

Subject: Night Note 12/6
Sent: Tue, 6 Dec 2005 23:08:44 -0500
From: "McMillin, Stephen S." <Stephen_S._McMillin@who.eop.gov>
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[Policy Time Calendar 12-6.doc](#)
[Working Group Calendar 12-6.doc](#)
[Cabinet Member Schedule 12-6.doc](#)
[Pending Issues 12-6.doc](#)

Pls note- this information is sensitive; eyes only

Attached are the Pending Issues, the Policy Time Calendar for this month, the Working Group Calendar for this week and next, and the Cabinet Member Schedule for the following week.

Thanks,
James
x61475

POLICY TIME – NOVEMBER 2005

| SUN | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SAT |
|-----|---|--|---|---|--|-----|
| 4 | 5 NO TIME | 6 1:15-1:45 OFB: Voucher Expansion (30 min) | 7 NO TIME | 8 11:05-11:35 NSC/NEC: WTO/ Doha* (30 min) | 9 NO TIME | 10 |
| 11 | 12 2:05-2:50 NEC: Medicare/CPI* (45 min) | 13 1:25-2:10 NEC: Science (Econ Update, 10min) (45 min) | 14 2:35-3:05 NEC: NASA* (45 min) | 15 1:05-1:50 NEC: Taxes in '07 Budget (45 min) | 16 1:05-1:50 NEC: Health Tax (45 min) | 17 |
| 18 | 19 11:25-11:55 NEC: Katrina Update* (30 min) | 20 1:45-2:30 NEC: Health Insurance Reform (45 min) | 21 1:55-2:40 OMB: '07 Budget Wrap (45 min) | 22 TBD Rove (45 min) | 23 NO TIME | 24 |
| 25 | 26 NO TIME | 27 NO TIME | 28 TBD | 29 TBD | 30 TBD | 31 |

12/06/05

Possible December Policy Times: China Overview; Doha Post–Action Review; Energy II; Family Agenda; Global Nuclear Energy Initiative/Yucca; Katrina Periodic Updates

* Indicates Cabinet Member Attendance

Working Group Calendar

WORKING GROUP CALENDAR

| Monday, December 5 th | Tuesday, December 6 th | Wednesday, December 7 th | Thursday, December 8 th | Friday, December 9 th |
|---|--|--|--|----------------------------------|
| <p>3:00 NEC: Meeting on Tax in the '07 Budget – Deputies (SM)</p> <p>5:30 NEC: Meeting on Medicare/ Medicaid – PCC (JK)</p> | <p>9:15 DPC: Weekly DOT call – PCC (BH)</p> <p>3:00 NEC: Energy Principals Meeting – PCC (JK)</p> <p>3:00 DPC: Weekly ED Call – PCC (BH)</p> <p>5:30 DPC: Weekly DOJ Call – PCC (BH)</p> | <p>11:00 DPC: Weekly Conf Call w/ DOL (BH)</p> <p>5:30 NEC: Healthcare Principals Meeting – PCC (JK)</p> | <p>9:00 NEC: Biweekly Pension Call – PCC (JK)</p> <p>10:00 DPC: Weekly Call w/ HHS (JK)</p> <p>1:00 DPC: Weekly Asbestos Call – PCC (BH)</p> <p>3:00 NEC: Weekly Medicare Meeting – PCC (JK)</p> <p>4:00 NEC: Weekly Medicaid Meeting – PCC (JK)</p> | |

Working Group Calendar

| Monday, December 12 th | Tuesday, December 13 th | Wednesday, December 14 th | Thursday, December 15 th | Friday, December 16 th |
|-----------------------------------|--|--|--|-----------------------------------|
| | <p>9:15 DPC: Weekly DOT call – PCC (BH)</p> <p>10:30 DPC: Principals Meeting on SACI – PCC (BH)</p> <p>3:00 DPC: Weekly ED Call – PCC (BH)</p> <p>5:30 DPC: Weekly DOJ Call – PCC (BH)</p> | <p>11:00 DPC: Weekly Conf Call w/ DOL (BH)</p> | <p>10:00 DPC: Weekly Call w/ HHS (JK)</p> <p>1:00 DPC: Weekly Asbestos Call – PCC (BH)</p> <p>3:30 NEC: Weekly Medicare Meeting – PCC (JK)</p> <p>4:00 NEC: Weekly Medicaid Meeting – PCC (JK)</p> | |

