

Semiannual Report to Congress

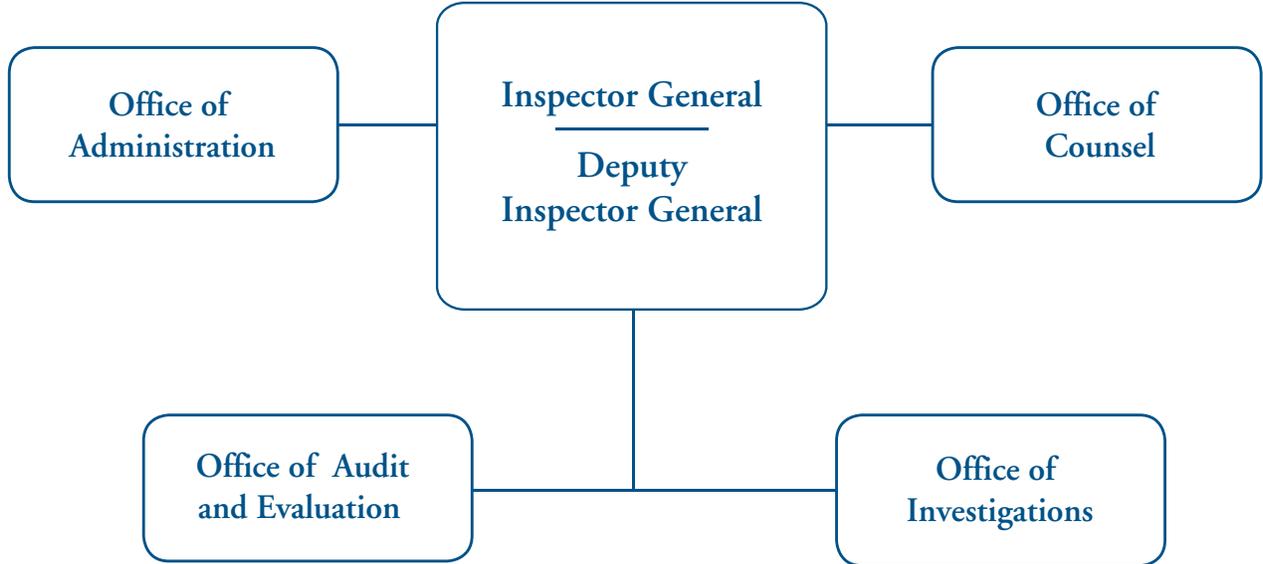
September 2011



U.S. Department of Commerce
Office of Inspector General



Office of Inspector General



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About the Cover

The cover contains OIG's new logo, which echoes the Commerce seal in form and iconography and abstractly represents the Department's diverse agencies. The gear symbolizes innovation, technology, and entrepreneurship; the flag evokes the Department's important international and domestic missions. In addition to alluding to the nautical origins of Commerce, the lighthouse acknowledges OIG's responsibility to shine light on departmental programs and operations.

Photos courtesy U.S. Department of Commerce, U.S. Census Bureau, U.S. General Services Administration, and National Aeronautics and Space Administration

**Office of Inspector General
Semiannual Report to Congress**

September 2011

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FROM THE INSPECTOR GENERAL

I am pleased to present the Department of Commerce Office of Inspector General's (OIG) *Semiannual Report to Congress* for the 6 months ending September 30, 2011.

This report summarizes work we completed and initiated during this semiannual period on a number of critical departmental activities. Over the past 6 months, our office issued 10 audit and evaluation reports addressing programs overseen by the Economics and Statistics Administration, National Oceanic and Atmospheric Administration, National Telecommunications and Information Administration, U.S. Patent and Trademark Office, and the Department itself. Most notably, our oversight of the 2010 Census, which counted nearly 309 million people in the largest peacetime mobilization in American history, drew to a close with the publication of our final report in June.

During the final months of this reporting period, we began to identify the top management challenges facing the Department in FY 2012. Two new-cross cutting goals focus on the President's initiatives for economic recovery and job creation: (1) promote exports, stimulate economic growth, and create jobs, and (2) reduce costs and improve operations to optimize resources in a period of constrained budgets. The remaining three challenges are longstanding

departmental concerns: information technology security, acquisitions and contracting, and NOAA's satellite program. These challenges will be issued in a separate report and included in the Department's November 2011 *Performance and Accountability Report* and the March 2012 *Semiannual Report to Congress*.

We look forward to working with the Department and with Congress in the months ahead to meet these and other challenges facing Commerce as it fulfills its complex mission. We recognize former Secretary and now Ambassador Locke for his leadership of the Department and his effort to set the proper tone at the top. We would also like to thank Acting Secretary Blank for her stewardship of the Department over the past several months as we transitioned to a new Secretary. We also thank senior officials throughout the Department and the members of Congress and their staffs for their support of our work during this reporting period and for their receptiveness to our recommendations for improving Commerce operations.



Todd J. Zinser
Inspector General

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FOREIGN & DOMESTIC
COMMERCE

TOP MANAGEMENT CHALLENGES FOR THE DEPARTMENT

Offices of inspector general at major agencies are required by law to issue an annual report highlighting what they consider, from their oversight perspective, the most significant management challenges facing their agencies. On September 30, 2011, the Department of Commerce OIG issued the draft fiscal year (FY) 2012 *Top Management Challenges Facing the Department of Commerce* report to the Acting Secretary for response.

The five major challenges we identified for FY 2012 represent cross-cutting issues with a focus on the President's most important goals. The first two challenges in the report are new additions this year; the remaining three challenges are longstanding departmental concerns.

1. Effectively Promote Exports, Stimulate Economic Growth, and Create Jobs

The Department is tasked with the critical mission to promote the export of American goods, stimulate economic growth, and create jobs while simultaneously enforcing trade laws and protecting U.S. trade interests. This challenge highlights the critical role the Department plays in implementing the President's National Export Initiative and Export Control Reform Initiative. It also discusses unique challenges facing the Bureau of Economic Analysis, Bureau of Industry and Security, Economic Development Administration, International Trade Administration, National Institute of Standards and Technology, National Oceanic and Atmospheric Administration, and U.S. Patent and Trademark Office. Key issues include:

- implementing administration initiatives with effective interagency partnerships;
- enhancing Commerce unit operations to help promote trade and job creation;

- correcting unfair trade practices and protecting our national security through enforcement activities; and
- improving regulatory reviews to protect and promote public interests.

2. Reduce Costs and Improve Operations to Optimize Resources for a Decade of Constrained Budgets

The Department must reduce operating costs in the face of an extended period of constrained federal budgets, including federal funds awarded to grantees. Key issues include:

- implementing and expanding initiatives to improve operational efficiency and economy;
- strengthening oversight of improper payments for additional recoveries;
- reducing the risk of misuse, abuse, or waste of federal funds awarded to grantees;
- continuing oversight of the Broadband Technology Opportunities Program;
- applying lessons learned from 2010 decennial to planning for the 2020 Census to avoid cost overruns; and
- protecting against cost overruns and schedule slippages for headquarters renovation.

3. Strengthen Department-Wide Information Security to Protect Critical Information Systems and Data

The Department depends on information security systems to deliver its critical mission. This challenge discusses the Department's progress in enhancing IT security workforce training and improving collabora-

tions, while it faces the perpetual challenge of recurring security weaknesses. Key issues include:

- continuing work to improve IT security by addressing ongoing security weaknesses and
- implementing security policy effectively through consistent, proactive management.

4. Manage Acquisition and Contract Operations More Effectively to Obtain Quality Goods and Services in a Manner Most Beneficial to Taxpayers

This challenge discusses the Department's growing contract activities and costs and its need to improve IT investments, which account for about 25 percent of the Department's total annual budget. Key issues include:

- developing and retaining a qualified acquisition workforce;
- ensuring high ethical standards in the acquisition workforce and in procurement practices;
- strengthening processes to govern the appropriate use of high-risk contracts and to maximize competition;
- achieving efficiency and savings in acquiring goods and services, and improving oversight and tracking of contract savings; and
- delivering cost savings and efficiency on major IT investments.

5. Manage the Development and Acquisition of NOAA's Environmental Satellite Systems to Avoid Launch Delays and Coverage Gaps

This challenge discusses the satellite programs' long history of cost overruns and schedule delays, progress made in reorganizing these programs, and actions needed to prevent or mitigate the impact of satellite coverage gaps. Key issues include:

- preventing a near-term polar satellite coverage gap between NOAA-19 and the National Polar-orbiting Operational Environmental Satellite System (NPOESS) Preparatory Project (NPP);
- ensuring solid program management and systems engineering principles are applied to mitigate Joint Polar Satellite System (JPSS) coverage gaps; and
- maintaining robust program management and systems engineering disciplines to prevent geostationary coverage gaps.

The entire *Top Management Challenges* final report, including Department management comments, will appear in the Department's November 2011 *Performance and Accountability Report*.

WORK IN PROGRESS

The following OIG audits and evaluations were initiated or underway during this reporting period:

Department-Wide

Web Application Security

Determine whether the Department's web-based applications, which provide various important services to the public, are properly secured to minimize the risk of cyber attacks.

Information Security

Audit the Department's information security program and practices, to determine whether (1) implemented security controls adequately protect the Department's systems and information and (2) continuous monitoring is keeping authorizing officials sufficiently informed about the operational status and effectiveness of security controls.

FY 2011 Financial Statement Audits

Determine whether the financial statements for the Department and USPTO are fairly stated in accordance with generally accepted accounting principles. These audits are performed by an independent public accounting firm under OIG oversight.

Implementation of Acquisition Savings Initiatives

Audit the Department's implementation of the key initiatives created by OMB to control contract spending and reduce risk. Assess the validity of any reported savings or cost reductions.

Acquisitions Workforce

Assess the adequacy of Commerce's plan for determining its acquisition workforce needs and its progress in addressing those needs. Examine the Department's methods for (1) determining the necessary skills and competencies for its workforce; (2) addressing gaps in hiring and developing its workforce; and (3) identifying programs, policies, and practices to ensure a sufficient workforce.

Purchase Card Controls

Determine whether the Department has adequate transaction-level internal controls over purchase card transactions. Examine results of Commerce units' purchase card reviews to understand any improvement initiatives they are implementing.

Economics and Statistics Administration

2020 Decennial Census Planning

Monitor early 2020 planning to identify methods for improving the design of the 2020 Census, focusing on the ways in which the bureau's evaluation of the 2010 Census will inform 2020 design.

