



May 11, 2020

MEMORANDUM FOR: Bob Westbrooks
Executive Director
Pandemic Response Accountability Committee
Council of the Inspectors General on Integrity and Efficiency

FROM: Frederick J. Meny, Jr.
Assistant Inspector General for Audit and Evaluation

SUBJECT: Top Oversight Challenges Facing the Department of Commerce to Ensuring That Pandemic Funds Are Timely and Appropriately Spent

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), H.R. 748, Public Law No. 116-136, was signed into law on March 27, 2020, to respond to the Coronavirus Disease 2019 (COVID-19) outbreak and its impact on the economy, public health, state and local governments, individuals, and businesses. This law contains several provisions related to the U.S. Department of Commerce (the Department), including appropriations to the following Departmental bureaus:

Department of Commerce Bureaus Receiving CARES Act Funding	Funding Amount (\$)	Funds Available for Use Until
Economic Development Administration (EDA) <ul style="list-style-type: none"> Economic Development Assistance Programs 	1,500,000,000 ^a	09/30/2022
National Oceanic and Atmospheric Administration (NOAA) <ul style="list-style-type: none"> National Marine Fisheries Service Operations, Research, and Facilities 	300,000,000 ^b 20,000,000	09/30/2021 09/30/2021
National Institute of Standards and Technology (NIST) <ul style="list-style-type: none"> Industrial Technology Services Scientific and Technical Research and Services 	60,000,000 ^c 6,000,000	09/30/2021 09/30/2021
Minority Business Development Administration (MBDA) <ul style="list-style-type: none"> Minority Business Centers (Technical Assistance to Small Business Concerns) Minority Business Centers (Grants) 	10,000,000 10,000,000	09/30/2021 No-Year Funds

^a Includes \$3,000,000 to OIG.

^b Includes up to \$6,000,000 for administration and oversight.

^c Includes \$50,000,000 for the Hollings Manufacturing Extension Partnership and \$10,000,000 for the National Network for Manufacturing Innovation.

Responding to the CARES Act is certainly among the Department's highest priorities during this international emergency. We acknowledge the inherent challenges in overseeing unprecedented funding amounts that require highly expedited distribution timeframes. A continuing challenge for the federal government generally, and the Department specifically, is spending taxpayer dollars wisely and protecting them from waste and abuse. The volume of CARES Act funds—and the need to provide assistance quickly while implementing sound controls—puts these funds at a higher risk for fraud, waste, and abuse. All federal agencies are responsible for implementing management practices, through the establishment of internal control, that identify, assess, respond, and report on risks.¹ Additionally, a significant increase in spending and related activities increases demands on the workforce, oversight processes, business practices, and financial management systems.

As we emphasized following the passage of the American Recovery and Reinvestment Act of 2009, the Department must ensure that program oversight over the use of the stimulus funding is sufficiently designed and executed—and benefit outlays are accurately tracked and reported.² Without this critical oversight and transparency, the Department and its bureaus cannot be certain that its management of the billions of dollars in supplemental program funding has achieved the desired outcome and sufficiently met the requirements of the CARES Act.

A great sense of urgency has arisen in response to the COVID-19 outbreak. However, as past Department of Commerce Office of Inspector General (OIG) work responding to stimulus and recovery programs has done, we advise that—in the rush to disseminate stimulus funding—the Department provide the necessary, additional guidance to direct spending more effectively and to track and report more meaningful results.³

In this memorandum, we leverage key insights from our longstanding body of work to bolster the Department's oversight of CARES Act grantees and contractors. OIG has published several audit reports identifying areas for improvement and fraud prevention within the Department's grant and contract programs. Based on these reports, we identify initial areas of concern that the Department should consider as it implements the provisions included in the CARES Act.

