

SEMIANNUAL
**REPORT to
CONGRESS**

SEPTEMBER 2004



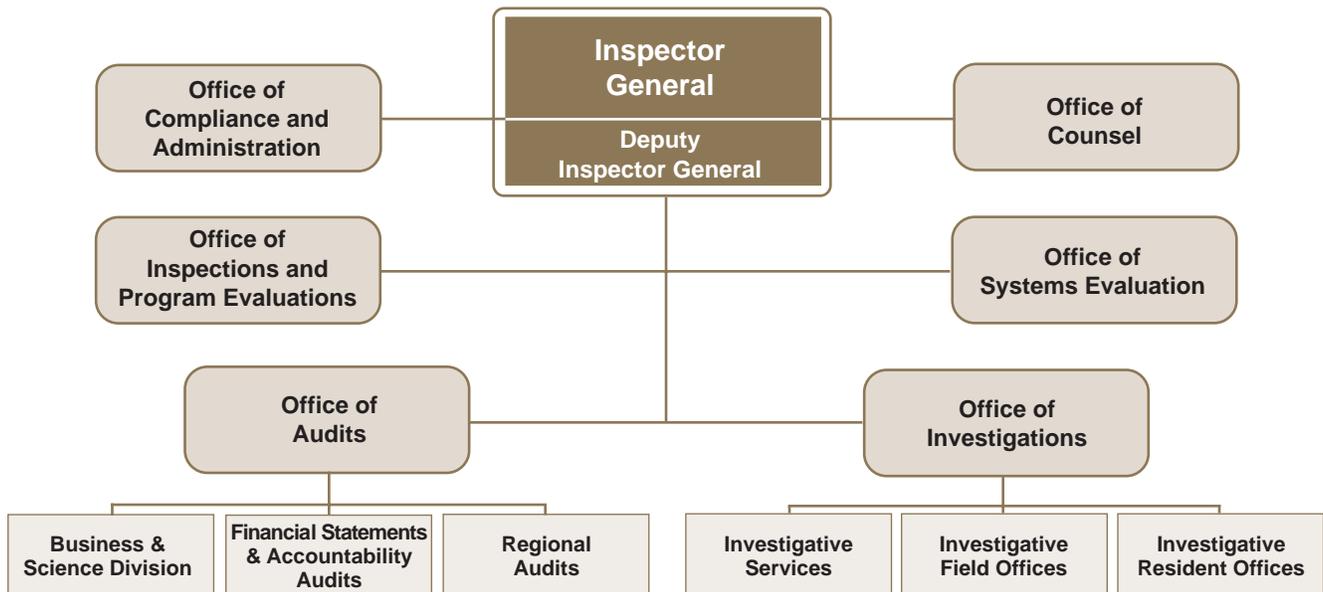
U.S. DEPARTMENT OF COMMERCE
Office of Inspector General



IG's
Semiannual Report
to Congress

September 2004

Office of Inspector General Organization Chart



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UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

December 2004

The Honorable Donald L. Evans
Secretary of Commerce
Washington, DC 20230

Dear Mr. Secretary:

I am pleased to submit to you, in accordance with the Inspector General Act of 1978, this semiannual report on the work and activities of the Department's Office of Inspector General (OIG) for the 6-month period ending September 30, 2004.

Our work reflects the legislative mandate of the Inspector General Act to identify fraud, waste, and abuse and to recommend appropriate corrective actions. Many of the issues we examine cannot be resolved quickly and require the Department's sustained attention. This semiannual report demonstrates our shared commitment to improving the Department's programs and protecting their integrity.

Our review of a number of departmental operations and activities found progress on Commerce's part toward meeting many of the key management challenges we have identified. For example, Census preparations for the 2010 decennial are proceeding well, and we believe the issues noted in our review of the 2004 site test can be resolved through prompt and proper attention from management officials. As a result of its success in resolving deficiencies in financial management systems and other issues we have identified over the years, Commerce has received an unqualified audit opinion on its financial statements for the past 5 years. Similarly, while our required evaluations of IT systems security again identified this area as a Commerce material weakness, we noted steady improvement. We hope to find this material weakness resolved in our next year's evaluation.

We have noted that although Commerce has made progress in addressing key management challenges such as improving financial accountability, our audits of its financial assistance programs continue to find financial irresponsibility by some recipients of Department funds. For example, as a result of extensive OIG audit and investigative work, a research firm in Pennsylvania recently agreed to a \$1.75 million settlement to resolve questioned costs and allegations of false claims arising from its administration of a large NIST award. Such situations highlight the importance of the Department and its bureaus providing the highest management oversight of their financial assistance programs.

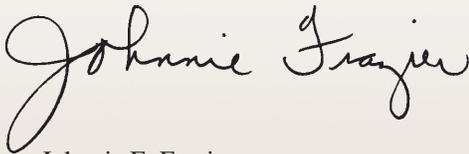
Finally, I would like to acknowledge that your senior officials have worked cooperatively with us, both during the conduct of our reviews and in addressing our findings. For example, the Census Bureau's early attention to concerns we raised during our review of the 2004 Census test demonstrates the value of our interaction. ITA and its Commercial Service officials' efforts and cooperation have been critical to the success of our trade-related work both domestically and overseas. And one additional example of many cooperative efforts is the way in which EDA officials have worked with us to expeditiously address problems identified during audits and investigations of EDA grantees.