OFFICE OF CABINET LIAISON



CABINET MEMBER SCHEDULE

WEDNESDAY 12/07/2005

Secretary Johanns, Secretary Gutierrez & Ambassador Portman

8:30am – 9:30am **2 FL/WW** Preparation Session for Doha Policy Time

Participants:

White House

Karl Rove, DCoS
Steve Hadley, NSC
Candi Wolff, OLA
Faryar Shirzad, NSC
Barry Jackson, NSC
Doug Badger, OLA
Michael Sommers, NEC
Rod Hunter, NSC

Secretary Norton

2:25pm – 2:30pm **Oval Office** Signing of H.R. 584 – “The Department of the Interior Volunteer Recruitment Act of 2005”

Attorney General Gonzales

3:30pm – 4:00pm **1 FL/WW** Lessons Learned: Hurricane Katrina

Participants:

White House

Fran Townsend, HSC
Joel Bagnal, HSC

DOJ

Kyle Sampson, CoS

Secretary Gutierrez

4:00pm – 4:30pm **Room 164** Lessons Learned: Hurricane Katrina

Participants:

White House

Fran Townsend, HSC
Joel Bagnal, HSC

DOC

Sandy Baruah, Acting Assistant Secretary for Economic Development Administration

Secretary Snow, Secretary Gutierrez, Secretary Chao, Secretary Leavitt & Director Bolten

5:30pm – 6:30pm **Roosevelt Room** Healthcare Principals

Participants:

White House

Secretary Card, CoS

Karl Rove, DCoS

Dan Bartlett, Counselor

Ben Bernanke, CEA

Al Hubbard, NEC

Candi Wolff, OLA

Claude Allen, DPC

Mike Gerson, OPSP

David Addington, OVP

Nicolle Wallace, Communications

Doug Badger, OLA

Keith Hennessey, NEC

Roy Ramthun, NEC

CMS

Mark McClellan, Administrator

THURSDAY 12 / 08 / 2005

Secretary Bodman

12:00pm – 12:15pm **Room 164** Lessons Learned: Hurricane Katrina

Participants:

White House

Fran Townsend, HSC

Joel Bagnal, HSC

DOE

Alexis Canniff De Alvarez, Deputy Director of the Office of
Electricity Delivery and Energy Reliability

Secretary Chao

12:30pm – 1:30pm **WH Mess** Lunch with Al Hubbard

Secretary Spellings

2:30pm – 2:45pm **Room 164** Office Time

2:45pm – 3:00pm **Room 164** Lessons Learned: Hurricane Katrina

Participants:

White House

Fran Townsend, HSC

Joel Bagnal, HSC

DoEd

Chris Doherty, Chief of Staff to the Deputy Secretary

3:00pm – 4:00pm **Room 164** Office Time

FRIDAY 12 / 09 / 2005

No Events Scheduled.

SATURDAY 12 / 10 / 2005

Secretary Rice, Secretary Snow, Attorney General Gonzales, Secretary Johanns, Secretary Gutierrez, Secretary Leavitt, Secretary Mineta, Secretary Nicholson, Secretary Chertoff & Director Bolten (T)

8:00am – 12:00pm

Room 350

Cabinet Level Tabletop Exercise of Government Response to an Influenza Pandemic

Participants:

White House

Steve Hadley, NSC (T)

Harriet Miers, Counsel (T)

Claude Allen, DPC (T)

Fran Townsend, HSC

Keith Hennessey, NEC

Trent Duffy, Deputy Press Secretary

John Marburger, OSTP

Kenneth Rapuano, HSC

Jeanie Mamo, Media Affairs

Carol Kuntz, OVP

Jeremy Katz, Special Assistant to the CoS for Policy

Shannon Burkhardt, Communications

DOJ

Lee Otis, Associate Deputy Attorney General

DOJ

Thomas Weimer, Senior Advisor to the Secretary

USDA

Chuck Conner, Deputy Secretary

HHS

Dr. Bruce Gellin, Director of the National Vaccine Program Office

Stewart Simonson, Assistant Secretary for Public Health Emergency and Preparedness

DOT

John Hill, Assistant Administrator for the Federal Motor Carrier Safety Administration

