CONGRESSIONAL REVIEW AND ACTION ON THE PRESIDENT'S BUDGET

VOLUME IV – APPENDIX A

EXAMPLES

Assumptions shown in the examples are for illustrative purposes only.

APPENDIX A – TRANSCRIPT AND QUESTIONS AND ANSWERS EXAMPLES

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TRANSCRIPT

MARKUP

EXAMPLE

with this?

Secretary Gutierrez. My understanding is that--

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

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

Senator Mikulski. B? Like in "Barb?"

Secretary Gutierrez. Yes. I hope that is right.

Senator Mikulski. Yes, that sounds about right.

Senator Shelby. That is a lot of money.

Secretary Gutierrez. And we have 4,000 examiners. We are hiring 1,000 over the next 5 years. And unfortunately, you are right. The pendency is growing from about ~~27 days~~ 29 months to ~~32. I am sorry,~~ 32 months. So it is not going in the direction we want.

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

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

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

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

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

Senator Mikulski. They couldn't do that before?

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

So, more and more, it is being managed by the numbers and quality of the patents. ~~But there is no question, and~~ we agree with your challenge that as we improve quality, we also have to take down pendency. We just can't afford to have our pendency continue to increase.

Senator Mikulski. See, this is part of the innovation-friend Government. And people in Maryland who are inventors and then someone in the bio fields, which is another dynamic,

is they have to stand in two lines. One to get their patent, the other to get their FDA approval. So that, in and of itself, is time.

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

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

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

] Patent examiners - qualifications and retention [

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

Suggest

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

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

Secretary Gutierrez. Oh, this is--

Senator Shelby. Important talent.

Secretary Gutierrez. Yes, very important. And we

actually retain people for about 6-1/2 years. So they come, an average of tenure with PTO is about 6-1/2 years. So they know they are getting the best training you can get, working with very smart people. They are at the leading edge of seeing what technologies are happening and who is innovating.

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

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

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

Senator Mikulski. You mean for a young associate in a law firm--

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

Senator Mikulski. That would be focused on intellectual property?

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

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

Senator Shelby. Well, that is very important.

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

Senator Shelby. For good people?

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

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

Secretary Gutierrez. Yes. That is right.

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

Secretary Gutierrez. I agree. The 6-1/2 years is higher than I would have expected. I would like to see more. And I think it is a good--

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

TRANSCRIPT

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EXAMPLE

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appropriations in the future?

Secretary GUTIERREZ. I will have to get back to you, Congressman. I am sorry.

Mr. GOODE. And I intended to have these questions for you. Now, it was a snafu in my office in getting them to you. I apologize.

Secretary GUTIERREZ. I will get back with that.

Mr. GOODE. One other question along the EDA thing. Right now Virginia works with the Philadelphia office and they feel that it would be a distinct disadvantage if they have to shift their focus to Chicago where there is not the same knowledge of personnel. Travel time, if they have to meet, of course, is greater. And I just wanted to share that concern with you.

Secretary GUTIERREZ. Sure.

Mr. GOODE. Go ahead.

Secretary GUTIERREZ. We had looked at consolidating some offices. We do not have that in the plan now, but that was just--

Mr. GOODE. That is what they have heard about, I am sure.

Secretary GUTIERREZ. ~~Yeah.~~ That is right. ~~And~~ we still have the same number of offices. We had looked at consolidating simply because the agency is smaller than it once was. But we have not included any consolidation in this

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Regional Planning Commissions

We strongly support the designated economic development districts (EDDs). In FY 2006, EDA will ensure that all EDDs will receive partnership planning funds. In addition to maintaining this level of support in FY 2007 (appropriated funds permitting), EDA will consider additional support to EDDs that engage in broader, more comprehensive regional economic development planning efforts.

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plan.

Mr. GOODE. One final question somewhat along the lines of what Chairman Wolf was talking about earlier. I remember over the last seven or eight years at least three, maybe as many as five votes on MFN, Most Favor Nation status. That was changed to Permanent Normal Trade Relations, PNTR, with China.

And I can remember both in the Clinton Administration and the Bush Administration prior to yourself those persons from the Department of Commerce, the Secretaries and others, with both Administrations saying please support PNTR with China. If we have this, we look for the trade deficit to go down. It is going to be such a great exchange, the trade deficit with China to go down.

And I did not buy into that, never voted for it. But that has not been the case. And the Chairman stated the most recent figures, $161 billion. The deficit with China continues to grow.

So would you have to agree that all of those who were saying that we are going to reduce the trade deficit with China if you will just give us this? May have been wrong. I am not even going to ask you to say they were wrong. I am just asking you to admit they may have been wrong.

Secretary GUTIERREZ. I was not here. I do not remember anyone saying that that would take care of the trade deficit.

