpractice by the auditor, Ernst & Young, and inaction by regulators, obviously in the wake of the Enron bankruptcy and enactment of accounting industry reforms in Sarbanes-Oxley it is disappointing to see that companies and accounting firms are still willing to misrepresent their financial positions. So I have three questions, and I will just go ahead an ask them in order and then let you respond.

To the extent it is appropriate to comment, can you tell us what you are doing to investigate Lehman and Ernst & Young? Two, what is the state of the accounting industry? Are you concerned that there is, perhaps, some more widespread use of malpractice? And three, the SEC supervises the public company accounting oversight board that was created by Sarbanes-Oxley, and I just want your thoughts on how well you believe it is performing. Thank you.

Ms. SCHAPIRO. Thank you.

I have to obviously be careful in the context of talking about what it is we are doing. Although, it would be safe to assume that we are looking very carefully at the conduct of a number of firms during this period of time, and I think the examiners' report, which is really a superb recitation of events, so far as I can certainly tell, really focuses on a couple of the issues that you have really raised very squarely. The use of these REPO 105 to temporarily reduce the leverage and potentially resulting in misleading financial results, the potential overvaluation of certain reality assets. And finally, the conduct of individuals within the firm and the conduct of auditors, and we think that the examiner's report is going to be enormously helpful to us in our efforts.

And I do think it also raises important questions about Sarbanes-Oxley and the—many of the protections that were put in place post-Enron. The reforms that one would hope would have prevented this kind of conduct. So I think there are serious questions about whether the reforms under Sarbanes-Oxley relating to accounting and disclosure were fully complied with here. Again, that is an issue raised in the report and something worthy of our looking at.

I do think that the state of the accounting industry—it is hard for me to judge broadly. I will say that I think SOX has had very positive impact on the industry. Financial reporting is clearly more transparent and more reliable than it was and recent studies have showed that the number of restatements and such have declined.

I do think that there is greater corporate accountability about financial results as a result of Sarbanes-Oxley and the requirement for CEO and CFO certification and a number of other protections. And I think that the PCAOB's program has improved audit quality through their oversight.

As a result of Sarbanes-Oxley, in addition because of the new tools the SEC was given, we have brought about 66 cases against accounting firms since Sarbanes-Oxley, and close to 200 individuals. So we have a very robust enforcement program around the accounting profession.

Mrs. EMERSON. I appreciate your answer.

Let me ask you about Bank of America now if I could because you all have been criticized for the handling of the Bank of America case where the SEC charged that the company failed to properly disclose employee bonuses and financial losses at Merrill Lynch before shareholders approved the merger of the two companies. In fact, the judge threw out the first proposed settlement of the case—well, the SEC's second attempt to settle the case was successful. Judge Rakoff stated that the settlement is "inadequate and misguided" because the penalties are "very modest."

In addition, Attorney General Andrew Cuomo still going forward with a case against Bank of America in New York State courts. So what can you tell us about your approach to enforcement, and do you believe that the Bank of America settlement is too modest? How can you satisfy our needs to know that the interests of the investors are for most as opposed to the interest of Wall Street?

Ms. SCHAPIRO. Sure. Well as I mentioned in my opening comments our enforcement program has really done an extraordinary job, I believe, in the last year, and I talked about, you know—we have doubled the amount of disgorgement. We have 50 percent higher penalties. We have opened many more investigations. We have concluded more actions, and so I think that record, while it doesn't tell the whole story by any means, suggests that aggressive, robust enforcement is back at the SEC in a very meaningful way.

We have a new enforcement director who is a former prosecutor from the southern district of New York. We have new leadership in some of our major offices where enforcement cases are generated—New York, Atlanta and Miami, and I think there is a very great commitment across the agency to fair but robust enforcement of the securities laws.

With respect to Bank of America specifically, I guess I would have a couple of comments. The original settlement was very clearly rejected by Judge Rakoff. As a result of that, we went back. We negotiated a waiver of attorney-client privilege with Bank of America so we could explore directly with their outside counsel what role they may have played with respect to the failure to disclose the original allegations, which were related to the bonuses that were being paid to Merrill Lynch employees, but we also were able to amend our complaint in a second set of allegations, that is, losses mounted at Merrill Lynch during the pendency of the proxy vote; those losses should also have been disclosed to shareholders.

So we made it a tougher and bigger case. The penalty went from, I think, $33 million to $150 million, which is actually being returned to shareholders as opposed to going to the United States Treasury, which I think was an important concern that Judge

Rakoff had in the initial settlement, that we were penalizing the shareholders a second time.

And it provides for some very significant undertakings in the corporate governance world that I think will make this a better run company so that there will be better care taken the next time, and there will undoubtedly be a next time when they have to distribute a proxy statement for their annual meeting or for a major transaction, and I think that is important as well.

Finally, the second settlement, which the judge did approve, admittedly with some mixed feelings, I believe, has a full factual recitation of all of the facts that underlie the conduct we believe violated the Federal securities laws. I think that is very important for the public to have access to.

So the last point I would want to make is that Attorney General Cuomo did arrive at a different conclusion with respect to the culpability of individuals. He has a different law to administer, the Martin Act, and we have the Federal securities laws. But we took testimony from dozens of people. We took—we built a very strong evidentiary record, and we have to go at the end of the day where that evidence leads us, and we did not believe that we could prove in court a case against the individuals and even though we settled, our standard must always be can we prove our case in court.

Mrs. EMERSON. I appreciate that. Thanks very much. I do get so worried with these big firms that, perhaps, could be characterized as too big to fail and wish we did not have firms that were too big to fail, but that is——

Ms. SCHAPIRO. I agree completely.

Mrs. EMERSON. That is another discussion. So thank you, Mr. Chairman.

Mr. SERRANO. Thank you. Too big to fail sometimes is a matter of opinion, right?

Ms. SCHAPIRO. Yes, very much so.

Mr. SERRANO. Only the U.S. Congress is too big to fail.

Before I turn to my dear friend, dear friend, Mr. Culberson, let me just follow up on your initial question on Lehman Brothers.

We read in The New York Times that the SEC had a person stationed at Lehman, monitoring what was going on—or certainly monitoring some of the actions—and it was reported that that person didn't think anything was going wrong, was terribly wrong. I think the quote was that nothing signaled to him or to her that something was terribly wrong.

Did SEC examiners have knowledge of the REPO 105 transactions and do you agree that nothing terribly wrong with using REPO 105 transactions to reduce debt by $15 million to make the ends of quota books look better. In other words, what was going on and what role do you think the SEC should have played, did play and should play in the future?

Ms. SCHAPIRO. The examiners report I think makes clear that the SEC was not aware, that staff was not aware of the REPO 105 transactions, but if I could take a step back, I have testified at great length in front of the Financial Crisis Inquiry Commission about the issues that the SEC had with the program under which it regulated Lehman Brothers, called the Consolidated Supervised Entities Program, which was really developed to bring holding companies of large investment banks that didn't have a bank, and therefore weren't subject to Fed regulation, under the umbrella of some kind of a regulatory structure.

It suffered, quite honestly, from a number of very significant flaws. First of all, it was a voluntary program; if a firm like Lehman Brothers came into the CSE program, they did not have to stay. They could have elected a European regulator as their consolidated supervised regulator in lieu of the SEC. It was inadequately staffed and resourced almost from the very beginning. There were not enough people with the appropriate skillsets to really be responsible for five of the largest financial institutions frankly in the world.

It was a bit insular and stovepiped. I think that is one of the things we see referenced within the examiners report. And there was an aspect to it that the Consolidated Supervised Entities Program required a sort of regulation, a prudential form of regulation. It was really quite different than the regulation the SEC normally engages in. We are a very disclosure and enforcement-focused agency. This program really required more of the banking regulator sort of approach to regulation where we figure out the problems and we resolve them and we move on. We do not have a lot of transparency around that in a lot of enforcement, and I think we were ill-suited because of our disclosure and enforcement mentality to really convert to being a prudential regulator in this sort of a setting.

So I think the report confirms some of these shortcomings, which again, we have spoken about at length and we are trying to address those through new leadership across the agency, bringing in new skillsets. The use of cross agency task forces and other mechanisms to try to break down the stovepipes that exist.

Mr. SERRANO. How do you intend to do that? I mean when you say that you are looking at it and you are trying to make the changes, what changes can we expect? Because you see what I am trying to help you prevent, if there is such a thing as us helping you prevent, is that we want to create greater confidence in your agency from the public, and then we read something like this and we say, oops, we took a step back. That is what I am trying to get at. So can you be more specific as to how you will attack this?

Ms. SCHAPIRO. Absolutely. And I should mention that this program was shut down by my predecessor about a year and a half ago, so it doesn't exist, and these major institutions are now, either don't exist or they are subject to regulation by the Fed; the SEC still focuses on the broker-dealer and works closely with the Fed.

But it is not just what we want to do. There are a number of things we have already done. We have replaced the leadership across the agency. We are bringing in—we have brought in a number of very sophisticated financial analysts and people with different perspectives and much more current Wall Street expertise to help us understand the risks that are growing in the financial system even if they are not narrowly in our world of broker-dealer regulation.

The additional slots that this committee has made possible are going to enable us to have a more hands-on approach with respect to the entities that we regulate.

The culture of the agency is changing. It doesn't happen overnight, but that is why, from my perspective, bringing in new leadership was so critically important. We have brought in people who are absolutely committed to one SEC, not a division of this or a division of that or an office of this, but one SEC that shares information that collaborates and cooperates so that at the end of the day, the SEC gets its job done, and investors can ultimately have confidence that this agency is on the job again.

Mr. SERRANO. Thank you.

Mr. Culberson.

Mr. CULBERSON. Thank you, Mr. Chairman.

The chairman raises a really important question that I know all of us are concerned about—the $50 billion that Lehman Brothers hid in debt and that they succeeded in doing so at a critically important time.

Which Federal agency, Chairman Schapiro, would have been responsible? You say your agency. You were not aware of their hiding the $50 billion. Who is responsible then for spotting that?

Ms. SCHAPIRO. The SEC was the consolidated regulator of Lehman Brothers during that period of time.

Mr. CULBERSON. I'm sorry. This was, I thought, the $50 billion they hid before they were——

Ms. SCHAPIRO. No. It was during the period of time that the SEC was the consolidated supervisor of Lehman Brothers.

Mr. CULBERSON. Okay.

Ms. SCHAPIRO. It ramped up. I think, in 2007, it particularly ramped up. The CSE program had been created a number of years before really to provide these large investment banks with a consolidated supervisor so that they could continue to operate in Europe where a director was requiring them to have consolidated supervision.

The SEC, to that point, had only ever regulated broker-dealers, and it is quite a different perspective to regulate the broker-dealers than it is the affiliates and subsidiaries and the holding company, which may include many other businesses and face many different risks than the broker-dealer itself.

Mr. CULBERSON. In your statutory authority, as you described, it is a voluntary program for which you rely a lot on disclosure, and you have to rely on the entity to disclose information before you are in a position to enforce it.

Is that under the limitations of the statutory authority of the SEC?

Ms. SCHAPIRO. Well, the program no longer exists. Chairman Cox closed it down over a year ago, maybe 6 months or so before he left the SEC.

It is a voluntary program in this sense: If they wanted the SEC to be their consolidated supervisor, they then had to consent to regulation by the SEC and to provide us the information that we believed was necessary, not just for the broker-dealer but for the holding company affiliates and subsidiaries as well. It was voluntary in the sense that they could leave the program, but once they were in the program, they were obligated to provide the SEC with the appropriate information.

Mr. CULBERSON. So, really, if not the SEC, wouldn't the Federal Reserve then have the responsibility for ensuring that—I mean to flesh out this $50 billion of debt that was hidden? Wouldn't that be the responsibility of the Federal Reserve?

Ms. SCHAPIRO. Well, it was the SEC's responsibility. We were the consolidated supervisor of Lehman Brothers. Towards the end, both the Fed and the SEC had staff much more actively engaged. According to the examiner's report, they were much more actively engaged in the oversight on a daily basis of Lehman Brothers.

Mr. CULBERSON. But the Federal Reserve also had responsibility, didn't they?

Ms. SCHAPIRO. Well, they didn't have direct regulatory responsible, but there was clearly cooperation. They were clearly involved as well with Lehman Brothers.

Mr. CULBERSON. But the Federal Reserve is responsible for ensuring the integrity of the banking system in the United States, so the Federal Reserve had responsibility for ensuring the integrity of Lehman Brothers as well, right?

Ms. SCHAPIRO. Well, I guess we probably more appropriately would ask them this question; but because Lehman Brothers was not a bank holding company, but rather a securities firm subject to consolidated supervision at the SEC, I believe, according to the examiner's report, the Fed viewed the SEC as the primary regulator; but clearly—and I know you have seen the examiner's report—there is discussion of the role the Fed played in overseeing Lehman Brothers.

Mr. CULBERSON. Right. You have got primary responsibility, but the Fed also has responsibility, right?

Ms. SCHAPIRO. Well, yes, I think that is correct.

Mr. CULBERSON. One of the problems that has been brought to my attention by people I respect in Houston, which I was unaware of, is that, apparently, it is possible for a regulator who works at the SEC—when they leave the SEC, they can turn around and go work for one of the firms that they regulated.

Ms. SCHAPIRO. That is true.

Mr. CULBERSON. Like next week. They could leave today, and next week, I could be drawing a paycheck from one of the firms I was regulating.

Ms. SCHAPIRO. We do have employees, obviously, who leave our employ, as they are entitled to do, and they can go work for law firms that represent regulated entities, and they can go work for regulated entities. In that case, we try to guard very carefully against the conflicts that may be created by their being present in a regulated entity; but it is true what you say, and I have looked at what other regulators do in this regard. We have this difficult balance here because we want to bring in the best and the brightest to the SEC, and we want to bring in people from Wall Street who understand products, who understand practices, who can help us find the problems, and at the same time, if we tell people you cannot go work for 5 years in this industry, we are going to have a very hard time bringing in the talent we need to bring in.

Mr. CULBERSON. But you can see the conflict, and I wanted to be sure to bring it to Mrs. Emerson's and the chairman's attention that it is astonishing at the SEC—that I could work at the SEC as a regulator and then, next week, go work for one of these big firms and be pulling down a huge salary. I mean, the conflict is just blatant. I think, in every other Federal agency that I am aware of—and we do the same thing here—there is a period of time in which, I think at any Federal agency, you can't, for example, I know, if you leave the Pentagon, immediately go work for Boeing or go work for Lockheed. The conflict is just incredible. It is incredible.

I mean that, to me, is one of the fundamental problems here. You have got the authority, I think, internally—don't you?—to issue a regulation that would prohibit your employees from going to work, within a period of time, for the entities that you regulate? You have got that authority under the statute, don't you, to do it yourself?

Ms. SCHAPIRO. I don't know the answer to that, but we can certainly look into that, and I would be happy to come back and talk with you about it. I do know that people do leave other regulatory agencies and go into the industries for which they have had regulatory responsibility. The SEC is not alone in that.

Mrs. EMERSON. I think the FDA does it, too.

Mr. CULBERSON. It is a bad idea. I mean, it is just a terrible idea.

I think the statute is broad enough, Mr. Chairman and Mrs. Emerson, to give you authority, and if it is not, it is something we should talk to our friends about on the authorizing committee, and if they get too wrapped around the axle, we may think about getting a waiver. That is something that ought to be in law, Mr. Chairman. This is just a blatant violation of just common sense. It is a terrible problem.

I understand you are trying to attract top people, but that is just not acceptable, particularly in light of what has happened to the country and the failures we have seen.

In the brief time I know I have got—and I know I get a second round—I wanted to ask about Stanford Financial. They were in Houston. This guy Allen Stanford fooled a lot of people, and his company employed—in fact, Stanford was an SEC and FINRA regulated broker-dealer.

The certificates of deposit that Stanford sold people were sold to investors by SEC-regulated, FINRA-licensed and SIPC-member financial advisers. You know, they were all licensed regulators. There was even an SIPC logo on all of the correspondence that Stanford sent out. They had to do that—of course, they had to have the authority to do so.

My question would be, Mr. Chairman—and I appreciate the time—is that the victims of Stanford were defrauded in this same kind of Ponzi scheme as the Madoff investors were defrauded. Yet the SEC has extended SIPC coverage to the Madoff investors, and it is the same situation. You have got people who lost everything, who were destroyed by this fraud. I wanted to ask you to please reconsider extending SIPC coverage to the Stanford investors who were defrauded in the same way as the Madoff investors.

Ms. SCHAPIRO. I appreciate that.

This is really a tremendous tragedy. I know—and I know you know as well—that SIPC has determined that the SIPA Act doesn't apply, with respect to the customers who held the CDs of Stanford

Bank, because they were not held at the broker-dealer. They were issued by a bank, and they were considered to be a banking product.

My staff has met on multiple occasions with the Stanford victims group. In fact, I will be meeting with them in the very near future, and I assure you we will continue to look at any information they bring to us or that comes to light in the consideration of our litigation that would suggest a different result.

Mr. CULBERSON. If I could just very quickly follow up, Mr. Chairman—and thank you for the time—the SEC designated Stanford's business entities as a single commercial enterprise. They were all one commercial enterprise, so they weren't simply a bank. These weren't banking certificates. Your agency had designated them as a single commercial enterprise. So, therefore, it is logical that they would then be extended coverage under the SIPC program.

Ms. SCHAPIRO. Well, we can certainly continue to have conversations with SIPC about this. I understand the concern that you are raising.

Mr. CULBERSON. Would you revisit it, please? Would you please go back and look at it again? These folks have lost everything.

Ms. SCHAPIRO. Absolutely. I would be happy to.

Mr. CULBERSON. I know I will have another round.

Thank you, Mr. Chairman.

Mr. SERRANO. I am going to just make a brief statement, and I believe that this statement is true, which is that, while in the past administration and in the past in general, there might have been some Members of Congress who thought we shouldn't overregulate and that therefore it was okay for the SEC to look the other way, I think that we are at a point now where I can honestly say there are certainly members of this subcommittee and members of the full committee who would want the kind of things that happened in the last couple of years not to happen again.

It is in no party's interests. The Democrats and the Republicans don't score points if our economy takes another hit, as it did before, partially based on Ponzi schemes and other things that have hurt so many people.

So, when we are asking you questions, especially on this Lehman issue, if they seem tough and although you haven't complained, it is because there is a bipartisan desire for this never to happen again.

When we hear, right at the point when we are beginning to say we are turning a new leaf, that there was somebody from the SEC sitting there, basically saying this didn't seem to be a problem—granted that it was some time ago in 2008—still we are here. You are telling us things have changed. We are saying we want them to change.

I repeat that it is in no one's interest here. I mean Mr. Culberson and I disagree on many issues, but we agree that the economy has to be sound and that we have to recover from this. We all do.

So, if we press you, it is because this can't happen again. I mean, this may be—this Lehman situation, in the opinions of some folks, may be more of a tragedy than the Madoff situation because the Madoff situation cost some investors, sadly, money. This one may have cost jobs and a lot of other things that that will have ramifications throughout the economy. So understand that our continuous pushing and prodding on this issue is because this cannot be tolerated again.

Ms. SCHAPIRO. Mr. Chairman, I agree with you completely, and that is the role of Congress—to push and prod us on exactly issues like this.

I will say that, as to the comments, I think, you were referring to, that person no longer is at the SEC, and as I said, that program was shut down about 18 months ago because it was so terribly flawed, frankly, in design and execution.

But I also want to say we are working very hard at the SEC across the board—the leadership, the staff, at all levels—to rebuild the agency's credibility so that investors can have confidence that there is an agency out there solely focused on protecting their interests, which are, as you said in the beginning, both their retail interests and also their broader interests in the safety and soundness of the financial system. Across, you know, all of the things we do, that is really what is driving us and why we have people working so hard. My experience in the last year and in my first year as chairman is that there is a tremendous commitment in trying to get it right.

Mr. SERRANO. Let me move you on to another section.

As we speak now—and I am not being cynical here, but as we speak now there might be somebody on Wall Street trying to figure out the next scheme, or someone somewhere in this country, trying to figure out the next painful scheme. Some have questioned whether the Wall Street firms and their lawyers may have information technology resources that allow them to outgun the SEC.

Does each of the major divisions at the SEC have the right type of and quantity of information technology resources necessary for them to do their jobs? Does the SEC have a strategic, long-term information technology plan for investing in the type of IT resources it needs, including hardware, software and personnel?

Ms. SCHAPIRO. The short answer to your question is, no, our divisions don't have the technology resources that they need, and I guess I would say a couple of things about that.

First of all, the resources this committee gave us last year have made a big difference. So, on one of our big areas where we needed to jump very quickly to build a mechanism to take all of these tips and complaints—hundreds of thousands—bring them in, triage them, all of those things that I spoke about, we were able to get that project well underway, and we have completed the first phase of it because of that.

Now that we have some resources to spend on technology, I am very committed to making sure we do that wisely, and I have seen technology projects in other places grow wildly out of hand, exceed budgets by enormous amounts and not deliver the results that are important and were the purpose of the projects in the first place.

So we are bringing in a consultant to help us do, on a pretty rapid basis, a top-to-bottom review of our technology capabilities, our ability to manage projects. About 70 percent of our technology resources are outsourced, so we are managing a lot of contracts. We don't have many internal people. We have got to get a better mix of those things.

I would say, if you look at 2008, for example, which is the last year I have numbers, we spent $108 million on technology at the SEC. JPMorgan spent $4.1 billion on technology and communications. Morgan Stanley spent $1.2 billion, and Goldman Sachs spent over $750 million.

So we are outgunned by any measure. We will never approximate those numbers. We understand that, but we need to get to a better level than we are right now, whether it is exam management, enforcement case load management, capability to utilize e-discovery tools that will make us better and faster in our investigations and in court.

It is our financial management systems that have lots of manual work-arounds but need to be integrated and consolidated, so we are doing a better job with our own financial management.

It is really across the board that we need to devote technology resources. I want to make sure we do it well and do it right, so we are going to take these 60 or 90 days to really do a top-to-bottom review and make sure we are capable of delivering these major projects that we have on the decks.

Mr. SERRANO. Well, thank you.

The committee would appreciate, when you get to the point of understanding what your needs are and what you have accomplished in reshaping that whole area, that you inform us. I am not asking you to report in a formal way, but just let us know what changes are taking place.

Ms. SCHAPIRO. Absolutely.

Mr. SERRANO. I don't want you to be outgunned.

Ms. SCHAPIRO. Thank you.

Mr. SERRANO. Mrs. Emerson.

Mrs. EMERSON. Thank you, Mr. Chairman.

I have got two things—two separate issues I want to ask you. Well, actually, they are not two separate, but they go down two different paths.

The first one has to do with the remarks that CFTC Chair Gensler recently made somewhere in Europe, I believe, to the EU, to toughen over-the-counter rules. I think he cited AIG's derivatives operation in London as an example of the results of ineffective regulation. Number one, do you share his view that weak EU derivatives regulations are a risk to our financial system? That is the first question.

Then, secondly, in my district, derivatives, in the form of commodity futures, are followed closely by our family farms, which really depend on them to reduce risk. So, if we move more over-the-counter derivatives onto exchanges or through clearinghouses, making it more transparent and regulated, will we be able to balance the interests or the derivatives needs of the large banks versus my small family farmers?

Ms. SCHAPIRO. Right. Well, a couple of comments.

First of all, I want to be very clear. It is absolutely imperative that we bring credit default swaps and other over-the-counter derivatives under comprehensive regulation. So, while the EU issues are very real, the United States of America issues are also very real with respect to the regulation of over-the-counter derivatives. As a result, as you all know, of the Commodity Futures Modernization Act of 2000, these products were all exempted from any regulation except antifraud authority.

So there is a lot in both the House and the Senate bills that is very good, and it advances the ball in regulating in this area. There is some work to do to make sure we are not creating new loopholes or allowing exemptions over time to become loopholes, but I think there is a lot of goodwill to work through those particular issues.

You know, the commodity futures—and I spent the first half of my career in the derivatives area of the CFTC specifically. The commodity futures markets that are relied upon by farmers are well-regulated markets. They are exchange traded. There is a central clearinghouse. There is marking-to-market daily. There is margin posted. There are all the protections that one gets from a fully regulated marketplace, so I don't believe that moving unregulated products onto exchanges will in any way diminish the capability of exchanges or the accessibility of family farmers to the products that they need to manage.

Mrs. EMERSON. I appreciate that.

It is interesting. There was an article, I guess, from the March 10 Washington Post that, you know, was just in the specific area of credit default swaps. It was talking about the fact that, I guess, they are saying that Europe moved ahead of the United States in advocating new measures to totally ban certain types of financial speculation, primarily because there is the suspicion that that is what, in fact, led Greece into the very, very tough economic situation they are in now.

Would you agree with that?

Ms. SCHAPIRO. Well, I think there has been discussion, particularly as a result of the issues with Greece, as to whether what they call "naked credit"—it feels funny to say that in a congressional committee—credit default swaps, should be banned or where there is not a clearly identical, insurable or hedgeable interest, it should be banned; but I think that is just discussion at this point, and there are lots of issues surrounding that that need to be worked through. The problem is we have no transparency into this marketplace now, so whether banning is the right thing to do or not I am not sure is at all clear.

Mrs. EMERSON. We would first have to know what we are talking about.

Ms. SCHAPIRO. Right. Exactly. The information just doesn't exist.

Mrs. EMERSON. I appreciate that. Thank you so much.

Mr. SERRANO. Before I turn to Mr. Culberson, there are three votes coming, and we are going to make an effort to try to wrap it up because I suspect that, while there are three votes, they might be longer than usual because there is discussion on the floor about another issue as we all know.

Mr. CULBERSON. One or two other issues, yes.

Mr. SERRANO. Mr. Culberson.

Mr. CULBERSON. Thank you very much, Mr. Chairman.

I wonder if I could follow up.

Would you look into your ability within your own rules and the statutory authority to enact regulations that would prohibit SEC employees from going out to work for the entities that you regulate?

Ms. SCHAPIRO. Yes, I will do that.

Mr. CULBERSON. Thank you very much.

Let me also ask if anyone has been fired at the SEC. Has anyone been held accountable or has anyone been fired as a result of their negligence in the Madoff case?

Ms. SCHAPIRO. Well, I can tell you, with respect to the enforcement employees involved, 15 out of 20 have left the agency already. The inspector general's report, which revealed all of the detail about the Madoff investigations and failures, recommended that the Commission consider disciplinary action with respect to those who are still employed by the agency. We have a process under the Federal rules that would apply to any Federal employee in this context, and we are following that process.

Mr. CULBERSON. The ones who left. They just left free as birds, and probably went to go work, drawing big paychecks from some of the folks you regulate? I hope not.

Ms. SCHAPIRO. I am not sure that I know the answer with respect to each and every one of the people.

Mr. CULBERSON. Has anybody been disciplined yet?

It is like 9/11, you know. No one ever got fired. It still drives me insane.

Ms. SCHAPIRO. When the inspector general's report came out, to the extent that people were still at the SEC, I ensured that they were subject to additional supervision during the period of the pendency of considering whether any disciplinary action is appropriate. We have to follow the process that is laid out in Federal law.

Mr. CULBERSON. Has anyone been fired as a result of their negligence over Lehman Brothers?

Ms. SCHAPIRO. Not to my knowledge. Although, a number of people, including the one, I think, who is being quoted here, have left.

Mr. CULBERSON. Right. Do you know how maddening that is? I mean that is just not acceptable.

Now, in the private sector—I was a civil defense attorney. I defended businesses and individuals. You know, the trial lawyers have never darkened my door. I don't think I have ever taken a dime from the trial lawyers; but lawyers have a role just like, you know, yellow jackets and, you know, spiders have a role. That is why we have padded dashboards and safety glass. I understand that.

I mean, I think what we really need to do, Mr. Chairman, and all of us on the committee, is to find some way to hold government employees accountable in some form or fashion for gross negligence. I haven't read the gentleman's book about Madoff, but I saw the guy on the Today Show—my wife taped it—where he brought it to your predecessor on a silver platter, and nothing happened.

I am going to save time for my friend Mr. Kirk, who is so capable and knowledgeable, but I wanted to bring to your attention very quickly, Mr. Chairman and members, about a problem brought to my attention. Apparently, these firms can set up computer servers on the floor of The New York Stock Exchange. The big firms can set up co-located servers on top of the light pipe and get right next to the fiber optic transmission cables coming into the floor of The

New York Stock Exchange, and they are able in nanoseconds to execute trades. If they spot that one of the big pension funds is selling or buying GE stock, for example, they are able, within nanoseconds, to execute a trade because they have co-located servers on the floor of the stock exchange. That is the new scheme, Mr. Chairman.

