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Follow the Money: Accountability and Transparency in Recovery Act Science Funding

before the

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Committee on Science and Technology
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Good morning, Mr. Chairman, Ranking Member Broun, and members of the Subcommittee. My name is Ellen Herbst. I am the Senior Advisor for Recovery Implementation at the Department of Commerce. Thank you for the opportunity to appear before you today to discuss the Department of Commerce plans for the American Recovery and Reinvestment Act of 2009.

The American Recovery and Reinvestment Act of 2009 ("the Recovery Act" "ARRA") was signed into law by President Barack Obama on February 17, 2009. It is an unprecedented effort to jumpstart our economy, create or save millions of jobs, and put a down payment on addressing long-neglected challenges so our country can thrive in the 21st century. The Recovery Act is an extraordinary response to promote economic recovery and growth, and includes measures to modernize our nation's infrastructure, enhance energy independence, expand educational opportunities, preserve and improve affordable health care, provide tax relief, and protect those in greatest need.

The U.S. Department of Commerce will receive $7.9 billion to create and save jobs for American workers as part of the historic economic stimulus bill recently signed by President Obama. As he stated, "The American Recovery and Reinvestment Act is the most sweeping economic recovery package in our history…We have begun the essential work of keeping the American Dream alive in our time." The President has noted that the Recovery Act will create or save 3.3 million jobs over the next two years.

ARRA investments in Commerce agencies, which will be allocated in an open, transparent and timely manner, include funding for business development, innovative research, construction projects, expanding broadband services and other programs that will create jobs in a broad range of occupations and industries.

Economic Development Administration

The Recovery Act includes $150 million for the Economic Development Administration to provide grants to economically distressed areas across the Nation to generate private sector jobs. Priority consideration will be given to those areas that have experienced sudden and severe economic dislocation and job loss due to corporate restructuring. Funds will be disbursed

through the agency's traditional grant-making process and will support efforts to create higher-skill, higher-wage jobs by promoting innovation and entrepreneurship and connecting regional economies with the worldwide marketplace.

National Oceanic and Atmospheric Administration

The Recovery Act funding for the National Oceanic and Atmospheric Administration (NOAA) is $830 million including:

- $230 million slated for habitat restoration, navigation projects and vessel maintenance;
- $430 million for construction and repair of NOAA facilities, ships and equipment, improvements for weather forecasting and satellite development; and
- $170 million to be used for climate modeling activities, including supercomputing procurement, and research into climate change.

Bureau of the Census

To ensure a successful 2010 Decennial Census, the Recovery Act includes $1 billion to hire new personnel for partnership and outreach efforts to minority communities and hard-to-reach populations, increase targeted media purchases, and ensure proper management of other operational and programmatic risks.

National Institute of Standards and Technology

Through the Recovery Act, the National Institute of Standards and Technology (NIST) is provided a total of $610 million, including:

- $220 million for NIST laboratory research, measurements, and other services supporting economic growth and U.S. innovation through funding of such items as competitive grants, research fellowships, and advanced measurement equipment and supplies;
- $360 million to address NIST's backlog of maintenance and renovation projects and for construction of new facilities and laboratories, including $180 million for a competitive construction grant program for funding research science buildings outside of NIST;
- $20 million in funds transferred from the Department of Health and Human Services for standards-related research that supports the security and interoperability of electronic medical records to reduce health care costs and improve the quality of care; and
- $10 million in funds are provided, through the Department of Energy, for NIST to help develop a comprehensive framework for a nationwide, fully interoperable smart grid for the U.S. electric power system.

National Telecommunications and Information Administration

The Recovery Act provides critical funding for programs at the National Telecommunications and Information Administration (NTIA) including:

- $4.7 billion to establish a Broadband Technology Opportunities Program (BTOP) for awards to eligible entities to develop and expand broadband services to rural and underserved areas and improve access to broadband by public safety agencies:
    - Of these funds, not less than $250 million will be available for innovative programs that encourage sustainable adoption of broadband services;
    - At least $200 million will be available to upgrade technology and capacity at public computing centers, including community colleges and public libraries;

    - Up to $350 million of the BTOP funding is designated for the development and maintenance of statewide broadband inventory maps; and
    - $10 million will be a transfer to the Office of Inspector General for the purposes of BTOP audits and oversight; and
- $650 million for the DTV Converter Box Coupon Program to allow NTIA to issue coupons to all households currently on the waiting list, to start mailing coupons via first class mail and to ensure vulnerable populations are prepared for the transition from analog-to-digital television transmission.