QUESTIONS

AND

ANSWERS

EXAMPLE

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

Departmental Management WCF & A&R

QUESTION: Please provide the WCF bill breakout (including the A&R) by bureaus for FY 2001 – 2007. Also provide the estimated WCF bill (including A&R) for each of the bureaus in the FY 2008 request.

ANSWER: The requested information is attachments 1 and 1a.

QUESTION: Please provide a breakout of ATBs (adjustments to base) by bureau for WCF payments, any E-Government initiatives and for the Commerce Business System

ANSWER: The requested information is attachment 2.

QUESTION: Please provide a complete cost breakout for the development of CAMS/CBS by fiscal year since inception. Cost should capture: all contract costs; all Commerce staff assigned to central coordinating offices; all detailed staff from bureaus to central office; all staff costs for staff that primarily worked on CAMS/CBS.

ANSWER: Attachment 3 provides a complete cost breakout for the development of the Commerce Administrative Management System/Commerce Business System (CAMS/CBS) from fiscal year 1999 to 2003. Upon full bureau implementation at the end of fiscal year 2003, CAMS/CBS has been in operational maintenance and support status.

QUESTION: Please provide any estimated out-year costs associated with CAMS/CBS development.

ANSWER: Since fiscal year 2004, CAMS/CBS development costs have been for technical migrations to keep current with Oracle forms and database applications to ensure information technology audit compliancy. There have been no application functionality developments except in non-compliance situations when dictated by new and/or changes in Federal policy or regulations.

QUESTION: Please provide the latest FAIR Act inventory along with the status of any on-going or planned A-76 competitions.

ANSWER: The Department of Commerce has initiated a streamlined competitive sourcing competition for their Office of Photographic Services. A decision is expected to be announced by the Department by April 2007. No additional competitions are planned at this stage. The last OMB-approved inventory (FY 2005) is attachment 4. We expect to have our FY 2006 inventory approved and released by OMB in the next few weeks and will notify Congress at that time. There has been no substantial change between the 2005 and 2006 inventories.

The link to the website is: http://oamweb.osec.doc.gov/CS_doc_inventories.html

QUESTION: Please provide a funding estimate for the DOC portion of the HCHB renovation by fiscal year for the project.

ANSWER: The Department is requesting $4.3 million for its portion of the HCHB renovation in FY 2008. The total estimated cost for the Department is $21.6 million, through 2020.

QUESTION: Please provide an itemized listing of the $4.3 million requested for HCHB renovation.

ANSWER: The itemized listing of the $4.3 million requested for HCHB renovation follows:

Relocation and Planning	$156,000
DOC Construction Costs	$1,441,000
Equipment and Furniture	$2,117,000
Security	$56,000
IT	$530,000
	$4,300,000

QUESTION: How much does DOC spend on maintenance of the HCHB? What is the source of those funds? Does GSA provide any funding to support HCHB maintenance?

ANSWER: DOC spent approximately $12,413,000 for maintenance of the HCHB in FY 2006. The source of funds is from the HCHB tenants through the Departmental Management's Working Capital Fund. GSA does not provide any funding to support HCHB maintenance.

Departmental Management - Media Questions

QUESTION: We understand that Commerce has been revising its over 20 year old communications policy for the last few months. What is the status of the policy and when can we expect it to be released and implemented?

ANSWER: On March 29, the Department released its new public communication policy, following three separate rounds of internal input from our employees, in particular our scientists, on the draft policy. The policy will take effect on May 14, following a 45 day time period to conduct training and outreach sessions with employees.

QUESTION: What steps will the Department take to ensure that all staff are informed of and understand how to implement the policy?

ANSWER: We have publicly released the policy along with "Frequently Asked Question" document, and placed both on our website. We are providing a 45 day window of time before the policy takes effect in order to conduct training and outreach sessions with current employees. We are also considering ways to require annual "refresher" sessions as well as to require training for new employees.

QUESTION: Will the revised policy include language to specifically address recent concerns raised by scientists regarding interference with the dissemination of their research results?

ANSWER: Yes, the new policy provides a series of clear principles which reiterate the Department's support for the open exchange of scientific ideas, information, and research. The policy also specifically provides for Fundamental Research Communications (a communications "carve-out" for scientific research), a series of best practices for public affairs employees, and provides operating units with the flexibility to use existing, or issue new, guidance regarding the implementation of the new policy (as long as it is consistent with the Department policy).

QUESTION: Specifically, will the new policy:

Define the types of media contacts, press releases, presentations, or other documents that would be subject to the policy;

ANSWER: Yes, the policy provides clear definitions of what types of documents are covered by the policy.

QUESTION: Describe situations, if any, in which prior approval is required for press releases and media interviews;

ANSWER: Yes, the policy describes the situations, if applicable, which require prior approval for press releases and media interviews.