Is that correct? I mean, that is a blatant loophole.

Ms. SCHAPIRO. Given the popularity of high frequency trading now, which has become common parlance because of such interest to so many people, co-location is a big issue because it does get you that nanosecond of advantage in timing. We have put out for comment a request for information on the whole phenomenon of high frequency trading and what would be a regulatory response that would be appropriate for that, and dealing with co-location is a critical element.

Mr. CULBERSON. Thank you very much.

I yield my time and whatever time he wishes, which is apparently mine, to Mr. Kirk.

Mr. SERRANO. Mr. Kirk will be recognized for his own time. He is a full member of the committee.

Thank you, Mr. Culberson, for your concern of Mr. Kirk.

Mr. KIRK. I want to raise two longer range issues with you.

One is we now have an emerging problem with what the IMF would call the GIPS countries—Greece, Italy, Portugal, Spain. The problem is publicly traded financial institutions in the United States have been providing off-books loans, especially to the government of Greece, that have dramatically increased the systemic risk in the system, and to publicly traded SEC-regulated financial stocks in the United States.

Could I get a commitment out of you to look into this because of the increased exposure and systemic risk that this poses to publicly traded financial institutions in the United States?

Ms. SCHAPIRO. Absolutely.

Mr. KIRK. I would like to follow up on that.

Secondly, my understanding is that the Spanish situation is five times worse than the Greek situation, and we have been surprised by what some U.S. financial institutions have lent to Greece that was not publicly disclosed, and this is creating a new systemic risk.

Thirdly, I am also worried about what was a fairly important decision by Moody's to issue a warning with regard to a U.K. debt—well, American even later—but I think there is a general rule that when your debt service is exceeding 10 percent of your income, you cannot have AAA status. The question is:

If gilts, which is what British debt is called, are downgraded, what does that do to the financial position of publicly traded companies in the United States?

Ms. SCHAPIRO. I am not sure I am really qualified to answer that question. I believe it could have a very substantial impact, obviously.

Mr. KIRK. Right.

Ms. SCHAPIRO. One of the issues, I think, really comes down to what are the disclosure requirements for sovereign debt, because even when a sovereign registers their securities to sell to U.S. investors in the United States and when they register under the

1933 Act and when they fill out a registration form—and it is quite a different registration form than we are used to seeing for a public company as it might not even have GAAP financials attached to it—and while 10(b)(5) fraud prohibitions apply, what we don't get is continuous reporting under the existing law for sovereign debt.

So, for example, there is no duty to notify the marketplace if the risk of failure to repay the debt is increasing. Those are issues that are provided for, and that protection is provided in statute, but it is something that we should potentially look at.

Mr. KIRK. It is, because my understanding is, last January, the British Government failed in a debt auction, which is a fairly substantial thing.

I met with the IMF director of European Operations, who say that he has no good transparency at all.

Ms. SCHAPIRO. Nor do we.

Mr. KIRK. Right.

Ms. SCHAPIRO. Before you arrived, we talked a little bit about the Commodity Futures Modernization Act, which really shielded instruments, particularly like credit default swaps from any transparency and from any real oversight in the U.S. markets. We have a very limited view, too, essentially only what is publicly available through the trade information warehouse at the DTCC. Absent issuing a subpoena, we don't even have routine access to the other information that is not publicly available.

Mr. KIRK. So my hope is, as chairman, A, you might be able to issue a letter, asking large publicly traded U.S. financial institutions to describe their exposure to sovereign debt by Greece, Italy, Portugal, and Spain; B, any contingency for a downgrade of the gilt, which does now appear distinctly possible; C, sort of Armageddon.

The United States is now distinctly heading in the direction of exceeding the 10 percent limit on—that 10 percent of our tax revenue would now go to service debt, which would make us ineligible for AAA bond ratings. I think there should be the exercise of looking at the off-book transactions first just so that we understand our exposure.

Secondly, force these publicly traded companies to describe their exposure to the Greece, Italy, Spain, Portugal problem and to do a run-up on what happens to the gilt, which would cause treasuries in these publicly traded companies to begin to—because they got a letter from you—dramatically reassess their risk, which would help reduce the systemic danger that we could find ourselves in.

Ms. SCHAPIRO. We could certainly look at that. Their current obligations under the law are to disclose material risk to their business and operations. We have already covered this, but we would be happy to take a sampling and see what kind of disclosure we are, in fact, getting.

Mr. KIRK. I think, right now, we are in violation of that—and this is a lawyer's point. The off-books lending to the Greek Government has exposed a systemic risk that is now spreading a contagion throughout the southern European economies, and the danger to Spain is particularly acute.

Thank you, Mr. Chairman.

Mr. SERRANO. Thank you.

At a recent hearing with the head of Goldman Sachs, before the Financial Crisis Inquiry Commission, Chairman Angelides pointed out that Goldman Sachs was packaging and selling some mortgage-backed securities even as its proprietary trading arm was making investment bets that those securities would fall in value. Angelides said that this sounded like a salesman who was buying insurance on the life of the car buyer when he sold a car with faulty brakes. We have since learned that they did the same thing with Greece.

So do you think that an investment bank or dealer selling securities should have an obligation to tell potential buyers when it is making investments with the expectation that the securities being sold will fall in value?

Ms. SCHAPIRO. I do think we need to—yes, I think we need to relook at these disclosure issues very carefully in light of recent events.

Mr. SERRANO. Is anything underway to do that? Have we started yet?

Ms. SCHAPIRO. We have created a special unit within our corporation finance department to give heightened scrutiny to the financial statements, for example, of the largest financial institutions on a continuous basis rather than, as required under Sarbanes-Oxley, a more sporadic review. So I think that we definitely have an ongoing focus here.

Mr. SERRANO. All right. I just have two more questions.

The performance of both management and boards of directors would improve with a more open process for elections to the boardroom. For that reason, I want to commend you on your commitment to enacting changes to the proxy rules that would require companies to include in their proxy materials information on candidates supported by significant long-term investors.

Can you tell me your plans for completing the final proxy rule?

Ms. SCHAPIRO. Yes, I would be happy to.

We proposed the proxy access, or rules, last year. We received lots and lots of comments, and the staff is working through those comments because there are a number of issues that go to the level of holdings, for example, that an investor must have or must accumulate with other investors in order to be eligible to put a nominee directly on the company's proxy. How long should they have had to hold those securities is another question. So, as we work through the details of it, I am hopeful that still within the first half of this year, the Commission will vote on proxy access.

Mr. SERRANO. Within the first half?

Ms. SCHAPIRO. Yes.

Mr. SERRANO. Okay. Your performance data show planned inspection rates for investment advisers going from 14 percent in 2008 to 9 percent in 2011 and the rate for investment companies going from 23 percent to 17 percent.

Why would inspection rates go down so much despite the large increase in resources that we have provided? Has the quality or depth of the inspections changed?

Ms. SCHAPIRO. We are not really comparing apples to apples, and perhaps we should have been more clear about that.

The reason we actually were able to inspect 14 percent of investment advisers last year is they tended to be narrowly scoped investigations into a particular issue, what the British would call a thematic review, where the examiners didn't go in and look at all of the activities of that adviser, but they might have gone in just to check compliance in one particular area, and so we had a higher number in the prior year.

This 9 percent assumes a more robust review of all aspects of the adviser's business, including something we have started post-Madoff, which is careful verification of assets to ensure that customer assets are appropriately custodied with an independent custodian.

Mr. SERRANO. Thank you.

Mrs. Emerson.

Mrs. EMERSON. Thank you.

Just one question. I just want to ask one final question, and then I will submit the rest of mine for the record, Mr. Chairman, and I want to thank Chairman Schapiro for being here again.

Since 2006, you all have had statutory authority to regulate credit rating agencies. I guess, last September, you all approved new proposals to strengthen the oversight of them. Number one, are you satisfied that the ratings agencies have improved the way they do business? If not in some cases, then have you actually taken action against some of the rating agencies for inappropriate conflicts of interest and the like?

I don't know. This is an issue that worries me a lot, and it keeps creeping back into every discussion we have about some new company that is exhibiting problems. Certainly, it was definitely a part of and was mentioned frequently, even though I have not really gotten through much of the book, in the new "The Big Short," by Michael Lewis.

So I would appreciate your comments.

Ms. SCHAPIRO. Yes. Clearly, flawed ratings were an enormous contributor to the financial crisis and an overreliance by investors on ratings. They didn't necessarily understand exactly what ratings do and don't do.

As you point out, we have engaged in multiple rulemakings, many before I arrived at the Commission and then one last year, to try to give investors a better context about ratings—better disclosure and prohibitions against the conflicts of interest that exist in the rating agencies, information about the performance of ratings over time—does everything always AAA, but the security doesn't perform well?—and walls between raters and the people who negotiate the fees.

I think all of these things are very positive, and I think they will have a very important impact on the quality of credit ratings, but we still have basically a model for credit rating agencies that is flawed in that the interests of those doing the ratings is not aligned with the interests of the investors who are relying on the ratings. Rather, the raters' interests are aligned with the companies who are paying them.

Since you and I have talked about this, there are a couple different models that, I think, are interesting for us to explore, and we are very open to approving as a recognized rating agency some different ways of looking at it; but even the investor pays model has its own conflicts of interest because, if I have rated a security and you have now gone out as an investor and paid me for that and bought a lot of that security, my reluctance to downgrade that security creates an issue for me and a conflict of interest.

So I think what we need is a model that really aligns the interests of the credit rating agency with the interests of those who are going to rely on that rating, whether that is some kind of a consortium of institutional investors that creates a new model for a rating agency and they are controlling the ratings as well as their use of them, whether it is a true public utility model that has been voiced—I think that would be interesting, but it creates a lot of other kinds of issues—or whether it is a model where the ratings are actually paid for through some other mechanism.

An exchange-collected fee that pools a fund from which the ratings are then paid for by that, not by the issuer of the securities, is another interesting model to look at. We are very encouraging to people to try something different.

Mrs. EMERSON. Well, I hope we can come up with something because I just have an inherent problem, and I find there to be ethical issues involved any time somebody is rating somebody who has been paying them. The same would be true for even for example, the Food and Drug Administration, where the pharmaceutical companies pay fees in order to get their products approved. I mean, to me, it just doesn't pass the smell test.

Thank you.

Mr. SERRANO. Thank you.

As we say, we have three votes, which possibly will take quite a while, so we are going to end the hearing now. We want to thank you for your testimony.

I just want to close—and I think that Mrs. Emerson will agree with this statement—by telling you that this committee and this Congress and this country expect a lot from the SEC and expect a lot, therefore, from you and your staff, and we stand ready to support you in your efforts to make this work.

You see, the American people, in my opinion, understand unemployment because they feel it, and they see it in their communities. They understand, therefore, the lack of jobs. They understand losing their homes, having them foreclosed. They may not totally understand how that ties into what you do. They may not fully understand that, unfortunately, some of the bad guys have to be kept afloat so that some of the folks at the bottom can stay alive. This is a very difficult message to bring to people, and so we will continue to support you as you try to make this thing work better and make sure that rip-off artists disappear or are lessened in numbers so that we can get things going again. There is such a direct tie into what you are charged with doing and with what the American people are suffering every day.

While you do admit that it is a small agency—and it is seen that way, and most Americans don't even know that it exists—it has a direct impact on the future of our economy and on the future of our country. So, again, we stand ready to help you, but we ask a lot of you, and we hope to get that kind of leadership.

Ms. SCHAPIRO. Thank you. I can assure you we feel that burden every single day. Thank you.

Mr. SERRANO. Thank you so much.

WEDNESDAY, APRIL 21, 2010.

FY 2011 BUDGET REQUEST FOR THE DISTRICT OF COLUMBIA

WITNESSES

ADRIAN M. FENTY, MAYOR, DISTRICT OF COLUMBIA
VINCENT C. GRAY, CHAIRMAN, THE COUNCIL OF THE DISTRICT OF COLUMBIA
NATWAR M. GANDHI, PH.D., CHIEF FINANCIAL OFFICER, GOVERNMENT OF THE DISTRICT OF COLUMBIA

Mr. SERRANO. Good morning. The subcommittee will come to order. I guess the first important question is, What is with the Nats? I mean, is it time to break them up or something?

Mr. GRAY. It is all part of the plan, Mr. Chairman.

Mr. SERRANO. I told you to get Pudge Rodriguez.

Good morning to all of you. Today the subcommittee will hear testimony on the fiscal year 2011 budget request for the District of Columbia. I would like to welcome back Mayor Adrian Fenty, Council Chairman Vincent Gray, and the District Chief Financial Officer Dr. Natwar Gandhi. I am honored to have the opportunity to work with all of you in the D.C. Government, and I truly appreciate all of your commitment to ensuring that Washington, D.C. is the world-class city that it is already, I believe, but also worthy of its status as our Nation's Capital.

As I have said before, I have a special affection for the people of the District of Columbia. As someone who was born in the American colony—some would call it a territory—of Puerto Rico, I identify with the District's situation. The citizens of D.C. have been subject to the whims of Congress for too long. Too often they have watched helplessly as Congress imposed measures on them that would be imposed on no other city in the Nation. Frequently the vehicle for these measures was the bill that this subcommittee authors.

Since I became chairman, however, one of my highest priorities has been to reduce the prohibitions and restrictions imposed by our bill on the operations of the District of Columbia and give D.C. more autonomy in managing its fiscal affairs, particularly in deciding how local funds are spent. In fact, I have told the press that I may be the only chairman in the history of the Congress who wants to give up power rather than take more. If I have nothing to do with D.C. in the future, I would have accomplished my goal.

We have removed numerous restrictions and untied D.C.'s hands on a variety of issues. I believe that we have reached a fairly stable bipartisan consensus that the people of D.C. should not have Congress interfering in their local affairs. Of course, we wrote that part right before the gun bill/voting issue came into view, so we still have a long way to go.

A good portion of the credit for this new consensus on D.C.'s status is due to the recent leadership of the city government. From an outsider's perspective, it is clear that the city is being well managed and is headed in a positive direction. For that, we applaud the three of you as representatives of that leadership. Together, we have made significant progress in the past several years on ensuring District matters are left to the District, and I look forward to working with as you continue to increase the city's legislative and budget autonomy.

This chair is falling apart, Mr. Mayor. I just got much shorter.

Mayor FENTY. You look good.

Mr. SERRANO. Thanks a lot. Are you running in that race next Wednesday? It is not smart to beat the chairman of the committee.

Turning to the District's budget request, I am aware that the fiscal year 2011 request is currently under review by the city council and will not be transmitted to Congress until June. The request as presented to the council totals $10.4 billion, including $5.3 billion in local source general funds, a $306 million increase over fiscal year 2010. For fiscal year 2011, the President's budget recommends Federal payments to the District totaling $168 million, a net decrease of $17 million. The request includes $7 million for two new initiatives, including $5 million to support an HIV/AIDS initiative and $2 million designated for redevelopment in connection with St. Elizabeths' east campus. I look forward to hearing more about these initiatives in your testimony.

The request also includes $63 million to improve the District's public and charter schools and $9 million for the school voucher program to support the children currently in the program. Let me be clear on the issue of school vouchers. I continue to support the President's approach to this issue which pays for the children currently in the program until their graduation. This seems a reasonable approach to me, and I will continue to support it.

In closing, I would like to thank the Mayor, Chairman Gray, and the council, as well as Dr. Gandhi and the Office of the Chief Financial Officer for their leadership in producing a fiscally responsible budget for 2011. We thank you for your diligent and continuous attention to the fiscal health of the District. I look forward to working with each of you as we move forward through this fiscal 2011 budget process. We are, on this committee—and we reiterate this—totally committed to helping you in any way that we can. And I repeat once again, more and more—and I know that I speak for Mrs. Emerson and she will speak for herself—to give you more and more of that autonomy that you should have had a long time ago.

Some of the issues that we removed, some of the riders that we removed may come back to haunt us at election time, you know, when we do these budgets. But I think for the most part that, while there are still stumbling blocks, most Members of Congress are beginning to understand more and more the need of the District to govern itself.

Now, with that, I would like to recognize my sister and our ranking member, Mrs. Jo Ann Emerson.

Mrs. EMERSON. Thank you very much, Mr. Chairman. Welcome to all three of you. And thanks for the good job you have been doing in a very challenging time with the economy as it is, with declining tax revenues. It is not easy, and in spite of that, y'all have been able to put together a fiscally responsible budget, and we acknowledge that. I know that you will have a lot of serious budget issues with which to deal as the process moves forward. But I think you have done a good job in really making tough funding decisions in the past and I think that you are going to continue to do that. It is very, very important and it sets a good example. It should set a good example for us in the Congress as well.

With the Federal Government's fiscal year 2010 deficit estimated to be about $1.6 trillion, really, it is encouraging to see that you all can make those tough decisions.

Mayor Fenty and Chairman Gray, I also want to congratulate you in your efforts to reform education in the city. I am supportive of your efforts to consolidate schools, improve gifted and talented, music, art, and special education programs.

I am also supportive of your efforts to improve the compensation, training and performance of the city's teachers. I would love for my daughter to make more money.

Thank you very much. She will be mad at me that I mentioned it. But nonetheless, I encourage each of you all to continue your school reform efforts. The city's children deserve it, and certainly the entire region will benefit from it.

I am pleased that the President's budget request proposes the continuation of the Federal Government's three-sector commitment to education in the District by funding for public schools, public charter schools, and Opportunity Scholarships. However, and as you might expect, I am very disappointed that the proposed budget continues to prohibit additional low-income students from receiving an Opportunity Scholarship. We all know that despite all of the reform efforts being implemented, that many children attending D.C. Public Schools aren't getting a quality education. I know this in part, as I mentioned, because my daughter is a first-grade teacher in the D.C. Public Schools, and she tells me every day about the challenges she faces. And it is tough. It is tough out there. And I will acknowledge that your office has been very, very helpful, Mayor, in dealing with some of the ancillary issues.

Regarding the Opportunity Scholarship Program, Patrick Wolf, the principal investigator for the Department of Education's study of the program, stated that—and I will quote—The D.C. voucher program has proven to be the most effective education policy evaluated by the Federal Government's official education research arm so far, end quote.

He went on to say—and I quote again—In my opinion, the bottom line is that the OSP lottery paid off for those students who won it. On average, participating low-income students are performing better in reading because the Federal Government decided to launch an experimental school choice program in the Nation's Capital, end quote.

So if the public schools aren't performing up to national standards, and parents want their children to have other options, I believe that we should expand participation in the Opportunity Scholarship Program and not limit participation to only those who are enrolled in the program today.

Once again, welcome to you all. I do recognize how challenging it is to run a city in tough economic times, and I am grateful for your efforts. I look forward to hearing your testimony. Thanks, Chairman.

Mr. SERRANO. Thank you. Thank you so much. You know the drill. We ask you to stay within 5 minutes. Your full text will be included in the record. And if you keep it to 5 minutes, that gives us time to grill you to the point of exhaustion.

Mrs. EMERSON. We are going to be the final debate people here. We are running a debate.

Mr. SERRANO. We are?

Mrs. EMERSON. Yeah. Why do you think the TV camera came?

Mr. SERRANO. Well, we agree on just about everything.

I will now recognize Mayor Fenty, followed by Chairman Gray, and then Dr. Gandhi. I ask you to keep it to 5 minutes, please. And for the record, your statements will be included in the record. Please proceed.

Mayor FENTY. Thank you very much. Chairman Serrano, Ranking Member Emerson, distinguished committee members, it is my pleasure to be here today to discuss the District's fiscal year 2011 budget and financial plan and the Federal payments proposed for the District in the President's fiscal year 2012 budget.

First, a brief overview of the fiscal condition of the city and specifics of the President's budget request. Despite the recent economic challenges that you all noted, the budget and financial plan submitted to the Council of the District of Columbia are the fourth consecutive balanced budget that I submitted and the 15th consecutive balanced budget since the days of the Control Board.

The budget has required tough decisions, but it represents the fiscally responsible approach to governing the residents of the District of Columbia that we have become used to in recent years. It also solves a $523 million budget gap for the next fiscal year by streamlining agency operations, controlling spending, and sustaining growth, eliminating vacant and redundant positions, while staying focused on the core mission of transforming public schools, keeping our neighborhoods safe and our families healthy.

This year, as in years past, my administration has worked very closely with the Office of the Chief Financial Officer and the Council of the District of Columbia to develop a budget and spending plan that accounts for the anticipated continued decline in total tax revenue. Again, out of $11 billion, we include $5.27 billion in local funds and $2.7 billion in Federal funds.

Now, last year, the District benefited tremendously from the American Recovery and Reinvestment Act and the one-time infusion of more than $700 million, allowing us to, for example, put 50 new police officers on the streets, provide assistance to 188 small businesses and other important programs. Without the infusion of Federal stimulus dollars this year, however, the District will still maintain its commitment to core services.

We would also add that this year's budget and financial plan maintains the District's strong financial position and sustains the progress we have made in recent years to make our tax structure more competitive with neighboring jurisdictions.

When I was elected in 2006, we swiftly moved to become just the fourth jurisdiction to go into mayoral control of the school system. Michelle Rhee, the schools' chancellor, has aggressively reformed our public schools. There has been tremendous progress. You read about the test scores that are going up in record amounts. Enrollments are also up, so is graduation, and District residents are excited about the improvements they are seeing in the schools for the first time in many years.

The President's budget includes $43 million to directly support our efforts to create the highest performing urban school district in the country. This year's budget will allow us to continue our investment in such things as early childhood education and expand our portfolio of STEM schools, for example.

The President's budget also provides $20 million to support charter schools and $35 million to continue the Tuition Assistance Grant Program for District residents pursuing higher education. Also, as you have noted, the funding of Opportunity Scholarships for students who currently receive them. And we are working with the Department of Education to craft an approach that will sustain the program for years to come.

There are other key Federal funding priorities. We are very glad to see money for the combined sewer system to protect the Chesapeake Bay, Potomac, and Anacostia Rivers from pollution, the funding of the Criminal Justice Coordinating Council, and funding for operations for the D.C. National Guard.

Last year the President proposed and Congress funded a Federal payment to support the District's efforts to develop solutions to end chronic homelessness. With the support of this subcommittee, by the end of this year, fiscal year 2011, we will have housed nearly 1,000 individuals and more than 230 families in permanent supportive housing.

One of the two new Federal payments included in the President's budget will allow the District to continue its work to combat the spread of HIV and AIDS. Our HIV and AIDS Administration recently released an update which shows for the first time a decrease in new AIDS cases in the District of Columbia. We know that we still are in the midst of an epidemic, and the new dollars will help us to combat them.

The second new initiative included in the President's budget reflects the extraordinary possibilities that exist when the District and Federal partners work together. Everyone knows that the money to redevelop the St. Elizabeths campus in southeast Washington, the $2 million will support the first phase of planning necessary to create a vibrant mixed-use, and sustainable community.

In conclusion, Mr. Chairman, the U.S. Census Bureau reported earlier this year that the District's population grew by an estimated 10,000 residents, the largest 1-year gain since World War II. The attraction of new residents and the retention of those who have called Washington home for decades is one of the great indicators that Washington, D.C. is moving in the right direction. And, of course, we view this committee as a critical partner in that effort. I look forward to continuing to work with you toward our mutual goal of making Washington, D.C. even more of a world-class capital city. This concludes my prepared remarks, and I am glad to answer any questions.

Mr. SERRANO. Thank you.

[The information follows:]

The Mayor's Fiscal Year 2011 Budget and Financial Plan: "Maximizing Efficiency"

United States House of Representatives
Committee on Appropriations
Subcommittee on Financial Services and General Government

The Honorable José E. Serrano, Chairman
The Honorable Jo Ann Emerson, Ranking Member

Testimony of Adrian M. Fenty
Mayor
District of Columbia

Wednesday, April 21, 2010

Introduction

Chairman Serrano, Ranking Member Emerson and distinguished subcommittee members, it is my pleasure to be here today to discuss the District's Fiscal Year 2011 Budget and Financial Plan and the federal payments proposed for the District in the President's Fiscal Year 2011 Budget. I will begin with a brief overview of the District's current fiscal condition before discussing the specifics of the President's Budget request.

District Budget Summary

Despite the recent economic challenges, the Budget and Financial Plan I submitted to the District of Columbia Council on April 1st is my administration's fourth consecutive balanced budget and the District's 15th consecutive balanced budget since the days of the Control Board. While the budget required tough decisions, I believe it represents the fiscally responsible approach to governing the residents of the District of Columbia expect and deserve, and it adheres to a basic tenet - government should not spend beyond its means.

Our FY11 Budget and Financial Plan solves a $523 million budget gap for the next fiscal year by streamlining the District's agency operations, controlling spending, sustaining growth in critical areas and eliminating vacant and redundant positions, while staying focused on our core mission to transform our public schools, keep our neighborhoods safe and our families healthy, and provide high quality services to District residents – without raising taxes.

This year, as in years past, my administration worked closely with the Office of the Chief Financial Officer to develop a budget and spending plan that accounts for the anticipated continued decline in total tax revenue. Our $11 billion spending plan includes $5.27 billion in local funds and $2.7 billion in federal funds. Last year, the District benefited tremendously from the American Recovery and Reinvestment Act and the one-time infusion of more than $700 million allowed us to put 50 new police recruits on the street, provide assistance to 188 small businesses and serve meals to thousands of homebound residents. Yet even without the infusion of federal stimulus dollars this year, the District will maintain its commitment to providing core services to residents. I would also like to add that this year's budget and financial plan maintains the District's strong financial position and sustains the progress we have made in recent years to make our tax structure more competitive with our neighboring jurisdictions, by leaving tax rates where they stand.

Now I would like to speak specifically about the federal payments proposed in the President's FY11 Budget.

Education

When I was elected in 2006 I moved swiftly to assume control of the District's Public School system and hired Chancellor Michelle Rhee to aggressively reform our public schools. In just over three years we have seen tremendous progress and your continued support has been invaluable. Standardized test scores and enrollment are up, graduation rates are rising, and District residents are excited about the improvements they are seeing for the first time in many years.

The President's Budget request includes $43 million to directly support our efforts to create the highest performing urban school district in the country. Specifically, this year's budget will allow us to continue our investment in early childhood education, expand our portfolio of STEM schools and those that focus on arts integration and world cultures, bolster our innovative programs to raise student achievement and innovatively assess teachers and compensate them based on their performance.

The President's Budget also provides $20 million to support charter schools and $35.1 million to continue tuition assistance grants for District residents pursuing higher education. To date, the DCTAG program has served nearly 15,000 DC college attendees and has increased college-going rates to 60% - 10 points above the national average. The President's Budget also continues to fund Opportunity Scholarships for students who currently receive them and I applaud the Department of Education for crafting an approach that will sustain the program for years to come.

Other Key Federal Funding Priorities

The President's FY 2010 Budget included funding for several partnerships with the federal government to improve safety and protect the environment in the District of Columbia. I am pleased that many of those initiatives were continued again this year. Specifically, the $15 million proposed federal payment for the Emergency Planning and Security Fund will ensure adequate funding for the costs associated with the presence of the federal government and the many protests, demonstrations and national events that occur in the District each year.

The President's Budget also continues funding for improvements to our Combined Sewer System to protect the Chesapeake Bay and Potomac and Anacostia rivers from pollution, funds the Criminal Justice Coordinating Council, which implements the JUSTIS database to help federal agencies and the District share vital information, and allocates funding for the operations of the DC National Guard.

Permanent Supportive Housing

Last year, the President proposed and Congress funded a federal payment to support the District's efforts to develop effective solutions to end chronic homelessness. With the support of this subcommittee, by the end of FY11 our Department of Human Services will have housed nearly 1,000 individuals and more than 230 families in Permanent Supportive Housing. In many ways the District is leading the nation in this effort and the President's FY11 Budget will allow us to bolster our efforts by providing $10 million to support the development of two new site-based Permanent Supportive Housing facilities, one of which will primarily serve the District's homeless veterans. Both sites will provide our most vulnerable residents with the treatment, case management services and access to support groups necessary to prevent a return to life on the streets.

HIV/AIDS Prevention and Care Services

One of the two new federal payments included in the President's Budget will allow the District to continue its work to combat the spread of HIV/AIDS. Last month our HIV/AIDS Administration released the District's 2009 Update on HIV/AIDS and for the first time the report showed a decrease in new AIDS cases in the District of Columbia. However, the District is still in the midst of an HIV epidemic that is different from prior epidemics in both its sheer size and its complexity. Fortunately, those leading our efforts to combat the disease in the District have developed innovative strategies to get people tested and in treatment faster and with more regularity than many jurisdictions across the country.

