In This Issue

Updates For Your Information

Welcome to the New Look of the OMB Watch Website and OMB Watcher Online
Conference Announcement

Federal Budget

Homeland Security vs. HHS is No Choice At All
President Issues Welfare Reauthorization Proposal

Information & Access

John Graham Advises EPA to Improve Information Policies
DOE Forced to Turn Over Energy Task Force Documents
Bush Administration?s E-Government Strategy Released
FERC Proposes Changes to Public Access Policies

Nonprofit Issues

Debate Continues on Nonitemizer Deduction

Regulatory Matters

Graham Pushes Regulatory Priorities in President's Budget

Welcome to the New Look of the OMB Watch Website and OMB Watcher Online

With this new site, we can host public and private forums, and allow you to give greater feedback about the materials we post. We have also added tools that facilitate your getting more involved in public policy matters by not only sending email to Congress, but state and local elected officials, and local news media.

We are very excited about the new site as it provides many new features and services that our old site could not offer. The site is organized by topic area with a variety of informative and interesting articles in each topic. In order to return to our home page click on the "Home" link near the top of the page or simply click on our logo.

During the next few months, we will be refining the features and adding content, so you may experience some problems - although we hope none will occur. Please let us know your comments, questions, and suggestions regarding the new OMB Watch site by posting a message to the Reactions Forum.

This new site will also enable you to comment about each issue of the OMB Watcher Online. You can try it out by posting a comment about or suggestion for the new format of the Watcher here in the OMB Watcher Online Vol. 3 No. 5 Forum

We will use your comments in shaping both the main site and the OMB Watcher over the next few months.

We created this new site to make it easier for you to get to our information. Our new search engine should enable you to locate information, both quickly and easily. In short order, we will have a search engine that also allows you to find information on other key sites in the public interest community. At the bottom of every article are links to other related topics and documents to make it easier for you to find things.

Conference Announcement

RECLAIMING AMERICA: Progressive Strategy for a New Era APRIL 10-12, Washington DC 2002 is a high-stakes year for American democracy. Campaign for America's Future invites you to join hundreds of citizen and labor activists, policy experts, and progressive political leaders for a national conference on progressive strategy for the new era. For more information visit www.ourfuture.org or call 1-888-748-7010.

Homeland Security vs. HHS is No Choice At All

Just as investments in the nation's public health and emergency medical systems, in the name of homeland security, are good for the country, so, too are investments in non-emergency, non-defense programs that help to meet the needs of the country's struggling communities. Tax cuts should not prevent us from addressing both.

The President's FY 2003 Budget, released February 4, includes $37.7 billion worth of "homeland security" spending. Among the categories specified under this $37.7 billion heading are "Supporting first responders," "Defending against biological terrorism," "Securing our borders," "Sharing information and using information technology," and "Aviation security." The remaining $12.2 billion of the homeland security total is designated as "Other homeland security." GovExec. com reports that White House Office of Homeland Security Director Tom Ridge has said that the nation's homeland security strategy is still being developed and will not be finished until Summer 2002. This means that the FY 2004 budget is likely to include further increases to reflect the "full agenda" for homeland security. This is spending for a cause that most policy makers and the public have given strong support to.

OMB Watch has argued for some time now, however, that to be effective, a national strategy for increased homeland security must go beyond securing the nation's borders, airports, and infectious disease research facilities. The speeches and proposed legislation of the nation's policy makers are too narrowly focused on the defensive measures of security, and not enough on the many preventative measures necessary to ensure that our day-to-day lives are also grounded in security – security in the knowledge that we and our neighbors are not forced to choose between a visit to the doctor's office and a nutritious dinner, or dinner and a warm, safe home in which to sleep at night, or child care and training for a better-paying job. The President's budget boasts a $5.5 billion increase in spending for the Department of Health and Human Services, which works to address minimizing the need for such impossible choices, but the Department's overall increase masks the details of numerous cuts to many of these programs.