Map and Address Database

Conduct a review of Census's procedures for updating its master address file and map database, review decennial census data files to identify trends or anomalies, and assess the bureau's progress toward meeting the 2010 geographic initiative.

National Oceanic and Atmospheric Administration

Fisheries Enforcement Activities

Continue our nationwide review of NOAA's progress in implementing the corrective actions it planned in response to our January 2010 *Review of NOAA Fisheries Enforcement Programs and Operations*.

Approach in Defining and Reporting on Its Asset Forfeiture Fund (AFF)

Review NOAA's efforts to address issues related to the AFF. Determine whether NOAA has properly identified the assets that make up the AFF, defined allowable uses for these assets, and developed controls for collecting and distributing them.

Management of Cost-Plus-Award-Fee Contracts

Determine whether (1) NOAA's decisions related to award-fee ratings and payments are properly supported and (2) NOAA effectively monitors award-fee plans and contractor performance.

National Telecommunications and Information Administration

Third Annual Audit of the Public Safety Interoperable Communications (PSIC) Grant Program

Conduct third annual audit of the PSIC grant program. Assess NTIA's administration of the program and report results to Congress, as required by section 2201 of Implementing Recommendations of the 9/11 Commission Act of 2007 (Title XXII, P.L. 110-53).

PSIC Program Costs and Equipment

Audit selected states and territories that were awarded PSIC grants to determine whether (1) costs incurred by grantees are allowable and in accordance with grant requirements; (2) grantees are meeting their matching share requirements; (3) equipment purchased by the grantees has been tested properly, operates effectively, and improves operability; and (4) grantees with an approved extension are on schedule to meet the September 30, 2012, deadline for completing their investments.

U.S. Patent and Trademark Office

Patent Hoteling Program (PHP)

Audit the PHP, USPTO's largest telework program, to determine (1) the extent to which USPTO's policies and their implementation provide adequate management controls for the program, (2) how the productivity of the program's participants is measured, and (3) how successfully USPTO has achieved its stated savings through this program.

American Recovery and Reinvestment Act

NIST's Oversight of Recovery Act Construction Grants

NIST received \$180 million of Recovery Act funds to grant awards for the construction of research science buildings. As a result of this, 16 projects were funded that will launch more than \$400 million in construction projects. Assess NIST's oversight of the awards, including (1) policies and procedures it has developed; (2) its personnel and monitoring systems; (3) monitoring activities it has implemented; and (4) whether construction projects are being built according to their original proposals.

NIST's Oversight of Recovery Act Construction Contracts

Audit Recovery Act contracts totaling \$174 million awarded for NIST's own facility construction. Determine whether NIST has contracting practices in place that comply with laws and regulations, including Recovery Act requirements, and policies and procedures to effectively monitor these contracts. Determine whether acquisition staff is communicating project issues with NIST management.

NTIA's Management and Oversight of the Broadband Technology Opportunities Program (BTOP) Booz Allen Hamilton (BAH) Contract

Audit a \$99 million contract awarded to BAH to provide program administration, application review, communications and outreach, grants administration, post-award technical assistance, and management support for BTOP. Determine (1) how NTIA ensures the receipt and quality of the goods and services it is paying for, (2) what specific controls exist to verify invoices and payment processes, and (3) how NTIA mitigates risks associated with the time-and-materials contract and task orders.

NTIA's Monitoring of BTOP Grant Awards

Review the effectiveness of NTIA's monitoring processes for BTOP awards that total \$3.9 billion in federal funds and result in projects that will have a value of approximately \$5.3 billion. Determine the reasonableness of monitoring levels, activities, and

tools, as well as the processes to adjust the monitoring levels of specific recipients if necessary.

NTIA's Processes for BTOP Grantees' Matching Share

Determine whether NTIA has adequate processes in place to ensure that BTOP grantees' matching shares of approximately \$1.4 billion (1) come from nonfederal funds and (2) meet both administrative requirements and the terms and conditions of the individual awards (a sample of 25 NTIA BTOP grantees was selected to determine reasonableness, allowability, and allocability of grantee match).





DEPARTMENT-WIDE MANAGEMENT

The U.S. Department of Commerce works to help American companies become more innovative and successful at home and more competitive abroad. It creates the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship.

The Department accomplishes its mission by providing national and local weather services, developing key economic and demographic data (including the decennial census), advancing technological and scientific innovation, protecting and restoring environmental resources, promoting international trade, and supporting local, regional, and national economic development. These activities impact U.S. business and industry daily and play a critical role in the nation's economic well-being.

Additional Multimillion Dollar Guilty Pleas in Price-Fixing Case

In September 2011, six Japanese companies agreed to plead guilty and pay criminal fines, subject to court approval, totaling \$46.8 million for their roles in a conspiracy to fix certain fees in the provision of freight forwarding services for air cargo shipments from Japan to the United States between 2002 and 2007. Previously, in the September 2010 *Semiannual Report to Congress* (page 17), we reported that six European companies agreed to plead guilty to violating the Sherman Antitrust Act by conspiring to create and fix fees related to export surcharges, currency adjustments, and peak season surcharges. As a result of the most recent plea agreements, 12 companies have now agreed to plead guilty, resulting in a total of approximately \$97 million in criminal fines. This investigation is part of an ongoing joint investigation into the freight forwarding industry by the Department of Justice's Antitrust Division–National Criminal Enforcement Section and the Federal Bureau of Investigation's Washington Field Office.

Audits of Commerce Fund Recipients by Independent Auditors

In addition to undergoing OIG-performed audits, certain recipients of Department of Commerce financial assistance are periodically examined by state and local government auditors and by independent public accountants. OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, sets forth audit requirements for most of these audits. For-profit organizations, including those that receive Technology Innovation Program funds, are audited in accordance with *Government Auditing Standards*. In addition, organizations that received Advanced Technology Program (ATP) funds are audited in accordance with *NIST Program-Specific Audit Guidelines for ATP Cooperative Agreements*, and organizations that received Broadband Technology Opportunities Program funds are audited in accordance with the *Program-Specific Audit Guidelines for the Broadband Technology Opportunities Program*, issued by the Department.

We examined 187 audit reports during this semiannual period to determine whether they contained audit findings related to Commerce programs. For

90 of these reports, the Department acts as an oversight agency and monitors the audited entity's compliance with OMB Circular A-133, *Government Auditing Standards*, or program-specific reporting

requirements. The other 97 reports cover entities for which other federal agencies have oversight responsibility. We identified nine reports with material findings related to the Department of Commerce.

Report Category	OMB A-133 Audits	Program-Specific Audits	Total
Pending (April 1, 2011)	43	39	82
Received	148	43	191
Examined	172	15	187
Pending (September 30, 2011)	19	67	86

The following table shows a breakdown by operating unit of approximately \$668 million in Commerce funds audited.

Agency	Funds
Economic Development Administration	\$101,594,595
International Trade Administration	278,445
National Institute of Standards and Technology*	38,231,047
National Oceanic and Atmospheric Administration	72,006,677
National Telecommunications and Information Administration**	44,873,751
Multiagency	410,881,784
Total	\$667,866,299

* Includes \$ 10,032,590 in program-specific audits. A-133 audits account for the remaining amount of \$28,198,457.

**Includes \$28,021,513 in program-specific audits. A-133 audits account for the remaining amount of \$16,852,238.

We identified a total of \$7,011,676 in the federal share of questioned costs and \$169,358 in funds to be put to better use. In most reports, the subject programs were not considered major programs; thus, the audits involved limited transaction and compliance testing against laws, regulations, and grant terms and conditions. The nine reports with Commerce findings are listed in Table 7-a on page 38.



ECONOMICS AND STATISTICS ADMINISTRATION

The **Economics and Statistics Administration** analyzes economic activity, formulates policy options, and produces a major share of the U.S. government's economic and demographic statistics. The chief economist monitors and analyzes economic developments and directs studies that have a bearing on the formulation of economic policy. ESA has two principal organizational units:

Census Bureau—Publishes a wide variety of statistical data about the nation's people and economy, conducting approximately 200 annual surveys in addition to the decennial census of the U.S. population and the quinquennial census of industry.

Bureau of Economic Analysis—Prepares, develops, and interprets national income and product accounts (summarized by the gross domestic product) as well as aggregate measures of international, regional, and state economic activity.

2010 Census: Cooperation Between Partnership Staff and Local Census Office Managers Challenged by Communication and Coordination Problems (OIG-11-023-I)

Because Recovery Act funding was used to supplement the Partnership Program, a summary of this report appears in the Recovery Act oversight section, on page 28.

Census 2010: Final Report to Congress (OIG-11-030-I)

The Supplemental Appropriations Act of 2008 gave the Census Bureau an additional \$210 million to help cover spiraling 2010 decennial costs stemming from the bureau's problematic efforts to automate major field operations, major flaws in its cost-estimating methods, and other issues. The act's explana-

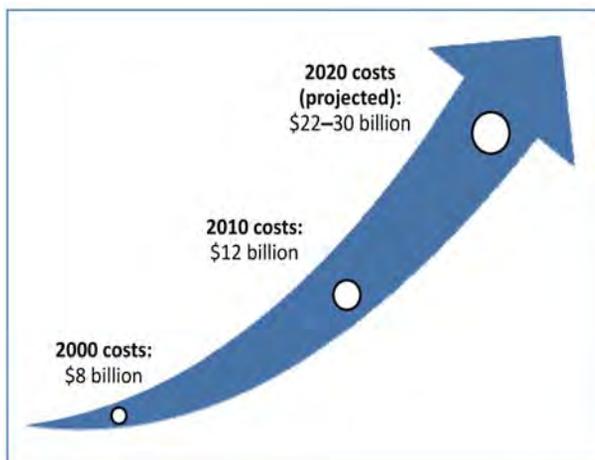
tory statement required the bureau to submit to Congress a detailed plan and timeline of decennial milestones and expenditures, as well as a quantitative assessment of associated program risks, within 30 days. OIG was required to provide quarterly reports on the bureau's progress against this plan.

Our quarterly reports to Congress, which began in August 2009, concluded with the issuance of this, our sixth and final report. As such, it includes a summary of our findings over the last decade related to the Census Bureau's management of the decennial census. The bureau faced challenges in the following areas:

- maintaining senior management continuity;
- managing information technology requirements and its large field data collection contract;
- ensuring transparent and effective budgeting processes and decision making;

- scheduling operations effectively and implementing project management controls and contingency plans;
- budgeting for and hiring a workforce appropriately sized for each operation;
- providing consistent training to a large workforce and having that workforce conduct operations according to procedures;
- maintaining sufficient quality control over its field operations;
- managing and updating its maps and addresses;
- eliminating duplicate enumerations while counting the population experiencing homelessness; and
- addressing respondent reluctance and enumerator safety.