The $5 million included in the President's Budget will permit the District to build on existing service expertise and infrastructure to focus on service saturation across both networks of interconnected service providers and geographic areas of combined high risk and high poverty, to ensure that neighborhood-level core HIV counseling and testing, prevention, and treatment services are not only readily available, but are also fully utilized. The successful implementation of this effort will enable the District to reach an additional 75,000 residents and save or prolong countless lives.

St. Elizabeths Redevelopment Planning

The second new initiative included in the President's Budget reflects the extraordinary possibilities that exist when the District and its federal partners work together and I would like to thank the President and his team for working with my administration to formulate a plan to redevelop the St. Elizabeths Campus in Southeast Washington. The $2 million included in the President's Budget will support the first phase of planning necessary to create a vibrant, mixed use and sustainable community that provides the housing, transportation, and amenities desired by the surrounding neighborhoods and Department of Homeland Security employees. The planning efforts underway include the District and representatives from the White House, GSA, DHS, HUD, DOT, EPA and other stakeholders.

Conclusion

Earlier this year, the U.S. Census Bureau reported that the District's population grew by an estimated 10,000 residents between July 2008 and July 2009 – the largest one-year gain since World War II. The attraction of new residents and the retention of those who have called Washington home for decades is perhaps the greatest indicator that the District of Columbia is moving in the right direction and I view Members of Congress as critical partners in that effort. I look forward to continuing to work with you toward our mutual goal of making Washington a world-class capital city.

This concludes my prepared remarks and I'm happy to answer any questions.

Mr. SERRANO. Chairman Gray.

Mr. GRAY. Thank you very much, Mr. Chairman and Mrs. Emerson. I am delighted to be here today to testify before the committee about the District's appropriations and other operational items.

This year the Council along with the Mayor, as has already been pointed out, has had the difficult task of determining how it is going to continue to provide the services our citizens deserve in an environment of reduced revenue projections. The District is proposing a slightly increased local budget of $5.3 billion for fiscal year 2011 as compared to the revised 2010 budget of $5.2 billion, a 1.2 percent increase. The proposed overall budget for 2011, as has been pointed out, is about $10.4 billion.

The Council continues to support efforts to improve and restructure our traditional public school system. This is reflected in a proposed increase in the per-pupil funding of $175 per student. This budget also continues to recognize the importance of early childhood education by expanding the number of prekindergarten classrooms by 15, which will serve an additional 260 students, and we are well on our way to becoming the first jurisdiction in America that can say that we have universal prekindergarten services serving all of our 3- and 4-year-olds.

The proposed budget also invests in the education of our youth by including funding for six new branch libraries and improvements to 14 parks and recreation centers. The Council supports continuation of the Federal payment for school improvement which has been an important source of funds that have enhanced curriculum, educational systems, and training.

In support of the District's continuing efforts to improve its education system, the President has proposed $72.4 million for the three-sector funding for fiscal year 2011.

The Tuition Assistance Grant Program has been very successful since its inception 9 years ago. Students in the program have attended over 300 schools in 47 different States. I thank the President for again including funding of $35.1 million for the program in the fiscal year 2011 budget.

Last year Congress approved the President's budget proposal for funding our homeless community in permanent housing. The program provides a holistic approach to homelessness by offering intensive case management along with permanent housing. To continue this very successful program, the District is requesting a Federal appropriation of $10 million to include a site for homeless veterans. The city is working with the Veterans Administration on this initiative.

The District of Columbia, as I think many know—if not everyone knows—is experiencing an HIV epidemic. The city government is working on responding to the epidemic by increasing its outreach and services to those affected by the disease. Federal funding will assist the District in having a robust program that provides valuable support services to an additional 75,000 District residents. I ask the committee's support for the $5 million appropriation.

As you know, GSA plans a facility on the west campus on St. Elizabeths to consolidate the Department of Homeland Security's offices in one location. In addition, the District plans to redevelop the east campus. This development will include residential, small business, government offices, retail, and other commercial development.

To maximize these collaborative opportunities, the District is asking for $2 million to assist the Office of Planning in its redevelopment efforts for the east campus.

The District Government has the unique and important responsibility of protecting the property and personnel of the Federal Government. Therefore, the city's police, fire, emergency management, and other services must expend time and manpower to provide the required protection. I ask this committee to fully fund the $15 million in planning and security costs associated with the Federal presence.

I request support for two bills currently pending in the House that were introduced by Congresswoman Norton, H.R. 1045, the District of Columbia Budget Autonomy Act of 2009, and H.R. 830, 960, District of Columbia Legislative Autonomy Act of 2009. The ability to implement our local budget without the current congressional review can prevent delays in service delivery. The District Government should have the ability to develop and implement our budget based on locally earned revenues. The legislative autonomy bill would remove the requirement for a 30- and 60-day review for civil and criminal legislative acts of the District Government.

Currently the review period causes several months of delay in implementing laws and requires the Council of the District of Columbia to operate using a cumbersome and complicated process of emergency temporary and permanent legislation so that there will be no gaps in our laws.

In closing, I ask that you pass this year's budget request in time for the start of the new fiscal year and that no riders be placed on the bill. I want to thank you, Chairman Serrano and Congresswoman Emerson, for this opportunity to share my thoughts on the District's budget and other issues important to the city. I look forward to working with you on the city's appropriation legislation. And, of course, I am available for any questions you may have. Thank you very much.

Mr. SERRANO. Thank you.

[The information follows:]

Council of the District of Columbia

Testimony of Vincent C. Gray

Chairman

The Council of the District of Columbia

Before the

Committee on Appropriations

Subcommittee on Financial Services and General Government

On the

District of Columbia

FY 2011 Budget Request

April 21, 2010

Introduction

Good morning, Chairman Serrano, Ranking Member Emerson and members of the Committee on Appropriations' Subcommittee on Financial Services and General Government. I am pleased to speak to you today about the District's appropriations and other operational items.

Budget Proposal

This year the Council along with the Mayor had the difficult task of determining how to continue to provide the services our citizens deserve in an environment of reduced revenue projections. The District is proposing a slightly increased local budget of $5.3 billion for FY 2011 as compared to the revised FY 2010 budget of $5.2 billion, a 1.2% increase. The proposed overall budget for FY 2011 is $8.9 billion. In a time of declining revenue and growing demands the District is proposing its fifteenth consecutive balanced budget.

The budget represents a continued focus of attention and resources in the areas of public education, workforce development, health and human services, and public safety. Even in these difficult times it is important that the District of Columbia continue to improve the lives of our residents who are most in need.

Education

The Council is committed to improving the educational system in the District and the performance of our students. The Council continues to back the Mayor's efforts to improve and restructure our school system. This is reflected in an increase in the per pupil funding of $175 per student. The Council supports the continuing efforts to consolidate schools to cut costs, enhance teacher training and aid student learning through a revised and improved curriculum. This will allow for additional teachers in the areas of the arts, music and physical education, along with additional social workers and school psychologists. This year's funding will support the ongoing efforts to enhance test performance, overall academic achievement and graduation rates. This budget continues to recognize the importance of early childhood education by expanding the number of pre-kindergarten classrooms by fifteen (15) which will serve an additional two hundred sixty (260) students. The FY 2011 budget provides full funding for the University of the District of Columbia subsidy. In addition, to the funding for the schools the proposed budget also invests in the education of our youth by including funding for six (6) new branch libraries and improvements to fourteen (14) parks and recreation centers.

The Council supports the continuation of the Federal payment for school improvement. The payment has been an important source of funds that have enhanced curriculum, educational systems and training. The payment is essential to continuing the enhancements that both the District and Federal Governments want to see in the District schools. Due to the success of this program the President has proposed $72.4 million for the three-sector funding for FY 2010, $43 million for DC Public School, $20 million for Public Charter Schools and $9.4 million for the opportunity scholarships. Included in the $43 million for DC Public Schools is $20 million to help "Jump Start Public School Reform." This additional funding which has been included in the last two fiscal years' appropriations has assisted the DC Public Schools in the recruitment, training and development of principals and teachers, and a teacher performance assessment system, development of optimal school programs, improved data reporting, and the ability to measure student gains. The Federal education funding provides funds for training and development of principals and teachers, further development of a teacher performance assessment system which links teacher performance to student achievement. These funds will also be used to address and improve those schools recognized as failing by the Department of Education. In addition, funds will be used to engage parents in assisting their child with their education experience. The public charter school funds will support facility enhancements, address student and school needs and assist in achieving performance initiatives. The continuation of the three sector education appropriation will go a long way in assisting in the achievement of the objectives of school reform.

The Tuition Assistance Grant Program has been very successful since its inception nine years ago. The students in the program have attended over 300 schools in 47 different states. I want to thank the President for again including funding of $35.1 million for the program in his FY 2011 budget. This appropriation will provide tuition for over 5,400 students, thus making higher education opportunities a reality for many students who otherwise might not be able to attend college. Sixty-five percent (65%) of grantees are the first to attend college in their families. Although tuition rates are increasing at schools across the country, thus increasing the costs for this program, we support funding at last year's level and will address these cost increases through locally initiated cost containment strategies.

<u>Housing</u>

Last year Congress approved the President's budget proposal for funding our homeless community in permanent housing. Finding permanent housing for the homeless is one of the Council's objectives. This program has been highly successful. Single persons using the District's Emergency Shelter decreased by 10% from 2008-2009 and the number of unsheltered persons-counted decreased by 15%. Housing has been provided to more than 731 households and 92 veterans through this program. It provides a holistic approach to homelessness by providing intensive case management along with permanent housing. The District wants to continue this program because of its impact on reducing chronic homelessness and improving the lives of residents of the District. For FY 2011 the District is requesting continuation of the Federal appropriation for this program so that a site can be established for homeless veterans. The city is working with the Veterans Administration on this initiative. The partnership with the Federal Government will enable the city to house up to 350 additional individuals and 150 families, thus significantly decreasing the chronically homeless population. To assist the District with its efforts in this area the President has provided $10 million for permanent supportive housing. I ask for your support of this program funding.

HIV/AIDS Prevention

The District of Columbia is experiencing an HIV epidemic. According to the national HIV/AIDS reporting system, the District has the highest AIDS rate in the country. The city government is working on responding to the epidemic by increasing its outreach and services to those affected by the disease. Federal funding will assist the District in having a robust program that would provide valuable support services to an additional 75,000 District residents. The additional funding will allow the city government to expand community level prevention interventions and services, services to identify those at the highest risk of recent infections, re-establishment of care, treatment and prevention services for those who have fallen out of care, and housing supports for persons living with AIDS. I ask for the Committee's support again this year for the $5 million appropriation.

St. Elizabeth's Redevelopment Planning

As you know GSA will be constructing a facility on the West Campus of St. Elizabeth's that will consolidate the Department of Homeland Security's offices in one location. In addition, the District plans to redevelop the East

Campus. This development will include residential, small business, government offices, retail and other commercial development. These development projects provide an opportunity for the District Government and the Federal Government to create a well planned, mixed use, mixed income, walkable and livable community. The impact of the Federal and local projects could stimulate economic and community revitalization which is very much needed in this area of the city. This local and Federal collaboration (which includes several Federal agencies) can be a model for similar future efforts across the country. To maximize these collaborative opportunities the District is asking for $2 million for the Office of Planning for its redevelopment efforts for the East Campus.

Public Safety

The District Government has the unique and important responsibility for protecting the property and personnel of the Federal Government. As the Nation's Capitol, the District is the center for demonstrations and protests against the Federal Government. Therefore, the city's police, fire, emergency management and other city services must expend time and manpower to provide protection and security for the Federal enclave during these demonstrations. In addition, the District's public safety agencies must provide daily transport/escort service for the President, Vice President, First Lady, and other dignitaries as well as frequent deployments of fire and emergency medical services equipment to helicopter arrivals. The provision of this level of protection and safety due to the Federal presence creates a significant demand on the District's resources particularly those that would otherwise be committed to the city's communities and residents. The costs for providing these services continue to grow particularly as advancements in technology provide new tools to assist in providing public safety and security. I ask this Committee to fully fund the $15 million in planning and security costs associated with the Federal presence.

Autonomy for the District of Columbia

I would like to request support for two bills currently pending in the House that were introduced by Congresswoman Norton, H.R. 1045, "District of Columbia Budget Autonomy Act of 2009," and H.R. 830/960, "District of Columbia Legislative Autonomy Act of 2009." Because the District's budget must be approved through the congressional appropriations process, the District must formulate a budget nearly a year in advance of a fiscal year. This formulation therefore cannot include revised revenue estimates and newly identified expenditure needs that would affect decision-making. If the

Congress were to determine that a District request to modify its own local budget could not be included in a subsequent supplemental appropriation, service delivery could be disrupted in several troublesome ways. It should be noted that notwithstanding the fact that the District has been included in the congressional supplemental appropriations in prior years, the District still suffers the impact of the delays in the appropriation process.

Last year, after the Council had approved its budget during the normal budget review cycle, the Chief Financial Officer reported a reduction in projected revenues for the upcoming fiscal year. The Mayor had to resubmit a revised budget which the Council approved at the end of July. This rework of our local budget would not have had to occur if the District was operating under its own budget cycle. In addition, it delayed the delivery of our proposed budget to Congress and put in jeopardy the ability to have our local funds approved for the start of the fiscal year.

Allowing the District to implement its local budget without the current congressional review can prevent delays in service funding and therefore, service delivery. The local budget is based on revenues raised by the city. Therefore, the District Government should have the ability to develop and implement its budget based on its local revenues. It is worth recalling that when the 1997 Revitalization Act was passed, one recommendation was that Congress would not need to review or approve the District's budget because the city would no longer receive any Federal payments.

H.R. 830/960, "District of Columbia Legislative Autonomy Act of 2009" would remove the requirement for a 30 and 60 day review for civil and criminal legislative acts of the District Government, respectively. Currently, the review period causes several months of delay in implementing laws that impact both the services and operation of the District Government. Congress no longer uses the layover process. The current congressional review of District acts requires the Council of the District of Columbia to operate using a cumbersome and complicated process of emergency, temporary and permanent legislation so that there will be no gap in its laws. To give some degree of predictability to our process, we must pass emergency acts that remain in effect while our legislation is pending congressional review. A review of the Council's legislation demonstrates that approximately two-thirds of the bills the Council adopts could be eliminated if there was no congressional review requirement.

While removing the review period under the proposed legislation the Congress would still have its oversight authority as provided in Article I, Section 8 of the Constitution. This bill however, would allow the city to operate more efficiently and to apply its laws to current problems in a timely manner.

Closing

In closing I would like to ask that you pass this year's budget request in time for the start of the new fiscal year and that no extraneous riders be placed on the bill.

I thank you Chairman Serrano for this opportunity to share my thoughts on the District's budget and other issues important to the city. I look forward to working with you on the city's appropriations legislation. I am available for any questions you may have.

Mr. SERRANO. Dr. Gandhi.

Mr. GANDHI. Thank you, sir. Good morning, Chairman Serrano, Ranking Member Emerson, and Mr. Crenshaw. I am Natwar Gandhi, Chief Financial Officer of the District, and I am pleased to testify today that after a careful review, I have certified the proposed Budget Request Act of 2011 through 2014 budget and financial year plan, and they are balanced. However, the revenue outlook for 2011 and the years immediately following is grim. Due to the sunset on stimulus funds and a projected decline in revenues before they slowly recover, the District like many other jurisdictions must make difficult choices and take aggressive action to lower the costs. In order to remain balanced for the duration of the 4-year plan, in the absence of a new stream of revenue, nearly all policy-driven costs must remain flat from year to year and a strict expenditure control regime should be in place.

The budget has been prepared at a time when the most serious U.S. recession since the 1930s appears to have entered a sustained, although somewhat muted, period of recovery. Still, at the national level, there is a considerable amount of uncertainty as unemployment remains high and income gains are still weak. Despite some negative effects, the District avoided some of the worst problems of the national recession because of the presence of the Federal Government.

The chart in front of you shows a history of the District's general fund balance and budgetary surplus. As you can see, we have come a long way since the mid-nineties when the fund balance hit a low of negative $518 million. By the time the control period ended in 2001, the fund balance had grown to over $500 million. By 2005, it peaked at $1.6 billion. However, by 2009, we have only $920 million. Still a respectable number, but a drop of some $664 million from the peak.

I am concerned that this erosion of the fund balance will raise concerns on Wall Street and could lead to higher borrowing costs. Therefore, I have urged the Mayor and the Council to take steps to augment, or, at minimum, replenish the general fund balance that has been depleted during the current year.

But there is a larger problem. The District, as the urban center of the large metropolitan area, houses a disproportionately large share of very poor and needy people. The District's overall poverty rate of 19 percent and child poverty rate of 33 percent are among the highest in the Nation and more than three times the comparable rates across the neighboring counties. Unlike the other urban jurisdictions, the District cannot pool resources across the wealthiest suburban areas from the same State to serve its urban poor. If the District were to offer a basket of public services similar to what is offered across the Nation for each of its residents, it would have had to spend 130 percent more than what others would spend on the same average. In this environment of high expenditure needs, revenue challenge is equally great.

Now, here is where the Congress plays an important role. Can you permit me to briefly note two areas that merit continuous attention which both go to the unfunded mandates of the District's own taxing power: one, the prohibition on taxing the income earned by the nonresidents, including those who commute into the city on a daily basis. That 66 percent of the income is earned by non-residents, that makes a simple point. The District has an especially high concentration of nontaxable real property, much of it after tax rolls due to the presence of the Federal establishment. The value of property here by the Federal Government is about 32 percent of nonresidential property values. Because of these unfunded congressional mandates, residents must shoulder a disproportionate share of the cost of the public services, while the benefits generated by the city are shared by a much larger community.

Our sustained trend in balanced budgets attests to the fact that we have not allowed these mandates to become an excuse for fiscal irresponsibility. The great credit goes for that to our Mayor, Mr. Fenty, and Chairman Gray and the rest of the Council. The leadership provided by them has allowed us to work together to produce a balanced budget. I will work diligently with the Mayor and the Council during the upcoming budget deliberations to ensure that we continue to have a sound fiscal position.

This concludes my remarks. I will be pleased to answer any questions you may have, sir. Thank you.

[The information follows:]

HEARING ON

THE MAYOR'S PROPOSED FISCAL YEAR 2011 BUDGET AND FINANCIAL PLAN

Before the
Subcommittee on Financial services and General Government
Committee on Appropriations
U.S. House of Representatives

The Honorable José Serrano, Chairman

April 21, 2010; 10:00 a.m.
2362B Rayburn House Office Building

Testimony of
Natwar M. Gandhi
Chief Financial Officer
Government of the District of Columbia

Good morning, Chairman Serrano and members of the Subcommittee. I am Natwar M. Gandhi, Chief Financial Officer of the District of Columbia government. I am pleased to be here to offer brief remarks about the Mayor's proposed FY 2011 Budget and Financial Plan for the period FY 2011 through FY 2014.

As with FY 2010, this budget development cycle presented significant challenges. Like last fiscal year, the revised projected FY 2011 revenues are below previous estimates. (See Attachment 1.) Accordingly, the City Administrator set Local fund targets for agencies that were based on FY 2010 Local funds recurring budget with certain reductions. The Office of the Chief Financial Officer (OCFO) again worked closely with the executive leadership team and agency program and finance staffs to resolve numerous budget issues to produce a balanced five-year financial plan. The FY 2011 policy budget reflects funding priorities set by the Mayor, the City Administrator, and agency directors.

After careful review, I have certified that the FY 2010 Revised Budget and, based on the proposed Budget Request Act, the FY 2011 – FY 2014 Budget and Financial Plan, are balanced.

FY 2010 REVISED BUDGET

Following the revenue estimates announced by my office on February 24, the District faced Local Fund spending pressures and revenue shortfalls totaling $230 million, as detailed in Attachment 2. In addition, the Mayor has proposed $26 million of additional spending, including the complete repayment of the Contingency Reserve and other needs.

The Mayor's Revised FY 2010 Budget covers this total of $256 million using the following sources:

- $72 million (28% of total) reductions in spending pressures, including use of two reserves designated in the fund balance, shifts of costs to non-Local funds, and actual reductions in spending amounts in the pressures
- $97 million (38%) debt service savings from the recent restructuring of the District's debt
- $25 million (10%) Local funds spending reductions in agencies
- $10 million (4%) of Special Purpose Revenue transfers into Local revenue, made possible by agency spending reductions of that amount in Special Purpose Revenues
- $12 million (5%) revenue enhancements and
- $40 million (16%) of fund balance use, of which $20 million comes from outside the General Fund (Baseball fund and Washington Center on Aging Services) and $20 million from within the General Fund (Local, Special Purpose, and Dedicated Tax)

As part of this plan, the Mayor's Revised FY 2010 budget fully repays the funds due to the Contingency Reserve, so that this will not be a cost in FY 2011. Finally, $5.1 million is added to a reserve, to be used for snow removal costs that might not be reimbursed by the federal government.

My office has reviewed the assumptions about changes in spending pressures, the shifts of costs to other funds and the availability of those funds, the proposed spending reductions in certain agencies, and the estimates of revenue arising from new fees. This proposed Revised Budget addresses the District's budget pressures in a way that would restore balance to FY 2010.

FY 2011 BUDGET AND FINANCIAL PLAN

The revenue outlook for FY 2011 and the years immediately following is grim. Unlike in FY 2009 and FY 2010, federal stimulus funding will no longer be available for the full year. (See Attachment 3.) Due to the sunset on stimulus funds and a projected decline in revenues in FY 2011 before they very slowly recover, the District, like many other jurisdictions, must make difficult decisions and take aggressive action to lower costs. In order to remain balanced for the duration of the four-year plan, in the absence of new streams of revenue, nearly all policy-driven costs must remain flat from year to year, and a strict expenditure control regime should be in place.

GENERAL FUND BALANCE

The chart in Attachment 4 shows a history of the District's General Fund Balance and budgetary basis surplus. As you can see, we have come a long way since the mid-1990s when the fund balance hit a low of negative $518 million. By the time the Control period ended in 2001, the fund balance had grown to over a half a billion dollars. By FY 2005, it peaked at $1.6 billion. The FY 2009 CAFR that was released in February showed a fund balance of $920 million – still a respectable number, but a drop of $664 million, or over 40 percent, from the peak.

(See Attachment 5.) Further, as you can see from Attachment 6, with the erosion of the fund balance our working capital situation has worsened. I am also concerned that this erosion of the fund balance will raise concerns on Wall Street and could lead to higher borrowing costs. Therefore, I have urged the Mayor and Council to take steps to augment or, at a minimum, replenish the General Fund Balance that has been depleted during the current year.

REVENUE OUTLOOK

This budget has been prepared at a time when the most severe U.S. recession since the 1930s appears to have entered a sustained, although somewhat muted, period of recovery. Still, at the national level, there is a considerable amount of uncertainty, as unemployment remains high and income gains are still weak.

Despite some negative effects the District is experiencing, it avoided some of the worst problems of the national recession because of the presence of the federal government. The District is the central city of the Washington metropolitan area with about a quarter of the jobs and 10 percent of the population. This metro area has the second lowest unemployment rate (6.2 percent) of the 49 largest U.S. metropolitan areas. However, while jobs located in the District are doing relatively well compared to the rest of the nation, District resident unemployment continues to be very high.

During FY 2010 and FY 2011, as the rest of the District economy recovers and most of the District's broad-based taxes along with it, lagging property values, particularly in commercial real estate, remain a significant risk to the revenue forecast. Some of the greatest adverse impacts of the recession on the District's economy have been those associated with real property values and sales, capital gains, and business profits.

The FY 2010 baseline estimate of $5.16 billion in total local fund revenue, which excludes dedicated taxes and special purpose revenue, is $113.8 million (2.3 percent) higher than FY 2009 revenue. The $5.03 billion estimate for FY 2011 is a decrease of $135.3 million (2.6 percent) from FY 2010.
Including restricted revenues and the Mayor's policy initiatives, total FY 2010 general fund revenue in the financial plan is $5.939 billion ($194.5 million more than in FY 2009) and $5.941 billion in FY 2011 ($2 million higher than FY 2010).

Various proposed policy initiatives increase total general fund revenue in FY 2010 by $20.3 million and in FY 2011 by $101 million. Some of the FY 2011 proposals are:

- $28 million from increased traffic fines
- $25 million from a new assessment on net patient revenue at hospitals
- $16.1 million from various fee increases or new fees
- Recognizing $5 million from the establishment of public-private partnerships for community reinvestment with hospital and medical service corporations
- $2.3 million from modifying the Qualified High Technology credit and the earned income tax credit
- There were also increases to local fund revenue coming from $17.9 million from certified special purpose fund (O-Type) revenue above budget needs, $13.6 million from the sustainable energy trust fund, and $3.6 million from the District Department of Transportation Unified Fund.

EXPENDITURES (excluding Dedicated Taxes)

Local Funds

The FY 2011 Mayor's Proposed Budget includes $5.268 billion in spending supported by $5.269 billion of resources, with an operating margin of $0.5 million, as shown in Table 1 below.

Table 1		
Proposed FY 2011 Budget Summary - Local Funds		
Resources:		**($ in thousands)**
Local Taxes		$ 4,601,359
Non-tax Revenues (including revenue proposals)		459,145
Lottery/Interfund Transfers		103,316
Appropriated Fund Balance		105,123
Total Local Fund Resources		**$ 5,268,943**
Proposed FY 2011 Budget Summary - Local Funds		
Uses:		
Operating Expenditures		$ 5,169,743
Transfer to OPEB for FY 2011 costs		98,700
Total Local Fund Uses		**$ 5,268,443**
Projected FY 2011 Operating Margin		**$ 500**

The FY 2011 Local Fund budget represents an increase of 1.2 percent from FY 2010, and reverses a trend of progressively smaller budgets that began in FY 2009. However, taking into consideration the federal stimulus funding that affected FY 2009 thru 2011, Table 2 below shows the budgetary trend over the past decade, with and without the effect of the federal stimulus funds.

Table 2 – Local Fund Budget, FY 2001 – FY 2011

($ in thousands)

Fiscal year	Without Stimulus		With Stimulus	
	Budget	% change	Budget	% change
2001	$3,251	-	$3,251	-
2002	$3,558	9.5%	$3,558	9.5%
2003	$3,602	1.2%	$3,602	1.2%
2004	$3,833	6.4%	$3,833	6.4%
2005	$4,165	8.7%	$4,165	8.7%
2006	$4,949	18.8%	$4,949	18.8%
2007	$5,020	1.4%	$5,020	1.4%
2008	$5,622	12.0%	$5,622	12.0%
2009	$5,597	-0.4%	$5,729	1.9%
2010 Revised	$5,208	-7.0%	$5,419	-5.4%
2011 Proposed	$5,268	1.2%	$5,385	-0.6%

Special Purpose Revenue Fund

The Mayor proposes a $512.2 million Special Purpose Revenue Fund budget for FY 2011. This fund includes a net amount of $534.7 million of FY 2011 revenues, made up of $483 million of certified FY 2011 revenues and $76.6 million of fund balance, less $22.7 million in certified revenues not used and $24.7 million in revenue proposals.

There are $7.3 million in special purpose fund revenue increases:

- $7 million from an increase in the E911 fee
- $150,000 from increased fees for notary public registration
- $66,000 from condominium registration and conversion fees
- $60,000 from special events licensing fees

There are $9.6 million in special purpose revenue increases that are transferred to the Local Fund:

- $3.6 million from increased parking meter rates
- $3.1 million from a fee for steel plates on roadways
- $920,000 from an additional fee on basic business licenses and public space permits for technology enhancements
- $750,000 from assessments on title insurance producers
- $750,000 from increased Department of Health fees
- $469,000 from the Office of Tenant Advocate

An additional transfer of $32.3 million from special purpose funds to local funds includes transfers from the sustainable energy trust fund, the baseball fund, and certified revenues above budget for several funds.

PROPOSED FY 2011 GROSS FUNDS BUDGET

The proposed FY 2011 gross operating budget (excluding intra-District funds) is $10.4 billion, a decrease of $281.5 million, or 2.6 percent, from the FY 2010 revised gross budget of $10.7 billion. The Local and non-Local funding components of the proposed FY 2011 gross budget and the changes from FY 2010 are summarized in Table 3 (page 11).