VA

Dr. Lawrence Deyton, Director of Public Health Strategy

DHS

Dr. Jeff Runge, Chief Medical Officer

DNI

General Michael Hayden, Principal Deputy Director

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State

Paula Dobriansky, Under Secretary for Global Affairs and Democracy

Treasury

Nada Eissa, Deputy Assistant Secretary for Microeconomics

DOD

Gordon England, Deputy Secretary

Paul McHale, Assistant Secretary for Homeland Defense

Peter Pace, Chairman of the Joint Chiefs

Brigadier General Terry Scherling, Deputy

Director for Antiterrorism/Homeland

Defense

MONDAY 12 / 12 / 2005

Secretary Leavitt

12:00pm – 1:00pm

WH Mess

Personal

Secretary Mineta

2:00pm – 3:00pm **Room 164** Office Time

3:00pm – 3:30pm **Room 164** Lessons Learned: Hurricane Katrina

Participants:

White House
Fran Townsend, HSC
Joel Bagnal, HSC

DOT
Maria Cino, Deputy Secretary
John Flaherty, CoS

3:30pm – 4:00pm **Room 164** Office Time

Secretary Bodman

3:00pm – 3:30pm **1 FL/WW** Meeting with Steve Hadley

TUESDAY 12 / 13 / 2005

Secretary Jackson

9:30am – 11:30am **Room 164** Office Time

Secretary Johanns

4:00pm – 4:45pm **CL Conf Rm** Kitchen Cabinet Meeting

Participants:

White House
Jim Connaughton, CEQ
Neil Patel, OVP
Barry Jackson, NSC
David Anderson, OMB
Megan Hauck, OLA
Peter Rowan, OLA
Michael Sommers, NEC
Greg Schildwachter, CEQ

USDA
Chuck Conner, Deputy Secretary
Dale Moore, CoS
Drew DeBerry, DCoS
Beth Johnson, DCoS
Terri Teuber, Director Of Communications

4:45pm – 6:00pm **Room 164** Office Time

December 6, 2005

MEMORANDUM FOR ANDY CARD, KARL ROVE, JOE HAGIN, and MIKE GERSON

FROM: STEVE MCMILLIN, BRIAN HOOK, and JEREMY KATZ

RE: NIGHT NOTE

Agreement Reached at WTO On Medicine. Today, WTO members finalized an important amendment, based on an agreement struck in 2003, that would allow countries to override patent rights when necessary to export life-saving drugs to developing countries that face public health crises but cannot produce drugs for themselves. Now that the amendment has been agreed to, it will be circulated to WTO Members for their domestic approval (with a deadline of Dec. 1, 2007). USTR plans to approve the amendment as soon as possible and has begun a process of consultations with U.S. industry and the Hill. For the U.S., approval would only require a notification letter from USTR Portman to the WTO, which USTR hopes to send next week. Portman's statement: "This is a landmark achievement that we hope will help developing countries devastated by HIV/AIDS and other public health crises."

Immigration. Sensenbrenner introduced his border security bill today. The 169-page bill includes many Administration-drafted provisions, including: (1) expanding the definition of aggravated felony to include all smuggling offenses and illegal entry crimes where the sentence is one year or more; (2) allowing DHS to detain specified dangerous aliens under orders of removal whose home countries won't accept them back; (3) barring aliens deportable on terrorist grounds from receiving the immigration benefit of withholding of removal; (4) increasing penalties for aliens who fail to depart when ordered removed or obstruct their removal, or who fail to comply with the terms of release pending removal; (5) barring aggravated felons from admission to the U.S.; (6) reversing the Ninth Circuit's decision to give aliens additional opportunities to needlessly hinder their removal; (7) reversing the Ninth Circuit's decision barring DHS from reinstating removal orders of aliens who illegally reenter the U.S. after having been removed (forcing the wasting of prosecutorial and judicial resources to seek new removal orders); and (8) responding to the filing of meritless appeals of removal orders by establishing a screening process for aliens' appeals of BIA decisions. The bill also includes numerous provisions designed to enhance border security. It would also make DHS's Basic Pilot employment verification system mandatory for all U.S. employers within two years.