Increasing Lifecycle Costs for Decennial Census (2000-2020 Projected)



Source: OIG analysis of U.S. Census Bureau information

Costs for the 2010 decennial exceeded \$12 billion. Considering current population trends and likely cost growth, the Government Accountability Office has estimated that if 2010 were used as a model for the next census, the total price tag could rise to as high as \$30 billion; the bureau's own estimate is \$22 billion. By either estimate, such cost growth is simply unsustainable. Census must make fundamental changes to the design, implementation, and management of the decennial census to obtain a quality

count for a reasonable cost. In order to decide on, design, and implement these changes, this effort must start now. This decade's early years are critical for setting the course for how well the 2020 count is performed and how much it will ultimately cost.

In our view, the Census Bureau faces six challenges it must effectively address for 2020. These challenges necessitate changing the decennial design to contain costs, increase accuracy, and reduce the burden on respondents. Importantly, they also call for fundamental improvements in decennial planning, management, testing, and transparency to help ensure that the missed opportunities of previous decades are not repeated in 2020:

1. Revamp cost estimation and budget processes to increase accuracy, flexibility, and transparency.
2. Use the Internet and administrative records to contain costs and improve accuracy.
3. Implement a more effective decennial test program using the American Community Survey as a test environment.
4. Effectively automate field data collection.
5. Avoid a massive end-of-decade field operation through continuous updating of address lists and maps.
6. Implement improved project planning and management techniques early in the decade.

Over the coming decade, OIG will monitor how well the bureau addresses these challenges.

Congressional Testimony

On April 6, 2011, the Inspector General testified on the lessons learned from the 2010 Census and the management challenges facing the Department for the 2020 Census. In describing oversight of decennial planning and execution, the Inspector General noted Census Bureau successes and missed opportunities.

Among its successes were a shortened survey with only 10 short-form questions for easier response and a strategic communications campaign, which con-

“This decade’s early years are critical for setting the course for how well the 2020 count is performed and how much it will ultimately cost.”

IG testimony before a U.S. Senate Homeland Security and Governmental Affairs Subcommittee, April 6, 2011

tributed to a noteworthy mailback participation rate of 74 percent nationally. The bureau also made its first use of computer-automated field data collection for a decennial census. However, plans for automated field data collection had to be greatly curtailed because of setbacks developing the handheld computer. This necessitated late-stage preparations for pen-and-paper nonresponse followup, which led to major cost escalation, disruption of workflow, and high operational risk. Because of these circumstances and cost estimation weaknesses, the lifecycle cost for the 2010 decennial—originally estimated at more than \$11 billion—reached a total exceeding \$12 billion.

The Inspector General acknowledged that the bureau is implementing an ambitious program to evaluate the quality of the 2010 decennial counts, as well as the design, methods, processes, and operations. He recommended that Census take full advantage of the results to build upon its success and overcome shortcomings as it plans and designs the 2020 Census. He concluded his testimony by outlining the six top management challenges for the 2020 census, which are further elaborated in our final report to Congress (OIG-11-030-I) and summarized on page 11 of this report. His testimony’s seventh challenge—establish a term for the Census Bureau director position that spans administrations—would require action by Congress rather than the Census Bureau.

Census Demands Multimillion Dollar Payment from Contractor

As summarized in the March 2011 *Semiannual Report to Congress*, in November 2010, the Census Bureau issued a contracting officer’s final decision letter demanding a substantial repayment from one of

its contractors. An OIG audit had initially discovered irregularities leading to a report questioning approximately \$3 million. This led to an investigation that uncovered further losses. Questioned costs arose from a variety of failings, including failure to meet Small Business Administration 8(a) subcontracting provisions, failure to obtain required approvals for subcontract billings, and billing labor rates and categories that were unauthorized and/or in excess of authorized rates. This case warrants further reporting because of two significant issues that we have identified in completing our final analysis of this case. This case marks the first instance where an OIG investigation has resulted in Census pursuing resolution through administrative contract dispute resolution. Additionally, this case revealed that, Department-wide, there is a fundamental systemic weakness in that contract data and payment information are not integrated into a standardized, automated system. OIG found that contract management and investigation of the alleged fraud was considerably impeded because contracting documents and claims data were maintained in hard copy and had to be manually entered into a database to analyze the data. Had this material been available in a usable, automated format, Census could have managed the contract better—and it would have likely cut investigative time significantly, potentially allowing a greater recovery for the government.

Department Debars Contractor—First Debarment in 16 Years Department-wide

Effective April 17, 2011, a former Census Bureau contractor was debarred by the Department for three years, marking the first debarment by the Department in 16 years. In our March 2008 *Semiannual Report* (page 26), we noted the contractor’s conviction in U.S. District Court for the District of Columbia for conspiracy to launder monetary instruments. In our March 2009 *Semiannual Report* (page 50), we noted that this individual was sentenced to 9 years’ incarceration and ordered to serve 2 years’ supervised probation upon release. The debarment resulted from coordination among OIG, the Office of Acquisition Management, and the Office of General Counsel.

Former BEA Accountant Convicted of Conspiracy and Multiple Fraud Charges

In June 2011, a Bureau of Economic Analysis accountant, who retired days after being advised that an indefinite, unpaid suspension was being proposed pursuant to our investigation, was convicted by a jury in the U.S. District Court of the District of Columbia on charges of conspiracy, bank fraud, wire fraud, aggravated identity theft, and obstruction of justice. This investigation was conducted jointly with the Internal Revenue Service, which was investigating the BEA accountant in connection with a tax evasion investigation against a Washington, DC, sports manager. The crimes were not related to BEA or the accountant's work for BEA. The former BEA accountant faces 21 to 27 months' incarceration, according to sentencing guidelines, and was scheduled for October 2011 sentencing.

Census Employee Removed, Sentenced, and Ordered to Pay Restitution for False Statements

In September 2011, a Census Bureau employee was removed from Census employment after being sentenced to five years' probation and ordered to pay restitution in the amount of \$27,622. The former Census employee pled guilty to one count of violating 18 U.S.C § 1012 (a change from a prior plea—see below), which prohibits false statements to the U.S. Department of Housing and Urban Development. Our investigation found evidence that the former Census employee failed to report Census income, which resulted in the individual improperly receiving \$27,622 in Section 8 housing benefits. As previously reported in the March 2011 *Semiannual Report* (page 24), the former Census employee had pled guilty to one count of violating 18 U.S.C. § 1001, which prohibits false official statements generally, and agreed to pay \$27,622 in restitution to the government.



INTERNATIONAL
TRADE
ADMINISTRATION

INTERNATIONAL TRADE ADMINISTRATION

The International Trade Administration strengthens the competitiveness of U.S. industry, promotes trade and investment, and ensures fair trade through the rigorous enforcement of our trade laws and agreements. ITA works to improve the global business environment and helps U.S. organizations compete at home and abroad. ITA is organized into four distinct but complementary business units:

U.S. and Foreign Commercial Service—Promotes U.S. exports, particularly by small and medium-sized enterprises, and provides commercial diplomacy support for U.S. business interests around the world.

Manufacturing and Services—Strengthens U.S. competitiveness abroad by helping shape industry-specific trade policy.

Market Access and Compliance—Assists U.S. companies and helps create trade opportunities through the removal of market access barriers.

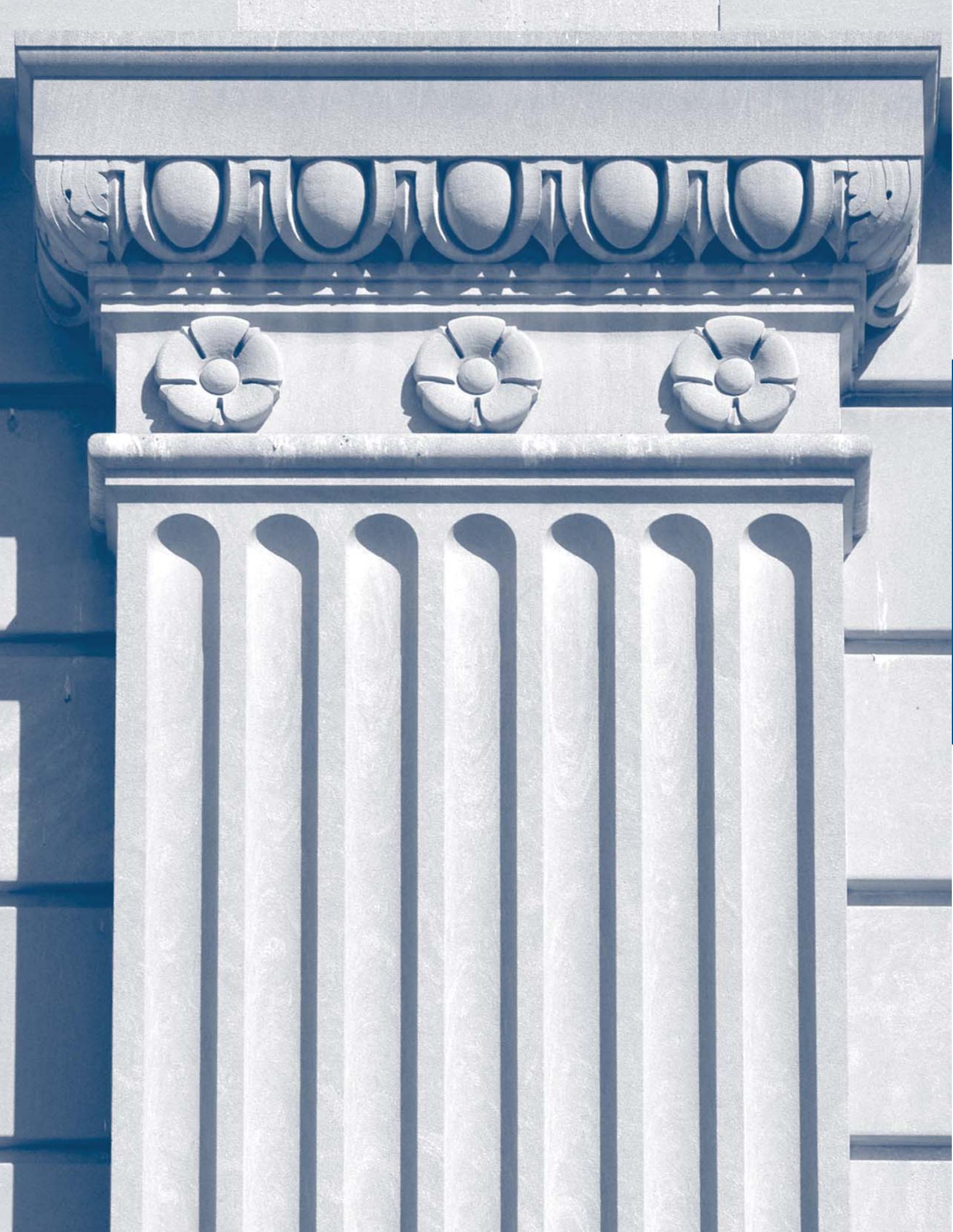
Import Administration—Enforces U.S. trade laws and agreements to prevent unfairly traded imports and to safeguard the competitive strength of U.S. businesses.