Table 3				
Gross Funds Budget by Fund Type				
($ in thousands)				
Fund Type	***FY 2010 Revised**	**FY 2011 Mayor's Proposed**	**Change**	**% Change**
Local	$ 5,207,770	$ 5,268,443	$ 60,673	1.2%
Stimulus	211,581	0	(211,581)	-100.0%
Local Subtotal	**$ 5,419,351**	**$ 5,268,443**	**$ (150,908)**	**-2.8%**
Dedicated Tax	302,526	354,534	52,008	17.2%
Federal	3,091,559	2,756,695	(334,864)	-10.8%
Private	7,814	4,977	(2,837)	-36.3%
Special Purpose	542,236	512,240	(29,996)	-5 5%
Total, General Operating Fund	9,363,485	8,896,889	(466,596)	-5.0%
Enterprise and Other Fund	1,366,370	1,551,504	185,134	13.5%
Total Gross Funds	$ 10,729,855	$ 10,448,393	$ (281,462)	-2.6%

***FY 2010 Revised as of 04/01/2010**

CAPITAL IMPROVEMENTS PLAN

The District is addressing its continuing infrastructure needs through its Capital Improvements Plan (CIP). (See Attachment 7) The District, however, is limited by constraints on its levels of General Obligation (G.O. bond) and Income Tax secured (I.T. bond) borrowing. Taken together, these factors place a premium on developing a sound CIP to make the best use of limited resources. The total proposed appropriation request for the FY 2011 through FY 2016 CIP is $416.8

million from all sources, which consists of $1.301 billion of new budget authority offset by $884.6 million of rescissions. The increased budget authority will be financed with I.T. or G.O. bonds, Pay-As-You-Go (PAYGO) transfers from the General Fund, the Master Equipment Lease Program, and the Local Streets Fund.

Excluding certain large financings and the Highway Trust Fund, the proposed FY 2011 capital program includes $692.8 million in planned capital expenditures to be financed by $592.3 million in new I.T. or G.O. bond issuance, $10.2 million of PAYGO transfers for a Department of the Environment project required by the Environmental Protection Agency and a partial payment for a local contribution to WMATA, $54.7 million from the Master Equipment Lease Program and $35.7 million from the Local Streets Fund and Parking Tax.

The PAYGO funding of prior years for school modernization is replaced by additional bond financing for FY 2010 through FY 2014. In the Mayor's Proposed Budget and Financial Plan, the total debt service for all outstanding and proposed tax-supported debt as a percentage of total General Fund expenditures would be approximately 11.77 percent in FY 2014, which is within the District's 12 percent debt limit.

HIGH NEEDS AND RESTRICTED TAX BASE

The District, as the urban center of a large metropolitan area, houses a disproportionately large share of very poor and needy people. The District's overall poverty rate of 19 percent and child poverty rate of 33 percent are among the highest in the nation and more than three times the comparable rates across neighboring counties.[1] Unlike other urban jurisdictions, the District cannot pool resources across the wealthier suburban areas from the same state to serve its urban poor.

Higher costs of service delivery further threaten the District's fiscal health. Labor costs for public services in the District are 123 percent of the national levels, and capital costs (primarily buildings) are 1.65 times the national average. Because of this combination of a needy population and high service costs, our expenditure needs are very high. If the District were to offer a basket of public services similar to what is offered across all states and localities in the nation, for each of its residents, it would have had to spend 130 percent more than what other states and localities spend on average.

In this environment of high expenditure needs, the revenue challenge is equally great. Whereas the District has access to a wide range of state and local revenues, it also has, again unlike other central cities, the responsibilities of a state, a municipality, and various special districts (for example, schools). Now, here is where the U.S. Congress plays an important role. Kindly permit me to briefly note two areas that merit continuous attention. Both go to the unfunded mandates that restrict the District's own taxing power.[2]

- The prohibition on taxing the income earned by non-residents, including those who commute into the city on a daily basis. That 66 percent of the income is earned by non-residents makes the simple point.

---

[1] The U.S. national averages are 13 percent for poverty and 18 percent for child poverty. For Arlington, Fairfax, Montgomery and Prince George's counties the average poverty rate is 6 percent, and the average child poverty rate is 7 percent.
[2] In 2003, the General Accounting Office (now Government Accountability Office) calculated this preemption to be between $470 million and $1.1 billion annually. (GAO, District of Columbia Structural Imbalance and Management Issues, May 2003.)

- The District has an especially high concentration of non-taxable real property, much of it off the tax rolls due to the presence of the federal establishment. The value of property held by the federal government is 32 percent of non-residential property values.

Because of these unfunded Congressional mandates, our residents must shoulder a disproportionate share of the costs of public services, while the benefits generated by the city are shared by a much larger community. Our sustained trend of balanced budgets attests to the fact that we have not allowed these mandates to become an excuse for fiscal irresponsibility. Yet, District residents, through higher taxes, pay for these mandates. The looming danger, given the economic conditions in the nation combined with the District's high expenditure needs is that, should our revenue growth slow down, District services could be severely impaired.

INCREASED TRANSPARENCY

Finally, Mr. Chairman, there are two significant innovations in this year's budget that I would like to point out. First, there is a new budget display on the web that shows operating and capital budget information by agency. This allows a viewer to see everything related to an agency in one place, without having to find a piece of it in three different volumes. This is in addition to the normal display, which shows each budget volume. Second, there is a new web application that will allow users to create their own reports by agency/program, fund, and expense category (object class). Users can compare agencies or look within an agency at programs, types of expenditures, and funding sources. We have instituted these improvements in order to increase transparency and make it easier for both the Council and the public to access budget information.

The leadership provided by Mayor Fenty, Council Chairman Gray and the rest of the Council, and City Administrator Albert along with the hard work of the Office of Budget and Planning and others in the OCFO, allowed us to work together to produce a balanced budget. I will work diligently will Mayor and Council during the upcoming budget deliberations to ensure that we continue to have a sound fiscal position.

This concludes my remarks. I would be pleased to answer any questions you may have.

Attachment 1

CHANGES IN REVENUE ESTIMATES

Changes Since June 2008, Local Source, General Fund Revenue Estimate ($ millions)

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
June 2008 budget	**$5,831.7**	**$6,099.2**	**$6,402.5**	-	-
June 2008 to June 2009:					
$ Change in the estimate	($952 4)	($1,178 8)	($1,326 9)	-	-
Percent change	-16 3%	-19 3%	-20 7%	-	-
June 2009	**$4,879.3**	**$4,920.4**	**$5,075.6**	**5,288.7**	**-**
Impact of policy changes	$319 9	$262 1	$294 5	$282 4	-
Estimate Change December 2009	($17 1)	($104 0)	($186 5)	($277 3)	-
December 2009 Estimate	**$5,182.1**	**$5,078.5**	**$5,183.6**	**$5,293.8**	**$5,390.1**
Estimate Change February 2010	($17 7)	($49 4)	($62 8)	($36 3)	$8.2
February 2010 Estimate	**$5,164.4**	**$5,029.1**	**$5,120.8**	**$5,257.5**	**$5,398.3**
Percent growth over previous year	2.3%	-2 6%	1.8%	2 7%	2 7%

Attachment 2

FY 2010 Overview – Gap Closing

Gap - Budget Pressures and Additional Spending Needs
(Dollars in millions)

	Budget Pressures	
	Revenue Shortfall (December 2009)	17.1
	Spending Pressures	185.1
	Required Contingency Amount (50% Due in 2010)	10.2
	Subtotal, Budget Pressures, Feb. 19 Hearing	*212.3*
	Revenue Shortfall (February 2010)	17.7
	Total, Budget Pressures	***230.0***
	Additional Spending Needs	***26.1***
Total, Budget Pressures and Additional Spending Needs		***256.1***
Solutions		
	(1) Changes to Local Funds Spending Pressures	
	Net Reductions to Pressures	31 5
	Shift to Other Funds	29.5
	Use of Designated Reserves	11.3
	Subtotal, Changes to Pressures	*72.3*
	(2) Spending Reductions	
	Debt Service Savings	96.8
	Agency Spending Restrictions - Local and SPR	32.6
	Other Spending Reductions and Step Freeze	1.8
	Subtotal, Spending Reductions	*131.2*
	(3) Revenue and Other Resources	
	Revenue Proposals	12.7
	Local Fund Balance	5 2
	WCAS Reserve and Baseball Fund Balance	20.4
	Dedicated Tax & SPR Fund Balance to Local	14.4
	Subtotal, Revenue and Other Resources	*52.7*
Total, Solutions		***256.1***

Attachment 3

Federal Stimulus Funding

	Expenditure Areas	Total	FY 2009 Actual	FY 2010 Expected	FY 2011 Proposed
1	State Fiscal Stabilization Fund	89.3	0.0	89.3	0.0
2	Medicaid FMAP Increase	397.6	131.9	149.2	116.5
3	Foster care\Adoption Assistance - Title IV-E	6.8	2.6	2.4	1.8
4	**Subtotal State Fiscal Stabilization Fund, Medicaid, Title IV-E**	**493.7**	**134.5**	**240.9**	**118.3**
5	Federal Operating Grants	319.7	8.6	231.0	80.1
6	Federal Capital Grants	130.7	109.1	21.6	0.0
7	Non-General Fund: Unemployment Trust Fund	58.5	24.8	33.7	0.0
8	**Subtotal District Government**	**1,002.6**	**277.0**	**527.2**	**198.4**
9	Non-General Fund: Housing Authority, WASA, WMATA	231.7			
10	**Grand total of Expenditure Provisions**	**1,234.3**			
11	Tax Provisions	-8.6			
12	**Total with Tax Provisions**	**1,225.7**			

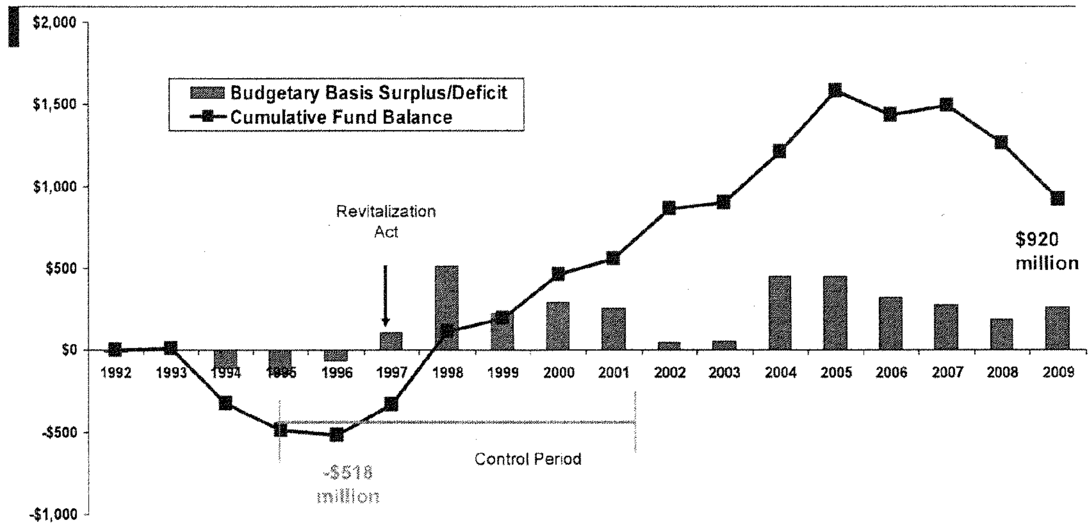
Note:

The FY 2011 Proposed FMAP amount includes an extension of the percentage increase by an additional 2 quarters.

Attachment 4

District of Columbia

District of Columbia
Surplus and Bond Rating History



General Obligation Bond Ratings

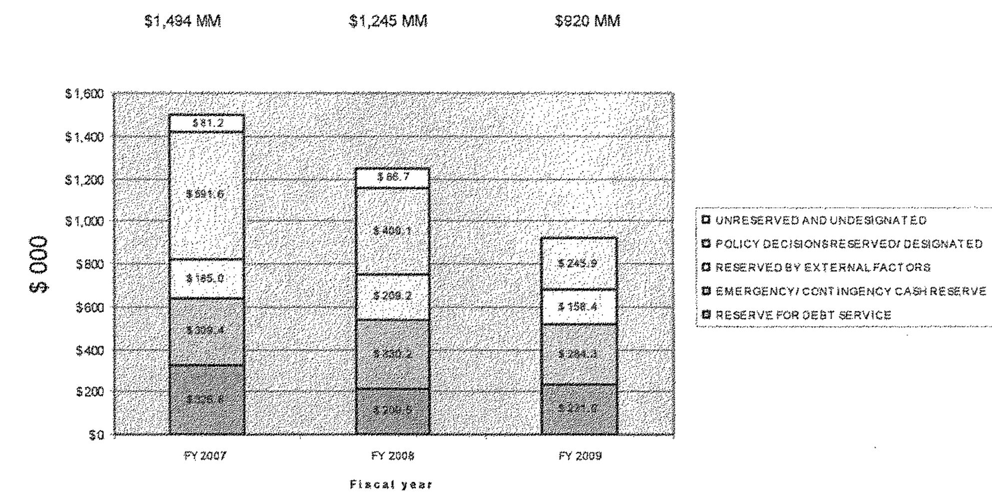
S&P:	A-	A-	A-	BBB-	B	B	BB	BBB	BBB	BBB+	BBB+	A-	A	A+	A+	A+	A+	A+
Moody's:	Baa	Baa	Baa	Ba	Ba	Ba2	Ba1	Ba1	Baa3	Baa3	Baa1	Baa1	A2	A2	A2	A1	A1	A1
Fitch:	--	A-	BBB+	BB	BB	BB	BB+	BB+	BBB	BBB	BBB+	A-	A-	A	A	A+	A+	A+

2009 Income Tax Secured Revenue Bonds: S&P: AAA Moody's: Aa2 Fitch: AA

Attachment 5

District of Columbia

Composition of General Fund Balance
FY 2007 – FY 2009

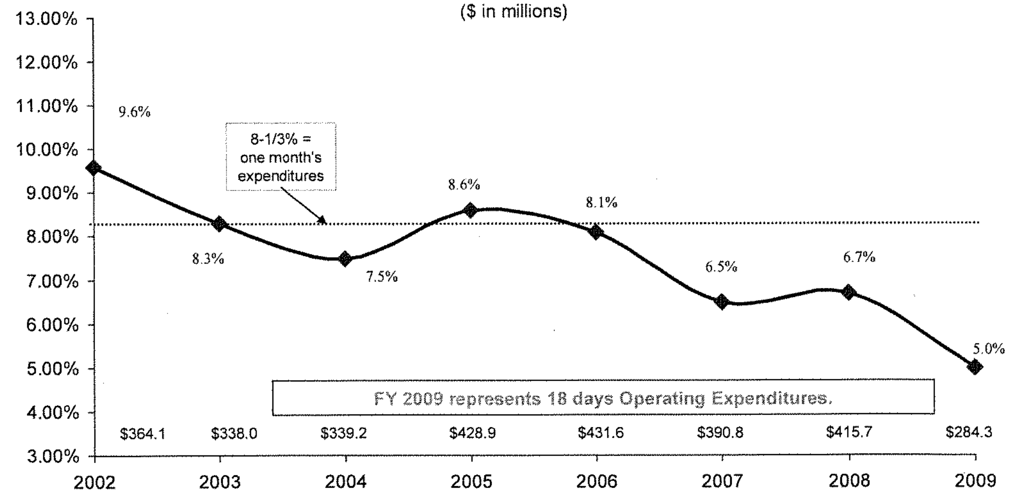


Attachment 6

Total Working Capital

Unreserved/Undesignated Fund Balance Plus Congressionally Mandated Emergency/Contingency Reserves as a Percent of Next Year's Budgetary Expenditures

($ in millions)



FY 2009 CAFR

TABLE 3-1, BUDGET AND FINANCIAL PLAN

Table 3-1

FY 2011 - 2014 Proposed Budget and Financial Plan: GENERAL FUND

(S thousands)

		FY 2009 Actual	FY 2010 Approved	FY 2010 Revised	FY 2011 Proposed	FY 2012 Projected	FY 2013 Projected	FY 2014 Projected
1	**Revenues**							
2	Taxes	4,621 445	4 478 337	4 751,625	4 601 359	4 688 691	4 815,288	4 971 142
3	Dedicated Taxes	232 963	421 506	421 506	314,193	327,408	348,817	398,836
4	General Purpose Non-Tax Revenues	353 170	335 178	345 473	358,817	363.175	373,278	358 252
5	Special Purpose (O-type) Revenues	454 764	454 380	460 576	483 001	482 129	482 502	486,049
6	Transfer from Lottery	68,775	65 775	67 350	68 925	68 925	68 925	68,925
7	**Sub-total, General Fund Revenues**	**5,731,117**	**5,755,176**	**6,046,530**	**5,826,295**	**5,930,328**	**6,088,810**	**6,283,204**
8	Bond Proceeds for Issuance Costs	3,340	15 000	15,000	15 000	15 000	15 000	15 000
9	Transfer from Federal and Private Resources	0	3 497	3 497	3 497	3,497	3 497	3 497
10	Transfer from Enterprise and Other Funds	26 967	0	11 689	23 070	0	0	0
11	Fund Balance Use	476,558	106 636	152 466	166,836	[illegible]	0	0
12	Revenue Proposals	0	167 849	(122 561)	101,026	[illegible]	116 945	120,656
13	**Total General Fund Resources**	**6,237,982**	**6,048,158**	**6,106,621**	**6,135,724**	**6,114,303**	**6,224,252**	**6,422,357**
14								
15	**Expenditures (by Appropriation Title)**							
16	Governmental Direction and Support	376,941	373 597	373 206	477,609	469,332	470,630	473,057
17	Economic Development and Regulation	327 930	304 973	307 508	248 547	206,222	206,536	212,306
18	Public Safety and Justice	984 216	1 020 191	1 049 973	980 476	972 768	978,379	985,633
19	Public Education System	1,483 493	1,380 531	1,391,149	1,523 405	1,512 322	1 510,185	1 511,392
20	Human Support Services	1 537,955	1,410 424	1 463 815	1,449 362	1 507 128	1 496,130	1,521,630
21	Public Works	560 511	579 215	578 008	535 983	527 161	535 720	547,424
22	Financing and Other	554 554	616 681	520,299	561 993	550 537	632 485	645 856
23	Operating Cash Reserve	0	0	13,482	0	0	0	0
24	**Sub-total, Operating Expenditures**	**5,825,600**	**5,685,612**	**5,697,440**	**5,777,373**	**5,745,469**	**5,830,064**	**5,897,298**
25	Paygo Capital	20 002	2,984	2,984	7 900	0	0	0
26	Transfer to Trust Fund for Post-Employment Benefits	81,100	90 700	90 700	98 700	105 400	112 800	120 600
27	Repay Contingency Reserve Fund	0	0	47 480	0	0	0	0
28	Transfer to Enterprise Funds - HPTF and Baseball Revenue Fund	78 288	45 120	45 120	43,966	58,323	57,342	43,846
29	**Sub-Total General Fund Expenditures and Transfers**	**6,004,990**	**5,824,416**	**5,883,724**	**5,927,939**	**5,909,192**	**6,000,206**	**6,061,744**
30	Transfer to TIF/CBF Convention Center Highway Trust Fund and CHFF	93,073	168 808	168 808	207,278	203,073	221 586	265,759
32	**Total Expenditures and Transfers**	**6,098,063**	**5,993,224**	**6,052,532**	**6,135,217**	**6,112,265**	**6,221,792**	**6,327,503**
33	**Operating Margin, Budget Basis**	**139,919**	**54,934**	**54,089**	**507**	**2,038**	**2,460**	**94,854**
34								
35	**Composition of Fund Balance**							
37	Emergency Cash Reserve Balance (2%, formerly 4%)	103 767	107 225	109 396	109,967	110,541	111 118	111,697
38	Contingency Cash Reserve Balance (4%, formerly 3%)	180,549	217 274	229 275	230,857	232,450	234,054	235,669
39	**Total cash reserves - operating, emergency & contingency**	**284,316**	**324,499**	**338,671**	**340,824**	**342,991**	**345,172**	**347,366**

Attachment 8

CAPITAL FUND PRO-FORMA

Table 6-3

Capital Fund Pro Forma

(Dollars in thousands; excludes Highway Trust Funds)

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	Total, FY 2011 - FY 2016	Percent of FY 2011
Sources:								
G.O. / I.T. Bonds	$572,320	$485,015	$488,127	$496,753	$382,163	$504,577	$2,928,955	
Master Equipment Lease	54,857	31,000	26,500	16,000	14,406	28,292	170,855	
Pay-As-You-Go (Paygo)	10,150	0	0	0	117,818	0	127,968	
Local Streets	20,661	20,661	20,661	20,661	20,661	20,661	123,966	
Local Streets - Parking Tax	15,000	15,000	15,000	15,000	15,000	15,000	90,000	
Subtotal, Sources	**$672,787**	**$551,676**	**$550,288**	**$548,414**	**$550,048**	**$568,530**	**$3,441,744**	
Additional G.O. Bonds - Large Scale Financings	20,000	5,000	0	0	0	0	25,000	
Total, Sources	**$692,787**	**$556,676**	**$550,288**	**$548,414**	**$550,048**	**$568,530**	**$3,466,744**	
Uses:								
Office of Public Education Facilities Modernization	$250,344	$268,825	$290,107	$307,461	$323,773	$264,611	$1,715,121	38.7%
Washington Metropolitan Area Transit Authority	110,919	111,619	116,019	118,419	120,719	119,619	697,314	16.5%
Department of Parks and Recreation	58,788	11,320	11,070	19,905	11,639	44,150	156,872	8.7%
Department of Transportation	56,711	57,142	55,842	46,252	45,266	52,509	313,722	8.4%
Fire and Emergency Medical Services Department	28,335	17,226	10,596	13,823	9,468	30,096	109,544	4.2%
University of the District of Columbia	25,555	23,220	14,340	3,580	3,000	0	69,695	3.8%
Office of the Chief Technology Officer	20,558	8,398	7,104	3,926	4,500	11,890	56,376	3.1%
District of Columbia Public Library	18,816	4,393	2,000	1,500	500	0	27,209	2.8%
Department of Real Estate Services	15,530	11,530	17,610	14,980	16,930	17,460	94,040	2.3%
Department of Public Works	8,927	2,704	1,000	4,116	3,850	4,989	25,586	1.3%
Metropolitan Police Department	9,000	3,000	8,200	5,100	5,500	9,200	40,000	1.3%
Department of Consumer and Regulatory Affairs	9,000	2,500	1,000	1,250	0	0	13,750	1.3%
District Department of the Environment	7,900	0	0	0	0	0	7,900	1.2%
Office of the Deputy Mayor for Planning and Economic Development	6,748	0	0	0	0	3,000	9,748	1.0%
Office of the Chief Financial Officer	6,200	5,600	600	800	0	1,200	14,400	0.9%
Office of Unified Communications	6,000	5,000	5,000	2,500	0	0	18,500	0.9%
Department of Human Services	5,500	0	0	0	0	0	5,500	0.8%
Office of the State Superintendent of Education	5,400	6,500	5,100	0	0	0	17,000	0.8%
Department of Housing and Community Development	4,000	1,000	1,000	2,400	2,500	5,000	15,900	0.6%
Department of Corrections	3,582	2,000	0	0	0	0	5,582	0.5%
Commission on Arts and Humanities	2,700	2,700	2,700	1,350	1,350	2,700	13,500	0.4%
Office of Planning	2,000	1,000	1,000	1,053	1,052	2,106	8,213	0.3%
Office of Zoning	274	0	0	0	0	0	274	0.0%
Department of Employment Services	0	6,000	0	0	0	0	6,000	0.0%
Subotal, Uses:	**$672,787**	**$551,676**	**$550,288**	**$548,414**	**$550,048**	**$568,530**	**$3,441,744**	**100.0%**
Large-Scale Financings (Office of Property Management)								
Consolidated Laboratory Financing	$20,000	$5,000	$0	$0	$0	$0	$25,000	
Total, Uses	**$692,787**	**$556,676**	**$550,288**	**$548,414**	**$550,048**	**$568,530**	**$3,466,744**	

Note: Details may not sum to totals due to rounding

Mr. SERRANO. Thank you to the three of you. You know, I was thinking as you were speaking, Doctor, of a question I didn't have in my preparation. But do we know how many Federal employees—how many Members of the Federal workforce live within the District? Because we always have numbers about the area, you know, southern Maryland, northern Virginia, D.C. Do we have any idea?

Mr. GANDHI. I do not have the precise number with us. But I think the most important thing to keep in mind here is that every $100 that is earned in the city, $66 get taxed in Virginia and Maryland. We get to tax only $34. It is like going to a restaurant and saying, of all the people who are eating here, two-thirds will not pay, one-third will pay, and everyone will complain about the bad food and bad service. It is as simple as that. This is the only city, sir, where income is not taxed at the source, and that is the fundamental problem.

Mr. SERRANO. Right. Mayor Fenty, since you became Mayor in 2007, you have made school reform your administration's signature initiative. The President's fiscal year 2011 budget includes $63 million in Federal payments to improve the District's public and charter schools, $20 million of which is to continue the Public School Reform Initiative. This request comes on top of the $62 million this subcommittee provided in fiscal year 2010 for the same purpose.

How do you propose to use these Federal payments to produce measurable improvements in the District's public school and charter schools? Can you tell us about any new initiatives you have undertaken in the public school reform program since last year? Also in your view, how are these reforms working? How have these reforms impacted standardized test scores, graduation rates, and enrollment? And what other measures are you using to gauge the program's success?

Mayor FENTY. Well, the Chancellor is using the dollars in several ways. A lot of it is going, as you would expect, directly to the classroom. Over the past couple of years, by redirecting essential administration dollars and redirecting Federal dollars to programs, we have been able to do a number of different things. One, test scores have gone up at local levels by 17 percentage points. That is about double where we thought we would have been at just 2½ years.

We looked at New York when we first took over the system, and they had raised their scores by about 10 percentage points in 5 years. So we were able to do about double that in half the amount of time.

Two, we have improved graduation rates. Dropout rates have gone down. More kids are taking AP classes, and, as you know, the NAPE test, which is pretty much the gold standard for testing, for the first time ever the District of Columbia led the Nation in our fourth graders' tests for both math and reading.

Mr. SERRANO. Which test was this, the last one you mentioned?

Mayor FENTY. The NAPE test. It is a test that every State gives to their fourth and eighth graders for reading. In math and reading we led the country for both fourth graders and for eighth graders we were actually one of only five jurisdictions where the test scores increased for both math and reading.

Mr. SERRANO. Chairman Gray, would you like to comment on this issue? Sorry. We promise to get more mikes in the future.

Mr. GRAY. Actually, we share mikes at the Council, too, so we understand.

I think we have made progress. Certainly some of the observations that were made by the Mayor I concur with. One of the things that has plagued us, however, is the continued persistent problems with the achievement gap, especially between our white students and our African American students, and our Hispanic students. The achievement gap over the 3 years of our reform efforts has actually remained essentially the same in the school system, even though we have seen some gains in both populations. So we have got a lot of work to do.

We just had a very detailed analysis that was presented to us at a hearing that we had last week, and then a couple weeks before that, that looked at 15 areas in the NAPE test and showed that in all but one of those, the achievement gap had been resistant to change.

One of the things that I am really excited about, and the Council played a hugely important role in, that I mentioned in my testimony, and that is creating universality in pre-K programs, serving all 3- and 4-year-olds. Our enrollment in the traditional public schools has stabilized for the first time in many years, and as we analyze the data, we recognize that on the one hand, high school enrollment has continued to decline, but the infusion of young children, 3- and 4-year-olds, into our school system has really helped to stabilize our enrollment. Again, we expected to have 2,000 new seats by 2014. That was our goal.

By this April, a year and a half into this, we already achieved 1,500 of those 2,000, and, as I indicated in my testimony, another 260 will be added in FY 2011. So we will probably be at universality in pre-K programs within 12 months, and that is conservative. We will be the first jurisdiction in America to be able to do that, and we know it will give our young people an opportunity to get a couple of years advanced formal education, and, frankly, fundamentally redefining our public education.

Somewhere along the way we defined public education as beginning at 5. This will redefine it as beginning at 3 years of age, and I am absolutely certain that it will improve outcomes for our children and, frankly, give families a reason to move here and to stay here.

Mr. SERRANO. You know, to both of you, in fairness to the District of Columbia, the achievement gap is an issue that is a national issue. Everywhere you go, there is that problem. Very few communities, I think, can claim that they have taken care of that problem.