In fact, many of the overall increases shown in the FY 2003 proposed budget seem to be made up, in large part, of homeland security increases. According to the calculations of the Senate Budget Committee's Democratic staff, when homeland security spending is extracted, all other domestic discretionary spending actually takes a 6.2% cut.

Specifically, of the total $5.5 billion HHS increase, $1.7 billion goes to the National Institutes of Health (NIH) to "perform fundamental research leading to the development of vaccines, therapeutics, diagnostic tests, and reliable biological agent collection." According to the President's Budget, another $1.2 billion will go to "increase the capacity of state and local health delivery systems to respond to bioterrorism attacks," with $590 million of this total going to hospitals for "infrastructure improvements such as communications systems and decontamination facilities" and $210 million for states to assess their bioterrorism response capacity.

Thus, while increasing funding to protect against health catastrophes brought about by "biological terrorism," the President's budget freezes at FY 2002 levels and even cuts many of the programs that work to ensure the day-to-day health needs of our country's low-income, rural, and uninsured communities are met. Here is a quick look at some of the Health and Human Services programs that will receive cuts or which will receive the same level of funding they received last year. (Remember that, because of inflation, maintaining the same level of funding from year to year actually results in a cut in terms of the purchasing power of the program's dollars.)

Also, as George Krumbhaar, of GalleryWatch's USBudget analyses, notes, a cut (or an increase) in a specific line item of a program does not provide any information as to the total funding changes for the program as a whole -- so please see the Appendix of the President's FY 2003 Budget for other line-by-line spending notes.

Health and Human Services Cuts in President's FY 2003 Budget (in millions of $)

	FY 2002	FY 2003
Rural Health Programs		
Rural Health Policy Development	17	6
Rural Health Outreach Grants	51	38
Rural Health Flexibility Grants	40	25
State Offices of Rural Health	8	4
Rural Access to Emergency Services	13	2
Children and Family Services Programs		
Community services block grants	650	570
Community food and nutrition	7	7
Community services discretionary	39	39
Health Resources and Services		
Maternal and Child Health Block Grant	732	732
Healthy Start	99	99
Healthy Start	6	6
Centers for Disease Control and Prevention		
Chronic disease prevention and Health promotion	753	697
Environmental Health	157	155
Occupational Health & Safety	287	258
Public Health Improvement	150	119

Surely some of the benefits of a fortified public health, emergency medical care, and infectious disease response system will befall those in the communities impacted by the cuts outlined above. And no one would want to be in the position to choose between addressing existing needs and investing to prepare for potential future needs, but we shouldn't be forced to make these tradeoffs. Indeed, we would not have to contend with such stark choices at all if we were to use the monies now tied up in the $1.35 trillion tax cut to pay for these pressing immediate and long-term needs. The President's budget

proposal recognizes the importance of spending money now to invest in research and expansion of the capacity of the nation's health systems to respond to a bioterrorism threat – an investment that will not pay off for some time (and hopefully we will never need to test such readiness), but the budget must reach farther and spend money now to meet the many other pressing needs – in place long before September 11 and only exacerbated by a slowed economy and layoffs -- of the nation's struggling communities.

President Issues Welfare Reauthorization Proposal

The President released his Welfare Reform Agenda last week and with it came much concern from those who are currently working to ensure that changes are made to the 1996 welfare reform law to address the needs of those who are working (currently defined as a success under the 1996 welfare reform law measurement) but are still unable to provide for the basic needs of their families.

Under the President's proposal, the program's work requirement will increase from 50% to 70% by 2007; the plan also increases the minimum number of hours spent at a job or in a program "designed to help achieve independence" to 40 per week; $300 million will be directed to programs that "encourage healthy, stable marriages;" new waiver authority to states that will enable them to fine tune a welfare program to meet local needs. The President's plan continues the 1996 ban on welfare benefits to non-citizens who entered the US after 1996 and creates a 5-year waiting period before documented immigrants become eligible for food stamps.