Office of Inspector General

The Recovery Act includes $6 million for the Office of Inspector General (OIG) to conduct audits and oversight of the programs and activities funded by the ARRA in addition to the $10 million provided to the OIG for oversight of the Broadband Technology Opportunities Program. With such a large infusion of cash expected to be obligated within a short time frame, this oversight will be important in evaluating the effectiveness of these programs and detecting and preventing waste, fraud and abuse.

The Subcommittee, in its letter of invitation, asked that my testimony focus on a number of important questions related to the Commerce Department's plan to ensure accountability and transparency in the process of implementing the ARRA.

Mr. Chairman, the Department of Commerce has established a clear path forward for meeting our responsibilities under the ARRA. First, the Department is working with the senior management in each bureau that received ARRA funding, as well as the Department's Office of Budget and the Office of Management and Budget (OMB), to complete approved spending plans for the agency programs funded through the Recovery Act. We expect to complete these plans and transmit them to Congress within the time frame required in the legislation. Once those spending plans are approved, they will be posted to the Department's Recovery website.

The Department is committed to ensuring that all ARRA grants and contracts are awarded in a fair, impartial and timely manner. We are working to streamline and improve existing procedures without compromising transparency and accountability.

The Department has worked closely with OMB to develop and promulgate standard processes and language to be included in grant and acquisition awards that address the recipient reporting requirements of ARRA and follow the specific guidance in the legislation (e.g., Buy American Act; Davis Bacon Act). As well, the Department has engaged its Grants and Acquisition Councils to thoroughly review requirements of the Act, to establish standardized reporting of grants/acquisitions awarded utilizing ARRA funds, to ensure consistency in wide dissemination of information to be made publicly available through Grants.gov, FedBizOps.gov, Recovery.gov and agency and bureau Recovery Act web pages, and to ensure the correct and complete recording of award information through existing processes to USASpending.gov.

Recognizing the urgency of getting the funding made available by ARRA into the community, streamlined processes have been or are being established for acquisitions. For example, those programs/acquisitions less than $75 million and not designated as a "major investment" will

undergo an Office of Acquisition Management (OAM) review via a paper process in lieu of monthly Investment Review Board meetings. The process for reviewing those programs/acquisitions greater than $75 million or those designated as a "major investment" is currently under refinement.

These management reviews will ensure that, to the maximum extent possible, acquisitions will be made on a fully competitive basis and on a fixed price basis. Where other than full and open competition is necessary or appropriate, or where other than a fixed price type contract will be utilized, the justification will be reviewed for sufficiency, compliance with Federal Acquisition Regulations, and for full consideration of all options available.

A reporting process has been established to provide DOC management with an on-going flow of information regarding planned acquisitions and grants and the progress of those awards through the process. To a large degree, existing processes will be utilized, but with a focus on streamlining the process wherever possible. The ability to expedite will rely heavily on the thoroughness and quality of the up-front work done by the acquiring/granting office. OAM will oversee that work to ensure speed of process does not diminish the quality of the decisions made or sacrifice quality of the process and award in favor of expediency.

In order to meet that challenge, OAM has drafted a Risk Management and Oversight Plan. This Plan has been developed based on the provisions of ARRA, DOC OIG's Initial Oversight Plan, the guidance provided in *"A Guide to Grant Oversight and Best Practices for Combating Grant Fraud"* by the National Procurement Fraud Task Force, the Statement of the Acting Comptroller General of the United States, "*GAO's Role in Helping to Ensure Accountability and Transparency"* and historical GAO and OIG reports regarding the acquisition and/or financial assistance functional areas.

Another key element of the Department's strategy involves staff competence. The Department has been hard at work making sure that those with responsibility for carrying out the necessary work to well implement the ARRA have the knowledge and skills necessary to properly award and manage contracts. The Department has been making significant progress in ensuring that its acquisition corps (including Program/Project Managers, Contracting Officer Technical Representatives, Contracting Officers and Contract Specialists) meet Government-wide certification requirements. Depending on the complexity of Recovery Act-funded acquisitions, Bureau Procurement Officials will be assigning those acquisitions to individuals within the existing cadre of staff with the requisite knowledge, skills, expertise and experience necessary to properly award and administer acquisitions. These individuals will be supplemented or assisted by others (other senior level acquisition professionals, the DOC Office of General Counsel, the Office of Acquisition Management) to strategize, plan and execute the appropriate contract mechanisms for successful implementation of the Recovery Act.