Katrina Reallocation Package. Hubbard, Bolten, Wolff, and Powell met to discuss Cochran's proposed add-on to the Administration's reallocation package. Cochran seeks to add \$18.4 billion to the \$17.1 billion request. The extra money consists of \$11.5 billion for CDBG (for uninsured homeowners relief); \$3.9 billion for agriculture; and smaller amounts for levees, education, SSBG, etc. On CDBG, Powell believes some assistance to uninsured homeowners may be necessary to jumpstart the rebuilding effort in certain communities, though he expressed concern about the overall size of the request and that it would overcompensate many individuals. Candi assumed some compromise on this issue will be necessary in order to get a bill this year, so all parties agreed that at the appropriate time (after more Hill reconnaissance) we should engage the Hill in order to improve, rather than block, this provision. All parties agreed that the agriculture request (not tied to

the hurricanes, on top of record farm program payouts) is unacceptable and should be resisted. In addition, Cochran proposed politically awkward offsets from Iraq reconstruction and MCA.

Governor Barbour. Haley met with Hubbard, Powell, McMillin, and Grant. The Governor reported growing frustration and uncertainty about the future among coastal residents, driven in part by continued congressional inaction on funding and a perception that FEMA thinks it is “wrapping up” long before the job is done. Powell and Barbour discussed the uninsured homeowner issue at length, with Powell striking a good balance between skepticism and sympathy.

Competitiveness. DOC held its congressionally-mandated Innovation Summit today. It was organized by several trade associations (led by AEA, the Business Roundtable, Council on Competitiveness, and NAM). The Secretaries of Commerce, Education, Energy, and Labor, as well as the Director of NSF, attended along with CEOs and university presidents. Press turnout for the event was significant.

Other Issues

- *Ag/Energy -- Sec Johanns will announce Wednesday a series of energy initiatives offered by USDA. The initiatives include the appointment of an energy task force, advice on how to conserve energy on farms, and promotion of ethanol and biodiesel as alternatives to oil. When he is on the road, Sec Johanns hears a lot about energy prices from farmers. By announcing these initiatives, he will have something to point to along with other administration initiatives.*
- Agriculture Disaster Package (Sommers/NEC; Katz) – Senator Martinez introduced an agriculture disaster package on 11/17 that CBO scores at \$2.1 billion. The bill would provide disaster money for production losses that have occurred as a consequence of five hurricanes (Dennis, Katrina, Rita, Ophelia and Wilma). The bill would assist with losses to program crops, nurseries, citrus, livestock, sugar, timber, and fisheries. This proposal does not address damages incurred as a consequence of other natural disasters (drought, flood, etc). It is likely that any agriculture disaster bill will be attached to the last appropriations bill moving before Congress leaves for the year -- probably the Defense Appropriations bill. Senator Cochran is working on a spending package for ag disasters that have occurred throughout 2005. This package will spend approximately \$4 billion. All producers who have incurred a 35% loss and are in a USDA-designated disaster county will be eligible for payment. He will attempt to attach this package to the DOD Approps bill before Congress adjourns and will likely be successful. The package will be partially, but not fully, offset by cuts in other programs, potentially using some of our Katrina reallocation package as offsets. At a staff level, we have expressed our concern with this package. USDA will spend a record amount on farm programs this year and this approach is certainly excessive based on the payments being made.
- Air Traffic Control Commercialization (Sharp/DPC; Hook) – On 11/28 FAA Administrator Marion Blakey requested Federal mediation to bring the air traffic controller contract negotiations to a close. The union must agree to mediation and has not yet done so. If mediation fails (could be weeks or months), the FAA can declare an impasse and notify Congress of its intent to enforce its contract. If Congress does not act to alter the contract in 60 days, FAA can impose its terms.
- Amtrak Reform (Sharp/DPC; Hook)
- Asbestos (Ho/DPC; Hook) -
- Associated Health Plans (Leggitt/DPC; Katz)
- Avian Flu (Venkaya/HSC; Katz) –
- Bahrain FTA (Daly/NSC; Katz) – Ways and Means held a mark up of the legislation on 11/17 with an expected floor vote this week. Senate Finance held a mark up with a vote likely the week of December 12th.
- Beef (Sommers/NEC; Katz) – On 11/29, South Korea delayed an announcement on its probe into the safety of US beef, which likely delays the reopening of the Korean market to our beef products. The delay came right after a Korean agriculture group threatened to stage rallies if the government removes the ban on beef from North America. Korea is widely believed to be waiting for the Japanese market to open to US beef in mid-December before opening their market. Korea was the third largest market for US beef prior to its closure 2 years ago because of BSE concerns.
- Boeing Advocacy (Daly/NSC; Katz)
- Brazil Compulsory Licensing of HIV/AIDS Drugs (Hunter/NSC; Katz) – U.S. pharmaceutical companies Abbott, Merck, and Gilead have been in separate negotiations for months with the Brazilian Ministry of Health to reach an agreement on the supply of three AIDS drugs. On 10/10, Abbott signed an agreement with Brazil. Gilead met with the Brazilian authorities last