QUESTION: If prior approval is required, describe the specific process for approving press releases and media interviews;

ANSWER: The Department's policy provides an overall conceptual framework for public communications, and set general Department-wide guidelines. Because the 13 agencies within the Department are so diverse, the new policy will provide operating units the flexibility to continue to set more specific procedures, which must be consistent with the overall Department policy.

QUESTION: Explicitly delegate authority to approve releases or interviews of a time sensitive nature or local interest to appropriate levels within the Commerce agencies;

ANSWER: Yes, the new policy explicitly delegates authority to approve releases or interviews of a time sensitive or local interest to appropriate levels within the Commerce agencies.

QUESTION SUBMITTED BY SENATOR RICHARD C. SHELBY

BEA's R&D Budget Initiative

QUESTION: The BEA has a proposal for $2.1 million to measure the impact of research and development on the economy. Can you tell us more about this initiative and how it will impact future GDP calculations?

ANSWER: While most economists believe that R&D and other investments in intangibles are among the most important sources of growth in GDP and productivity–with some estimates ranging as high as 40% of growth–there are no hard official estimates on their impact. This project will provide the Nation with a much clearer picture of the impact of investments in R&D and other intangibles on trend growth in GDP and productivity, as well as their impact over the course of the business cycle. The BEA project will provide aggregate data, as well as data on the effects across industries, across regions of the country, and its impact on our international trade and balance of payments. These data will prove useful in a broad variety of contexts ranging from monetary policy and budget projections to tax policy and the funding of investments in R&D.

BEA is in the early stages of developing estimates for R&D as investment, and these estimates will not be fully incorporated into the National Income and Product Accounts until 2013. However, this preparatory work, in the form of satellite accounts, can provide valuable information on the effect of investment in R&D on U.S. economic growth. The preliminary R&D satellite accounts released in September 2006 showed R&D investment accounted for 6.5% of growth in real GDP between 1995 and 2002 and 4.5% of growth between 1959 and 2002. In comparison, businesses' investment in commercial and all other types of buildings accounted for just over 2 percent of real GDP growth between 1959 and 2002.

NOAA JOCI and the Ocean Policy Scorecard

QUESTION: Although NOAA's 2008 budget request boasts a $123 million increase for ocean-related activities, it represents a fraction of the true budgetary needs for the marine community. For the past few years, the Joint Ocean Commission, which formed the inception of the President's U.S. Ocean Action Plan, has clearly and objectively laid out the budgetary requirements to better support ocean-related science research and education. I am extremely concerned that Congress continually receives a budget request from the Administration that downplays these critical activities. I wonder at what level your department endorses marine science, because frankly, Mr. Secretary, the Senate is weary of being the only federal entity that champions this funding disparity.

Are you familiar with the Joint Ocean Commission Initiative, and the contents of its recent publications, namely the U.S. Ocean Policy Report Card for 2006? And are you aware that the category for "New funding for ocean policy and programs" received the grade of "F"? What are your thoughts on this grade?

ANSWER: Yes, I am familiar with both the Joint Ocean Commission Initiative and the recent Ocean Policy Score Card. We are pleased to note that we have had grade improvements for 2006 in five out of the six subject areas. We were also pleased with the overall scores for Ocean Governance and Fisheries Management Reform. With respect to the grade for "new funding for ocean policy and programs," the scorecard was issued prior to the release of the FY 2008 President's Budget. The FY 2008 Budget includes significant new increases in support of implementing the Ocean Action Plan, addressing many of the concerns noted by the Report Card.

NTIA Public Safety Interoperable Communications Grant Program

QUESTION: Mr. Secretary, your department has entered into a memorandum of understanding with the Department of Homeland Security to assist in the development of policies, procedures and regulations governing the Public Safety Interoperable Communications (PSIC) grant program.

What role will your department play in developing the grant guidance package and eligibility requirements for this $1 billion program?

ANSWER: The Department of Commerce's National Telecommunications and Information Administration (NTIA) is working very closely with the Department of Homeland Security (DHS) in the development of grant guidance and requirements for the program. Consistent with the requirements of the Deficit Reduction Act of 2005 and the Call Home Act of 2006, NTIA retains final approval authority for policies, procedures and regulations that govern the PSIC Grant Program.

QUESTION: The Department of Homeland Security has been grappling with the issue of interoperable communications for years. I sit on the appropriations subcommittee for that department as well. These funds are intended to focus on the purchase of equipment to address interoperability.

Mr. Secretary, tell me how your involvement will ensure this funding will be put to the best use by the localities in Alabama and throughout the United States to achieve true interoperability across county and state lines?

ANSWER: NTIA intends to use its expertise to explore and encourage all technology solutions that are available to first responders to advance overall interoperability. With the Statewide Interoperability Communications Plans and the PSIC investment justifications, NTIA and DHS will be able to approve projects that clearly identify interoperability gaps and provide the greatest benefit toward improved interoperability.