U.S. Businessman Pleads Guilty and Is Sentenced for Money Laundering and Visa Fraud

In June 2011, a U.S. businessman was sentenced as part of a plea agreement to 5 months' incarceration and 6 months' home confinement. During the investigation, conducted jointly with the U.S. State Department's Diplomatic Security Service, it was determined the businessman fostered a close personal relationship with an ITA employee in China and used that relationship to obtain ITA recommendations for visa applications. It was further established that the businessman had no legitimate business connections to the visa applicants as reported on the visa applications and dealings with ITA. No misconduct was found involving the ITA employee.

ITA Program Analyst Agrees to Pay Restitution for Sale of Transit Benefits on eBay

In September 2011, an ITA program analyst, as an alternative to proposed removal, entered into a "Last Chance Agreement" with the Department, acknowledging misconduct in selling transit benefits (Metrocheks) on eBay, and agreed to repay the full value of the transit benefits sold. OIG initiated this investigation after the Department of Transportation OIG notified our office that the program analyst had been identified as having sold Metrocheks on eBay on 13 separate occasions from March to September 2007, receiving approximately \$800 from the transactions.





NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

The National Institute of Standards and Technology promotes U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology in ways that enhance economic security and improve our quality of life. NIST carries out its mission via four cooperative programs:

NIST Laboratories—Conduct research that advances the nation's technology infrastructure and is needed by U.S. industry to continually improve products and services.

Hollings Manufacturing Extension Partnership—Works with small- and mid-sized U.S. manufacturers through a nationwide network of 350 field offices to help them create and retain jobs, expand into new markets and new products, increase profits, and save time and money

Baldrige Performance Excellence Program—Promotes performance excellence among U.S. manufacturers, service companies, educational institutions, health care providers, and nonprofit organizations through outreach programs and the annual Malcolm Baldrige National Quality Award.

Technology Innovation Program—Provides cost-shared awards to industry, universities, and consortia for research on potentially revolutionary technologies that address critical national and societal needs.

NIST Grantee Enters Pretrial Diversion Program

In April 2011, an owner of a company that received a \$2 million NIST Advanced Technology Program grant entered a pretrial diversion program for diverting more than \$100,000 from the grant to a related company for non-grant-related expenses and salaries, as well as aiding and abetting other employees in the

scheme to misapply federal funds, in violation of 18 U.S.C. § 666 (Theft or Bribery Concerning Programs Receiving Federal Funds). Previously, in the March 2011 *Semiannual Report to Congress* (page 25), we reported the sentencing of a “principal investigator” on the grant to 2 years’ probation, \$100,207 in restitution, and a \$100 special assessment following the individual’s January 2010 guilty plea to one count of violating 18 U.S.C. § 666 in this matter.

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BUREAU OF
FISHERIES



NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The **National Oceanic and Atmospheric Administration** mission is to understand and predict changes in Earth's environment, as well as conserve and manage coastal and marine resources to meet our nation's economic, social, and environmental needs. NOAA does this through six line offices:

National Weather Service—Reports the weather of the United States and provides weather forecasts and warnings to the general public.

National Ocean Service—Provides products, services, and information to promote safe navigation, support coastal communities, sustain marine ecosystems, and mitigate coastal hazards.

National Marine Fisheries Service—Conducts a program of management, research, and services related to the protection and rational use of living marine resources.

National Environmental Satellite, Data, and Information Service—Observes the environment by operating a national satellite system.

Office of Oceanic and Atmospheric Research—Conducts research related to the oceans and Great Lakes, the lower and upper atmosphere, space environment, and the Earth.

Office of Program Planning and Integration—Develops and coordinates NOAA's strategic plan, supports organization-wide planning activities, guides managers and employees on program and performance management, and integrates policy analysis with decision-making.

AUDITS OF THE PACIFIC STATES MARINE FISHERIES COMMISSION, PORTLAND, OR

The Pacific States Marine Fisheries Commission—a quasi-governmental organization operating under a federally-authorized interstate compact—contains five member states (Alaska, California, Idaho, Oregon, and Washington) that collaborate to utilize and protect the resources of fisheries under their jurisdictions. Most of the Commission's funding comes from the administration of federal contracts and financial assistance agreements related to fisheries

resource management. Since 2003 the Department of Commerce has provided most of the Commission's federal funding and has acted as its cognizant federal agency. During this semiannual period, OIG conducted the following three financial assistance audits:

Audit of Indirect Cost Plans and Rates, Pacific States Marine Fisheries Commission, Portland, OR (OIG-11-025-A)

The Department is responsible for reviewing, negotiating, and approving the Commission's indirect cost

rates. Federal cost principles require governmental units wishing to claim indirect costs under federal awards to (1) prepare rate proposals, certifications, and specified documentation; (2) develop, support, and negotiate acceptable indirect cost rates; and (3) in accordance with Department policy, allow grantees to develop acceptable indirect cost rates and integrate them into approved award budgets.

During the audit period (July 1, 2001–June 30, 2008), the Commission recovered more than \$15 million in indirect costs, as well as almost \$3 million in administrative fees. The main objective of our audit was to determine whether the Commission complied with federal cost principles and departmental requirements for recovering indirect costs.

We found that the Commission did not comply with the minimum requirements necessary to recover indirect costs under federal awards. The Commission did not submit, certify, or adequately support its indirect cost rate proposals. In addition, the Commission's unsubmitted indirect cost proposals and rates were not allowable in accordance with federal guidelines in that (1) implementation of its cost accounting system was inadequate; (2) it had not established an adequate indirect cost methodology or policies, procedures, and controls; (3) its method of distributing costs was inequitable; and (4) it had not adjusted proposed indirect cost rates to reflect actual costs. In fact, we found significant deficiencies in every area of indirect cost we tested. Therefore, all indirect costs claimed by the Commission during the audit period are questionable; none of the \$15.6 million in costs or the \$2.9 million in administrative fees recovered by the Commission during the audit period is allowable for federal participation.

Because the Department acts as the Commission's cognizant federal agency, we recommend that the NOAA grants officer:

- Require the Commission to comply with minimum federal standards for financial management, such as improving its cost accounting system; establishing adequate indirect cost policies; and developing and documenting indirect cost rate proposals and supporting documentation.

- Establish a deadline for the Commission to develop and submit revised indirect cost plans and certifications in accordance with federal cost principles and department policies, and recover any excess amounts claimed by the Commission.
- Suspend payment of indirect costs under all current awards and prohibit recovery for future awards until the Commission develops and negotiates acceptable indirect cost rates.
- Advise the Commission that its unsupported fees and assessments are unallowable for federal participation on all current and future awards, and require the Commission to identify and remit all such assessments claimed from 2002 to the present.
- Advise the Department's indirect cost program coordinator in the Office of Acquisition Management of the results of this audit and our recommendations. The Department, in its cognizant agency role, should then immediately notify all of its bureaus as well as other federal agencies that have provided federal financial and acquisition assistance to the Commission from 2002 through the present.

Audit of NOAA Cooperative Agreements to the Pacific States Marine Fisheries Commission, Portland, OR (OIG-11-026-A)

We audited two multiyear cooperative agreements NOAA awarded to the Commission to fund programs for monitoring and observational data. During the audit period, the Commission claimed total costs of \$22,632,429 for these agreements. Our audit objectives were to determine whether (1) the costs claimed were reasonable, allowable, and allocable to the sponsored project; (2) award objectives were achieved; and (3) the Commission's practices and controls complied with award requirements, assured efficient project administration, and resulted in an acceptable final product.

We found that a significant portion of the Commission's claimed costs were not reasonable, allowable, and allocable to the awards. We also found that, while the Commission's performance under the

two agreements met the award goals and objectives, the Commission did not comply with numerous federal requirements and cost principles. Additionally, the Commission's financial management and procurement systems did not perform adequately, project scope revisions had not been properly approved, and performance and financial reporting was incomplete and inaccurate.

For these reasons and others detailed in this report (as well as in OIG-11-025-A), we questioned \$2,420,489 in federal funds claimed as costs by the Commission—and recommended that NOAA's Director, Acquisitions and Grants, disallow and recover \$2,420,489 in questioned project costs. We also recommended the Director take a more aggressive role in monitoring the Commission's grants by requiring the Commission:

- to provide evidence of improving its policies and internal controls to comply with minimum federal financial, administrative, and procurement management standards before awarding any new agreements or contracts to the Commission.
- (specifically, the Commission's board of commissioners) to enhance oversight of Commission financial and administrative operations by ensuring that all levels of the organization receive adequate supervision consistent with the Commission's policies.
- to produce performance reports that (1) are complete and consistent with approved project scope and budgets and (2) fully and accurately identify the resources applied.

Interim Audit of Contract Number AB133F-04-CQ-0011 Awarded to Pacific States Marine Fisheries Commission, Portland, OR (OIG-11-026-A)

In October 2003, the Fish Ecology Division of NOAA's National Marine Fisheries Service awarded a \$4.7 million contract to the Commission for scientific support services. NOAA later issued task orders and modifications increasing the authorized cost of the contract to over \$6 million. Our audit concluded that, although most amounts claimed by the

Commission are allowable, \$17,598 in indirect and overhead costs is questionable. This report, produced for the contracting officers in NOAA's Western Region Acquisition Division, was not released publicly.