And it brings me back to one of my—I may be one of the few people in New York City who is still not totally clear on the future or what the future of charter schools should be. Because I see charter schools at times as a possibility to take some students out of the system and create achievement over here—which is fine—and then leave another group behind.

So, one, what is your take on what charter schools accomplish when they do achieve? And secondly, how do we make sure that since it looks like charter schools are here to stay, that their achievement, while good in itself, is not achieved by compounding problems for other folks who are, quote-unquote, left behind?

Mayor FENTY. Well, the District's law provides that as we add dollars to the traditional public school system, we will add dollars, in most cases, to the public charter schools. And we support that policy. And we believe—and the Chancellor has said this on numerous occasions—that there are very good charter schools and there are very good traditional public schools. But there are charter schools that are underperforming and ones in our traditional public schools that are still underperforming. What we need is honesty, candor, and tough decision-making around those schools.

In essence, you know, if a school is not working, then we need to either find a way to make it work fast, or, in some cases, reconstitute the school as the Federal law provides, and start all over and rehire all of the teachers and rehire and redo the building and start fresh. And that is not just for the charter schools. That is for the public schools.

The one thing the Chancellor adds, of course, is that charter schools are given an additional amount of independence and autonomy. For that exchange of independence and autonomy, we do have to demand the highest-level results. And we will continue to model our traditional public school system after that as well. We want all of our schools to be more independent, autonomous. That is what this new collective bargaining is all about, and we will also demand higher results from our schools as well.

Mr. GRAY. We have one of the most robust charter systems, I think, in the Nation. We have almost 40 percent of our students now in public education or enrolled in charter schools. Ten, 12 years ago, we had a couple thousand students who were enrolled in charters. Today we have 28,000 of our students enrolled in charter schools. We have 57 schools located on 99 campuses. The uniform per-student funding formula guarantees that the same amount of money—at least for the services anyway that goes to the traditional public schools, will go to the charter schools. We will spend about $435 million next year on charters.

One of the things I think we benefit from, frankly, is having created a competitive environment in which the charters provide a set of educational services, and of course the traditional public schools, which historically have had a monopoly on public education, provide educational services as well. So I think having that kind of competitive environment is valuable to our children.

One of the things also that is unique about charters, and that is if they have a persistently low level of performance, those charters can be lifted, and they have been lifted, and those schools are out of business and those children then go to other schools that have a track record for being higher performing. So I think both play an important role at this stage.

The question that I asked, I asked some of the leaders in both the charter movement and traditional public education is, How do you not wind up with a proliferation of schools? They are not regulated in a sense that we have a cap on the number that are created, so we have to be mindful of that.

The other thing I think we have got to do more aggressively, frankly, is as we stop using some of these school buildings that have been traditional public schools, that we make them available for charters, because it just makes good human sense and, frankly, it makes good financial sense as well, rather than have them go out and borrow money, build new schools, and then create more debt that ultimately the taxpayers of the city have to cover.

Mr. SERRANO. Right. I have exceeded my time here, but I want to tell you something. For the first time ever since the charter school issue started, last week in the South Bronx district that I represent, parents were showing a concern to our office that too many charter schools were coming into their school buildings, because they seemed to have more support from the city government at times, it seems, than the traditional public school system. So it seems that this cooperation that puts together charter schools was coming into every building in the neighborhood.

And now, from a situation 6 months ago where we want charter schools to—wait a minute, they are coming into my building now, and it is too many at the same time, so we have to try to balance it. Mrs. Emerson.

Mrs. EMERSON. Thanks, Mr. Chairman. This question is directed to the Mayor and to the chairman. Chancellor Rhee is quoted as saying, quote: I would never, as long as I am in this role, do anything to limit another parent's ability to make a choice for their child ever, end quote. Do you all agree with the Chancellor?

Mayor FENTY. Yes.

Mr. GRAY. Well, I think we have lots of choices. I think we have lots of traditional public schools in the city and we have—as I indicated, 57 charter schools. So I think they have lots of choices. So in that regard, I would agree with the Chancellor also.

Mrs. EMERSON. So are you comfortable—okay. Given that you all believe that they have lots of choices, are you all comfortable limiting the Opportunity Scholarship Program to all those students who are only currently enrolled, when you have to know that there are a lot of low-income students in schools today who will not receive the education that they deserve?

Mayor FENTY. Well, you started out with the Chancellor's quote, which I think was made in the context of the three-sector approach. And you know the Chancellor—you know, even though she received some criticism for this—really did try to follow where our predecessors were on this. Our predecessor being the Williams administration, the Cafritz-led school board, and the former chair of the Council's education committee when they established the three-sector model, that there would be an equal amount of funding for public—charter schools, traditional public schools, and the Opportunity Scholarships.

Ultimately, because it is Federal money, we do have to defer to the Federal Government, both legislative and executive branch. But the Chancellor's position was that as long as those funding levels stayed equal and constant, that she saw the continuation of the program as something that was healthy for the District of Columbia.

Mr. GRAY. I think the proposal to continue to fund the program for the kids who are in it is something that I support. I believe we have an obligation to create the best possible traditional public school system we can. We clearly have invested very large sums of money in charter schools. As I indicated, we are north of $400 million. I think we are beginning to see improvements in both areas. We have created programs now within our public education sector for 3- and 4-year-olds.

So my emphasis is on trying to create the best possible public education programs that we can, while allowing those children who are already receiving Opportunity Scholarships to be able to move through the schools that they are in.

Mrs. EMERSON. Okay. I guess the budget request includes—we said, what, $9 million for the final payment for the Opportunity Scholarships. And the justification for that states that it is based on historical rates of attrition and graduation; and because of that, that should be sufficient. However, should it not be sufficient, and it was necessary in order to allow each of the children who are currently enrolled in the program, would you all be willing to agree to an additional amount of money should that not be enough, at least for the current children to graduate?

Mayor FENTY. If you are talking about from the current funding source, yes. Yes.

Mrs. EMERSON. I am.

Mr. GRAY. My question, too. You mean accept additional money from the Federal Government to——

Mrs. EMERSON. Yes. In other words, what happens if for some reason the $9 million isn't enough? Would you be willing to—you don't want to kick the kids out.

Mr. GRAY. Absolutely not.

Mrs. EMERSON. So that was it. Thank you.

Dr. Gandhi, let me ask you a question. Recently, Chancellor Rhee announced that the D.C. Public Schools discovered a $34 million surplus from the previous year. And you wrote to the Chancellor, wherever your letter is here, I read it last night—anyway, you wrote to the Chancellor that that funding is not available. So can you tell us, or do you know—I assume you do—does your Office and the D.C. Public Schools know how much money is available, number one, and how it is being spent? And can you assure all of us on the committee that the city is appropriately accounting for both its local and its Federal funds?

Mr. GANDHI. Yeah. The answer to that is yes, we are appropriately accounting for it. What the Chancellor has realized is that the $34 million was simply an underspending in one part of the school budget while, you know, there are other areas where there was overspending. So we have sorted it out.

I had an excellent meeting with the Chancellor last week. Our staffs are working together, and currently we are examining what impact the contract that she has negotiated would have on the budget itself; how much money is in the budget to make sure that the traditional salaries that would be paid can be accommodated within the budget.

Mrs. EMERSON. Are these for the teachers that were let go because——

Mr. GANDHI. No, no, no, no. This is about the teachers that currently are in the program and also—in other words, you know, what are the financial implications of the contract on the budget on 2010 as well as the 5-year plan that we usually have. So we are right on the target, meeting with the Chancellor and her staff, and we hope that by next week we will have our analysis completed. And we will brief the Mayor and the Council, along with the Chancellor, about the financial implication of the contract.

Mrs. EMERSON. So if there is—let me just get it straight. Can you move around the money in the pots a little bit? In other words, if you have got—in the teachers' salary pot and then the operations of the school——

Mr. GANDHI. That is the prerogative. Yes, ma'am. That is the prerogative of the Chancellor, Mayor and the Council. They can shift money around. So my primary obligation here would be to tell the Mayor and the Council and the Chancellor, here are the annual implications of the contract. Either we have money in the current budget at the schools or not. And then we can shift the money from elsewhere if that is what the Mayor and the Council would like to do.

Mrs. EMERSON. Okay. I just didn't know if there was some statutory reason why you couldn't.

Mr. GANDHI. No, no, no, no, no.

Mrs. EMERSON. It is just based on what you all can decide. Okay, thanks, Mr. Chairman.

Mr. SERRANO. Thank you. Just on that question you asked, as you well know, Doctor, when you figure out these things, sometimes you think it is $5 and it turns out it might be $7 or $4, or $4.50. It is our intent to cover that final payment. If some adjustments have to be made, we are open to discuss that. But we just want to make sure that that is clear for everyone.

Under the 5-minute rule, we recognize the distinguished Mr. Crenshaw.

Mr. CRENSHAW. Thank you, Mr. Chairman. Just on the scholarship program, we are talking about continuing it on for the people that are in there. And as I understand it, there have been—I think there are 1,700 people in the program now. It has probably helped twice that many people. And I guess the obvious question is: Whose decision was it to end it altogether once these students are out? What was the reason for that, and who made that decision?

Mayor FENTY. From everything I can understand, Congressman, it is a decision made at the Federal level. I don't know where between the legislative and executive branch the position of the local administration has been that we would support the program continuing as it was originated, again, before our administration.

Mr. CRENSHAW. So I mean if it was the administration that decided to end it—and I don't know whether it was Congress or the administration. But if somebody said, that is a pretty good program, it has helped a lot of low-income students, we think at the Federal level it ought to continue on, not just for the students that are there now but for any prospective students, would that fly in the face of anything that you believe? You would support whatever comes down from Washington, so to speak?

Mayor FENTY. We would. I mean, I think our administration sees strength in the three-sector approach; but we also, you know, inherited it which, you know, you don't always agree with 100 percent of everything in these jobs. I mean, that happens every day. But there was enough to agree on in both what had been established and what was working for kids that the Chancellor came out very early and said that she would support continuing it as we inherited it.

Mr. CRENSHAW. Because I don't know whether it was Congress or whether it was the new administration, but it seems like with all the programs that we put in place up here, they don't always create jobs or always help in terms of educational reform. And so if this is a program that has enabled a lot of low-income families to access a private school with a scholarship, it seems like that might be money well spent.

Mr. Chairman, I know you had said in your opening statement that you would kind of support the continuation and an ultimate phaseout of this. It is something we ought to think about. So I appreciate that.

Let me ask one other question. It is kind of an interesting question. I go home a lot of weekends, and I come up here and I stop by my local grocery store and I get some cereal and some milk and some orange juice to get me through my breakfast for the week. And when I came back this year in 2010, I noticed when I got my standard order they said, Would you like a plastic bag? And I said, well, I always got one before, I would love a plastic bag. They said, Well it costs a nickel. And then actually I went back a week later, and I had to get two bags. So now I try to confine my purchases to one plastic bag.

But I wanted to ask you about that because—and I went back and kind of checked and I understand that this is one of the first cities in the Nation to have a tax on disposable plastic bags. And it has worked, evidently. I saw the statistics that from 22 million bags a month being disposed of to only 3 million. So that is positive.

The other interesting point I read is that it raises $150,000 and that was going to be used to help clean up the Anacostia River. We have got a river in Jacksonville, Florida, where I am from, and everybody loves the river and everybody wants to help clean it up. So you have got a tax that deals with trash and disposal, and then it helps clean up the river. But then I was told that this year, they are going to switch the money from the Department of the Environment to the Department of Public Works. So that money will now be used to clean the streets and do the general things that cities do, and those are all good things.

But I guess my question is: What would you say to the critics that would say, You have kind of used a bait-and-switch, that you said we are going to use the money to clean up the river; now we are going to clean up just kind of the general Public Works programs. What do you say to them?

Mayor FENTY. Well, you know, this is the same question that was asked of me when I testified before the Council by the lead sponsor of the bill, Council Member Wells. The essence is, is that the cleaning up of streets, which takes not only trash and pollution but oil and contaminants that make their way into the sewer system and which, because of the fact we haven't invested yet in our antiquated sewer system, all of the rainwater and sewer system becomes combined, makes its way into the Anacostia.

When I do the press conference every year where I say it is street sweeping season again, which happens in March—behind me is a prop. I don't know how big this is, but it may be 30, 40, 50 gallons of oil, which is what we take off of District streets every week, I think, by the street sweeping program.

So the answer to the question is, I acknowledge that to use those funds for the street sweeping program is, without any question, a broad interpretation of the legislation. But we do believe that the legislation was written in a way that we will be able to use it for anything that could have a potential impact. There are only a couple of things that you could do—that would be directly on the river. They are pulling trash out, drudging it, cutting back invasive species, et cetera. But there are lots of other things from litter education to street sweeping to things that we can put a list together that will impact and help clean up the Anacostia.

And lastly, I would be negligent if I didn't just point out that one of the things we have to do going forward is look at fixing that combined sewer problem. It is going to be millions and billions of dollars, but that is what ultimately will clean up the Anacostia and make it a great river like the one you referenced in your home State.

Mr. CRENSHAW. Thank you. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you. Just for the record, because I know it is an issue that keeps coming back and it will probably be around for a while. Mr. Crenshaw, and because of my respect for you personally—and I mean that sincerely—part of the issue with the school voucher program hasn't been only the school voucher program itself. It may be that the school voucher program was one of those instances where Congress, in a bad way, telling D.C. what to do, came up with a program that had some merit to it. The jury is still out as to how much merit. But it was all part of a behavior, historically, of Congress taking issues that were politically good for Congress, and instead of imposing them back in their own home districts, they impose them on the District of Columbia—on abortion, on medical marijuana, on needle exchange programs, on domestic partner issues, and on and on and on, even telling the District you can't use your local funds for these programs.

This issue has supporters, strong supporters, but it is part of that package of telling the District what to do, and the belief by some of us that if the District wants to do these things, it should be able to do them, and Congress should not tell them what to do.

Mr. CRENSHAW. Thank you.

Mr. SERRANO. Thank you. Mr. Culberson, under the 5-minute rule.

Mr. CULBERSON. Thank you, Mr. Chairman. You have always been very gracious about it. And I would agree with you, Mr. Chairman. You just said that it is—Congress should allow the District to make these decisions, and particularly on the D.C. Opportunity Scholarship Program. If you had the ability, Mr. Mayor, and the Council had the ability to make the decision entirely on your own, would you and the Council vote to continue and even expand the D.C. Opportunity Scholarship Program?

Mayor FENTY. Well, what we have tried to do is put a very consistent position forward. We understand that it is Federal dollars so, you know, we——

Mr. CULBERSON. Hypothetically.

Mayor FENTY. Hypothetically, what we have said is that we support the program as we inherited it, which means that there was an equal amount of money for the public charter schools and traditional public schools and the public school system, although the administration had increased the number for certain programs in its traditional public school system, and that would then allow for the same number of kids——

Mr. CULBERSON. But you are in charge. Let's say we passed a bill, and there is going to be a new majority in January and there is going to be a lot of support for that concept. Let's say the legislation—because Congress under the Constitution, we designed the legislation that Congress passed that designs how D.C. operates. So let's say hypothetically, Congress passed a bill that gave you full discretion to create, expand, fund the D.C. Opportunity Scholarship Program. It is your program. What would you do?

Mayor FENTY. The short answer, Congressman, is that we support it in its existing size, better yet the size we inherited it at, with Federal funds for all three sectors.

Mr. CULBERSON. What I have seen and heard from news reports in the city, the citizens of the city of Washington support the program pretty strongly, don't they, people that have kids in the public schools? I mean, they vote with their feet. You have more applicants than you have slots, don't you?

Mayor FENTY. Yes. I think really the best answer on this is the full answer that the Chancellor has given. Congresswoman Emerson gave the part about not limiting people's choices. What the Chancellor said is our mission is to make our school system the best in the country. But she is a very honest person. She said we are not there yet. We have a long way to go.

Until we are at that point, I think she even referenced a 5-year period in her statement, we are not going to limit anybody's ability to choose. She referenced the Opportunity Scholarship Program as part of the three-sector approach, as the Congresswoman noted, as important to making sure people had a choice where they could be able to give their kids a great education.

But it is within the context of the three sectors, because all three are important and, of course, we are in charge of the school system and we will make it excellent. But it is not there yet.

Mr. CULBERSON. You would support, then, to the extent we could do so in Congress, passing legislation giving you and the Council complete control over the operation and design of the school system. Would you support that?

Mayor FENTY. We haven't examined that, Congressman. We need to look at it a little bit further and see exactly what you are referring to.

Mr. CULBERSON. I am a big believer in letting Texans run Texas, D.C. run D.C., New York run New York, and that sort of thing.

Mayor FENTY. I can tell you we support it in the current fund with the funding level that we inherited. Anything else we would be glad to look at.

Mr. CULBERSON. Forgive me, I had a came in a little bit late, I had two meetings on top of one another. In talking about the schools, because it is the more important thing we all do, is making sure that these little kids have a good opportunity, a good education, and it is particularly tragic when you see these little kids suffering. And Mrs. Emerson's daughter, I understand, teaches in the D.C. schools.

To what extent, what is D.C. doing to try to help keep families together? We were in Houston, mortified with the number of people that were evacuated from New Orleans. Katrina, the hurricane itself was a catastrophe, but we in Houston had not realized how many—there just were no fathers. We got all these desperate people from New Orleans. There were mothers and grandmothers and these little kids from these desperately poor families, and there were no fathers. So the family structure is key to success in any public school system.

I know we are blessed in the district that I represent in West Houston, whenever there is a PTA meeting, a PTO meeting, you can't drive down the streets. The parents are just jammed into the schools. They are on top of it. Every parent is watching their child and their teacher and the principal, and the school like a hawk. And it is the family structure, it seems to me, isn't it, that is really key to what makes a successful school system?

I haven't heard you all discuss that. What is D.C. doing to try to help preserve families and keep families together and make sure they are healthy and whole?

Mayor FENTY. Well, in an urban city, as you can imagine, it pretty much runs the gambit. There is housing for homeless families and homeless individuals. There is strengthening the kids in the child welfare system, who may be in neglected and abused situations, giving strength to the families or putting kids in a safer environment.

Probably one of the biggest things in a city like this is actually job opportunities and job placement, because if you can employ people, then it solidifies the family, reduces crime, et cetera.

Mr. CULBERSON. Sure. No question.

Mayor FENTY. So a lot of the money that has come through this committee through the ERA bill and through other programs has really helped us employ people in D.C., all the economic development. We are embarking on more job training. Almost all of the DOES dollars we get come out of the Department of Labor and the committee that funds that.

So keep making those dollars available. I think that is one of the biggest ways we can strengthen the family and give them support.

Mr. CULBERSON. And tax cuts. Don't forget tax cuts. They are always important. It always creates jobs.

Finally, now that there are no restrictions on the District's use of dollars to fund abortions, what type of abortions and how late in pregnancy will you be authorizing the use of District dollars?

Mayor FENTY. I don't have the Department of Health report in front of me. We could get that to you. But I think the District——

Mr. CULBERSON. Your best estimate?

Mayor FENTY. Again, I would have to get that to you on exactly where we allow abortions. I can't even remember the exact terminology. We will get it to you by the end of the day.

Mr. CULBERSON. Thank you very much. Thank you, Mr. Chairman.

Mr. SERRANO. Thank you so much.

Let me see if I can make a final comment on the issue that won't go away. To my understanding, if the government, the administration, the City Council, of the District of Columbia, decides that with their own local funds they want to establish a voucher program, there is nothing that prevents you from doing that. It is just a local decision. Am I correct?

Mayor FENTY. Absolutely. That is correct.

Mr. SERRANO. All we are saying is that Congress should not tell you you must have that program, but that nothing prevents you from having that program.

Mayor FENTY. Correct.

Mr. CULBERSON. With local dollars.

Mr. SERRANO. With local dollars. Absolutely. It won't go away. I will be 95 years old and it will still be there. There will be my picture on ads on the side of buses.

While the overall request for Federal payment is down $17 million in the 2011 request, the President's budget includes a request for $7 million in Federal payments for two new initiatives; $5 million total support of a HIV/AIDS initiative; and $2 million designated for redevelopment in connection with the Saint Elizabeths east campus.

Mayor Fenty, could you briefly describe—I know you have touched on them before—but could you briefly describe each of these initiatives? Could you tell us what the local investment in each of these initiatives is? And I am particularly interested in your HIV-AIDS initiative. What gains has the District made in improving the future situation for young people by addressing their sexual health, STD and HIV needs now? What innovative strategies have been important for reaching young people.

Chairman Gray, I would also like you to comment on that, please.

Mayor FENTY. Let me just talk about the budget first. The funding that would come through your committee, Mr. Chairman, would allow for us to serve an additional 75,000 District residents. The HIV and AIDS Administration would use that for planning and stakeholder engagement, for service expansion, for outreach and linkage.

What we have been doing over the past couple of years is to really focus a lot more on testing, knowing your status, doing something about it.

We have produced two unbelievable reports, one on heterosexuals in D.C., and then the other is on same-sex couples. Both show that there is a high amount of sexual activity that just almost is reckless when you look at how little people know their status and how they continue to engage in sex with multiple partners, despite the fact they don't know their status. So we are really trying to let people know their status, get tested, and then do something about it.

Mr. SERRANO. Chairman Gray.

Mr. GRAY. I think, Mr. Chairman, one of the advancements—and we thank the Congress for this—is to have lifted the prohibition on the needle exchange program in the District of Columbia, to take that rider off of our budget. There are probably about 250 cities in the Nation that use a needle exchange program, and we were prohibited from doing that except to the extent we could generate private dollars to be able to do that. We know that those programs work, and we now can invest dollars in a needle exchange program from our budget.

The reality is that as you look at the spread of the virus over the last 20 to 25 years, we have moved substantially away from it being predominantly men having sex with men. When you look at IV drug use, for example, its prevalence as a reason for contracting the virus is almost as high as what started this condition many, many years ago. So the ability to make needles available, frankly, clean needles available to people, will be a major advancement in our ability to prevent the transmission of this virus in the first place.

Also the ability, frankly, to be able to invest dollars in education, testing and counseling, and educating people around the importance of understanding this condition and then getting counseled and getting tested themselves. We have done more to integrate those services into larger health services as well.

Let's face it. There has been such a stigma associated with this condition over the years that people were afraid to even go get tested or to be tested or to associate themselves in any way with the condition. Now, as we integrate these services more into multiservice systems and health-care systems, I think we will see more people taking advantage of them.

Frankly, one of the things I discovered when I became a Council member in Ward 7, which is an east-of-the-river community, while the condition itself was growing more rapidly in those communities, we found that there were fewer dollars being invested in those communities. It was an inverse relationship between investment and incidence and prevalence.

We have begun to level the playing field now so that those communities where we have 140,000 people living now have more dollars being invested in the education, testing, and counseling program. So I think all three of those things are going to make an important contribution to our ability to combat this dread disease.

Mr. SERRANO. Thank you. Where are we in terms of setting up the services as a result of lifting the ban on needle exchange?

Mayor FENTY. Well, of course, as the Chairman noted, we already had some programs that were in existence. Immediately after lifting the ban, I think it was in 2008, late 2008, we were able to write a check to Prevention Works, and they immediately started putting those dollars to work.

I think the Chairman is exactly right. To date, it has already saved countless lives. And we could get you an updated report on how much money we have spent since then. But that initial check was in the $300,000 to $500,000 range, if I remember correctly.

Mr. SERRANO. The reaction from the community has been supportive, I imagine?

Mr. GRAY. It has. I have heard no adverse reaction at all to this. In the early days when this was proposed, there were people who thought we were actually promoting the use of illicit drugs. But I think we have long since passed that. I think people recognize that the opportunity to save a life far transcends in importance the concern about whether somebody is a drug user.

Obviously we want them to stop using drugs and we want more treatment programs to be able to do that. But at the same time, we have to recognize that those who are using drugs, if we constrain their ability to access it—which we would love that they stop—but if we constrain their ability to using dirty needles, we are simply proliferating a public health problem. So this really has opened the door, I think, to avenues that heretofore were not available to us.

Mayor FENTY. My notes show we have removed over 380,000 dirty needles from the city since the congressional ban was lifted.

Mrs. EMERSON. Three hundred eighty thousand dollars?

Mayor FENTY. Three hundred eighty thousand dollars.

Mr. SERRANO. Well, let's turn now to the fiscal health of the city. By the way, again sort of breaking my rule of not telling you what to do, but I would like to be kept informed, because that was a special interest to this committee, the whole needle exchange ban. It became national news. Just keep us informed as to how it is working. Not, again, because I am telling you what to do, but because I would appreciate it. It continues to make the argument at other levels.

Mayor FENTY. Thank you.

Mr. SERRANO. I would like to turn to a discussion of the District's fiscal health. Like many cities and counties around the country, the District of Columbia is seeing a steep decline in tax revenues due to higher unemployment and declining property values. In fact, as you know, Dr. Gandhi, back in my city of New York, this Thursday we are going to have a heated argument when the President goes there to talk about Wall Street. And you are going to have people saying, Well, the flip side to all of that, and no one has paid attention to—and I don't agree with these folks but they say those large bonuses, those people were paying taxes in New York City, and they are no longer paying taxes because of large bonuses.

You now have the pro-large bonus lobby, and I am not talking about recipients. You are talking about people saying, My God, because you got a $50 million bonus, that is a big tax chunk.

Mrs. EMERSON. It would be nice to have a $2,000 bonus.

Mr. GANDHI. We don't have any bonuses.

Mr. SERRANO. My bonus is that you are my ranking member.

Mrs. EMERSON. That is mine too, that you are my chairman. And we aren't arguing about baseball today yet.

Mr. SERRANO. Because the Yankees keep winning, that is why.

Mrs. EMERSON. The Cardinals are still ahead.

Mayor FENTY. And the Nationals are doing extremely well.

Mr. SERRANO. I remember Carlos Paula from Cuba playing for the Senators. You know, the Senators were like the first team that in a way had this special deal going with Cuba. It was incredible.

Mr. GRAY. Do you remember Camilo Pascual?

Mr. SERRANO. Of course I remember Camilo Pascual. The only guy with a last-place team winning 17 games.

Mr. GRAY. Pedro Ramos?

Mr. SERRANO. Pedro Ramos. Yes. Sure.

Mr. CULBERSON. Where are all the Cuban ball players now?

Mrs. EMERSON. We just got a a new one on the Kansas City Royals.

Mr. SERRANO. Excuse me.

Mrs. EMERSON. We are saving them from having to talk about the finances.

Mr. SERRANO. I am sorry. With me it is baseball, but we have to get back.

Dr. Gandhi, what is the current status of the District's tax shortfall and what impact has declining tax revenues had on the District of Columbia? Based on your current projection, when do you anticipate revenues will reverse course and begin to increase? Of course, that is a question being asked throughout the country.

Mr. GANDHI. Mr. Chairman, you are exactly right. We have suffered, like others, substantial losses in revenue. In 2010, we have removed roughly $1 billion from our projected revenues; in 2011, $1.2 billion; 2012, about $1.3 billion. We have lost anywhere between 16 to 21 percent of what we had projected in terms of the revenues. To that, my expectation is it will be another 2 years before there will be a substantial recovery underway.

Mr. SERRANO. How many? Two years you said?

Mr. GANDHI. That is right, to go back to some respectable level of revenues.

And, three, while most of the other taxes are recovering gradually, our fundamental problem is commercial real property. Commercial real property, sir, is about $1 billion-plus. That is the engine that drives our revenue machine, and we see substantial problems primarily because of the real property market which is still very sluggish. We see a lot of vacancies rising, and I think it will be quite a while before it gets rejuvenated, the kind of revenues we used to get.

When I joined the city some 10 years ago, the deed recordation and transfer taxes used to be around $40 million. In the height of 2006–7, it was around $400 million. We had to cut that in half now, because the deals are not happening. The deals are not happening. So my expectation is it will be another 2 years that it will come back to a level that we would like to have.

But I am quite confident the fiscal condition of the city, with the Mayor here and Chairman, I have no doubt that we will have a balanced budget, that we will have a 5-year balanced budget plan. I am immensely impressed with the fiscal prudence that the elected leadership have shown. In that respect, we have still $900-plus million in a fund balance, $350-plus million dollars in rainy day funds, so in that respect we are doing far better than practically any other city in the country.

Mr. SERRANO. Really. That is good to know.