week and Gilead tells NSC the meeting was constructive. The Brazilians agreed to continue from Gilead proposal presented on 5/24. The Brazilian government had comments on the proposal primarily related to their desire to not link price reductions to set consumption levels. Gilead agreed to consider the request and provided immediately a counterproposal which is under evaluation at this time by the Brazilian government. The Ministry of Health has pledged to reply by this Wednesday to the Gilead counter proposal, but indicated in an initial meeting that it seemed reasonable. Gilead is cautiously optimistic.

- BSE (Sommers/NEC; Katz)
- CAFE (Sharp/DPC; Hook)
- Campaign Finance Reform (Taylor/OPA; Hook)
- Canadian Corn Dispute (Sommers/NEC; Katz) – On 11/15 Canadian Border Services ruled against the United States for dumping subsidized corn on the Canadian market. The Ontario Corn Growers Association says the U.S. subsidies are driving down the price of corn around the world, making it difficult for Canadian farmers to survive. The Ontario group filed a complaint with Canadian Border Services in September about the impact of American subsidies on Canadian farmers. The Canadian corn farmers want duties imposed to raise the price of corn in Canada, and for Ottawa to file a complaint with the WTO to force the U.S. to get rid of its subsidies. The amount of the resulting duties will be released Dec. 15, about midway into the meeting of the WTO in Hong Kong. Many view this as an effort by the Canadian government to secure rural support for their potential upcoming elections.
- *Canadian Lumber (Hunter/NSC; Katz) -- The final antidumping and anti-subsidy margins on Canadian lumber announced by Commerce today were virtually unchanged from the preliminary margins issued in June. The average combined final margin is 10.81 percent, while the preliminary figure was 10.62 percent. The U.S. industry issued a statement applauding the results and highlighting the inconsistency between Commerce's subsidy findings and the NAFTA panel's recent directive to Commerce to calculate a de minimis subsidy rate. Canada's International Trade Department issued a statement stressing that the rate announced today is significantly lower than the 20 percent rate presently collected by Customs, and asserted that prior NAFTA decisions obligate Commerce to revoke these orders. Canada will likely challenge this determination through the NAFTA panel process or in U.S. court.*
- Cement (Shirzad/NSC; Katz) – On 11/29, the Commerce Department reached a tentative agreement with the Government of Mexico to settle the long-standing antidumping case on cement. The tentative agreement would last three years and: (1) establishes a quota of three million metric tons for the first year of the agreement with growth rates in the remaining two years subject to further negotiation; (2) will result in the termination of the antidumping order when the agreement expires; and (3) will establish a duty of approximately eight percent on imports. The U.S. and Mexican negotiators will be meeting next Tuesday in Washington, and the hope is that an agreement can be finalized at that point. In the interim, Commerce will be reaching out to the U.S. industry and consumer groups to brief them on the agreement. The U.S. industry must withdraw its complaint for the agreement to take effect, and Commerce's initial conversations with the U.S. industry's counsel suggest the industry may react favorably.
- CFIUS (Daly/NSC; Katz) – On 11/25, Check Point Ltd. (the Israeli computer security company) notified Treasury that, based on unresolved compliance issues from an earlier CFIUS filing, it was withdrawing its request for a CFIUS review of its proposed acquisition of Sourcefire (a U.S. internet security company maker of anti-spyware software). Therefore, this review will not go to investigation today. Check Point is still intent on going through with the acquisition of Sourcefire and a CFIUS review following an expedited resolution of their compliance issues. However, even if Check Point and CFIUS agencies work through the unresolved compliance

issues from the earlier CFIUS filing, serious national security issues remain a challenge for their proposed acquisition of Sourcefire.