Audit of the Joint Polar Satellite System: Challenges Must Be Met to Minimize Gaps in Polar Environmental Satellite Data (OIG-11-034-A)

NOAA's environmental satellite operations and weather forecasting are designated *primary mission-essential functions* of the Department of Commerce because they directly support government functions the President has deemed necessary to lead and sustain the nation during a catastrophe. But NOAA's current constellation of polar and geostationary operational environmental satellites is aging, and its capabilities will degrade over time. As a result, the risk of gaps in critical satellite data is increasing.

The Joint Polar Satellite System (JPSS) program is the result of a 2010 restructuring of the National Polar-orbiting Operational Environmental Satellite System (NPOESS) program, which had a long history of delays and cost overruns. As a result of these delays, the NPOESS Preparatory Project (NPP) satellite, which was originally intended to demonstrate new instruments, will now be used operationally to maintain data continuity.

Our audit assessed the adequacy of JPSS development and acquisition activities intended to maintain continuity of weather and climate data obtained from polar orbit. We also examined activities at the JPSS programmatic level that had ramifications for the long-term continuity of polar satellite coverage.

We found that while the NPP, as part of the JPSS program, remains on track for an October 2011 launch, the availability of NPP data is at risk due to delays in preparations for postlaunch data production and limited features of the ground system supporting NPP. In addition, our examination of program-level activities confirmed an expected coverage gap between NPP and JPSS-1. The process for defining JPSS' operational baseline of capabilities, costs, and

schedule has been prolonged. And the transition of the ground and instrument contracts from the NPOESS program's control to the JPSS program's control has just been completed, but a few of the new instrument contracts still need to be finalized.

We recommended that NOAA:

- take steps to mitigate risks of using NPP data operationally by determining the availability of additional resources to support preparations for postlaunch data production.
- coordinate efforts from across its line offices to minimize the degradation of weather and climate forecasting during gaps in satellite coverage.
- provide decision makers with data illustrating the consequences of limiting satellite observational capabilities in order to more efficiently manage the JPSS program under continued budget uncertainty.
- Ensure that the JPSS program finalizes contracts with instrument vendors.

Former Executive Director of Alaska Commission Suspended from Federal Procurement and Nonprocurement Transactions

Based upon the findings of our joint investigation with the Federal Bureau of Investigation and Internal Revenue Service Criminal Investigation Division, OIG referred the former executive director for the Alaska Eskimo Whaling Commission to the Department's suspending and debaring official. One suspension from federal procurement and nonprocurement transactions was issued during this reporting period.

NOAA Commissioned Corps Officer Agreed to Pay Restitution

In September 2011, a NOAA Commissioned Corps officer agreed to pay restitution to NOAA in the amount of \$3,959. This agreement was the result of our investigation that found the officer knowingly submitted fraudulent travel voucher claims on two separate occasions. The officer also received a letter of reprimand citing conduct unbecoming an officer.



UNITED STATES PATENT AND TRADEMARK OFFICE

The **United States Patent and Trademark Office** administers the nation's patent and trademark laws. Patents are granted and trademarks registered under a system intended to provide incentives to invent, invest in research, commercialize new technology, and draw attention to inventions that would otherwise go unnoticed. USPTO also collects, assembles, publishes, and disseminates technological information disclosed in patents.

Status of USPTO Initiatives to Improve Patent Timeliness and Quality (OIG-11-032-1)

Patent operations, which account for the vast majority of USPTO's staffing and monetary resources, determine whether inventions claimed in patent applications are new, useful, and nonobvious. The timely granting of quality patents provides inventors with exclusive rights to their discoveries and contributes to the strength and vitality of the U.S. economy.

What Is a Patent?

A patent for an invention is the grant of a property right to the inventor, usually for 20 years from the patent application's U.S. filing date and subject to the payment of maintenance fees. The patent confers the right to exclude others from making, using, offering for sale, selling, or importing the invention. Once USPTO issues a patent, the patentee must enforce the patent without aid from USPTO.

Over the past decade, USPTO has faced growing patent pendency rates and increasing backlogs of

patent applications awaiting review. In responding to these challenges, USPTO issued its *2010–2015 Strategic Plan* in September 2010. The plan's first goal is to "Optimize Patent Quality and Timeliness"—by reducing (1) overall patent pendency times to 10 months for a first office action and 20 months total patent pendency (by 2014 and 2015 respectively) and (2) the number of patent applications awaiting examiner action by almost 50 percent.

Our review assessed the implementation status of the 25 initiatives under the first goal and USPTO's plans to evaluate each of these initiatives. We found that USPTO has implemented 15 initiatives and partially implemented the other 10 initiatives we reviewed. However, while USPTO has made progress in implementing the initiatives, it lacks evaluation plans to assess the effect of these efforts on the overall strategic goals of improving patent quality and timeliness. Finally, two areas of operation—patent appeals and preliminary reviews of international applications—warrant further agency attention as USPTO directs its resources and prioritizes activities.

We recommended that the Director of USPTO:

- revise the agency's strategic plan to ensure the most critical efforts that support attaining the strategic patent goals remain in operation;

- direct relevant operating units to prepare plans and conduct evaluations of their respective patent initiatives; and
- examine anew the Board of Patent Appeals and Interferences process and the quality and measures of the Patent Cooperation Treaty contracting work.

Patent End-to-End Planning and Oversight Need to Be Strengthened to Reduce Development Risk (OIG-11-033-A)

Patent End-to-End (PE2E) is USPTO’s latest effort to improve, integrate, and automate its patent process. The project is one of the most ambitious and complex multiyear IT investments USPTO has undertaken in several years, and it supports the agency’s strategic goal of optimizing patent quality and timeliness. Our audit evaluated USPTO’s readiness to successfully manage the PE2E project by determining the adequacy of its acquisition process and methodologies as well as the project’s governance.

We found that improvements need to be made to PE2E’s long-term planning, acquisition strategy, and development oversight to avoid duplicating problems USPTO has had with past automation efforts. Specifically, we noted that USPTO:

- has begun development of PE2E without a product backlog that included high-level requirements prioritized by business and technical value for the entire project, and has not defined the high-level technical model of services to be implemented for the entire project;
- has not adequately defined a long-term strategy for acquiring contractor resources past the first release of PE2E or clearly defined how risks will be managed in the project’s acquisition plan; and
- needs to strengthen its oversight procedures to define key milestones and conditions for special oversight reviews, as well as seek independent expert technical and project management advice as input to those reviews.

We recommended that the Director of USPTO direct the appropriate USPTO officials to:

- improve PE2E planning by developing a description and schedule of releases based on prioritized high-level requirements for the entire project and high-level designs for the project’s service architecture;
- update the current acquisition plan so that it describes the strategy for acquiring contracting resources, including overall approach, processes, means to motivate contractor performance, and risk management; and
- improve oversight of PE2E by establishing a key milestone oversight review schedule, criteria for evaluating project progress at oversight reviews, and thresholds for convening special oversight reviews, as well as seeking independent expert advice on technical and project management for milestone reviews.

Patent Statistics (FY 2010)	
Patent Examiners	6,225
Patents Issued	233,127
Patent Applications Filed	509,367
Patent Application Backlog	726,331

Source: USPTO FY 2010 Performance and Accountability Report

Former USPTO Employee Sentenced for False Statements

In May 2011, a former USPTO employee pled guilty to one count of violating 18 USC § 1001 (False Statements) and was sentenced, on July 29, 2011, to 36 months’ probation and a \$100 special assessment. The former USPTO employee had been indicted in the U.S. District Court for the Eastern District of Virginia on 8 counts of concealment, false statements, and false documents—specifically, for submitting work histories containing false information, submitting false statements on the “Questionnaire for National Security Positions” (SF-86) and

“Declaration for Federal Employment” (OF-306) forms, and altering “Notification of Personnel Action” (SF-50) forms, all of which were provided to prospective federal employers at the USPTO, Defense Intelligence Agency, the U.S. Department of State, and the Securities and Exchange Commission (SEC). This investigation was conducted in conjunction with the SEC OIG and the Federal Bureau of Investigation, and prosecuted by the U.S. Department of Justice, Criminal Division, Public Integrity Section.



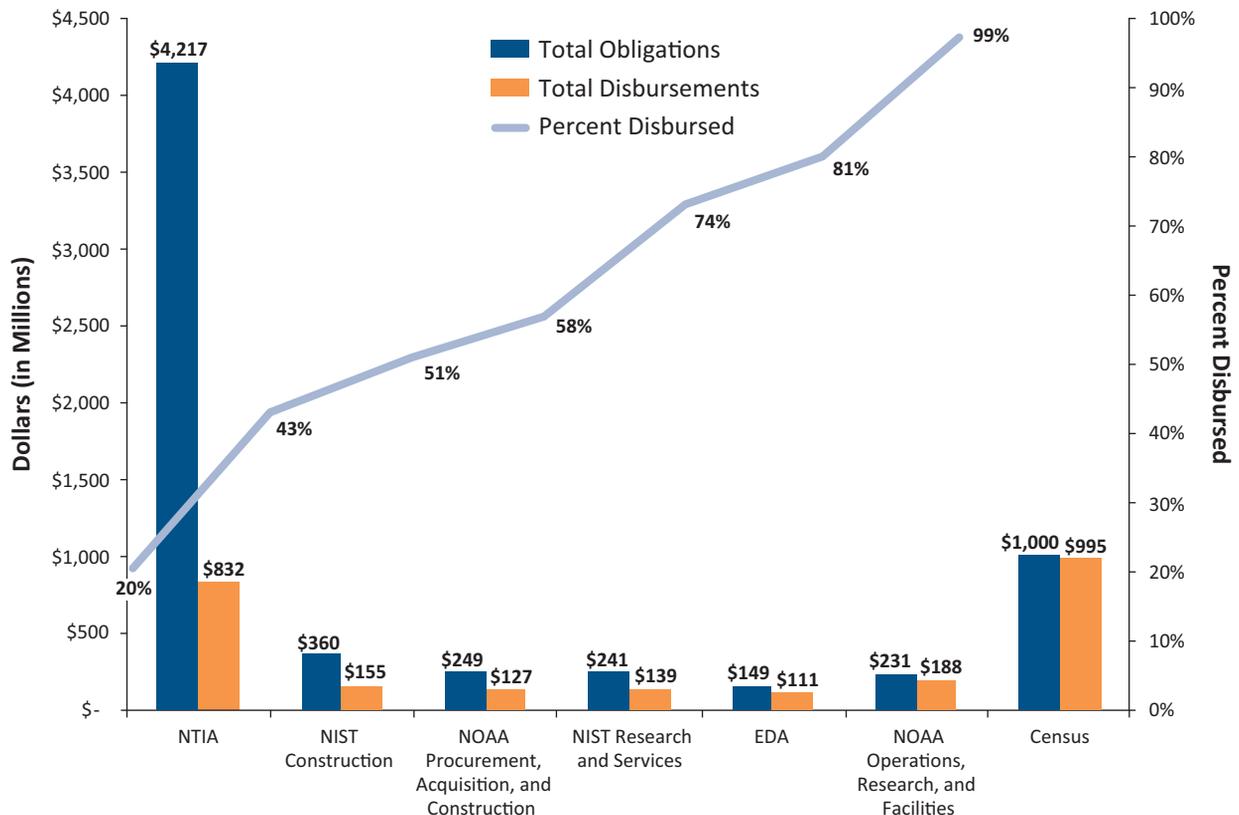


AMERICAN RECOVERY AND REINVESTMENT ACT OVERSIGHT

The **Recovery Act**—signed into law by President Barack Obama on February 17, 2009—has, among its three immediate goals, to (1) create new jobs and save existing ones; (2) spur economic activity and invest in long-term growth; and (3) foster unprecedented levels of transparency and accountability.