Mr. GANDHI. Great kudos go, as I say, to the Mayor sitting next to me and the Chairman.

Mr. SERRANO. You realize that right now in the White House, people are saying that Dr. Gandhi just said things will turn around in 2 years. There are big charts up saying okay, we are in good shape; 2012 falls after the 2 years; we just gave them great news.

But it is good news, and the number projections do indicate that that is what is going to happen.

Mr. GANDHI. That 2 years, basically I am talking about Washington, D.C.

Mr. SERRANO. I understand. But as Washington goes, right, so does the rest of the Nation.

Mayor Fenty, what policy initiatives are you proposing—by the way, Ms. Emerson will be back in a few minutes. She won't be upset if I read this: "I have to say hello to my dairy farmers." The difference between the Bronx and Ms. Emerson, the closest I get to it is a plastic gallon of milk in the supermarket.

Mr. CULBERSON. Me too.

Mr. SERRANO. So we learn so much about each other, it is wonderful. It is the greatest experience ever.

What are the initiatives to increase revenues, what have you had to cut, and is there a particular program area that is absorbing the bulk of staffing and program cuts? I know that is a tough question, because, you know, if there was ever a reason why I never wanted to be mayor of New York, besides the fact I probably couldn't have gotten elected, is how do you face 5,000, 10,000, 30,000 workers, and tell them you are not here next January? That is tough stuff for you. It is tough for the Council. So if you could just talk about that for a second.

Mayor FENTY. I appreciate it. I mean, the biggest thing in terms of having a real recovery going through the coming years will just be the economy, a recovery. What we are doing in this 4-year cycle—hopefully that is all it ends up being—is scaling back waste and excess, streamlining some programs, doing some consolidation, so that residents don't see an interruption in service delivery.

We are managing the government as you would expect. There hasn't been a particular part of the government where we have said, We can completely eliminate that. We have spread it pretty well amongst all the agencies. You will find some reductions in everything from, say, public works to the police department.

But what we do is we do it very surgically. So in the Public Works Department, I think there is a proposal to cut some inspectors, which is contrasted with, say, cutting people who pick up the trash. These are people that help to monitor it, so there will have to be better management from the top, and we are cutting out middle management.

At the police department, we would never cut police officers. We need our 4,070 officers for everything they do, and they do a fantastic job. But there were some positions which were civilian positions that the Chief was able to identify which were excess.

In total, I think it was about 500 positions in the 2011 budget, which is the one that is at the Council now. Added to the last year and a half, I think that takes us over 2,000 positions that were eliminated from the government. So we are approaching 10 percent, somewhere probably between 5 and 10 percent right now, and I think that is what you would have expected us to do. Because the budget grew in healthier times, it is only right we reduce it.

The local spending reduction, compared to last year, this year is about 3 percent. So we are spending less proposed dollars by 3 percent than we would have when I was sitting before you a year ago, local dollars.

Mr. SERRANO. Chairman Gray.

Mr. GRAY. You asked about revenue enhancements too, Mr. Chairman. The Council in its work on the fiscal year 2010 budget looked at some areas that we thought would generate additional revenue. It resulted in probably about, I don't know, about $40 million additional. And we did that in some areas that we thought would least impact the residents, if you will.

First of all, we increased by one quarter of 1 percent the sales tax in the District of Columbia, recognizing that there are a lot of people who come into the city who don't live here, and engage in one or another kind of transaction in the District of Columbia. I guess it is the antithesis of not being able to tax income at its source, and that is that those who do shop in the city would pay slightly more. That will actually generate, projected out, $20 million-plus for the city.

We also raised the cigarette tax, the thinking being that even if people cut back on cigarettes, we will probably save in health costs as a result. Cigarettes now cost $7.34 a pack, which is absolutely astounding, and we know what the health consequences are.

Mr. SERRANO. Seven dollars and 34 cents, you say, and people still smoke?

Mr. GRAY. People still smoke. I remember people saying if cigarettes ever go to $2.50 a pack, I will never smoke another cigarette. Those are the same people that are paying $7.34 a pack for cigarettes now.

Mr. SERRANO. That is not the highest in the Nation, is it?

Mr. GRAY. I don't know. I really don't know. It has got to be right up there, though. We achieved parity in our gasoline tax with Maryland. We raised that by 3.5 cents. Overall, it will generate about $40 million in additional revenue.

One of the things I think, too, Mr. Chairman, that we will benefit from is the President's reform plan that now, of course, has been approved. We have had a very aggressive program in the city of covering people who otherwise wouldn't be covered.

We have something called the Health Care Alliance which covers 55,000 people in the city. A lot of those people now will be covered by the President's health-care reform plan, which will allow us then to be able to use those District dollars for other purposes, other services in the city, because we will get additional help from the Federal Government because of the additional coverage that will be provided by the health-care reform plan.

Mr. SERRANO. Thank you.

Before I turn to Mr. Culberson, I just thought of a question that I haven't asked for a couple of years, but it is important to ask it. As you know, and you know me more than a lot of people who come before this committee know me, I try to be very fair and balanced, as that network claims to be—not that network, whichever network that is. I want to be careful.

Up to recently, and this changed recently, I think it might have changed, up to recently the highest percentage growth in the Hispanic population in the Nation was in southern Maryland, Northern Virginia, D.C. area. It may now be the Carolinas. But that was the highest percentage.

So what initiatives has the city taken to deal with the growth in that population? What special programs and anything? What is the reaction from the leadership? Is there established leadership in the D.C. Latino community the way there is in Northern Virginia and in Maryland and so on?

Mayor FENTY. I think you would be proud, Mr. Chairman, of a number of different things. When I was on the Council, actually right around the time I first started on the City Council, the law was passed called the Language Access Act. It is still in effect. It monitors every agency of the government and how we do employing and using and responding to people who speak the most common different languages than English in D.C. So Vietnamese and Spanish and Korean are some of the top ones. So every report shows that we are continuing to do better. We still have a long way to go.

On the education front, the Chancellor and some of the charter schools have really been good about language immersion programs. The Oyster Model, which was just one school at the time we took over, has been expanded. That now has a middle school. And we are putting a lot of language immersion programs into the schools.

We have been really strong on health care. Groups like Mary's Center, that serve our Latino community throughout the city, are strong partners with the District of Columbia and many other places in between, from the Latino businesses that have emerged in the community to other nonprofits.

I think the strength and the growth of all of those is a great indicator that the District realizes that this is certainly our largest growing immigrant group, and we are welcome to keep that continuing.

Mr. SERRANO. Chairman Gray.

Mr. GRAY. I think the Mayor has made some excellent points in that regard. We probably—I think 10 to 12 percent of our population now is Hispanic.

Mr. SERRANO. That high?

Mr. GRAY. Yes, it is high, by comparison to what it was a few years ago, and it is a growing population. Certainly, if you look at the charter schools, for example, we are seeing more bilingual programs there as well.

One of the things that I am especially proud of is that we have established now—we probably were the last jurisdiction in America to establish a community college. We now have a community college in the District of Columbia. It opened in August of 2009. And we are focusing on trying to attract, I would say, nontraditional students to the community college, to keep people at home in the city, and certainly reaching out to the Hispanic population now to attract the Hispanic population to our community college, so that as people get high school diplomas, they then have at least that option to go to.

There is open enrollment, and for those who get a 2-year degree, they then are automatically admitted to the University of the District of Columbia. We are focusing in terms of our outreach on the Spanish population as well.

Mr. SERRANO. I would like to assist you in any way. Like you say, it is a growing population. You also now begin to see, and I know this for a fact, a large number of children born of Latino parents in D.C. who are native to the community, if you will.

You know, as a total aside, I mentioned to you folks last year, I said, you know, one of America's best-kept secrets is that Chita Rivera, the superstar of Broadway and the original star of West Side Story and countless other shows—she is still performing—was born in D.C. and you should honor her. Well, the President beat you to it. He gave her the highest honor in the country just recently. But she was born in D.C. and is proud to tell people that.

Ms. Emerson.

Mrs. EMERSON. I have a cookie in my mouth.

Mr. SERRANO. You went to see the dairy farmers. You got cookies.

Mrs. EMERSON. I am sorry. I actually stole the cookie from in there. So you can go back.

Mr. SERRANO. Let them eat cake.

Mrs. EMERSON. Let me just get that finished. Thank you.

I wanted to ask you all a question about homeless veterans. It is estimated there are about 583 homeless veterans in the city, and the budget request proposes $10 million to address this problem. I understand the funding would be divided between two projects and will help provide new housing units for individuals whole need site-based housing and support.

I am really, really gratified that the city and administration are working to address the family of our homeless veterans. So I just have a few questions that I want to be specific—ask you specifically.

How many veterans will this program assist each year? When do you anticipate the facilities will be operational? Is the Department of Veterans Affairs participating in this? How much do you all have to use your own resources?

And then I will ask a couple more about that, please.

Mayor FENTY. I am not sure if we have all of the budget costs for the building and the projections on delivering the building. We could certainly get that to you.

Mrs. EMERSON. That would be terrific.

Mayor FENTY. With respect to the question about the percentage of veterans, my notes show we are going to have a reservation of units, which I would imagine would be a minimum number of units, and I will either have to get that to you by the end of the hearing or by the close of business today through the Chairman. But it is a part of our entire proposal of finding permanent supportive housing to get homeless veterans off the street in the most humane way possible.

Mrs. EMERSON. With 583, I don't know how far $10 million will go. Certainly these are people who everything we can possibly do to ensure that they have a safe place in which to live is really, really critical I think.

Do you know yet, or do you all have plans to provide other things at these facilities like drug and mental health treatment, job training, that sort of thing?

Mayor FENTY. Yes. The Permanent Supportive Housing Program, which we established in late 2008, is just that, Congresswoman. It gets you housing, but it also has everything from job counseling to mental health counseling, substance abuse counseling. The arms of the government are wrapped around you until you get back on your feet. We actually believe that this is not only more humane and more productive, but also, in the long run, less expensive than just putting people on top of each other in shelters.

Mrs. EMERSON. Absolutely. Do you know of the number of homeless veterans you have been able to help to date, whether you see recidivism back to homelessness or whether you really have been able to measure the progress of these folks? In other words, have they been able to get a job? Do they have the right medications to help deal with any other physical or mental ailments that might arise?

Mayor FENTY. I think we would have to get you that number. I think my notes show that through all of our services, there are about 548 veterans who are homeless in the District of Columbia, and that would probably be somewhere around 10 percent, because I have just over 6,000 persons who are literally homeless. So let me get the number on how many of those have already been put into the Permanent Supportive Housing Program. We will get that to you.

Mrs. EMERSON. Do you know if some of them are non-veterans or is it just the veterans community specifically?

Mayor FENTY. In our Permanent Supportive Housing, absolutely some of them are non-veterans, without any question.

Mrs. EMERSON. I appreciate that. It is just such an important thing, and it is important for all of us to partner in ensuring that we not have that problem in the future.

Let me ask, too, about the Residents' Tuition Support just briefly. Am I stepping on anybody's toes?

Mr. SERRANO. You already asked my veterans question. Other than that——

Mrs. EMERSON. Okay. I think that it is wonderful to be able to provide students the opportunity to go to college, so I am very supportive of this program. And I know that it has increased the enrollment in D.C. public schools—well, it has increased college enrollment among D.C. public school grads up to—I think 60 percent are the latest numbers we have for 2006.

Tell us a little about the successes of this program and whether or not that program has produced a better-educated workforce that has led to better-paid jobs. And hopefully, all of these are folks who are coming back and working back home. We certainly, in rural Missouri, have issues with you can go to St. Louis, you can go to Memphis, and you can get a better-paying job. But in D.C., the jobs are much better-paying than they would be where I live.

Mayor FENTY. Well, you know, I think it has had a number of different positive impacts. In fact, the number one is the one you cited already, the improvement in the graduation rate; that, as you said, some numbers show that is up to 60 percent. But it depends on what year you are looking at. The graduation rates over 2000 to 2005 certainly grew every year, so that was exciting to see.

We believe it has had a great impact on keeping kids in high school, lowering the dropout rate, getting kids around the country more as they look to the various different State institutions that offer some of these, which I think is important to everybody who sits where you all sit.

Without any question, it has brought people back better trained for D.C. D.C. is an attractive place if you are looking for a job, because—we have got the highest unemployment rate, but we also have the fastest job growth. It is just one of the wild disparities that you hear about in the Nation's Capital.

The answer to why that exists, of course, centers around education. If we could place all of the people in D.C. who needed a job into the jobs available, our unemployment rate would be one of the lowest in the country. It is high because people still drop out at such an alarming rate, or get through school untrained for the jobs that are here.

That is a really big mission here in Washington, D.C., and we believe that DCTAG helps that. We probably would have some people move out of the city more if you didn't have DCTAG. I think it is a very attractive selling point for the city and continuing the growth of the city. It is particularly noteworthy, seeing it has such strong support from former Congressman Davis, who represented a suburban jurisdiction. He realized the importance of it to the city.

Mrs. EMERSON. I think, too, the plans for the University of the District of Columbia are wonderful too, and we should not overlook that as an opportunity.

Mayor FENTY. Absolutely. No question. No question.

Mrs. EMERSON. Thank you.

Mr. SERRANO. Thank you.

Mr. Culberson.

Mr. CULBERSON. Thank you, Mr. Chairman.

Community colleges are indeed a great investment. It is a powerful part of the education system in Texas. We also have a program where a high school student can earn dual credit, both in the high school class, as well as if they go on to a community college or even in our State university. Is that something that you have in place in D.C.? If not, I would certainly recommend it.

Mayor FENTY. There are different programs available. There are a couple of them. There certainly are the normal AP classes which you can take and get college credit. Then I know that there are a couple of partnerships with schools like GW and others. I know there are some programs with UDC as well.

I want to stop short of saying I know that you can get college credit, because I don't remember if that is the case.

Mr. CULBERSON. It is worth paying attention to.

Mayor FENTY. Without any question.

Mr. CULBERSON. Put it on your radar as something you probably have authority to do, and it really, really helps make a difference.

Mr. GRAY. We actually have begun to extend those opportunities through UDC. One of the things that has been done is extend UDC beyond its principal campus on Connecticut Avenue. We now have satellite locations, especially east-of-the-river communities, and we are about to open two new sites, one in the former Backus School, which was a public middle school on South Dakota Avenue. They are going also into high schools. There is a presence of UDC in high schools, so there now is an emerging effort to try to see that these young people get connected with the university and also get credit for certain courses they will take through the university while they are in their own high school.

Mr. CULBERSON. I hope you also will encourage, do what you can to develop programs to encourage young people to go to the military academies. That is another great opportunity that I think D.C. may be missing out on.

You mentioned also that you have declining revenues in the city, obviously commercial property, declining property tax revenues. Another thing to put on your radar, I can tell you just from personal experience—and certainly we are all dealing with human nature—human nature is such that if you are, for example, running a business, your revenues are down, they cut prices and do an effort to try to bring people in. I know it has worked, certainly, in Texas and my experience elsewhere.

Again, human nature is such that where revenues are declining, the response that we have had in local government and State government in Texas is to cut taxes and cut spending. It creates jobs, encourages people to move in. Texas has been blessed. We are sort of in a bubble in Houston and Texas that has protected us. We are still down, but not as bad as the rest of the country, because of that attitude.

I would sure recommend it to you. Rather than look to raise taxes as a way to increase revenue, if you actually cut taxes and cut spending, I think you will bring in more people and create more economic growth.

I also wanted to ask about how the city is addressing crime. Correct me if I am wrong, but I understood that you all have installed—there are sound detectors in certain parts of the city to triangulate gunfire, because witnesses won't come forward; is that correct?

Crime is still a serious problem in parts of the city. Do you have sound detectors that triangulate to help identify where it came from?

Mayor FENTY. Yes, Congressman. Shot spotters are what they are called, and they do help the police department, as do surveillance cameras, as do other technology-related policing items.

But I do want to say that one of the reasons Chief Lanier has been able to drop the homicide rate down to 1966 levels and to be one of the leaders in the country in homicide closure rates is because the detectives, one, they do an amazing job, they are very well managed; and two, because we are getting an unprecedented amount of support from the community in giving us tips.

Mr. CULBERSON. I am delighted to hear it. But the whole idea of sound detectors is sort of grim, if you think about it, the fact you need it.

Mayor FENTY. Sure.

Mr. CULBERSON. It is a sad commentary on the state of affairs we are in.

Mayor FENTY. No question.

Mr. CULBERSON. I am delighted you are dealing with it. I can tell you again, we all have come up in our personal experience. I am born and raised in Houston as a Texan. I knew how to shoot a gun by the time I was 12 years old, and it is just a natural part of life. And it is an important part of life in Texas, and I coauthored in the State legislature our Concealed Carry legislation in the nineties.

To this day, I think that bill passed in like 1995, I am not aware of—and somebody may correct me—but I am not aware of even a fist-fight between Concealed Carry permit holders.

I know that when you are pulled over for a traffic ticket in Texas, you pull out—this works, Mr. Chairman, I am telling you—if you have a Concealed Carry permit in Texas, if you are pulled over for a ticket, really you are supposed to pull out—and I am going to get mine soon, my brother has got his. This works every time. You pull out your driver's license. You put the Concealed Carry permit with it, because the officer needs to know. And when you give that to the officer, nine times out of ten, unless you really fail the attitude test with the officer or done something bad, the officer will just say, Thank you very much, have a safe day, because police officers recognize that their best friend is a Concealed Carry permit holder.

So I wanted to ask you about what the District intends to do about the right of all Americans to keep and bear—two parts, keep and bear arms. And law-abiding citizens have that absolute right under the Constitution; the case that just went up to the Supreme Court that invalidated the prohibition that D.C. had on owning a weapon inside your home.

To what extent will the District of Columbia protect Americans' Second Amendment rights and recognize the reality that we in Texas and other States where they have Concealed Carry, we have stopped a lot of crime, we have saved the taxpayers a lot of money, and really deterred a great deal of crime. Because criminals are basically cowards. They are not going to go after somebody they think that can protect themselves.

So I really mean it in a very sincere way. I am telling you it works. If you trust your constituents, if we would just trust Americans' good hearts and good sense to do the right thing for the right reason, they will do so because they are Americans. What will you do to encourage Americans to do the right thing that live in D.C. and protect their Second Amendment rights?

Mayor FENTY. Well, you know, you are obviously up to date on the Supreme Court's ruling in the Heller case. Since then, our Attorney General, the Council's Committee on Public Safety, and everyone in between has worked to put together regulations that both meet what the Supreme Court decided, which is, of course, that you could have a handgun in the home with certain restrictions, and that we have a regulatory system and a licensing system that makes sense and is fair. I think we have struck the right balance.

Mr. CULBERSON. What about shotguns? Can a resident keep a shotgun or rifle in their home?

Mayor FENTY. Sir, there is an older law that applies to non-handguns, and I don't have it with me. The prohibition, which goes back to the inception, the time of the inception of the Council, which was mid-1970s, really spoke to handguns and concealed weapons. Then there was something that preexisted that, about non-assembled rifles and shotguns. I would have to get you the law.

Mr. CULBERSON. So there is no prohibition against a D.C. resident keeping a shotgun in their home?

Mayor FENTY. There are absolutely restrictions. I don't as we sit here today know all of the restrictions, what you can have, what can be assembled, what was grandfathered in.

Mr. CULBERSON. That is important.

Mayor FENTY. That is very important.

Mr. CULBERSON. Anyway, what will you do? Have you considered, is the Council considering—and the chairman has been very generous with his time.

Mr. SERRANO. Especially on this issue.

Mr. CULBERSON. It works, let me tell you. The Bronx, you could——

Mrs. EMERSON. You should talk to my new staff assistant. The first day she got here she got carjacked by three guys and a gun right up the street.

Mr. CULBERSON. I tell you, had she been a Concealed Carrier permit holder in Texas, the guy would either be dead or in jail. I mean, you saw that. I am telling you. If you trust Americans to do the right thing for the right reasons, they will do it.

Your police officer's best friend who is going to be a trained, law-abiding citizen who is carrying a concealed weapon, has a merit. They are going to be a police officer's best friend and backup. And those carjackings just don't happen in Houston. If they do, they only happen once.

What will you do in terms of letting people in D.C. carry a concealed weapon? Is there any debate or discussion about letting law-abiding Americans carry a concealed weapon?

Mayor FENTY. There isn't any further debate or discussion that goes beyond what the Supreme Court ruled in Heller.

Mr. CULBERSON. Is that——

Mayor FENTY. Not any formal debate. Obviously, the citizens have varied opinions on it, as they do all over the country. But there isn't any further debate at the Executive level, and I don't think there has been any at the legislative level.

Mr. CULBERSON. The Council's position reflects that of D.C. Residents, you think. They don't want the right to carry a concealed weapon?

Mayor FENTY. I believe that the residents of D.C. in huge majorities want very strict handgun laws.

Mr. CULBERSON. They want gun control?

Mayor FENTY. Yes, sir.

Mr. GRAY. I concur with that also.

Mr. CULBERSON. It is very different from Texas.

Mrs. EMERSON. And Missouri.

Mr. CULBERSON. And Missouri. Thank you.

Mr. SERRANO. We are going to wind down now. But on that point, I think the main issue here is that—and here I am going to be balanced. I think people that live in the inner city, like I do, have tried to understand, and I think have been successful, in understanding the needs and the cultural aspects of owning and bearing arms in other parts of the country. But I think folks in other parts of the country have had a difficult time understanding our reaction to guns on the streets of the South Bronx.

I understand the hunting issue. I personally would not be a hunter, but I understand that. I understand the whole issue of bearing an arm at target shooting. I understand all that. And for protection of your property, I understand all that. But that is not the reality of people in the housing projects that I grew up in. It is a whole different thing.

So when you ask these folks, when you ask people in my 16th Congressional District in the Bronx, they may seem as to be a anti-Constitutional or anti-rights. It is not. It is dealing with their daily situation that the biggest threat to them are drug dealers with guns; that if you get rid of those guns and you get rid of the ability of drug dealers to shoot each other, and, in the process, to shoot other people, life will be much better for them.

I am old enough and well-read enough and so on to understand that is a right that you have. But you need to know that these restrictions are not meant—I mean, I don't want to stop somebody from hunting. I just want to stop people from shooting each other on the street, and, in the process, shooting innocent people.

Or the fact that because I am law-abiding and don't carry a gun, there is a guy who bought one that came up on a Saturday night, traveled all along the east coast and got to the Bronx, and he is going to use it on me or a loved one of mine to carjack me or whatever.

That is a tough issue. I understand it will be with us forever. But I think that in that case, we have done a better job of trying to understand your needs than folks in your communities have done in your understanding our fear.

Anyway——

Mr. CULBERSON. I know our focus would be——

Mr. SERRANO. Are you packing now?

Mr. CULBERSON. No, not now.

Mrs. EMERSON. I was just looking.

Mr. SERRANO. I don't want to carry this too far.

Mr. CULBERSON. No, no, no.

Mrs. EMERSON. This is being videotaped. We had better watch it.

Mr. SERRANO. He has a permit.

Mr. CULBERSON. We in Texas just want you as a law-abiding citizen to have the right to defend yourself. That is my point. If you are a good citizen and you obey the law, you should be able to defend yourselves. And it works.

Mr. SERRANO. It is a major difference of opinion.

My last question for the day, and I will submit the few others I have for the record, the President's proposal is $17.45 million—I am sounding like Dr. Gandhi now—$17.45 million different than last year. If we were able to get you that money back, how would you direct it? Or do you want us to direct it into certain programs?

I know that, Chairman Gray, you have, as the Mayor does, a special affinity for UDC. So if we could get you that back—and it is a big "if" we are facing all over, right, a big "if," and these committees will get an allocation that won't look like last year, but I am not ashamed to say it in public, that the District of Columbia is a special part of my bill for me. So if we were able to get you back that money, or part of it, would you want us to direct it into a certain account?

Mayor FENTY. I think that it would be—the responsible thing to do would be to get you a submission which would show you what we would do with $17 million. We could even work with the Chairman so that it would be kind of a joint executive-legislative thing.

I think without question, the discussion we had around housing is critical. It is a very big impact that you can make as a committee, because everything else can be better managed with less resources. Even education. But housing requires a certain amount of dollars to build the housing and to leverage private investment. So I would suspect our proposal would have housing. Education is always at the top of our priority list.

As you said, Mr. Chairman, you referenced a couple things. But I would be glad to have my staff work with the Council and submit something that would say, Okay, this is where we think an additional $17 million or so would be best used. I don't know if the Chairman wants to add anything.

Mr. GRAY. I think that is a good suggestion, Mr. Mayor, and I appreciate your referencing UDC. That is our State university. That really, I think, deserves support. There are an incredible number of new initiatives taking place under the leadership of Dr. Sessoms. The community college is now open and operating.

I think we have an enormously wonderful opportunity to be able to reach a lot of students in the District of Columbia who might not pursue higher education or might go somewhere else to do that. I think the investment of dollars at this date will more than return—the ROI will be incredible, both in terms of a more educated populace in the District of Columbia, and, frankly, a group of residents who are better able to compete for the jobs in the District of Columbia.

You heard, I think it was 66 percent Dr. Gandhi cited earlier, of the people who live elsewhere and work in the District of Columbia. One of the ways to resolve that problem of people living elsewhere and earning dollars in the District of Columbia is to increase the number of people who live in the District of Columbia who get the jobs in the District of Columbia, because clearly they will pay taxes in the city. One of the ways to do that, obviously, is to have a more educated workforce.

The community college will contribute mightily to that, not only in terms of 2-year degrees, but workforce development. Frankly, one of the things we are doing is gearing the curriculum there to emerging jobs. Allied Health Services, for example. We have a burgeoning health-care system in the District of Columbia. Early childhood education. All of those are curricula that are on the drawing board or have been developed in recent months at the community college, at UDC, and targeted specifically to people who live in the city.

Mr. SERRANO. That sounds good to me.

Well, you have no further questions, right?

Mrs. EMERSON. Right.

Mr. SERRANO. I want to thank all of you. It has been a good hearing. We have gone a good 2 hours. We stand committed. Rarely do you get a chairman and a ranking member, who, on a part of a bill as controversial as the D.C. budget and D.C. Provisions can agree 99.9 percent of the time on the issues, and agree 100 percent of the time to do the best we can to make things better for you and for the residents of D.C., and we stay committed to that.

It doesn't hurt that you have a wonderful baseball park. We are baseball fanatics, and true baseball fans. And here is where I am going to sound like a politician, right? True baseball fans don't just root for one team. They have a special team—Cardinals, Yankees—but we like to see other teams succeed, except when they are playing the Yankees, and I think they will for the first time soon. I want the Nationals to win.

Mrs. EMERSON. They demolished St. Louis in the preseason. My goodness gracious.

Mr. SERRANO. Why do you think I am saying all these things about the city? It is so exciting with Strasburg coming up. There is rejuvenation. I mean, it is just an exciting time. You walk down the block and you see that opening. These are exciting times.

I am a blessed man. I live across the street, two blocks from Yankee Stadium, and I have a 12-minute walk to Nats Stadium. Life is good. So for that alone, we are big fans.

But we stay committed to helping you in every way we can. We can't commit to the 17.4 million, but we will try.

Mayor FENTY. We will get you something in writing.

Mr. SERRANO. And we are here to do the best we can. We thank you, all three. I am sure some people came here today to hear some fireworks. I can make one comment about the two of you. With you, it is clear to me that D.C. comes first. Thank you so much.

[CLERK'S NOTE:—The Committee on Appropriations submitted questions for the record to the Office of Mayor for the District of Columbia on 6/7/2010. Despite multiple requests by the Committee, the Office of the Mayor for the District of Columbia failed to provide answers to the QFRs when requested. As of publication in December 2010, no responses to the questions were provided to the Committee.]

SUBCOMMITTEE ON FINANCIAL SERVICES AND GENERAL GOVERNMENT

HEARING

ON

THE FY 2011 BUDGET REQUEST OF THE DISTRICT OF COLUMBIA

Questions for the Record

for

The District of Columbia

April 21, 2010

Questions for the Record
Submitted by Chairman Serrano

Tuition Assistance Grant Program (DCTAG)
The DCTAG program has been very successful since its inception in 2000. This program provides the opportunity of higher education to many of the District's young people. Many of these students are the first in their families to attend college. The DC Office of the State Superintendent of Education recently issued a ten year retrospective on the program.

- What is the program doing to see that students participating in the DC Tuition Assistance Program are prepared for college and successful in earning their college degree? In other words, what steps are being taken to make sure that the students in this program are college-ready, prepared to make smart college decisions, and possess the resources to navigate the college admissions and financial aid process?