We recognize that acquisition resources within DOC and across the Government will be challenged by the requirements of the Recovery Act. Therefore, the Department will take advantage of all hiring flexibilities and options available and will, where appropriate, transfer acquisitions to other federal agencies for execution where their resources and expertise surpass the resources available within DOC, or will utilize contractor support for the acquisition

function. As staff is committed to the execution of the Recovery Act programs, new hires, transfers to other agencies for acquisition purposes and contractor support will be utilized to fulfill the other day-to-day acquisitions necessary outside of the Recovery Act.

In the Grants area, DOC has been developing for the past two years a formal on-line Grants training and certification program. The first module developed, Price Evaluation, is of key importance to the successful evaluation of applications and the successful oversight of grant expenditures to mitigate fraud, waste and abuse in the execution of a grant. The DOC Grants community has been relatively stable and, thus, will rely on seasoned, trained and experienced Grants Specialists and Federal Program Officers to execute programs under the ARRA. All grants specialists partner with the Financial Assistance Law Division of the DOC Office of General Counsel, which provides a fresh "set of eyes" to the process and its execution.

In all cases, the Office of Acquisition Management (OAM) will be assisting the grants and acquisition communities to address developing issues and to provide guidance and assistance in compliance with the provisions of this legislation and the governing regulations. As well, OAM will, as detailed above, be instituting a rigorous oversight and reporting program associated with ARRA-funded grants and contracts, which will provide DOC management insight into resource challenges and allow for input into the process.

Mr. Chairman, the Department is hard at work making sure that we have the structures and personnel in place to ensure DOC compliance with OMB guidance and statutory requirements. The Department appointed me as the senior staff person to coordinate, integrate and manage our implementation of the Recovery Act. We have formed several cross-bureau, cross-function work teams to plan and implement the Recovery Act across the Department. Our Departmental Work Team structure is as follows:

- Senior Advisor and Program Management staff are responsible for overall coordination and management at the Department level of ARRA implementation, including timely delivery of information on Recovery Act projects.
- ARRA Working Group structure - provides senior oversight and management to all sub-groups. This Working Group consists of:
    - Recovery Implementation Steering Committee with subject matter expertise composed of senior managers from all Department-level Offices (Acquisition and Grants, General Counsel, Financial Management, Budget, Human Resources, Legislative and Intergovernmental Affairs, Public Affairs, Management and Organization, Policy and Strategic Planning and the Chief Information Officer) as well as a senior manager from the Office of Inspector General, who provide proactive advice and education. Members of the Steering Committee are responsible for providing guidance in their area of responsibility as well as coordinating communication and activities. They, in turn, work with the functional offices within each bureau to support specific activities.
    - Recovery Implementation Bureau Points of Contact (POC) – a single senior manager from each of the bureaus receiving funding (Census, EDA, NIST, NOAA and NTIA) as well as a representative from the Office of Inspector General. These bureau POCs are responsible for coordinating and managing bureau efforts with Departmental efforts. Each bureau has its own internal team

working on bureau-specific activities and oversight, and the bureau POC is the communication and management liaison to the Department.

- Leaders of each of the work group sub-teams. There are multiple sub-teams working on specific issues including:
  - Transparency to the public
  - Detailed data reporting and systems
  - Grant and contract recipient reporting.

Mr. Chairman, thank you for the opportunity to testify before the Subcommittee today. Congress, the President and the American people have trusted us with this unprecedented effort to invest in our economy, create or save millions of jobs and build a foundation for recovery. We do not take this challenge lightly and are committed to the high standards both you in Congress and the President have charged us to uphold.

The Department of Commerce is committed to implementing the provisions of the ARRA in a transparent manner that ensures accountability. We look forward to working with you, the other members of this Subcommittee, and the entire Congress, to ensure we do this right on behalf of the American people. I would be happy to answer any questions you may have.