For a more detailed analysis of the President's proposal and alternatives, see:

- Coalition on Human Needs' "Welfare Reauthorization Policy Recommendations"

- CBPP's "Administration's Tanf Proposals Would Limit -- Not Increase -- State Flexibility"

- NETWORK's "Response to President Bush's Proposal for Welfare Reform"

John Graham Advises EPA to Improve Information Policies

John Graham, administrator of OMB's Office of Information and Regulatory Affairs, today released a "prompt letter" to the Environmental Protection Agency (EPA) urging the agency to take three steps to improve public access to its information. Graham's top priority is to have EPA establish an identification number for each facility reporting information to the agency.

EPA began working to establish such a system in 1995, but those efforts have since fallen behind other priorities. Graham notes that an identification number would make it easier for other governmental entities and the public to use the Toxics Release Inventory (TRI)database in combination with other databases -- a position OMB Watch has long advocated. Coincidentally, EPA's information chief, Kim Nelson, has plans to advance the use of a facility identification system.

Ideally, such an identification system should be put in place across government, allowing the public to call up a particular facility from one location on the web and get most or all the information it reports to the government, including TRI data, any OSHA infractions, SEC data, etc. As it currently stands, no such integrated system exists, making the data much less powerful. Similarly, there is a need for a corporate identification system so that it is known who owns various facilities.

Also part of the prompt letter, Graham advises EPA to adopt a system that would allow facilities to report data electronically at a single entry point -- which would be aided by establishing a single identification system for each facility. Such a system, Graham suggests, would improve data quality, provide a comprehensive data set for use by government and the public, and eliminate duplicative reporting requirements and the associated burden on regulated facilities for making multiple submissions of the same data to EPA.

Finally, Graham advises EPA to find ways to expedite the yearly release of TRI data, which has been slow coming in recent years. Graham suggests that EPA encourage greater use of electronic reporting by respondents in order to reduce transcription and the quality control burden on the agency. Graham notes that the quality control burden should be on the reporting industry -- not on EPA -- though EPA currently shoulders this burden.

Previously, OMB Watch has been critical of Graham's use of prompt letters -- of which five have been issued so far -- questioning whether OIRA, with its limited staff and expertise, should be so aggressively engaged in agenda setting for which the agencies are statutorily charged. Yet we are less concerned in this case -- and not just because we happen to agree with him. Like a previous prompt letter to FDA on trans fatty acid, Graham is highlighting activity that the agency itself has declared important and initiated. While the prompt letter may not be the right tool, EPA should be held accountable for not taking these important steps to improve dissemination to the public.

DOE Forced to Turn Over Energy Task Force Documents

In a ruling that upholds the public's right to access government information, a D.C. federal district court ordered the Department of Energy (DOE) on February 21 to hand over documents to the Natural Resources Defense Council that relate to the workings of Vice President Dick Cheney's energy task force.

NRDC sued the DOE under the Freedom of Information Act (FOIA) after originally asking the agency last April for basic information about its role in Cheney's task force, including details on meetings held at DOE or that the agency participated in. In this press release, NRDC hails the decision and reports that it plans to publicly disseminate "the names of participants, dates of meetings, and the topics discussed."

This victory for the public interest comes just after the General Accounting Office -- the investigative arm of Congress -- filed suit on February 22 against the administration demanding information on participants in White House meetings on energy policy.

As OMB Watch reported previously, Cheney, with the backing of the White House, is refusing to meet GAO's demands for transparency, claiming that he is upholding the right of the White House to receive advice from citizens in private, without those conversations being released to the public. GAO, however, has dropped demands that the White House disclose substantive interactions, requesting instead that it merely list the individuals and affiliated interests it met with as part of the energy task force. Yet the White House has refused this as well.