- Clear Skies (Stolpe/CEQ; Hook)
- Conflict-of-Interest-Reporting (Sharp/DPC; Hook)
- Doha (Hunter/NSC; Katz)
- Drug Reimportation (Leggitt/DPC; Katz) - OLA reports that the House Energy and Commerce subcommittee on Oversight is attempting to schedule a hearing on drug importation on Tuesday, December 13th at 1:00 pm. Apparently, Congressman Whitfield has scheduled the hearing in order to highlight the safety problems with drug importation, which includes illegal internet pharmacies. While acknowledging the friendly intent, OLA was able to convince Committee staff to change the topic of the hearing to internet sales of controlled substances that will allow us to avoid the drug reimportation issue.
- EEO-1 (Sharp/DPC; Hook) – On 11/17 the EEOC voted 3-1 to approve minor changes to the EEO-1 form. Employers use EEO-1 to report the race and ethnicity of their workforce. OMB will review the new form before it becomes final.
- Endangered Species Act (CEQ; Hook) – Interior has drafted a revision of the ESA regulations and is beginning the process of vetting the draft with EOP and engaging Commerce, which also has ESA authorities. CEQ will need to referee the interagency struggle for a common approach to regulations, and CEQ may also need to harmonize the content of the rules with the Congressional debate.
- Energy (Hannegan/NEC; Katz)
- Farm Bill (Sommers/NEC; Katz) – Hubbard/NEC hosted a meeting on 11/30 with Johanns, Wolff, and other EOP staff to discuss the provision in the Senate reconciliation bill extending the current Farm Bill through 2011 (as a budgetary baseline gimmick). The House continues to strongly oppose this provision, with our support. In case that support wanes, alternatives were discussed including persuading the Senate Budget Committee to provide budget baseline relief to Chambliss, pursuing non-Farm Bill savings (many already rejected by Congress), or even forgoing ag-related savings in reconciliation to avoid what Johanns considers the greater harm of extending the current Farm Bill.
- Federal Sentencing Guidelines (Ho/DPC; Hook) – The Supreme Court has declined to confront the question of retroactive application of its decision in *Booker v. U.S.* limiting federal sentence enhancements based on facts not found by a jury. The Court denied review in 11 cases on the issue, including one case in which it had sought the Solicitor General's views. As usual, there was no explanation for the denials. The Solicitor General had argued that *Booker* should not be applied retroactively, because it failed the "new rule" test of the Supreme Court's 1989 decision in *Teague v. Lane*.
- Flood Insurance (Warsh/NEC; Katz)
- Florida Everglades (Hannegan/CEQ; Hook)
- FMLA (Sharp/DPC; Hook)
- GSEs (Warsh/NEC; Katz)
- *Great Lakes Outreach (Kathy/Khary) – Connaughton and Maggie met with Chicago Mayor Daley to discuss the Great Lakes Collaboration. The Mayor is requesting new federal money for the Great Lakes region as a new announcement. We shared the list of federal commitments with him and are continuing to work with his staff and EPA on the announcement of near term actions for the Great Lakes.*
- Health Care Big Ideas (Ramthun/NEC; Katz)