Five Department of Commerce operating units—the Census Bureau, EDA, NIST, NOAA, and NTIA—and OIG received \$7.9 billion under the act, with \$1.1 billion ultimately rescinded or transferred to other agencies. As of September 30, 2011, the Department had obligated almost all of the remaining \$6.8 billion and disbursed approximately \$2.9 billion.

Commerce Operating Units' Recovery Act Obligations and Disbursements as of September 30, 2011



OIG Recovery Act Oversight, February 2009–September 2011

Funded by \$16 million for proactive oversight of the Department’s Recovery Act programs and activities, OIG has been evaluating whether agencies are using Recovery Act funds efficiently and effectively and following up on complaints including whistleblower reprisal allegations.

Key Activities	Cumulative Results
Published audit and evaluation reports	14
Unpublished work products	4
Audits/evaluations in process	5
OIG recommendations for action, correction, or improvement	43
Recommendations implemented to take corrective action by making improvements, reducing risk, or preventing waste	31
Complaints received	45
Investigations completed	17
Investigations in process	8
Whistleblower reprisal allegations received	5
Whistleblower reprisal allegations accepted	1
Debarments and corporate compliance agreements implemented	1
Proactive training and outreach sessions held	126
Individuals trained	5,594
Hours of training provided	7,229

2010 Census: Cooperation Between Partnership Staff and Local Census Office Managers Challenged by Communication and Coordination Problems (OIG-11-023-I)

The Census Bureau received \$1 billion in 2009 Recovery Act funds for “Periodic Censuses and Programs” and set aside \$126 million to supplement the Partnership and Data Services Program (Partnership Program). The bureau spent approximately half of that amount to establish a new partnership assistant position to provide additional support to the program. Approximately 3,000 Partnership employees worked in FY 2009 and 3,800 in FY 2010 (out of more than 165,000 and 782,000 total decennial employees, respectively). The Partnership Program spent about \$300 million in FY 2009–10, out of more than \$8 billion total spent on the decennial in those years.

The Partnership Program primarily assisted decennial operations by interfacing with hard-to-count groups, populations who have historically been undercounted or traditionally have not responded well to the decennial census questionnaire (e.g., ethnic or minority populations, renters, or low-income people). To accomplish its goal, the Program collaborated with partners (including local and tribal governments, community and religious organizations, schools, businesses, and the media) in communities within a Census regional office area. Partners pledged their commitment to share the Census message and mobilized their constituents in support of the decennial count. According to the bureau, there were approximately 257,000 regional Census partners.

To connect these community partners with Census required the Partnership staff to collaborate with local Census offices (LCOs). However, we found that the staff operated independent of LCO production timelines—and the two groups experienced systemic communication and coordination problems. In addition, we found that the views of operations managers toward the Partnership program were influenced by the guidance the managers received, with managers reporting effective guidance tending to report more

favorable views of the Partnership program. For subsequent decennials, we recommended that the bureau (1) align Partnership activities and objectives with LCO schedules to remedy current systemic shortcomings and (2) ensure joint Partnership-LCO manager training as part of the decennial process.

With respect to the new partnership assistant position created using Recovery Act funds, we found that the assistants added value to the decennial but also presented challenges. Should the bureau retain the assistant position in the 2020 Census, we recommended that it (1) refine the recruitment and hiring process (especially through more job-specific examination) and training of assistants, as well as (2) provide assistants adequate electronic resources to do their job.

Review of BTOP Award for the San Francisco Bay Area Wireless Enhanced Broadband Project (OIG-11-024-I)

In response to a letter from the County of Santa Clara, California, OIG conducted a review of a \$50.6 million Broadband Technology Opportunities Program (BTOP) infrastructure grant awarded to Motorola Solutions, Inc. (formerly Motorola, Inc.). The San Francisco Bay Area Wireless Enhanced Broadband (BayWEB) project is a public-private partnership between Motorola and public safety entities throughout the counties that comprise the Bay Area, plus the County of Santa Cruz, for deploying a

The Recovery Act and Broadband

The Recovery Act gave \$4.7 billion to NTIA to establish BTOP, a competitive grant program intended to provide funds for deploying broadband infrastructure in the United States in order to enhance broadband capacity at public computer centers, improve access to broadband services for public safety agencies, promote sustainable broadband adoption projects, and develop an interactive map showing broadband capabilities and availability.

public safety network and a public access wireless broadband network in the San Francisco Bay Area.

The objectives of our review were to (1) examine the procedures NTIA followed in its response to a complaint from the County of Santa Clara and the City of San Jose about the grant to Motorola and (2) evaluate how NTIA handled Motorola's request for deviating from the approved equipment valuation method. Since NTIA and the NOAA grants office (which made the Motorola award on NTIA's behalf) share responsibility for administering and monitoring the award, successful award monitoring, including addressing concerns about specific awards or grant terms and conditions, requires effective coordination between the program and grants offices.

We identified areas in which NTIA could have better handled both matters. For example, NTIA did not promptly engage the program's grants officer to help address the complaint made against the award or to respond to Motorola's requests to be exempted from an award requirement. We recommended that NTIA improve its procedures for handling complaints associated with BTOP awards, and remind its federal program officers assigned to monitor BTOP grants to work with grants officers to address important issues and promptly communicate any potential problems or deviations. We also recommended that NTIA ensure that any equipment is valued at cost, consistent with the cost principles. In response to our report, NTIA initiated corrective actions.

Commerce Has Procedures in Place for Recovery Act Recipient Reporting, but Improvements Should Be Made (OIG-11-031-A)

This report is part of OIG's continued oversight of the \$7.9 billion in funds received by five Department of Commerce agencies (plus OIG) under the Recovery Act. Section 1512 of the act requires fund recipients to submit to the Recovery Accountability and Transparency Board quarterly reports containing detailed information on the projects and activities funded by the Recovery Act and their impact on job creation and retention. It also directs federal agencies to review this information for accuracy before it is posted to *Recovery.gov*, the Board's website.

Our review of Census Bureau, EDA, NIST, NOAA, and NTIA found that, while Commerce has implemented effective internal controls over its Recovery Act recipient reporting, there are still opportunities for improvement. We compared data elements in the quarterly reports submitted by the recipients to the same information in Commerce's grants and contracts management systems. While the overall error rate in recipient reporting was low and the data differences were generally in noncritical reporting fields, Commerce agencies did not identify and correct some of the significant data errors on the quarterly reports. In addition, incorrect or inconsistent data in the Department's three grants management systems meant that Commerce personnel had to perform many manual procedures to reconcile the data to the information in the recipients' reports.

We found several areas in which Commerce could reduce its reliance on manual effort, increase the efficiency of its reporting, and improve data quality. For example, its systems could be updated to make data fields consistent with recipients' quarterly reports. Also, implementing a single Department-wide management system to replace the three current systems would further streamline processes and increase accuracy.

We recommended that Commerce's Director of the Office of Acquisition Management:

- evaluate ways to automate the reports generated by the Department's three grants management systems;
- develop a plan for consolidating the data from the three distinct grants management systems into a single system; and
- consider upgrading the Department's new contract management system interface so that a single database incorporating data from all Commerce agencies would supply the information in the interface.

Additionally, agencies could improve data quality by updating their management systems to more efficiently monitor information that must be reported under the Recovery Act.

Report of Findings Issued in NIST Recovery Act Whistleblower Reprisal Investigation

In August 2011, we issued our report of investigation (ROI) into an alleged violation of Section 1553 of the Recovery Act, regarding protection of whistleblowers and prohibited reprisals. In accordance with Section 1553 reporting requirements, our ROI was transmitted to NIST for required agency determination as to whether there is a sufficient basis to conclude that prohibited reprisal occurred against the complainant, a former NIST contractor employee. Our ROI was also provided to the complainant, the involved contractor, and the Recovery Accountability and Transparency Board as prescribed by Section 1553 of the Recovery Act. This investigation was previously referenced in our September 2010 *Semiannual Report to Congress* (page 7).

NIST Contractor Previously Convicted of Fraud Enters into Compliance Agreement

In the March 2011 *Semiannual Report* (pages 15–16), we reported on the suspension of a NIST contractor and three of its employees by the U. S. Air Force, Office of Deputy General Counsel (Contractor Responsibility) based on our referral of this matter. In September 2011, the contractor entered into a corporate compliance agreement for 3 years with the Air Force; the agreement serves as an alternative to debarment, enabling the government to closely monitor the contractor. As reported in the March 2011 summary of this matter, the contractor pled guilty in March 2008 to a criminal offense of making a false certification or writing in order to export equipment for use in India's nuclear program in violation of the applicable regulation. Subsequently, contractor personnel certified in official documents filed with federal contracting offices that the contractor had not, within a 3-year period preceding the certification, been convicted of a crime for false statements and other offenses. The contractor submitted such certifications 5 times after the 2008 conviction and in that time obtained 276 contracts from 16 different agencies that totaled nearly \$20 million. In addition to our coordination with the Air Force, we received support in this investigation from the Recovery Accountability and Transparency Board and the Bureau of Industry and Security.

STATISTICAL DATA

The Inspector General Act Amendments of 1988 require the statistical data contained in Tables 1-8.

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Table 1. Office of Investigation Statistical Highlights for This Period

Investigative activities cover investigations opened and closed by OIG; arrests by OIG agents; indictments and other criminal charges filed against individuals or entities as a result of OIG investigations; convictions secured at trial or by guilty plea as a result of OIG investigations; and fines, restitution, and all other forms of financial recoveries achieved by OIG as a result of investigative action.