The White House was recently scolded by judges in two separate cases brought by Judicial Watch, a conservative organization, for this resistance. U.S. District Judge Emmet Sullivan said "I assume the government is stalling" in one case, and U.S. District Judge Paul Friedman accused the administration of "gamesmanship" when it argued for throwing out the other case, as reported by the Associated Press.

The Washington Post recently reported that the White House, undeterred by such criticism, will seek to have the statute empowering GAO declared unconstitutional if it fails in its defense against the GAO lawsuit. This move would sharply curtail the legislative branch's oversight of the executive branch, which is a valuable tool for public access to information -- especially given the extraordinary amount of influence private industry seems to have over Bush White House.

Bush Administration?s E-Government Strategy Released

Vice President Cheney recently (February 27) unveiled the administration's plans to harness the Internet to make government more responsive and accessible, focusing mostly on transactions, such as the filing of taxes, while giving little attention to the dissemination of information.

Billed as one of the president's top five agenda items, this initiative -- as detailed in a report by the president's task force on electronic government (commonly referred to as e-government) -- will focus on four types of interactions with the federal government: citizen transactions, business transactions, intra-governmental transactions, and government (i.e., state or local) to government (i.e., federal) interactions.

Citizen interactions, for example, include such transactions as filing taxes electronically, making online reservations to a national park, finding out if you qualify for student loans, or applying for government benefits online. The e-government task force has promised that citizens should be able to use FirstGov.gov -- the federal government's web portal, which is currently being upgraded -- to find what they are looking for within three clicks of the mouse.

Not surprisingly, this commitment comes as more and more people are using the Internet to interact with government. A recent Hart-Teeter poll found that most Internet users (76%) and over half (51%) of all Americans have now visited a government web site. Moreover, the poll found, Americans have a positive view of e-government, high expectations for what it can accomplish and are increasingly willing to invest their tax dollars in improvements. A previous Hart-Teeter poll in 2001 found that Americans look for government at all levels to become far more accountable to the public as the key result of e-government, the same result found in this year's poll.

To begin the expansion and improvement of e-government, the administration proposes 24 projects that vary across areas of government (some of which won't be operational until 2004 as part of a staggered deployment). Perhaps the most crucial project focuses on privacy and security, and promotes e-authentication to protect online transactions, including, for example, the signing of a document via email with an electronic signature. Recently, Energy Secretary Spencer Abraham became the first-ever Cabinet member to send a digitally-signed document to the president. Yet much work needs to be done before such transactions can take place on a widespread basis between citizens and the government. If the transactional promise of e-government is to be realized, the task force points out, there must first be a clear, reliable method to protect information on individuals and establish identity.

However, while the transactional side of e-government is important -- it has the potential to dramatically save time and resources for all involved -- the task force report fails to effectively promote greater public access to government information -- which in the Hart-Teeter poll the public ranked as a key tool for holding government accountable. For example, the task force does not seek to make government data more useful and accessible. This can easily be accomplished by (1) better identifying and cataloguing information that is available; (2) identifying information that is not available online and taking steps to make it available; (3) ensuring that all online databases are properly searchable; and (4) integrating or linking government databases to allow the public to view data across agencies and program areas.

President Bush's e-government strategy is not the first attempt to promote e-government. In May of 2001, Sen. Joseph Lieberman (D-CT) introduced the "E-Government Act of 2001," supported by OMB Watch, which sets up a framework and a process for moving the executive branch forward to provide better electronic access to government information. The

administration, which has not yet given support to Lieberman's legislation, should work with Lieberman so that a comprehensive vision for e-government can be achieved.

FERC Proposes Changes to Public Access Policies

The Federal Energy Regulatory Commission (FERC) seeks public input on "changes that should be made to its regulations to restrict unfettered general public access to critical energy infrastructure information, but still permit those with a need for the information to obtain it in an efficient manner." The request for public input was published January 16, 2002 by FERC and appeared in the January 23, 2002 Federal Register. Read the press release on FERC's site.