- Health IT (Leggitt/DPC; Katz) – DPC plans to meet with OMB and HHS this week to discuss a “checklist” mapping out deliverables over the next year to ensure we continue forward progress on achieving the HIT goals for CY 2006 and beyond.
- Indian Trust/Cobell (Ho/DPC; Hook) – On 11/15 the Court of Appeals for the D.C. Circuit ruled that the district court owes substantial deference to Interior's proposed \$335 million accounting plan (and may not impose Judge Lamberth's \$12 billion substitute).
- Katrina Reallocation Package (Kaplan/OMB; McMillin)
- MCC (Shirzad/NSC; Katz)
- Medicaid Clawback (Ramthun/NEC; Katz)
- Medicaid Commission (Ramthun/NEC; Katz)
- Medicare Prescription Drugs (Ramthun/NEC; Katz)
- Medical Liability (Ho/DPC; Hook)
- Methamphetamine (Leggitt/DPC; Katz)
- Microsoft (Altbach/NSC; Katz) – On 11/30 the Korean Fair Trade Commission (KFTC) for the second time delayed its decision in its investigation of Microsoft’s business practices. A decision is expected on Wednesday. We understand that Microsoft has been in contact with the KFTC and believes it may be found liable, but will receive a remedy similar to that announced in the U.S. Justice Department proceedings. If that occurs, Microsoft would be unlikely to challenge the KFTC’s decision.
- Municipal Finance (Warsh/NEC; Katz)
- NASA (Russell/NEC; Katz) - NEC convened an EOP-only meeting on 12/2 to clarify options with Hubbard, Hadley, Bolten and Marburger. Hadley will meet privately with Griffin later this week, followed by one more principals meeting to reach a common understanding on options to present to the President.
- Native Hawaiian (Ho/DPC; Hook)
- NCLB (Medina/DPC; Hook)
- Ninth Circuit Court of Appeals Split (Ho/DPC; Hook) – DOJ has sent a views letter to Chairman Sensenbrenner expressing support for splitting the U.S. Court of Appeals for the Ninth Circuit. In its letter, DOJ explains that "dividing the 9th Circuit would improve the administration of justice," as the "sheer size of the 9th Circuit has led to serious administrative difficulties that have adversely affected its ability to render justice efficiently."
- *OMB Risk Assessment Plan (Kaplan/OMB; Katz) -- OMB is preparing to issue a bulletin for comment on December 12 that will require agencies to provide more accurate and transparent risk assessments. OMB-OIRA is concerned that agencies sometimes deem a substance a risk (famous recent examples include levels of arsenic in drinking water or mercury in tuna) without providing the underlying assumptions about the level of acceptable risk such that the risk then becomes overstated. There will likely be agency and/or environmental-lobby resistance to the bulletin under the view that the White House is interfering with the agencies' scientific expertise.*
- OPM (Ramthun/NEC; Katz) - The Office of Personnel Management intends to terminate the Postmasters' Benefit Plan from participation in the Federal Employees Health Benefits Program effective for 2006. This plan has not met OPM's performance standards for financial management of the plan. Recently OPM became aware of issues concerning the Plan’s ability to fulfill claims obligations and manage resources prudently and appropriately. The plan sponsor, the League of Postmasters, has 15 calendar days to respond to the concerns outlined in the notice and may request a hearing on the issues. The plan has very low enrollment (approximately 8,500 federal employees). OPM wants to make sure the plan doesn't accept any new enrollees for 2006 and give current enrollees time to choose a new plan. OPM appears to

be taking appropriate steps to address this issue. The OPM Director says they're reviewing additional info from the plan and will decide in the morning whether to issue a public notice of intent to terminate letter.

- Patriot Act (Mitnick/HSC; Hook)
- *Pensions (Blahous/NEC; Katz) – We are receiving encouraging modeling results on possible tweaks to strengthen the House pension bill. The bottom line is they are not that far from improving on current law, with just a few tweaks. Two corrections they might be willing to consider as technical -- mortality tables that accurately reflect current/projected longevity improvements, and basing the yield curve on appropriately high-quality bonds -- appear to close most of the gap. It appears that a compromise on the transition period (reducing rather than eliminating) will likely be enough to get us there. We should have more information by the time of Al's Thursday meeting with Chairman Boehner.*
- Personal Stockpiles (Rapuano; HSC; Hook)
- *Postal Reform (Sharp/DPC; Hook) – USPS reported today it concluded FY 05 with a net income of \$1.4 billion on record revenues of \$70 billion and record volume of 212 billion pieces of mail. Standard Mail, which businesses use to reach consumers, outpaced First-Class Mail for the first time in history with 101 billion pieces of Standard Mail compared to 98 billion in First-Class Mail. First-Class Mail grew slightly in 2005 after three years of decline. On 11/15 Deputies met to discuss postal reform legislation. The House passed an expensive bill in July, but the Senate bill has stalled because of a disagreement between Senators Collins and Bond over a rate-setting provision. The Administration has supported reform, but does not particularly like either bill and included a senior advisors' veto threat in the House SAP against the bill's price tag. The Administration has been assured that these and other objectionable provisions will be removed in conference, but there is no clear plan for making these corrections. Deputies agreed that we should not intervene to settle the Senate dispute at this time, given the lack of urgency to move the postal bill and other pressing issues that Senator Bond is associated with.*
- Physician Payments (Ramthun/NEC; Katz)
- Prison Industries (Ho/DPC; Hook)
- Rice (Shirzad/NSC; Katz) - The WTO Appellate Body on 11/29 affirmed a panel decision that found the Mexican antidumping investigation on U.S. rice exports, as well as portions of Mexico's antidumping and countervailing duty laws, are WTO inconsistent. Mexico is an important and growing market for U.S. rice, with exports of approximately \$183 million in 2004. Mexico cannot appeal the decision announced today and must now implement the Appellate Body decision or face possible retaliation by the United States.
- Saudi Arabia WTO (Hunter/NSC; Katz)
- SBA Loans (Warsh/NEC; Katz)
- Science (Russell/NEC; Katz) - Al and Keith led a discussion with OSTP and CEA on 11/28 with a Principals meeting planned for early next week to discuss policy options in response to the National Academies report “Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future”, including targeting selected areas of physical science research for an increase in budget, making it easier for high-skilled workers to immigrate, and improving math and science education. NEC is planning to reconvene Principals on Wednesday in preparation for the brief with the President on December 13th.
- Social Security (Blahous/NEC; Katz)
- Steel (Shirzad/NSC; Katz) - The Commerce Department announced on 12/1 that they will initiate three antidumping cases on imports of carbon steel wire rod from China, Germany, and Turkey. The value of imports from these three countries in 2004 was approximately \$304