Challenges facing the agencies at the Department of Commerce include the following:

1. Addressing ongoing disaster relief fund oversight challenges facing EDA and NOAA Fisheries
2. Developing and maintaining a competent acquisition and grants workforce to support the implementation and oversight of CARES Act funds
3. Improving processes to award and monitor contracts and grants
4. Improving control of contract and grant file management
5. Mitigating the risk of fraud, waste, and abuse created by the significant influx of funds that need to be distributed quickly

If you have any further questions about our response, please contact me at (202) 482-1931 or Monica Adamo, Director of Acquisition and Grants, at (202) 482-5185.

Attachment

¹ Office of Management and Budget, July 15, 2016. *Memorandum to the Heads of Executive Departments and Agencies, OMB Circular No. A-123, Management's Responsibility for Enterprise Risk Management and Internal Control*. Washington, DC: OMB.

² See U.S. Department of Commerce Office of Inspector General, October 30, 2009. *Commerce Has Implemented Operations to Promote Accurate Recipient Reporting, but Improvements Are Needed*, ARR-19847. Washington, DC: DOC OIG.

³ See DOC OIG, May 8, 2009. *Commerce Experience with Past Relief and Recovery initiatives Provides Best Practices and Lessons Learned on How to Balance Expediency with Accountability*, ARR-19692. Washington, DC: DOC OIG.

Attachment.

Oversight Challenges Facing the Department of Commerce

- 1. Addressing ongoing disaster relief fund oversight challenges facing the Economic Development Administration (EDA) and National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA NMFS).** The Bipartisan Budget Act of 2018 designated \$600 million in disaster relief funds to EDA in the wake of 16 separate billion-dollar weather-related disaster events, including severe weather, hurricanes, flooding, and wildfires. The Act provided disaster relief funds for recipients' expenses related to flood mitigation, disaster relief, long-term recovery, and restoration of infrastructure. We reported on the various management challenges this post-disaster recovery environment presents for EDA.⁴ Such challenges include awarding funds to recipients that might not be familiar with federal requirements or that do not have prior experience administering federal funds. The significant increase in funding that EDA is responsible for under the Act and the need to ensure that these funds are distributed in a prompt, fair manner and for authorized purposes will place increased demands on EDA's workforce, oversight processes, business practices, and financial management systems.

Our grant audit work on NOAA NMFS awardees has consistently found related issues for funds disbursed to address environmental concerns—including man-made disasters. In prior audits, we have found instances where Commissions claimed costs that were either unallowable, not allocable, or unsupported.⁵

- 2. Developing and maintaining a competent acquisition and grants workforce to support the implementation and oversight of Coronavirus Aid, Relief, and Economic Security Act (CARES Act) funds.** With the significant increase in spending and related activities comes a corresponding increase in the number of staff that agencies may need to work effectively. Since 2011, we have reported that the Department continues to face challenges regarding its workforce. For example, in our most recent top management and performance challenges report, we reported that the Department continues to face workforce challenges such as its inability to (1) attract and retain experienced professionals to work in locations outside the Washington, DC, metropolitan area; (2) fill vacant positions timely; (3) compete against the private sector for talent; and (4) hire due to budget cuts, a legislative hiring cap, and limited career development and advancement opportunities.⁶

While the Department has continued its efforts to address this issue, agencies need to ensure that they have the ability to provide oversight with limited time and staff. This is especially crucial for EDA, where a significant level of oversight is needed to administer, manage, and monitor both CARES Act funding and disaster relief funding. We have reported⁷ that (1) EDA had not developed and implemented a comprehensive workforce plan to meet current and future staffing needs and

⁴ DOC OIG, June 4, 2018. *Bipartisan Budget Act of 2018: Oversight Challenges Facing the Economic Development Administration*, OIG-18-022. Washington, DC: DOC OIG.

⁵ DOC OIG, November 12, 2019. *Supplemental Memorandum on Report No. OIG-19-021-A, Audit of NOAA Financial Assistance Awards to the Gulf States Marine Fisheries Commission*, OIG-20-007-A. Washington, DC: DOC OIG.

DOC OIG, December 20, 2018. *Audit of NOAA Pacific Coastal Salmon Recovery Fund Grants to the Washington State Recreation and Conservation Office*, OIG-19-006-A. Washington, DC: DOC OIG.