A month after the September 11 terrorist attacks, FERC issued a policy statement removing significant amounts of information from its web site. The policy statement instructed the public to use the Freedom of Information Act for future access. The current "notice of inquiry" is intended to help FERC determine what changes should be made to the October policy statement.

The FERC Notice also instructs companies making filings with the agency on how information that contains critical energy infrastructure information can be treated confidentially until the final decision on the Notice is published.

Public comments are being accepted until March 11, 2002. In a most unusual manner, FERC notes that it has a non-public index that may be helpful to commenters. To view the index, called Overview of Previously Public Documents and Candidates for Critical Energy Infrastructure Information, the public must sign a non-disclosure agreement.

Debate Continues on Nonitemizer Deduction

Why do OMB Watch and the Center for Budget and Policy Priorities worry a proposed charitable tax incentive may not be a good idea? The President's budget proposes deep cuts in domestic programs. To learn more read the full story.

On February 21 OMB Watch and the Center for Budget and Policy Priorities issued a joint letter to the nonprofit community that criticized the $400 per person version of the nonitemizer deduction in recent faith-based compromise legislation (S. 1924, named the "Charity Aid, Recovery and Empowerment" (CARE) Act) as too costly and not generating enough new charitable contributions. The letter emphasized that, in light of last summer's $1.35 trillion tax cut, additional planned tax uts, and proposed cuts in domestic programs, the $400 per person nonitemizer deduction does not make sense. For more, read the full text of the letter.

The CARE Act, co-sponsored by Sens. Rick Santorum (R-PA) and Joe Lieberman (D-CT), is a compromise on the President's controversial faith-based initiative. Independent Sector has endorsed the nonitemizer deduction and issued a letter outlining its support for the nonitemizer deduction provisions.

While OMB Watch continues to support the concept behind the nonitemizer deduction, we believe the design and structure of the current version in the CARE Act would not generate enough new giving to justify the cost to the Treasury. The tax cuts of last year, combined with the recession and effects of September 11, have already greatly reduced the resources available for investment in domestic programs. (Read more on this year's budget situation.) We hope that a full examination of these issues will be made as the Senate bill comes under consideration.

For more information, read this full explanation of our position on the CARE Act's nonitemizer deduction.

Another OMB Watch position letter on the nonitemizer deduction appeared in the *Chronicle of Philanthropy* in the issue dated March 7, 2002.

Graham Pushes Regulatory Priorities in President's Budget

As administrator of the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) -- which has authority to review and possibly reject or amend agency regulatory proposals -- John Graham is pressing agencies to adopt particular analytical methods to assess regulatory costs and benefits that would rig the result and undoubtedly lead to less protective health, safety, and environmental standards.

Graham points to his preferences in the president's recent budget submission to Congress, noting that new formal guidance to agencies on how to conduct monetization is forthcoming: "OMB has committed to update periodically its guidelines for regulatory analysis, which are used when OMB reviews agency rulemakings."

In particular, Graham stresses the importance of "league tables" for setting regulatory priorities. These tables are intended to compare the costs and benefits of one type of regulation, such as auto safety, to another, such as environmental protection. As an example, Graham presents his own league table of rules already on the books, which includes four rules from the Environmental Protection Agency (EPA), four from the Department of Transportation, and two from OSHA. From this table, Graham notes "the tendency for safety rules to be more cost-effective than health rules." For instance, DOT's rule on head impact protection scores well while EPA's NOx SIP Call rule on air quality and OSHA's rule on methylene chloride (to prevent against cancer) do not.

Ideally, according to Graham, league tables should be used to compare programs across agencies at the beginning of the regulatory process for proposed rules (rather than rules that have already been adopted). This "is more useful for synoptic

purposes or for decision making by governmental entities with inter-agency responsibility (e.g., appropriations committees and OMB)," Graham writes. Based on Graham's presentation, this seems to suggest a trimming of agency budgets that deal primarily with health or the environment, such as EPA, and perhaps redistributing the savings to safety agencies, such as DOT, that deliver more "cost-effective" rules. As Graham points out, "The table suggests that we need to do a better job at both refining estimates of the cost-effectiveness of regulatory proposals and setting priorities for the use of the nation's limited resources to protect citizens from health, safety, and environmental risks."