million, \$111 million, and \$302 million, respectively. Assuming the U.S. International Trade Commission preliminarily finds that the U.S. domestic industry is injured, these cases will likely take about a year to complete.

- Steroids (Ho/DPC; Hook) – On 11/14 Major League Baseball and its player’s union announced a tough new steroids policy. The new plan is essentially what Commissioner Selig proposed earlier this year: a 50-game suspension for a first offense, a 100-game suspension for a second offense, and a lifetime ban for a third offense. After a two-year period, players could appeal a lifetime ban. Although discussions on the Hill between Commissioners and Members are ongoing, the agreement may preempt the passage of any steroid bills.
- Stem Cells (Levin/DPC; Hook)
- Strengthening America’s Community Initiative (Streeter/DPC; Hook)
- TANF (Streeter/DPC; Hook)
- Tax Reform (Hennessey/NEC; Katz)
- Telecom (Russell/NEC; Katz)
- TRIA (Warsh/NEC; Katz) - OLA and NEC met with House Leadership staff. The Speaker shares the Administration’s views on terrorism risk insurance, but agreed to give floor time the week of December 12 to the Oxley-Baker bill, which would expand the Federal backstop and increase taxpayer exposure. The Speaker’s staff privately encouraged WH staff to transmit a very tough SAP, but recognized that Oxley-Baker would receive very strong support on the House floor. The Administration and Senator Shelby are explaining to outside groups that the only path to a TRIA bill this year is if the House takes up the Senate bill which passed by UC.
- Tricare Rx (Leggitt/DPC; Katz) – OMB has indicated that it appears DOD will present a discretionary 2007 proposal to align Tricare benefits for retirees ages 38-65 with copays and deductibles for retired FEHBP participants. Currently, these individuals pay on average \$680 a year versus \$3,700 for civilian and other private plans.
- Uncompensated Care/Katrina (Ramthun/NEC; Katz)
- Union Officer Conflict of Interest Reporting, LM-30 (Sharp/DPC; Hook)
- Veterans (Leggitt/DPC; Katz) - VA will be releasing DOD estimates on traumatic injuries resulting from Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF) late next week. DOD estimates there are 5,000 service members who have received traumatic injuries. This information will be released in conjunction with implementation of a new benefit for injured service members. The benefit pays up to \$100,000 for injuries such as loss of limb, sight or other traumatic losses. The benefit is retroactive for members who suffered a qualified injury in OEF or IOF.
- Voting Rights Act (Ho/DPC; Hook)
- Vouchers (Streeter/DPC; Hook)
- White House Conference on Aging (Leggitt/DPC; Katz)
- Workforce Training in the Gulf Region (Sharp/DPC; Hook) – On 11/30 DOL announced the "Pathways to Construction Employment Initiative" to help workers in areas impacted by the hurricanes enter a career in construction through outreach, skills assessment, and placement in apprenticeship or pre-apprenticeship programs. It will target the residential, commercial, industrial, and heavy highway construction sectors, as well as shipbuilding and heavy marine construction. Grants of \$5 million each will be awarded to the Louisiana Community and Technical College System, working in close partnership with the Louisiana Department of Labor, and the Mississippi Department of Employment Security, working in close partnership with the Mississippi State Board for Community and Junior Colleges.