Allegations processing presents the number of complaints from employees, stakeholders, and the general public that were handled by our Complaint Intake Unit. Of these, some result in the opening of investigations; others are referred to Commerce operating units for internal administrative follow-up. Others are unrelated to Commerce activities or do not provide sufficient information for any investigative follow-up and so are not accepted for investigation or referral. Fines and other financial recoveries refer only to agreements that a judge has accepted.

Investigative Activities	
Investigations opened	39
Investigations closed	88
Arrests	0
Indictments/Informations	9
Convictions	4
Fines and other financial recoveries	\$31,706
Administrative disciplinary actions taken as a result of investigation	6

Allegations Processed	
Complaints received from all sources	513
Referrals to Commerce operating units and non-Commerce agencies	140
Evaluated but not accepted for investigation or referral	334

Table 2. Audit Resolution and Follow-up

The Inspector General Act Amendments of 1988 require us to present (in this report) audits issued before the beginning of the reporting period (April 1, 2011) for which no management decision had been made by the end of the period (September 30, 2011). Seven audit reports remain unresolved for this reporting period (see page 39).

Audit resolution is the process by which the Department of Commerce reaches an effective management decision in response to audit reports. **Management decision** refers to management's evaluation of the findings and recommendations included in the audit report and the issuance of a final decision by management concerning its response.

Department Administrative Order 213-5, *Audit Resolution and Follow-up*, provides procedures for management to request a modification to an approved audit action plan or for a financial assistance recipient to appeal an audit resolution determination. The following table summarizes modification and appeal activity during the reporting period.

Report Category	Modifications	Appeals
Actions pending (April 1, 2011)	0	2
Submissions	0	1
Decisions	0	2
Actions pending (September 30, 2011)	0	1

Table 3. Audit and Evaluation Statistical Highlights for This Period

Audits comply with standards established by the Comptroller General of the United States for audits of federal establishments, organizations, programs, activities, and functions.

Inspections include evaluations, inquiries, and similar types of reviews that do not constitute an audit or a criminal investigation.

Questioned costs*	\$23,508,997
Value of audit recommendations that funds be put to better use**	169,358
Value of audit recommendations agreed to by management***	6,334,252

***Questioned cost:** This is a cost questioned by OIG because of (1) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; (2) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or (3) a finding that an expenditure of funds for the intended purpose is unnecessary or unreasonable.

****Value of audit recommendations that funds be put to better use:** This results from an OIG recommendation that funds could be used more efficiently if Commerce management took action to implement and complete the recommendation. Such actions may include (1) reductions in outlays; (2) deobligation of funds from programs or operations; (3) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds; (4) costs not incurred by implementing recommended improvements related to Commerce, a contractor, or a grantee; (5) avoidance of unnecessary expenditures identified in preaward reviews of contracts or grant agreements; or (6) any other savings specifically identified.

*****Value of audit recommendations agreed to by management:** This is the sum of (1) disallowed costs and (2) funds put to better use that are agreed to by management during resolution. Disallowed costs are the amount of costs that were questioned by the auditors or the agency action official and subsequently determined—during audit resolution, or during negotiations by a contracting officer—not to be charged to the government.

Table 4. Audits with Questioned Costs

See Table 3 for a definition of “questioned cost.” An **unsupported cost** is a cost that is not supported by adequate documentation at the time of the audit. Questioned costs include unsupported costs.

Report Category	Number	Questioned Costs	Unsupported Costs
A. Reports for which no management decision had been made by the beginning of the reporting period	12	\$23,501,346	\$919,060
B. Reports issued during the reporting period	8	23,508,997	22,523,686
Total reports (A+B) requiring a management decision during the period*	20	47,010,343	23,442,746
C. Reports for which a management decision was made during the reporting period	8	8,769,064	6,078,235
i. Value of disallowed costs		6,331,385	6,078,235
ii. Value of costs not disallowed		2,437,679	0
D. Reports for which no management decision had been made by the end of the reporting period	12	38,241,279	17,364,511

*Four audit reports included in this table are also included among reports with recommendations that funds be put to better use (see Table 5). However, the dollar amounts do not overlap.

Table 5. Audits with Recommendations That Funds Be Put to Better Use

See Table 3 for a definition of “recommendation that funds be put to better use.”

Report Category	Number	Value
A. Reports for which no management decision had been made by the beginning of the reporting period	4	\$2,711,346
B. Reports issued during the reporting period	2	169,358
Total reports (A+B) requiring a management decision during the period*	6	2,880,704
C. Reports for which a management decision was made during the reporting period	3	1,617,851
i. Value of recommendations agreed to by management		2,867
ii. Value of recommendations not agreed to by management		1,614,984
D. Reports for which no management decision had been made by the end of the reporting period	3	1,262,853

*Four audit reports included in this table are also included among reports with questioned costs (see Table 4). However, the dollar amounts do not overlap.

Table 6. Report Types for This Period

Performance audits are engagements that provide assurance or conclusions based on an evaluation of sufficient, appropriate evidence against stated criteria, such as specific requirements, measures, or defined business practices. Performance audits provide objective analysis so that management and those charged with governance and oversight can use the information to improve program performance and operations, reduce costs, facilitate decision making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability.

Financial assistance audits are audits of Department of Commerce grants, cooperative agreements, loans or loan guarantees; or pre- or post-award audits of Commerce contracts.

Evaluations and inspections include evaluations, inquiries, and similar types of reviews that do not constitute an audit or a criminal investigation. An inspection is defined as a process that evaluates, reviews, studies, or analyzes the programs and activities of a department or agency for the purposes of providing information to managers for decision making; making recommendations for improvements to programs, policies, or procedures; and identifying where administrative action may be necessary.

Type	Number of Reports	Table Number
Performance audits	3	Table 6-a
Financial assistance audits	3	Table 6-b
Evaluations and inspections	4	Table 6-c
Total	10	

Table 6-a. Performance Audits

Report Title	Report Number	Date Issued	Funds to Be Put to Better Use
National Oceanic and Atmospheric Administration			
Audit of the Joint Polar Satellite System: Challenges Must Be Met to Minimize Gaps in Polar Environmental Satellite Data	OIG-11-034-A	09.30.11	0
Office of the Secretary			
Commerce Has Procedures in Place for Recovery Act Recipient Reporting, but Improvements Should Be Made	OIG-11-031-A	07.29.11	0
U.S. Patent and Trademark Office			
Patent End-to-End and Oversight Need to Be Strengthened to Reduce Development Risk	OIG-11-033-A	09.29.11	0

Table 6-b. Financial Assistance Audits

Report Title	Report Number	Date Issued	Funds to Be Put to Better Use	Amount Questioned	Amount Unsupported
National Oceanic and Atmospheric Administration					
Audit of Indirect Cost Plans and Rates Pacific States Marine Fisheries Commission, OR	OIG-11-025-A	05.19.11	0	\$14,059,234	\$14,059,234
Audit of NOAA Cooperative Agreements to the Pacific States Marine Fisheries Commission, OR	OIG-11-026-A	06.10.11	0	2,420,489	2,368,619
Interim Audit of Contract Number AB133F-04-CQ-0011 Awarded to Pacific States Marine Fisheries Commission, OR	OIG-11-027-A	06.10.11	0	17,598	17,598

Table 6-c. Evaluations and Inspections

Report Title	Report Number	Date Issued	Funds to Be Put to Better Use
Census Bureau			
2010 Census: Cooperation Between Partnership Staff and Local Census Office Managers Challenged by Communication and Coordination Problems	OIG-11-023-I	04.08.11	0
Census 2010: Final Report to Congress	OIG-11-030-I	06.27.11	0
National Telecommunications and Information Administration			
Review of BTOP Award for the San Francisco Bay Area Wireless Enhanced Broadband (BayWEB) Project	OIG-11-024-I	05.06.11	0
U.S. Patent and Trademark Office			
Status of USPTO Initiatives to Improve Patent Timeliness and Quality	OIG-11-032-I	09.29.11	0

Table 7. Single Audit and Program-Specific Audits

OIG reviewed and accepted 187 audit reports prepared by independent public accountants and local, state, and other federal auditors. The reports processed with questioned costs, recommendations that funds be put to better use, and/or nonfinancial recommendations are listed in Table 7-a.

Agency	Audits
Economic Development Administration	72
International Trade Administration	1
National Institute of Standards and Technology*	17
National Oceanic and Atmospheric Administration	26
National Telecommunications and Information Administration*	22
Multiagency	47
No Commerce expenditures	2
Total	187

*Includes 6 program-specific audits for NIST and 9 program-specific audits for NTIA.

Table 7-a. Processed Reports with Audit Findings

Report Title	Report Number	Date Issued	Funds to Be Put to Better Use	Amount Questioned	Amount Unsupported
Economic Development Administration					
Connecticut Community Investment Corporation	ATL-09999-11-3972	05.02.11	0	\$18,750	0
City of Baldwin Park, CA*	ATL-09999-11-4148	07.14.11	0	0	0
Neuse River Council of Governments, NC	ATL-09999-11-4206	09.08.11	0	118,519	0
Economic Development Fund of Northern Vermont, Inc.	ATL-09999-11-4165	09.27.11	\$90,955	0	0
National Institute of Standards and Technology					
Composite Support and Solutions, Inc., CA	ATL-09999-11-4090	04.04.11	0	180,922	0
Michelin North America, Inc., SC	ATL-09999-11-4184	09.29.11	78,403	0	0
National Oceanic and Atmospheric Administration					
Government of Puerto Rico Department of Natural and Environment Resources	ATL-09999-11-4031	05.16.11	0	6,078,235	6,078,235
National Telecommunications and Information Administration					
The Navajo Nation, AZ**	ATL-09999-11-4246	08.31.11	0	0	0
North Florida Broadband Authority	ATL-09999-11-4280	09.23.11	0	615,250	0

*Noncompliance with leveraging requirements of EDA's Revolving Loan Fund program.