Yet this policy position is a direct result of Graham's analytical choices, which are open to question. In formulating the league table, Graham employs his favored method to monetize the costs and benefits of each rule. As explained in this OMB Watch analysis, the mere process of monetization, regardless of method, inevitably fails to capture crucial benefits. In the case of Graham's league table, the benefit estimates are derived almost exclusively from avoided fatalities. They exclude or devalue other impacts, such as morbidity, effects on ecosystems, and equity considerations. Moreover, even for measures of avoided fatalities, which Graham has included, benefits are greatly understated as a result of Graham's analytical preferences.

Specifically, Graham monetizes benefits by focusing on life-years saved (as opposed to the number of individual lives saved, as commonly practiced), assuming no benefit until the first life-year is saved. From the beginning, then, this method of computing benefits will inevitably bias the system against regulations such as cancer prevention -- which has a long latency period -- that primarily benefit the elderly (who have fewer "life-years" remaining) and people in the future. Yet on top of this, Graham then discounts the value of life-years saved in the future by 5 percent for EPA rules (7 percent for other rules) from the point that the first life-year is expected to be saved. To use an example from Georgetown Law Professor Lisa Heinzerling, a regulation that, on average, prevents fatality at the age of 35 would save 42 life-years assuming a life expectancy of 77 years. Discounting 5 percent from each life-year starting at age 36, the present value of the 42nd life-year saved would be approximately 1/8 of a year.

Not surprisingly, no such discounting is advised on the cost side of the equation to account for inevitable economic growth -- which produces more resources to be spent on regulation over time -- or well-documented adaptive effects, such as technological advances or "learning by doing." As a result, cost estimates frequently prove overblown in the real world. For instance, EPA estimated in 1990 that acid rain controls would cost electrical utilities about $750 per ton of sulfur dioxide emissions; yet the actual cost today is less than $100 per ton, billions of dollars less than what was initially anticipated.

With overblown cost estimates, combined with Graham's approach to discounting and use of life-years, it's hard to see how the government would ever again produce a regulation that primarily is directed against diseases of old age. From these value-laden analytical choices, Graham suggests the emphasis should be on safety regulation, which can save young people today, while we should curtail health and environmental regulation, which do not fare well under his "cost-effectiveness" test.

Yet, the need to pose such a tradeoff remains unclear. Certainly, safety regulations are important (although so far, Graham seems weak even here, as evidenced by his recent rejection of the Department of Transportation's (DOT) tire safety standard). But should this type of regulation preclude other regulations to protect public health and the environment? Graham has previously accused the government of "statistical murder" for failing to pose such tradeoffs, and his promotion of league tables is clearly an attempt to move in that direction. This formulation assumes a fixed national budget for risk reduction, where a dollar spent on Risk A means a dollar less to spend on Risk B. Yet the United States has a $9 trillion economy, of which only a tiny fraction is devoted to risk reduction. Of course, agencies and decision-makers must prioritize activity within fiscal constraints. But frequently the hard tradeoffs posed by Graham -- pitting one life-saving measure against another -- are unnecessary and lead down a path to inaction.

In the end, the effort to monetize benefits and the debate over methodology is just a distraction that masks the true policy choices that must be made. Because of the many assumptions and analytical games that go on to arrive at a dollarized figure -- which only the practitioner can sort out and truly understand -- it would be more useful to decision-makers and more transparent to the public if non-monetary benefits were simply described (quantitatively to the extent feasible) by stating, for example, the expected number of lives saved over a given period of time. As it stands now, numbers are thrown around like rhetorical grenades and no one really knows what they mean.