The President's request provides $35 million for the Tuition Assistance Grant program. The request has stayed the same since FY 2007.

- With over 5,500 students participating in the program in FY 2011 and given the increasing cost of higher education, will this be enough to ensure these opportunities are an affordable option for District students?

Stimulus Funding
In 2009 the District received more than $700 million in formula and grant funds under the American Recovery and Reinvestment Act.

- How are you using federal stimulus funds to create jobs and economic growth in the District?

General Provisions
The President's Budget includes 18 general provisions relating to the governance of the District of Columbia.

- While many of these provisions may be helpful to you, are there any changes you would recommend which would allow you to have greater authority to manage the affairs of the city?

DC WASA Combined Sewer Overflow Projects
The President's Budget proposes a $5 million increase in FY 2011 for the DC Water and Sewer Authority's Combined Sewer Overflow Long-Term Control Plan (LTCP).

- What is the status of this project?
- Please provide an estimate, by fiscal year, of the amount of the Federal and local funds that will be required to complete the project.
- Also, please include an explanation of the methodology used to develop these annual cost estimates, particularly for the Federal payment portion of the project?

HIV/AIDS
The AIDS epidemic in the District is the worst in the Nation, with 3 percent of residents positive with HIV or AIDS.

- How has the recent availability of accurate and timely HIV data helped you define and redirect your HIV efforts for better impact against this disease?

CDC has called for expanded HIV testing as a major strategic priority for combating HIV in the nation.

- How has the District stepped up to this challenge?
- Have there been improvements in the health status of District residents associated with expanded HIV testing efforts?

Questions for the Record
Submitted by Ranking Member Emerson

HIV/AIDS Care and Prevention
The budget request proposes $5 million for HIV/AIDS prevention and care services. Last year, there were many disturbing stories in the Washington Post about how the grantees were using the City's HIV/AIDS resources. It is very disappointing to see individuals take advantage of programs designed to help one of the most vulnerable populations. Before the Committee provides a new Federal appropriation to address this problem--

- Can you tell us how you are ensuring that grants for HIV/AIDs care are being appropriately overseen? Have you put any new accountability standards in place?
- How much local funding is the City contributing to this program?
- How much funding does the City receive from the US Department of Health and Human Services for prevention and care?

DC Crime Lab

Over the past several years, the Committee has provided the City with $59 million to build a crime lab including $15 million in fiscal year 2010.

- When will the lab be operational?
- Are you working with forensic science experts to ensure the lab will be utilizing the latest crime solving technologies?
- Can you make room for the District of Columbia Pretrial Services Agency lab in this new facility?

Medical Marijuana

I do not believe that marijuana should be available for medical purposes. The FDA has not approved it for any condition or disease and the DEA has a website titled "Smoked Marijuana is Not Medicine". However, the funding prohibition on the use of medical marijuana in DC has been lifted and I understand that the Council will be considering legislation this summer to implement a medical marijuana program.

- How vigorously do you intend to regulate the distribution of medical marijuana?
- How will you keep it from children and teens?
- Are you concerned that children and teens will no longer think of marijuana as a dangerous drug because it is available for medical purposes?
- How will you prevent medical marijuana from being diverted to drug dealers?

PUBLIC WITNESS TESTIMONY

CHARITY & SECURITY NETWORK

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Testimony of Kay Guinane, Program Manager
Charity and Security Network

House Committee on Appropriations and Subcommittee on Financial Services and General Government

March 19, 2010

This testimony is being submitted to express my concerns about the Department of Treasury's proposed 59 percent budget increase for the Office of Terrorism and Financial Intelligence, absent a commitment from the Department to improve its performance with regard to enforcement of national security laws in the charitable sector. Background information on the nature and extent of the problems current counterterrorism measures have caused legitimate charities is provided below.

I request that Congress require Treasury to:

- address the need to release frozen charitable funds for charitable purposes and
- take steps to address serious constitutional deficiencies in its standards and procedures for designating and shutting down charities accused of supporting terrorism.

Background

The U.S. charitable and philanthropic sector strongly opposes terrorist violence. The work of our sector is a positive force in countering terrorism by addressing the root drivers of violent extremism, including poverty and social marginalization. We are very aware of the dangers of charitable work in conflict zones. Terrorist organizations know we are a threat to their violent worldview and attack our workers at increasing rates. In 2008 more aid workers were killed than UN peacekeepers.

In addition to these difficulties, we must also cope with a legal counterterrorism regime that was not designed to take the unique nature of the charitable sector into account. It is based on emergency measures passed after 9/11 that give the Executive Branch unchecked power to designate any group as a terrorist organization.[1] When a charity or foundation is designated for

[1] 50 U.S.C 1704-1706

providing material support to a prohibited entity, all of its U.S. property and financial assets may be "blocked," (frozen) without notice.[2] When an organization's assets are frozen "pending an investigation," there is no deadline on when the investigation must end. There are no clear standards governing designations, which can be based on secret evidence. There is no independent review process for designated organizations to learn of or contest the accusations against them.

Nine U.S. organizations have been shut down under this regime. It appears there is now up to $24.8 million in "blocked" charitable funds, with no limit on how long they will remain frozen. Treasury has refused all requests to transfer frozen charitable funds to other organizations that can ensure the money is used for charitable purposes.

Treasury's Enforcement of Security Laws Has Created Problems for U.S. Charities

Several studies have documented the negative impacts Treasury's approach to enforcement of national security laws has had on U.S. charitable, philanthropic, human rights, development and peacebuilding organizations. This includes the lack of clear standards for designation, absence of meaningful opportunity to defend oneself and freezing of funds without procedures for release for charitable purposes. The impacts include scaled back international programs, unnecessary administrative costs and negative public diplomacy.

Details of these impacts can be found in *Collateral Damage: How the War on Terror Hurts Charities, Foundations and the People They Serve,* published by Grantmakers Without Borders and OMB Watch in July 2008[3] and *Blocking Faith, Freezing Charity: Chilling Muslim Charitable Giving in the "War on Terrorism Financing*" by the ACLU, June 2009.[4]

Two Federal Courts Have Held Treasury's Procedures for Shutting Down Charities to be Unconstitutional

In the past two years two federal District Courts have ruled that Treasury violated the U.S. Constitution in the way it shut down two U.S. charities. Both cases are in the remedy stage before the District Courts. To date the agency has not taken any steps to change its procedures in a way the remedies the problem going forward. These cases are:

KindHearts v. Treasury:[5] The Aug. 18, 2009 federal court ruling found that Treasury's seizure of KindHearts assets without notice or means of appeal is a violation of the Fourth and Fifth Amendments. Because KindHearts has never been designated as a supporter of terrorism, the factual background of the case presents important constitutional and human rights questions

[2] EO 13224 Sec.10, Sept. 23, 2001
[3] http://www.charityandsecurity.org/studies/Collateral_Damage
[4] http://www.aclu.org/human-rights-religion-belief/charitable-giving-and-war-terrorism-financing
[5] summary, procedural timeline and links to opinions and briefs at http://www.charityandsecurity.org/Litigation/KindHearts_v_Treasury

about how post-9/11 emergency measures should be applied to charities in the long term. The Court ruled that the freeze action by the government of over $1 million of KindHearts' assets was an unlawful seizure of property under the Fourth Amendment, rejecting the government's argument that it did not need probable cause to obtain a warrant to seize the property, and could act on the basis of reasonable suspicion.

The Court held that KindHearts was denied its Fifth Amendment right to due process when OFAC issued the blocking order freezing KindHearts assets because "OFAC violated KindHearts' fundamental right to be told on what basis and for what reasons the government deprived it of all access to all its assets and shut down its operations." [p. 76] According to the Court, the OFAC had an inexplicable fifteen month delay of KindHearts' post-deprivation hearing, an inexcusable misplacement of a 1,369-page submission by KindHearts, and waited more than thirty months to provide KindHearts with redacted records in support of its action. The effect is that the OFAC did not provide timely or sufficient notice to enable KindHearts to prepare an effective challenge.

Al-Haramain v. Treasury: [6] On Nov. 7, 2008 Judge Garr King of the United States District Court in Oregon ruled that Treasury's action in shutting down the Al Haramain Islamic Foundation, Inc. (AHIF-Oregon) in 2004 violated the organization's Fifth Amendment rights anc potentially their Fourth Amendment rights as well. Judge King also ruled that the term "material support" of terrorism in Bush's Executive Order 13,224 (EO 13224), which grants the Secretary of Treasury power to designate Specially Designated Global Terrorists (SDGTs), is unconstitutionally vague.

The Fifth Amendment's due process clause requires the government to provide notice and an opportunity to be heard before depriving a person or organization of their property. The Court determined there was a violation of AHIF-Oregon's due process rights because Treasury failed tc provide *notice* for eight months between the time it froze AHIF's assets "pending investigation" in February 2004, and the designation of the organization as an SDGT in September 2004.

Additionally, the Court found a potential violation of AHIF-Oregon's Fourth Amendment protection against unreasonable seizures. The judge ruled that the freezing order against AHIF-Oregon did constitute a seizure and, unless the government's actions were reasonable, the government violated the Fourth Amendment. However, it has not yet been decided whether the government's actions were reasonable because the Court has ordered additional arguments.

Treasury Has Refused to Release Frozen Funds for Charitable Purposes

For many years the nonprofit sector has urged Treasury to engage in dialog about a process to ensure frozen charitable funds (those of charities shut down as supporters of terrorism) are released to legitimate groups and used for their intended charitable purposes. These efforts have not been fruitful.

[6] summary, links to briefs and opinion at
http://www.charityandsecurity.org/litigation/Al_Haramain_v_Treasury_Summary

In fact, Treasury has refused all requests to release frozen funds. For example, in 2002, the Treasury Department rejected Benevolence International Foundation's request for the release of most of its funds to a children's hospital in Tajikistan and the Charity Women's Hospital in Dagestan, even though their application included safeguards to ensure the money arrived at the proper destinations. In 2006, KindHearts USA asked that its funds be released and spent by the UN, USAID, or any other humanitarian program.

When the Charity and Security Network met with Assistance Secretary for Terrorist Financing David S. Cohen at the end of July 2009, he agreed to follow up meetings about the frozen funds. I sent follow up emails to Brian Townsend, Attorney-Advisor in Treasury's Assistant General Counsel's office, on August 11 and September 10 of 2009, requesting this meeting. On February 19 this year I sent a letter to Cohen repeating the request. There has been no response.

This lack of response harms people in need. For example, based on US Fund for UNICEF data, if $7 million in frozen funds were released, 11.8 million children could receive basic health supplies. If $24.8 million frozen funds were released, 16.8 million families could receive clean water kits. It is against U.S. interests for Treasury to hold on to these funds indefinitely and refuse to engage in dialog about ways to address the issue.

Conclusion

Before receiving a significant budget increase for the Office of Terrorism and Financial Intelligence, Treasury should be required to address the question of due process for charities and take steps to release frozen funds.

STATEMENT OF THE INVESTMENT COMPANY INSTITUTE ON THE U.S. SECURITIES AND EXCHANGE COMMISSION'S APPROPRIATIONS FOR FISCAL YEAR 2011

Subcommittee on Financial Services and General Government
Committee on Appropriations
U.S. House of Representatives

March 19, 2010

The Investment Company Institute[1] appreciates this opportunity to submit testimony to the Subcommittee in support of the Administration's FY 2011 Appropriations request for the Securities and Exchange Commission (SEC). We commend the Subcommittee for its consistent past efforts to assure adequate resources for the SEC. For the reasons expressed below, we urge Congress to provide appropriations at least at the funding level requested by the President.

Importance of a Well-Funded and Effective Securities Regulator

Registered investment companies (RICs)[2] and their shareholders have a strong stake and vested interest in a well-funded and effective SEC. RICs are one of America's primary savings and investment vehicles for middle-income Americans. All told, 88.5 million shareholders in 51.2 million U.S. households owned some type of registered fund in 2009.[3] At year-end 2009, total RIC assets were more than $12.16 trillion. These funds, and their millions of investors, benefit from the SEC's vigilant regulatory oversight.

RICs are an integral part of our economy in another way, as well. They represent, as a whole, the largest group of investors in U.S. companies, holding 28 percent of the outstanding stock in U.S. companies at year-end 2009. They also represent an important source of short-term funding for major U.S. and foreign corporations, as RICs hold the largest share of U.S. commercial paper. As major participants in the stock, bond, and money markets, RICs benefit from strong regulatory oversight of these markets.

In the wake of the financial crisis, Congress must provide the SEC with the resources it needs to successfully pursue its investor protection and market oversight missions.

Staffing

[1] The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of $11.55 trillion and serve almost 90 million shareholders.

[2] Fund sponsors offer four types of registered investment companies in the U.S.—open-end investment companies (commonly called "mutual funds"), closed-end investment companies, exchange-traded funds (ETFs), and unit investment trusts (UITs).

[3] *See* "Ownership of Mutual Funds, Shareholder Sentiment, and Use of the Internet, 2009," *Investment Company Institute Fundamentals* 18, no 7 (December 2009), avail. at http://www.ici.org/pdf/fm-v18n7.pdf.

The Administration's FY 2011 budget proposes SEC funding at $1.258 billion, which represents a 12 percent increase over its FY 2010 budget. The SEC explains that much of the increased funding would be used to enhance the agency's professional staffing, noting that under the SEC's current funding level, the agency's workforce remains about one percent below FY 2005 levels.[4] It is imperative that the SEC have the resources to perform its oversight functions. We strongly encourage Congress to provide the SEC with funding to improve not only the level of staffing, but also the depth and quality of its professional staff. The SEC has begun that process under Chairman Mary Schapiro's leadership. It has hired seasoned industry professionals and market experts in its newly created Division of Risk, Strategy and Financial Innovation and specialized attorney fellows in other divisions. These hires are very important for the SEC. Senior staff with practical perspectives enhance the agency's ability to keep current with market and industry developments and better understand the impact of such developments on regulatory policy. We believe more can and should be done, however, particularly in developing strong economic research and analytical capabilities at the agency. The SEC should have sufficient funding to have economists for each division.

Scope of Authority

The ongoing regulatory reform debates have generated a great deal of discussion about the proper scope of the SEC's authority. Two aspects of this debate relate specifically to the funding of the SEC: whether it should have expanded authority with respect to advisers, derivatives, and municipal securities; and whether it should be permitted or required to delegate oversight of investment advisers to a self-regulatory organization (SRO).

Expanded authority over certain advisers and derivatives. The Administration has proposed legislation to require advisers to hedge funds and other private pools of capital to register with and report information to the SEC under the Investment Advisers Act. The Administration has also proposed to grant the SEC greater authority to regulate securities-based over-the-counter derivatives. Versions of these provisions are contained in H.R. 4173, the "Wall Street Reform and Consumer Protection Act of 2009," passed by the House of Representatives last December,[5] and the draft regulatory reform bill introduced by Senator Christopher Dodd earlier this week.[6]

Expansion of the scope of the agency's regulatory responsibilities with respect to hedge funds and derivatives, as well as in other important areas such as municipal securities, will require significant additional resources. For example, the SEC's statement notes that the number

[4] *See* Congressional Justification FY 2011 in Brief, avail. at http://www.sec.gov/about/secfy11congbudgjust.pdf

[5] *See* H.R. 4173, Title III (the Derivative Markets Transparency and Accountability Act) and Title V, Subtitle A (the Private Fund Investment Advisers Registration Act).

[6] *See* March 15, 2010 Draft of the Restoring American Financial Stability Act, Introduced by Senator Christopher Dodd (D-CT) (avail. at http://banking.senate.gov/public/_files/ChairmansMark31510AYO10306_xmlFinancialReformLegislationBill), Title IV (Regulation of Advisers to Hedge Funds and Others) and Title VII (Improvements to Regulation of Over-the-Counter Derivatives Markets).

of registered entities will grow by thousands more if the Administration's legislation is enacted to require oversight of advisers to hedge funds and other private pools of capital.[7] If the SEC's authority is extended in these areas, the SEC must have sufficient staffing and resources to effectively perform its new oversight functions.

The concept of an adviser SRO. The House of Representatives considered and rejected an amendment to H.R. 4173 that would have clarified the SEC's authority to permit or require an SRO to enforce compliance with the Investment Advisers Act of 1940 and the rules thereunder. The amendment also would have given the SRO rulemaking authority under the Advisers Act.

Instead of delegating responsibility to an SRO, we believe Congress should approve funding for the SEC at a level that allows it to enhance its existing, experienced oversight function and adequately oversee all investment advisers. We believe the SEC is a far more appropriate primary regulator for advisers, especially those that advise mutual funds. The SEC has been overseeing advisers since 1940 under the Advisers Act, which sets out a principles-based approach specifically designed to regulate those entities providing advice. Advisers to mutual funds also are subject to the Investment Company Act of 1940 and its rules, which create a comprehensive framework regulating all aspects of the registered fund business. Delegating oversight of certain advisers to an SRO, and providing the SRO with rulemaking authority under the Advisers Act, would create potentially different and conflicting rules and standards, a result that may be especially burdensome for advisers to funds. Moreover, it could create a situation where advisers affiliated with broker-dealers are regulated according to standards that differ from those by which independent, standalone investment advisers are governed, contrary to current efforts towards regulatory harmonization.

Funding the SEC

Both H.R. 4173 and Senator Dodd's draft legislation include self-funding provisions. H.R. 4173 includes a provision that would give the SEC the authority to collect fees from registered investment advisers to recover costs of inspections and examinations.[8] Senator Dodd's bill includes a broader provision on SEC self-funding.[9] Consistent with our long-standing and strong support for adequate funding for the SEC, we support the concept of a self-funded SEC and do not oppose these provisions.

Conclusion

The SEC, the fund industry, and its investors share a common objective in having a well-funded and effective SEC. The SEC must have sufficient resources to adequately fund the staffing of the agency and to take other steps to fulfill its mission of protecting the nation's investors, including the 88.5 million Americans who own mutual funds and other registered

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[7] *See* Congressional Justification FY 2011 in Brief, at p.4.

[8] *See* Sec 7302 of H.R. 4173.

[9] *See* Sec. 991 of the Dodd bill, *supra* n.6

investment companies. These investors deserve the benefits of an SEC that can soundly and effectively regulate securities offerings, market participants, and the markets themselves.

Accordingly, we urge Congress to provide appropriations at least at the funding level requested by the President.

We appreciate your consideration of our views.

* * * * *

JEWISH FUNDS FOR JUSTICE

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March 19th, 2010

Testimony to House Appropriations Committee, Subcommittee on Financial Services and General Government

Thank you for the opportunity to share our testimony with the Subcommittee.

The Jewish Funds for Justice is a national public foundation guided by Jewish history and tradition. JFSJ helps people in the United States achieve social and economic security and opportunity by investing in healthy neighborhoods, businesses, and community organizations. Since 1994, Jewish Funds for Justice has invested and mobilized more than $30 million in low-income communities through CDFIs, and we have witnessed first hand the transformative effect these mission-driven institutions can have in promoting economic growth in low-income communities, and in forwarding our vision for a more fair, just and compassionate America.

<u>We are writing to urge the Subcommittee to support an allocation of $300 million to the CDFI (Community Development Financial Institution) Fund, in line with the recommendations of the CDFI Coalition.</u>

We appreciate the support the CDFI Fund has received in recent years and urge the Subcommittee to continue this trend. The President's request for the Fund moves us in the right direction. However, in this period of financial crisis, we urge the Subcommittee to maximize the role that mission-driven CDFIs can play in our financial recovery. We urge you to honor the President's request while also supporting full funding for Bank Enterprise Awards (BEA) and increasing overall Financial Assistance and Technical Assistance grants to $165 million.

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Strengthening and expanding the role of CDFIs is one of the best tools available to the federal government to stimulate economic development and improve financial literacy and financial stability in low-income communities. CDFIs make affordable loans and financial services available to those who need them most – low- and moderate-income individuals, families, and businesses often neglected by mainstream banks. These loans are providing the credit and financing that is so vitally needed now to rehabilitate and develop affordable housing, create new jobs, provide essential social services, and improve people's everyday lives in at-risk neighborhoods all across our country.

CDFIs have a proven record of success. According to the most recent data available from the CDFI Data Project, in 2007 alone CDFIs:

- financed and assisted 8,954 businesses and microenterprises, which created or maintained 34,276 jobs;
- financed the construction or renovation of 57,274 units of affordable housing;
- financed the construction or renovation of 687 community facilities in economically disadvantaged communities;
- provided 15,546 responsible mortgages to first-time and other homebuyers;[1]

Jewish Funds for Justice and CDFIs

Community investment is an important value in the Jewish tradition. According to the renowned 12th century Jewish legalist and philosopher Maimonides, Judaism holds that there are eight degrees of *tzedakah,* or "righteous giving." The highest degree is to make a loan to help someone in need become self-sufficient.

This principle guides Jewish Funds for Justice's TZEDEC (or "justice") program, the first and only national Jewish initiative to stimulate the American Jewish community and other faith communities to invest in CDFIs. Through our three TZEDEC pooled funds, JFSJ has investments in CDFIs in California, Maryland, Massachusetts, Florida, New York, the District of Columbia, Mississippi, and Louisiana, as well as in other states and national community investment funds. Since 1997, TZEDEC has catalyzed more than $30 million in American Jewish investment in community institutions.

In Baltimore, Maryland, our TZEDEC Community Ventures (TCV) fund is working in partnership with TRF Development Partners–Baltimore, LLC,

[1] CDFI Data Project, 2007, 7th year addition.
http //opportunityfinance net/store/downloads/cdp_fy2007.pdf

and Baltimoreans United in Leadership Development (BUILD), a community coalition of local neighborhoods and churches. TZEDEC has invested $1.2 million in an exciting project to revitalize several East Baltimore neighborhoods. The project will create 445 units of new housing (from affordable to market rate), attract new residents, support homeownership for current residents, and draw new commercial and social life to the area. Underpinning this vision is a $10 million loan fund to support property acquisition, assembly, and development. TZEDEC has invested with the support of several leading Baltimore Jewish community funders and investors, including The Associated (Jewish Federation of Baltimore), and we are excited at the progress already underway. The level of Jewish institutional and philanthropic support for this project exemplifies the leverage that partnerships between CDFIs, rebuilding neighborhoods, faith groups, and philanthropic and civic entities can achieve.

Also of note, TZEDEC's *Isaiah Fund, LLC* is an interfaith disaster-response pooled fund which focuses on post-Katrina rebuilding efforts in the Gulf Coast Region. The Isaiah Fund, which has raised more than $5 million, is a collaboration among American Baptist Home Missionaries, CHRISTUS Health (Catholic), Highland Good Steward Management, Jewish Funds for Justice (JFSJ), and MMA Community Development Investments (Mennonite). The Fund makes deposits and loans to certified CDFIs and non-profit developers, and is itself in the process of applying to become a certified CDFI.

The Isaiah Fund has made more than $2 million in community development deposits and loans throughout the Gulf Coast region, including our first loan of $500,000 to Gulf Coast Housing Partnership (GCHP). GCHP will use the funds for several projects, including the Muses, a mixed-income rental housing project in the Central City neighborhood of New Orleans that will include 87 units of affordable housing.

Jewish Funds for Justice has dozens more success stories from our investments (more are included in an addendum) and they are just a fraction of the successes CDFIs have achieved across the country. Jewish Funds for Justice's TZEDEC program has been growing consistently for the last ten years, reflecting growing interest in the Jewish community, and we expect the program to continue to expand. However, the overall reach of our work is tied to the strength of the entire sector, especially the CDFI Fund. Growing the CDFI Fund is essential for us to continue to expand the impact of our community investments.

Recommendations

JFSJ supports an appropriation of $300 million for the CDFI Fund in line with the request of the CDFI Coalition.

CDFI Fund Budget Recommendations
(Courtesy of CDFI Coalition, www.cdfi.org)

	FY '10 CDFI Appropriation	President's Request for FY '11	JFSJ Request for FY '11
FA/TA	$108 M	$140 M	$165
BEA	$ 25	0	$ 25
Native American	$ 12	$ 12 M	$ 12
Capital Magnet Fund	$ 80	$ 0	$ 0
Admin	$ 18	$ 23 M	$23 M
Healthy Food Financing Initiative	0	$ 25 M	$25 M
Bank on USA	0	$ 50 M	$50M
Financial Education	$ 4.2	0*	0*
TOTAL	$247	$250	$300

* Activities under the Fund's Financial Education initiative will be supported through the Bank on USA initiative

We thank the Subcommittee for the opportunity to offer our testimony. Please let us know if you require any further information.

Thanks you,

Simon Greer,
President and CEO,
Jewish Funds for Justice

Jeffrey Dekro
President
TEDF[2] & Isaiah Fund

[2] TEDF is a wholly-controlled, nonprofit entity of the Jewish Funds for Justice. TEDF manages and holds TZEDEC investments The notes are not obligations of, or guaranteed in any way by, the Jewish Funds for Justice.

ADDENDUM A: TZEDEC **Successes**

The TZEDEC Economic Development Fund's (TEDF) investments help finance affordable housing, job creation, better social services, and many other needs in low and moderate-income communities. Here are just a few examples:

• TZEDEC'S $180,000 investment in Cornerstone, Inc. has helped create safe housing and positive living situations for mentally-ill residents of Washington, DC.

• TZEDEC'S $200,000 investment in Los Angeles Neighborhood Housing Services has helped LA inner-city residents purchase their first homes.

• TZEDEC'S $108,000 investment in Boston Community Loan Fund has helped finance affordable housing, social services, childcare facilities, and youth programs throughout Boston's low-income neighborhoods.

• TZEDEC'S $250,000 investment in Neighborhood Housing Services of South Florida, Inc. has helped build empowered communities, revitalizes neighborhoods and creates affordable housing opportunities in South Florida.

• TZEDEC'S $100,000 deposit in Hope Community Credit Union has helped finance the rebuilding efforts of New Orleans and enabled its residents to rebuild their lives.

• TEDF's $142,000 deposit in City First Bank of DC has supported its mission of investing in and strengthening underserved Washington, DC communities by providing credit, financial services and access to information.

Read more at www.JewishJustice.org

THE PRESIDENT'S PROPOSED FY 2011 BUDGETS FOR THE NATIONAL ARCHIVES & RECORDS ADMINISTRATION (NARA) AND THE NATIONAL HISTORICAL PUBLICATIONS & RECORDS COMMISSION (NHPRC)

Submitted by the National Coalition for History
Lee White, Executive Director
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March 19, 2010

The Honorable José E. Serrano
Chairman
Subcommittee on Financial Services
& General Government
Committee on Appropriations
U.S. House of Representatives
B-300 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

The National Coalition for History (NCH) is a consortium of over 50 organizations that advocates and educates on federal legislative and regulatory issues affecting historians, archivists, political scientists, teachers, and other stakeholders. As researchers and conservators of American history and culture we care deeply about the programs and activities of the National Archives and Records Administration (NARA) and the National Historical Publications and Records Commission (NHPRC). Thank you for the opportunity to submit our views on the agency's proposed fiscal year (FY) 2011 budget.

We want to thank you Mr. Chairman, Ranking Member Emerson, and all of the members of the subcommittee for their strong support of NARA's budget in FY 2010. Despite tight budget constraints, you were able to provide NARA with increased funding. We especially want to express our appreciation for the extra funding that you specifically included to hire additional archival staff.

On February 1, President Obama sent to Congress a proposed Fiscal Year 2011 budget request of \$460.2 million for the National Archives and Records Administration (NARA). The requested amount for NARA is a two percent decrease of \$9.6 million from the FY 2010 appropriated funding levels of \$469.8 million. The National Historical Publications and Records Commission (NHPRC) would receive \$10 million in grant funding, a \$3 million cut from FY 2010.

While we are disappointed in the proposed cuts, we realize Congress continues to face enormous fiscal challenges in crafting the federal budget for fiscal year 2011. Nonetheless within these tight budget parameters, we have identified some specific priorities that we feel should be addressed at NARA and the NHPRC in next year's budget.

National Historical Publications and Records Commission (NHPRC):

We appreciate the Subcommittee's strong support for the NHPRC in the FY 2010 budget. The $13 million for grants reflected a sizeable increase of $3.75 million over the $9.25 million in grant money the NHPRC received in FY 2009. In addition, last year was the first time the NHPRC's budget exceeded its fully authorized amount of $10 million.