**Noncompliance with some internal control requirements.

Table 8. Audits Unresolved for More Than 6 Months

Census Bureau	Computer & High Tech Management, Inc.
	<p>In our September 2005 <i>Semiannual Report</i>, we reported the results of audits of 2 of the 21 task orders for IT services that Computer & High Tech Management, Inc., was providing to Census. We sought to determine whether the firm had complied with contract terms and conditions and federal regulations and had billed Census for work performed in accordance with specifications of the task order. We found that the firm failed to comply with numerous contract and federal requirements, which caused us to question more than \$10.7 million in direct labor and other reimbursable costs. We have suspended audit resolution on this contract audit pursuant to an agreement with Census.</p>
National Institute of Standards and Technology	MEP Program
	<p>In our March 2009, September 2009, and September 2010 <i>Semiannual Reports</i>, we discussed our audits of the operations of the four centers located in Florida, Massachusetts, Texas, and California that received cooperative agreements under the NIST MEP program. Our audits questioned over \$31 million in costs claimed. We are awaiting the submission of the proposals. (ATL-18568, DEN-18135, DEN-18573, DEN-18572)</p>
National Oceanic and Atmospheric Administration	Alaska Eskimo Whaling Commission
	<p>As reported in our March 2009 <i>Semiannual Report</i>, a single audit review of this NOAA grant questioned costs totaling \$66,353 in expenditures that were not adequately documented. We have suspended audit resolution on this grant audit pursuant to an agreement with NOAA. (ATL-09999-8-3238)</p>

REPORTING REQUIREMENTS

The Inspector General Act of 1978, as amended, specifies reporting requirements for Semiannual Reports. The requirements are listed below and indexed to the applicable pages of this report.

Section	Topic	Page
4(a)(2)	Review of Legislation and Regulations	40
5(a)(1)	Significant Problems, Abuses, and Deficiencies	9-30
5(a)(2)	Significant Recommendations for Corrective Action	9-30
5(a)(3)	Prior Significant Recommendations Unimplemented	40
5(a)(4)	Matters Referred to Prosecutorial Authorities	31
5(a)(5) and 6(b)(2)	Information or Assistance Refused	41
5(a)(6)	Listing of Audit Reports	35-36
5(a)(7)	Summary of Significant Reports	9-30
5(a)(8)	Audit Reports—Questioned Costs	34
5(a)(9)	Audit Reports—Funds to Be Put to Better Use	34
5(a)(10)	Prior Audit Reports Unresolved	39
5(a)(11)	Significant Revised Management Decisions	41
5(a)(12)	Significant Management Decisions with Which OIG Disagreed	41
5(a)(13)	Results of Peer Review	41

Section 4(a)(2): Review of Legislation and Regulations

This section requires the inspector general of each agency to review existing and proposed legislation and regulations relating to that agency's programs and operations. Based on this review, the inspector general is required to make recommendations in the semiannual report concerning the impact of such legislation or regulations on (1) the economy and efficiency of the management of programs and operations administered or financed by the agency or (2) the prevention and detection of fraud and abuse in those programs and operations. Comments concerning legislative and regulatory initiatives affecting Commerce programs are discussed, as appropriate, in relevant sections of the report.

Section 5(a)(3): Prior Significant Recommendations Unimplemented

This section requires identification of each significant recommendation described in previous semiannual reports for which corrective action has not been completed. Section 5(b) requires that the Secretary transmit to Congress statistical tables showing the number and value of audit reports for which no final action has been taken, plus an explanation of why recommended action has not occurred, except when the management decision was made within the preceding year. However, information on the status of any audit recommendations can be obtained through OIG upon request.

Sections 5(a)(5) and 6(b)(2): Information or Assistance Refused

These sections require a summary of each report to the Secretary when access, information, or assistance has been unreasonably refused or not provided. There were no such instances during this semiannual period and thus no reports to the Secretary.

Section 5(a)(10): Prior Audit Reports Unresolved

This section requires (1) a summary of each audit report issued before the beginning of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report), (2) an explanation of why a decision has not been made, and (3) a statement concerning the desired timetable for delivering a decision on each such report. There are one NOAA, four NIST, and two Census reports more than 6 months old for which no management decision has been made.

Section 5(a)(11): Significant Revised Management Decisions

This section requires an explanation of the reasons for any significant revision to a management decision made during the reporting period. Department Administrative Order 213-5, *Audit Resolution and Follow-up*, provides procedures for revising a management decision. For financial assistance audits, OIG must concur with any decision that would change the audit resolution proposal in response to an appeal by the recipient. There were two appeals this period.

Section 5(a)(12): Significant Management Decisions with Which OIG Disagreed

This section requires information concerning any significant management decision with which the inspector general disagrees. Department Administrative Order 213-5 provides procedures for elevating unresolved audit recommendations to higher levels of

Department and OIG management, including their consideration by an Audit Resolution Council. During this period, no audit issues were referred.

Section 5(a)(13): Results of Peer Review

The most recent peer review of the Office of Audit and Evaluation was conducted in 2009 by the Federal Deposit Insurance Corporation's (FDIC's) Office of Inspector General. FDIC OIG's *System Review Report* of our audit operations is available on our website. We received a *pass* rating, the highest available rating. We have implemented all of FDIC OIG's recommendations for process and policy improvements.

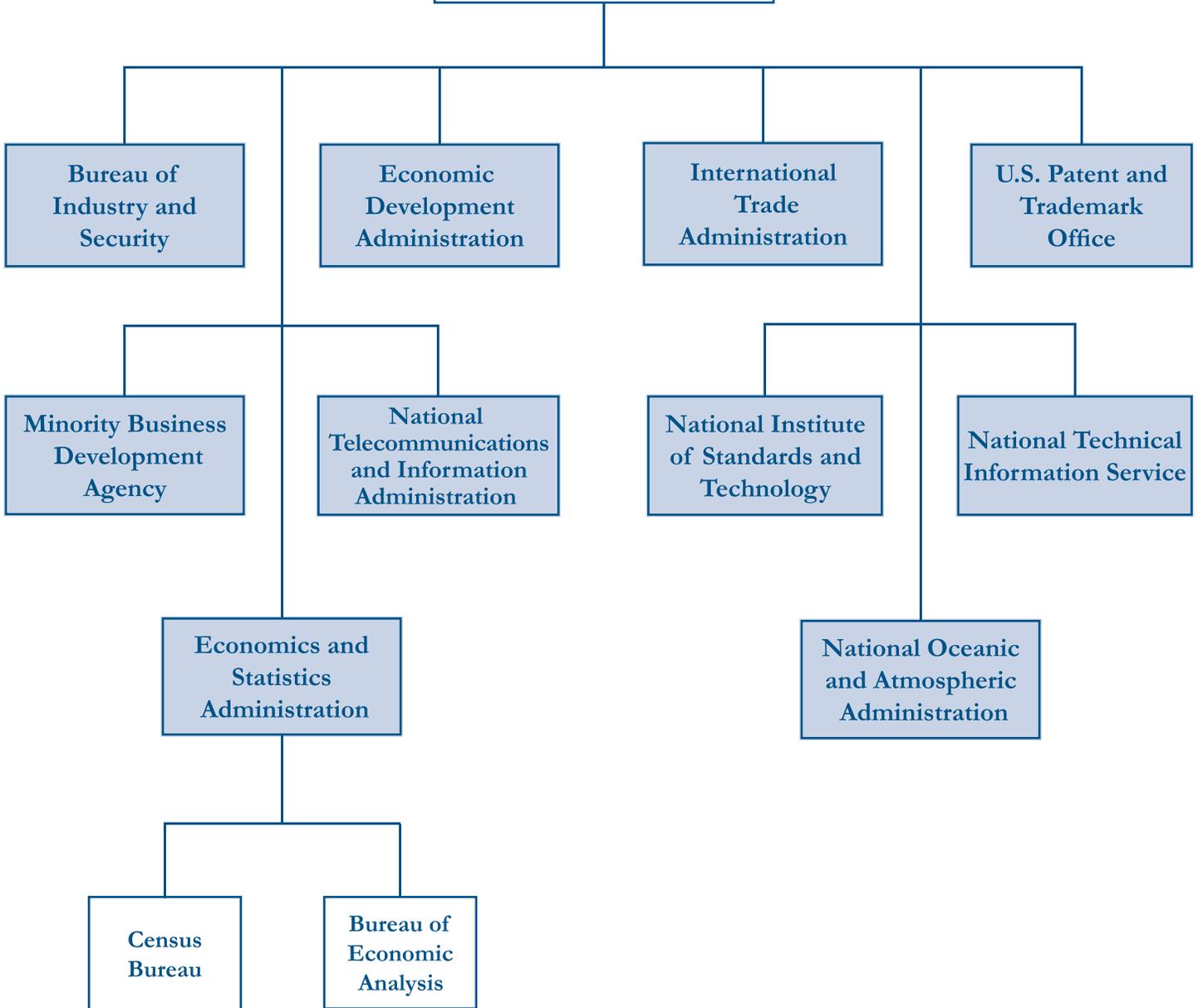
In 2009, we conducted our latest peer review, which examined the Small Business Administration (SBA) OIG's audit operations. SBA OIG has informed us that it implemented the recommendation we made in our review.

The most recent peer review of the Office of Investigations was conducted in 2008 by the Department of State OIG. We were found *compliant*, the highest available finding, with the quality standards established by the inspector general community and the Attorney General guidelines. We implemented all of State OIG's suggestions for process and policy improvements. Our next peer review, to be conducted by the Office of Personnel Management OIG, is scheduled for the first quarter of FY 2012.

ACRONYMS AND ABBREVIATIONS

AEWC	Alaska Eskimo Whaling Commission
AFF	Asset Forfeiture Fund
ATP	Advanced Technology Program
BAH	Booz Allen Hamilton
BayWEB	San Francisco Bay Area Wireless Enhanced Broadband
BEA	Bureau of Economic Analysis
BIS	Bureau of Industry and Security
BTOP	Broadband Technology Opportunities Program
EDA	Economic Development Administration
ESA	Economics and Statistics Administration
FDIC	Federal Deposit Insurance Corporation
FTE	full-time equivalent
FY	fiscal year
IT	information technology
LCO	local Census office
JPSS	Joint Polar Satellite System
MEP	Manufacturing Extension Partnership
NIST	National Institute of Standards and Technology
NOAA	National Oceanic and Atmospheric Administration
NPOESS	National Polar-orbiting Operational Environmental Satellite System
NPP	NPOESS Preparatory Project
NTIA	National Telecommunications and Information Administration
OIG	Office of Inspector General
OMB	Office of Management and Budget
PE2E	Patent End-to-End Project
PHP	Patent Hoteling Program
PSIC	Public Safety Interoperable Communications
PSP	Partner Support Program
ROI	report of investigation
SBA	Small Business Administration
TC	Technology Center (United States Patent and Trademark Office)
USPTO	United States Patent and Trademark Office

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