DOC OIG, April 24, 2018. *Audit of NOAA Pacific Coastal Salmon Recovery Fund Grants to the Northwest Indian Fisheries Commission*, OIG-18-026-A. Washington, DC: DOC OIG.

⁶ DOC OIG, October 16, 2019. *Top Management and Performance Challenges Facing the Department of Commerce*, OIG-20-001. Washington, DC: DOC OIG.

⁷ DOC OIG, January 27, 2020. *EDA Should Develop a Workforce Plan and Improve its Hiring Accountability to Successfully Award and Administer the Disaster Supplemental Funds Appropriated by the Bipartisan Budget Act of 2018*, OIG-20-014-A. Washington, DC: DOC OIG.

(2) EDA's recruitment efforts were significantly behind established milestones set to ensure adequate staffing to handle the increased workload.

- 3. Improving processes to award and monitor contracts and grants.** The Department faces challenges in effective contract and grant administration and oversight. Although the Department is taking steps to improve its administration and oversight of contracts and grants, the reported deficiencies in these areas present significant fraud and mismanagement risks. Through our audit work, we have identified certain issues indicating that Department components need to be more attentive in complying with Federal Acquisition Regulations and grant policy. We reported that inadequate controls led to deficiencies in grant award administration such as grant funds being improperly released without securing the government's interest⁸ and ineffective process for detecting and following up on deficiencies noted during site visits.⁹ We have also reported on deficiencies in contract award and procedures and inadequate oversight practices.¹⁰
- 4. Improving control of contract and grant file management.** The Department continues to face challenges in improving controls over contract and grant file management. In our most recent top management and performance challenges report—and in audits we have issued in recent years¹¹—we have identified significant vulnerabilities in the management of contract and grant file documentation that could expose the Department to substantial financial losses. The failure to adequately maintain contract and grant files creates significant financial risk and demonstrates a lack of internal control over the Department's contract and grant actions. In addition, it generates conditions conducive to fraud and impairs the Department's ability to take effective and timely action to protect its interests and in turn, those of taxpayers.
- 5. Mitigating the risk of fraud, waste, and abuse created by the significant influx of funds that need to be distributed quickly.** The emergency and disaster relief environment can create incentives and opportunities for grant recipients to deviate from standard practices meant to insure effective control of U.S.-funded contracts, grants, and awards. Agencies should tailor their efforts to adapt to the increased funding associated with the emergency relief funds, target outreach efforts at deterring fraud schemes, and ensure that state and local grantees understand how to detect, deter, and report suspicious activities or fraud to the appropriate authorities.

The rapid deployment of CARES Act funding is critical to help mitigate the impact of the Coronavirus Disease 2019 (COVID-19) pandemic. However, anticipating and addressing the increased risk that comes with the expanded funding is vital to meeting the intent of the Act. OIG's prior work can help the Department effectively and efficiently respond to COVID-19—and minimize the shortcomings in stimulus program implementation and possible misuse of funds resulting from rapid fund deployment. To meet the requirements of the CARES Act, we stress that the Department must have sufficient staffing and system resources to manage the extraordinary increases in the number of grants and contracts.

⁸ DOC OIG, February 14, 2012. *Oversight Activities of NIST's Recovery Act Construction Grant Awards Are Generally Effective but Need Improvements*, OIG-12-020-A. Washington, DC: DOC OIG.

⁹ DOC OIG, September 5, 2017. *MBDA Can Improve Processes to More Effectively Monitor Cooperative Agreements*, OIG-17-029A. Washington, DC: DOC OIG.

¹⁰ DOC OIG, October 2, 2015. *Significant Firm-Fixed-Price (FFP) Contract Actions in Fiscal Years (FYs) 2011–2013 Cannot Be Verified from Documentation in NIST Contract Files—Final Memorandum No. OIG-16-001-A*. Washington, DC: DOC OIG.

¹¹ DOC OIG, October 16, 2019. *Top Management and Performance Challenges Facing the Department of Commerce*, OIG-20-001. Washington, DC: DOC OIG.