While we are disappointed the Obama Administration has recommended funding the NHPRC grants programs at a level of $10 million, this macro number does not tell the whole story. The NHPRC's FY 2010 budget included a one-time allocation of $4.5 million to the congressionally-mandated project to make the papers of the Founding Fathers available on-line. So in reality, the NHPRC's core grant programs received $8.5 million last year. Viewed from that perspective the $10 million recommended by the Administration this year could be considered an increase. Ideally, we would like to see the NHPRC funded at last year's $13 million level, but we understand the need for fiscal responsibility during this time of soaring budget deficits.

Unfortunately, the NHPRC's $10 million annual authorization expired at the end of FY 2009. So, the Administration's recommended funding level is in line with the NHPRC's previous authorization. We have been urging the authorizing committees in the House and Senate to pass legislation that would reauthorize the NHPRC at a level of $20 million per-year for the next five fiscal years. We hope this will be achieved before the end of the current session of Congress.

Operating Expenses

Although the President is requesting decreased overall funding for NARA, he is seeking increased Operating Expenses (OE) funding of $348,689,000, up from this year's appropriated level of $339,770,000, or a 2.6 percent increase. The OE base increase will fund the increased costs for staff, energy, security, building operations, and information technology requirements. The proposed OE increase will also allow NARA to hire 57 new full-time staff members to support a variety of programs. These include:

1. **National Declassification Center:** For many years, the National Coalition for History urged the creation of a National Declassification Center (NDC) at NARA. We are pleased that the President established the NDC within NARA late last year to overhaul the government's system of declassifying material, and committed to eliminating the 400+ million page backlog of materials awaiting declassification by 2013.

   For FY 2011, the Budget requests $5,100,000 and 28 Full-Time Equivalents (FTE) to establish the National Declassification Center (NDC) and hire contract support to design and develop an integrated interagency information technology declassification system. We support the President's request and are encouraged that the Administration is committing the funding necessary for the NDC to succeed in its mission.

2. **Holdings Protection Program:** For FY 2011, the Budget requests $1,500,000 for 8 FTE to implement a comprehensive program to protect NARA holdings from external and internal threats. As you know there have been a number of high profile losses of data at NARA and we support the President's request to help alleviate these security breaches.

3. **Controlled Unclassified Information Office:** Staff resources under the Information Security Oversight Office have been increased for the Controlled Unclassified Information Office. For FY 2011, the Budget requests $1,200,000 for 9 FTE to increase the capability of the Controlled Unclassified Information Office in order to meet its increased responsibilities and expanded mission. We support this request.

4. **Increase Archival Staff:** For FY 2011, the Budget requests $950,000 in OE funding to allow the hiring of 12 new entry-level staff archivists, which will enable NARA to continue building a cadre of new archivists to address the agency's growing records management workload. As we noted earlier, this Subcommittee has provided funding above the request in recent fiscal years to hire additional archival staff. We urge your support for the President's request to do so again this year.

Electronic Records Archives (ERA) Project

For continued development and deployment of the Electronic Records Archives (ERA), the President is seeking $85,500,000, the same amount appropriated in the current fiscal year.

The long-delayed Electronic Records Archives (ERA) is an essential tool for the NARA of today and tomorrow. Last year, we were told mandatory use of the ERA by all federal agencies was scheduled to begin in January 2011. Now, according to NARA's ERA website, that date has been further delayed into 2012. Without this system NARA will be unable to manage the exponentially expanding volume of electronic records. Effective management of federal records will improve the performance of our government, save tax dollars, and ensure current and future generations will have access to our nation's history.

We continue to share the concerns that members of this Subcommittee, the authorizing committees and the Government Accountability Office have expressed about the ERA program's continued inability to remaining on schedule and budget. This program is vital not just to NARA but also to the entire federal government and the historical and archival communities. We urge this Subcommittee to continue its vigorous oversight of the ERA program and that the contractors responsible for the development of the system are held accountable.

Repairs and Restoration

For Repairs and Restoration (R&R) to NARA-owned buildings, the President is seeking $11,848,000, a decrease of 57 percent from the current year's level. Most of this decrease reflects the completion of the $17.5 million project to make much needed repairs at the FDR Presidential Library.

Of this amount, $6,848,000 is for base R&R requirements for NARA owned buildings, and $5,000,000 is for the top priority project on NARA's Capital Improvements Plan, which calls for changes to the infrastructure on the ground floor of the National Archives Building in Washington.

These changes at the National Archives Building will enable the eventual creation of an orientation plaza to improve visitors' ability to find their way to the Charters of Freedom, Public Vaults, Theatre, and temporary exhibit gallery. It will also create space for a new Freedom Hall gallery, expand the gift shop and create a MyArchives gallery area that will allow visitors a glimpse into the research side of the Archives. The Foundation for the National Archives has committed to raising funds $10 million for this project as well, contingent on the government's decision to provide the core infrastructure to support the new development.

The House Oversight and Government Reform Committee recently held a hearing to inquire as to whether the National Archives is over-emphasizing its public education role. While we certainly support NARA's public education programs, historians and researchers remain concerned that these infrastructure changes are coming at the expense of space formerly occupied by research facilities. Given its limited financial resources, NARA's public education initiatives should never come at the expense of its core mission of safeguarding and preserving records, and making them accessible to the public.

Cc: Representative Jo Ann Emerson

House Committee on Appropriations Subcommittee on Financial Services and General Government Written Testimony Fiscal Year 2011 submitted to The Honorable Jose E. Serrano, Chairman

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Since its official launch in 2007, the Greater Washington Fashion Chamber of Commerce (GWFCC or the Fashion Chamber) has been working at full capacity to successfully improve business conditions for the fashion industry in the District of Columbia. These efforts have met with great success: the Fashion Chamber has developed relationships with over 2,000 creative businesses and professionals; sponsored over two dozen industry related outreach events; helped its members gain exposure in numerous media outlets including The Hill, Women's Wear Daily (WWD), Politico, Washingtonian.com magazine, the Washington Post, Voice of America, and The Washington Times; launched summer and after school programs for youth; and started a business workshop series for local entrepreneurs.

GWFCC is a young, but highly energized organization that has adapted quickly to the economic changes that have taken place in recent months. The Fashion Chamber's primary goal is to strengthen the economic side of fashion—the business skills of fashion entrepreneurs, the success rates for small local fashion businesses, opportunities for the fashion industry to invest in the Washington, DC region, and workforce training to improve the marketable skills of youth and adults in the fashion industry. As the economy has taken a drastic downturn, the value GWFCC offers the local fashion community has increased as the Fashion Chamber continues to connect local talent with employment opportunities.

To continue its successful efforts, GWFCC is seeking support from the House Appropriations Subcommittee on Financial Services and General Government to advance workforce development initiatives through the DC Fashion Incubator. The DC Fashion Incubator is an institute that will provide apparel manufacturing training and continuing education resources for fashion entrepreneurs and professionals. In particular, GWFCC strives to advance the following three main initiatives:

1. **The Apparel Manufacturing Job Training Academy**, a comprehensive apparel manufacturing job training program to prepare individuals for the fashion production workforce;
2. **The Fashion Business Workshop Series,** a training program for fashion entrepreneurs to help existing small local businesses and entrepreneurs adapt to the current economic conditions and learn new skills to improve their rates of success; and
3. **The Designers Studio Series**, a variety of programs and classes that provide continuing education for fashion designers in the technical skills needed to succeed in the industry.

These initiatives have the potential to bring both short-term and long-term gains to the local workforce and economy, and are directly aligned with many Congressional initiatives, including the current economic stimulus and job creation bill that recently passed. We encourage the House Committee on Appropriations Subcommittee on Financial Services and General Government to seriously consider these initiatives as it begins the fiscal planning process for 2010-2011.

I. Background

Cities across the United States and around the world are currently reaping the benefits of a flourishing fashion industry. In New York City, one of the fashion capitals of the world, the industry provides over 150,000 jobs for more than 15,400 businesses, and has had an impact of $35.5 billion in direct and indirect spending.[1] New York's fashion week shows generate $177 million annually, not including additional millions of dollars spent on wholesale apparel merchandise in the weeks that follow.[2] Similarly, Los Angeles fashion markets are responsible for bringing in $103 million in revenue annually for local businesses, which support 1,370 jobs and $30 million in local wages and salaries.[3] But the fashion industry is not confined to a select few locations. Cities like Miami and Chicago are now investing resources into their own fashion industries, recognizing the benefits this industry can have on the local economy.

In countless ways, the District of Columbia is a prime location for a vibrant fashion economy, but this industry needs support to reach its full potential. Many of the factors that made New York City a fashion destination—a sophisticated urban population, immigrant communities with textile manufacturing experience, an entertainment hub, and an international flair—are also present in DC. But the city has only just begun tapping into its own resources, due in part to a disconnected and decentralized fashion community.

Despite the economic downturn, the timing is right for the District to support and nurture its fashion industry workforce. The American Recovery and Reinvestment Act passed in 2009 provided many new opportunities for job growth in the American textile industry. For example, legislation introduced by Representative Larry Kissell (NC) in January 2009 extends the Barry Amendment[4] to the Department of Homeland Security (DHS), requiring DHS to purchase uniforms for more than one hundred thousand employees from U.S. textile and apparel manufacturers. The importance of buying American-made products will likely increase as the United States government seeks new ways to support job opportunities for its citizens, so it is essential that the District of Columbia residents are adequately trained and prepared to take advantage of these jobs.

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[1] Mayor Michael R. Bloomberg, Katie Couric And 7th On 6th Executive Director Fern Mallis Open Olympus Fashion Week, September 8, 2004

[2] Statement from Mayor Michael R. Bloomberg on Fashion Week Remaining in Bryant Park, October 12, 2006

[3] Economic Contributions of the Los Angeles Fashion District: Beyond the Trends 2006

[4] The Barry Amendment enables the Department of Defense to purchase uniforms and other textile apparel for the United States military that are manufactured in the United States.

GWFCC sees many opportunities for substantial growth in the local fashion industry, but these opportunities need support to cross the bridge from vision to reality. The Fashion Chamber creates unique value for its members, sponsors, and the greater fashion community because it is the *only* organization striving to serve the business needs of the fashion industry in the metropolitan area. GWFCC offers an unprecedented forum for the members of the local fashion industry to connect—both creatively and financially—bringing economic growth to the industry and the city. The Fashion Chamber also provides assistance on multiple levels—including legislative awareness and analysis, technical assistance, educational support, and global exposure—to help its members build stronger and more successful businesses and institutes of learning.

Now the Fashion Chamber is working to implement a cornerstone of its mission: the DC Fashion Incubator. In Fall 2008, with support from the Deputy Mayor for Planning and Economic Development, GWFCC launched the planning process for the Fashion Incubator, including conducting a needs assessment or "census" of the fashion industry in the District of Columbia, a business plan and feasibility study that will outlines potential long-term funding sources, and implementation plan for the endeavor. GWFCC is also conduct a marketing and branding campaign to raise awareness and future funds for the DC Fashion Incubator. Such activities will help GWFCC develop a solid strategy for building the necessary capital and relationships needed to help the Incubator succeed for many years to come.

II. Proposed Initiatives

Overview

The DC Fashion Incubator (DCFI) is an institute that will support and nurture fashion entrepreneurs, new designers, fashion production workers, and students by helping them to develop their technical, creative, and business skills. As a structured environment for innovation, the DCFI will offer the District's residents opportunities such as:

- A comprehensive apparel manufacturing job training program to prepare individuals for the fashion production workforce;
- Access to semi-private studio work space for fashion designers, including fashion design and computer equipment;
- A fashion business resource center that includes information on how to become a designer, start a business, develop and produce a line, sell a line, and other key topics;
- Seminars and skills training in marketing, public relations, advertising and branding, financing, attraction of local and foreign investors, real estate (understanding process of leasing and property acquisition); trademark, patent and copyright law, licensing of fashion goods, and more;
- In-house mentoring and consultation to include customized business education in design production, manufacturing and distribution, management, legal counsel, human resources, accounting, public relations, and assistance with accessing retailers;
- Networking with other residents, outreach members, DCFI staff and GWFCC advisors;
- Media exposure from magazines, television and industry contacts;

- Promotional opportunities (invitations to industry parties and DCFI events, fashion shows and any Fashion Week shows, and the Fashion Calendar);
- A DC Designer Shop to be developed within local department stores where buyers can access designer's wares; and
- A job fair to help residents find local fashion job opportunities.

In the long-term, DCFI aims to play a major role in helping to redevelop a commercial corridor (or corridors) in underutilized areas of Washington, DC through creative use of existing commercial/public space for this institute. By graduating skilled workers, seasoned designers, and fashion entrepreneurs who are more equipped to handle the creative and financial challenges of the industry, DCFI aims to help build a new workforce that can contribute to DC's revitalization efforts by supporting American apparel production needs and promoting the strength and growth of local fashion businesses that can open boutiques, showrooms, and provide related services in neighborhoods throughout the District. DCFI will promote DC's fashion industry through signature events including retailer shopping parties and citywide fashion events that showcase talents of resident designers and increase the taxable revenues of DC retailers.

The DC Fashion Incubator—both through its development and launch—has the potential to create hundreds of jobs for DC residents, not to mention the ongoing professional support it provides to the local fashion workforce. As a cornerstone of the District's fashion industry, the Fashion Incubator will have the potential to elevate the profile of local talent, build their skills, and attract new investors that could create job opportunities in a wide array of fashion-industry businesses.

Apparel Production Job Training Academy

A key focus of the DC Fashion Incubator will be the Apparel Production Job Training Academy, a comprehensive workforce development program that trains individuals in the skills needed to serve in apparel manufacturing jobs. The program will target individuals in need of employment training such as youth (ages 16-24) and adults reentering the workforce.

The program will provide trainees with comprehensive instruction in the skills needed for apparel manufacturing jobs, such as equipment operations, handling textiles, garment construction, and basic job readiness skills such as resume development and interview counseling. In addition, trainees will have an opportunity to participate in other services offered by the Incubator—such as the *Fashionably Business Workshop Series* and the *Designers Studio Workshop*— to learn more about other avenues of the fashion industry including fashion design, retail, and merchandizing. The program will place significant emphasis on training workers to gain enough technical skills to serve as production workers for apparel manufacturers or as production assistants for local fashion designers. GWFCC will draw on its extensive network of contacts in the local and national fashion industry to pair program trainees with job opportunities upon completion of the program.

Fashion Business Workshop Series

GWFCC piloted its Fashion Business series—called "Fashionably Business"—in April 2008. These workshops focus on how to learn what it takes to start a business, launch a fashion career, learn vital entrepreneurship skills, and/or grow an existing fashion company.

Through the Fashion Business Series, participants can attend "Fashion Business Office Hours," where they can schedule an individual one-on-one appointment to obtain advice on a particular issue, or ask questions about their current tax situation or business or personal finances. GWFCC also provides a "Business Check-Up," a two-hour session that helps entrepreneurs assess the overall health of their business, receive general business planning advice, jump start the strategic planning process for their businesses, and aid participants in identifying and creating goals that will lead to greater business success.

These successful programs are playing an important role in the local creative industry build the "left brain" skills needed to succeed financially in today's market. The Fashion Chamber is determined to continue and expand this program, adding more topics that are directly relevant to its members in the current economic climate.

Designers Studio Series

Even with the many universities based in DC, students interested in pursuing careers in the fashion industry must go outside the District to schools like the Art Institutes of Washington (located in Virginia), Marymount University (Virginia), or the Baltimore City College for an advanced fashion education. To create more opportunities for emerging and established fashion designers to enhance their skills, GWFCC is proposing to create the *Designers Studio Series*, a variety of programs and classes that provide continuing education for fashion designers in the technical skills needed to succeed in the industry.

GWFCC would recruit highly skilled designers and technicians to lead classes and workshops on topics such as fashion illustration, color theory, design techniques, advanced garment construction techniques, pattern making, alterations and fitting, modeling, and guest lectures from notable professionals in the sewing and fashion industry. All classes would utilize the Fashion Incubator studio space, outfitted with state of the art fashion technology and equipment such as industrial sewing machines, professional dress forms, computers with essential design software, and workroom supplies.

GWFCC seeks $500,000 to be used to provide education and workforce training to Washington, DC's creative workforce for the creation of a fashion business incubator that will include studio workspace, production lab, event/exhibit space, textile importer store, fashion design trade school or certificate program of technical design, fashion incubator retail boutique and office space for other fashion professionals to provide assistance to DC fashion small business owners with education and workforce development geared towards the business side of fashion and apparel manufacturing and design employment opportunities.

The National Treasury Employees Union

Statement of Colleen M. Kelley

National President

National Treasury Employees Union

On

"Internal Revenue Service Budget for FY 2011"

Submitted to

House Appropriations Subcommittee on Financial Services and General Government

February 24, 2010

1750 H Street, N.W. • Washington, D.C. 20006 • (202) 572-5500

Chairman Serrano, Ranking Member Emerson, and distinguished members of the Subcommittee, I would like to thank you for allowing me to provide comments on the Administration's FY 2011 budget request for the Internal Revenue Service (IRS). As President of the National Treasury Employees Union (NTEU), I have the honor of representing over 150,000 federal workers in 31 agencies, including the men and women at the IRS.

IRS FY 2011 Budget Request

Mr. Chairman, NTEU strongly supports the Administration's FY 2011 budget request of $12.6 billion for the IRS, a 4 percent increase of $487 million over the FY 2010 level. We believe that the President's request will allow the IRS to continue helping taxpayers meet their tax obligations while also improving enforcement of the tax law.

We are particularly pleased the Administration's budget request would provide critical increases for Service enforcement and taxpayer service activities, and would allow the IRS to continue efforts to rebuild its workforce which is still down by almost 20,000 since 1995.

I would also note that in previous years, NTEU has supported the budget recommendations proposed by the IRS Oversight Board which have generally called for additional resources above that requested by the Administration. For FY 2011, the Oversight Board has recommended $13.495 billion in funding for the IRS. While we have not seen the specific details of the Board's proposal, we would be inclined to support providing additional funding for the IRS above the Administration's request and look forward to reviewing the Board's recommendation.

Taxpayer Services

Mr. Chairman, helping taxpayers understand their tax reporting and payment obligations is the foundation of taxpayer compliance. Through a variety of channels, the IRS is able to provide year-round assistance to millions of taxpayers, including outreach and education programs, issuance of tax forms and publications, rulings and regulations, toll-free call centers, the IRS.gov web site, Taxpayer Assistance Centers (TACs), Volunteer Income Tax Assistance (VITA) sites, and Tax Counseling for the Elderly (TCE) sites. These efforts have enabled the IRS continue raising the standard of service to America's taxpayers and assisted in efforts to improve voluntary compliance.

The IRS' comprehensive approach to taxpayer service played a critical role in allowing it to deliver a successful 2009 filing season, despite dealing with a number of difficult challenges posed by the residual effects of the 2008 Economic Stimulus Payment program and implementation of the American Reinvestment and Recovery Act. During this time, IRS employees processed more than144 million individual returns and issued 111 million refunds, totaling $339.6 billion; answered almost 39 million calls from taxpayers requesting information on new credits available to them; and helped more than 6.2 million taxpayers at the 401 Taxpayer Assistance Centers located around the country. And while these numbers show that employees providing taxpayer services are helping taxpayers understand and meet their tax responsibilities, more can and should be done.

We were happy to see the Administration's request of $2.3 billion for taxpayer services acknowledges the good service that IRS employees provided to taxpayers in FY 2009 while also recognizing that additional progress can be made. In particular, we strongly support the $20 million in additional funding to improve telephone level of service.

As you know, demand for telephone service remained extremely high in FY 2009 as taxpayers called to obtain information regarding economic stimulus payments and new Recovery Act credits. The significant increase in call demand stressed existing resources which negatively impacted the level of service. But despite the high call volume, IRS achieved a 70% level of service and maintained account and tax law accuracy rates of over 93%.

NTEU strongly believes providing quality services to taxpayers is an important part of any overall strategy to improve compliance and that the President's request for taxpayer services will enable the IRS to deliver another successful filing season, improve the responsiveness and accuracy of taxpayer service, and support Service efforts to enhance taxpayer compliance.

Enforcement

Mr. Chairman, NTEU believes a strong enforcement program that respects taxpayer rights, and minimizes taxpayer burden, plays a critical role in IRS' efforts to enhance voluntary compliance and reduce the tax gap.

That is why NTEU was happy to see the Administration's budget request would provide a $293 million increase in funding for IRS tax enforcement above the FY 2010 level, including additional resources made available through a program integrity cap adjustment.

A large portion of this increase will be invested in strengthening current Service compliance programs designed to close the tax gap by combating offshore tax evasion, expanding enforcement efforts on noncompliance among corporate and high-income taxpayers, and addressing underreporting of income associated with international activities. These investments are expected to generate $1.9 billion in additional annual enforcement revenue, resulting in a return on investment (ROI) of more than 9 to 1, once new hires reach full potential in FY 2013. This estimate does not account for the deterrent effect of IRS enforcement programs, estimated to be at least three times larger than the direct revenue impact.

Mr. Chairman, NTEU strongly supports targeting additional resources to programs that would help close the tax gap. In addition to generating additional revenue for the federal government, reducing the tax gap will help strengthen public trust in the fairness of the tax system which will positively impact voluntary compliance with tax laws.

Section 1203

Mr. Chairman, while meaningful funding for the IRS is important to operations, NTEU also believes that in order to maximize efficiencies at the IRS, Congress must act to modify Section 1203 of the IRS Restructuring and Reform Act of 1988 (RRA 98). Commonly known as the "Ten Deadly Sins," Section 1203 outlines ten infractions for which IRS employees must be fired, including the untimely filing of federal income taxes even when a refund is due. No other federal or congressional employee is subject to similar mandatory termination.

Without question, Section 1203 has had a negative impact on the morale of the IRS workforce and is impeding the ability of the IRS to perform its mission. According to numerous GAO reports, IRS employees greatly fear the threat of being fired under Section 1203. This in turn has had a chilling effect on the ability of IRS employees to do their jobs. In particular, employees specifically attribute the decrease in recommending a seizure of taxpayer's assets to Section 1203. Clearly, Section 1203 impedes IRS' enforcement mission and is unfair to the IRS employees who must work under the constant threat of losing their jobs.

NTEU believes mandatory termination for Section 1203 violations is unduly harsh and should not be the only disciplinary action available. We advocate amending RRA 98 to allow for appropriate penalties other than mandatory termination for Section 1203 violations and to allow for independent review of determinations.

To be clear, NTEU does not condone any violation of law or rules of conduct by its members at the IRS or in any other government agency. Violations of some rules clearly warrant termination of employment. However, one group of federal employees should not be singled out and required to be fired for offenses that do not subject other executive, judicial, or legislative branch employees to the same penalty.

Mr. Chairman, the large majority of IRS employees work hard, follow the rules and pay their taxes on time. It is patently unfair to hold those who are charged with enforcing the tax laws to a higher standard than those who write them. NTEU asks for your support for changes to section 1203 of the IRS Reform and Restructuring Act, so that tax fairness applies to all Americans, even those who work at the IRS.

Contracting Out

NTEU has long maintained that federal employees, given the appropriate tools and resources, do the work of the federal government better and more efficiently than any private entity. The prior administration, however, distrusted federal employees and pursued an unwavering agenda of targeting federal employee jobs for public-private competition. Competitive sourcing was one of its top five initiatives. As part of that Administration's efforts, we saw the rules of competition overhauled, quotas set for competed jobs, and grades given to agencies on their efforts in conducting competitions. These changes had nothing to do with ensuring fair play; rather, they were intended uniquely to benefit private contractors and to disadvantage dedicated federal employees, at the expense of the federal taxpayer. The changes undoubtedly had the desired effect: federal contract spending has exploded, nearly doubling from $207 billion in 2000 to $400 billion in 2008.

This government-wide privatization blitz has resulted in contractors performing functions that are clearly inherently governmental or closely associated to inherently governmental functions. One of the most egregious examples of misguided outsourcing was the IRS private tax collection program. The IRS' decision to enter into tax collection contracts with private contractors was an unmitigated disaster. That effort was roundly criticized; it was not cost-effective, it lacked customer service for multilingual taxpayers, it was secretive, and it proved manipulative to taxpayers. Given the obvious failures of this undertaking, the IRS recently abandoned the program. We would like to thank the subcommittee for including language in the FY 2009 and FY 2010 Omnibus Appropriations bills that prohibited funding for the program, and urge the subcommittee to once again include this language for FY 2011 as IRS still retains the statutory authority to revive the program if they so choose. Nothing is as inherently governmental as the collection of taxes, and all steps must be taken to assure that IRS never again undertakes efforts to privatize tax collection.

After fighting for eight years against ill-advised policies, such as these, that took federal workers for granted, we are very pleased to see that this Administration is focused on leveling the playing field, ensuring accountability of contractors, and reaffirming the core principle that, as a general matter, the work of the federal government is best performed by government employees. We firmly believe that federal employees are the best value for taxpayers' dollars and welcome the opportunity for them to demonstrate their effectiveness and efficiency.

Inherently Governmental Functions

Mr. Chairman, as you may know, as part of a larger government-wide review of the federal contracting system, the Office of Management and Budget (OMB) was charged with developing guidance clarifying the definition of inherently governmental.

NTEU strongly believes that clear criteria identifying and defining inherently governmental functions are critical to the Administration's overall efforts to reform and strengthen the federal contracting system.

We believe that a reaffirmation of the Federal Activities Inventory Reform (FAIR) Act's definition of inherently governmental, coupled with a repudiation of all other conflicting definitions, is all that is immediately necessary to guide agencies in determining when federal employees should perform the work of the federal government.

We also feel there are certain specific errors in the 2003 revisions to the Circular A-76 that require explicit rejection. One of these errors is the presumption in that Circular that a government function is commercial in nature, and therefore subject to privatization, unless affirmatively shown otherwise. In fact, the burden should be clearly placed on agencies to explain why they have determined that a function does not satisfy the definition of inherently governmental.

Another error in the revised Circular A-76 was the addition of language widely interpreted to increase the level of discretion required in inherently governmental functions. Although the FAIR Act states only that inherently governmental functions include those that require the "exercise of discretion," the Circular referred to activities requiring "substantial official discretion in the application of governmental authority and /or in making decisions for the government." These revisions clearly express a bias towards the use of contractors instead of government personnel, a bias that we believe must be eliminated to ensure a fair and balanced approach to the designation of federal functions.

We would like to thank the subcommittee for recognizing the fundamental flaws of the current A-76 process and for including language in the FY 2010 Omnibus Appropriations bill that would extend for another year a moratorium on new A-76 public-private job competitions. The language specifically prohibits the use of funds to begin or announce new public-private competitions pursuant to OMB Circular A-76, so that the Administration has the opportunity to continue reviewing and developing Federal workforce policies.

We are hopeful that congress and the Administration can work together to reverse the past eight years of misguided pressures to outsource federal employee work that has taken an immeasurable toll on employee morale and at great taxpayer expense. Federal employees should be given a fair chance to demonstrate that they are the best equipped and most efficient people to perform the work of the federal government and safeguard the interests of the taxpayers in getting the best value for their money.

Safety of IRS Employees

Mr. Chairman, in light of recent events, I would also like to reflect for a moment on the issue of safety and security of IRS employees. As you know, on Thursday, February 18, in what authorities believe was an intentional attack, a pilot crashed his small plane into a building housing almost 200 IRS employees in Austin, TX. The attack, in which one IRS employee perished and several others were seriously injured, serves as a grim reminder of the great risk that the men and women of the IRS face each and every day in service of this country. I know the subcommittee joins with NTEU in sending our condolences to the family of the fallen IRS employee and to all those affected by this senseless tragedy.

Unfortunately, attacks on the IRS and its employees are all too common. According to the Treasury Inspector General for Tax Administration (TIGTA) which is charged with investigating threats and assaults against IRS personnel, more than 1,200 threat and assault cases were referred to TIGTA for investigation between 2001 and 2008. The cases resulted in more than 167 indictments and at least 195 convictions.

In the coming days and weeks, NTEU hopes to work with both Congress and the IRS in reviewing security procedures in offices around the country to ensure that all possible steps are being taken to protect IRS employees from dangerous individuals. As Commissioner Shulman recently stated, nothing is more important than the personal safety and security of IRS employees.

Conclusion

Mr. Chairman, thank you for the opportunity to provide NTEU's thoughts on the Administration's FY 2011 budget request for the IRS. We believe that by investing in demonstrably effective enforcement and taxpayer service programs, the Administration's request will ensure the IRS continues to meet its mission of providing America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

WITNESSES