The results of the cooperation between our office and the Department are evident in the operations that have improved over the years and in the Department's commitment to resolving issues we identify.

The Inspector General Act requires you to transmit this report within 30 days to the appropriate congressional committees and subcommittees, together with a report containing any comments you wish to make. Your report must also include the statistical tables specified in sections 5(b)(2) and (3) of the act, and a statement with respect to audit reports on which management decisions have been made, but final action has not been taken as specified in section 5(b)(4).

I look forward to continuing to work with senior officials and Department managers to ensure that Commerce programs and operations serve the nation's taxpayers with efficiency, effectiveness, and integrity.

Sincerely,

A handwritten signature in black ink that reads "Johnnie Frazier". The signature is written in a cursive, flowing style.

Johnnie E. Frazier
Inspector General



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IG's Message to Congress

As this semiannual period concluded, the United States Attorney's Office for the Western District of Pennsylvania announced a \$1.75 million civil settlement to resolve questioned costs and allegations of false claims resulting from a medical research firm's misuse of a financial assistance award from the Department of Commerce. (See page 34.)

I mention this case because it is a good and simple example of the IG Act at work—after 25 years, still very capably fulfilling its mission of detecting fraud, waste, and abuse in government programs and operations, as well as in the activities of organizations outside of government to whom we entrust public funds. My counterparts throughout the IG community can point to similar successes involving hundreds of billions of taxpayer dollars. Both Congress and the administration have rightly pushed for greater accountability in the use of these financial assistance funds—which total some \$360 billion government-wide¹—and this focus remained a key priority in our work of the last 6 months.

Commerce has reported the goal of improving administration of federal grants programs in its past several *Performance & Accountability Reports*. Our office—by identifying the circumstances that permit misuse of financial assistance funds—hopes to inform the Department's efforts to achieve its goal and enhance its management of financial assistance programs.

Our 12 audits of financial assistance awards, detailed in this report, disclosed numerous findings of questioned costs and other fiscal and operational weaknesses. We worked closely with program officials to address and resolve the problems that led to these shortcomings. In one case, an OIG audit has already prompted the Economic Development Administration (EDA) to terminate a \$6.44 million public works award. Our recommendation to terminate another EDA grant with questioned costs of \$2.9 million is pending a determination by the agency.

NATIONAL AND INTERNATIONAL WORK

This semiannual report also details important reviews of a diverse range of Commerce's national and international activities. With time ticking away toward the 2010 decennial census, we are ag-

gressively monitoring the Census Bureau's preparations. During this reporting period, we assessed its 2004 testing of automated nonresponse follow-up and related operations (see page 20). The bureau's effort to conduct an accurate, cost-effective decennial remains a top challenge for the Department. We were encouraged by the outcome of the 2004 test and believe that management officials will focus attention on the issues we identified. The bureau is making positive strides, and it is our view that prompt and sustained attention can avoid shortcomings that occurred in the 2000 Census.

Information security—another top challenge for Commerce—received considerable focus during this reporting period, as we completed our annual reviews of the Department's IT security status in accordance with the Federal Information Security Management Act (pages 23 and 42). Despite steady progress by the Department, these evaluations continue to find persistent areas of weakness in Commerce's efforts to secure its numerous national- and mission-critical systems, and we are working closely with the Department's chief information officer to resolve them.

Our review of the U.S. Patent and Trademark Office's (USPTO's) patent examiner production goals, performance appraisal plans, and awards (page 38) focused on how to better enhance patent examiner productivity. The speed with which quality patents are issued can impact the pace of technological progress in the U.S. The tools of the patent examiner trade have greatly improved over the years, and we looked at areas that offer opportunities for improvement in patent examiner production. The Department and USPTO, in striving to meet the challenge of successfully operating USPTO as a performance-based organization, must see that the agency effectively employs the means and mechanisms required to operate at peak efficiency and meet the needs of its customers with utmost timeliness.

Another example of the diverse range of work featured in this semiannual report is our review of Commercial Service's overseas operations in India (page 26). These international posts play a critical role in promoting U.S. trade, and we have made it a practice to review them with regularity. As detailed later in this report, this huge post is doing a good job of promoting U.S. exports in India. However, some management weaknesses we noted there echo those found at other overseas posts, as well as at some domestic U.S. export assistance centers. We welcome the opportunity to work with Commercial Service, the International Trade Administration, and the Department to resolve the recurring prob-

¹ <http://www.grants.gov/SecretaryWelcome>, accessed October 3, 2004.

lems our inspections have identified, and thereby maximize the success of trade promotion activities.

COLLABORATING FOR SOUND GOVERNMENT

Achieving the goals of the Inspector General Act is a collaborative enterprise that requires partnership and open dialog among IGs, their department's senior officials, Congress, and the admin-

istration. I look forward to continuing that partnership in the months and years ahead and reaping the benefits it holds for the sound operation of this Department.

We have performed work that cuts across the broad spectrum of Commerce activities and their attendant strengths and weaknesses to help inform your decision making with regard to this Department. Moreover, we will in the coming months be sharing our pending draft work plan with Congress to ensure that much of our agenda for this Department is compatible with yours.

Major Challenges for the Department

The Office of Inspector General, in assessing its work at the close of each semiannual period, develops its list of Top 10 Management Challenges the Department faces. Each challenge meets one or more of the following criteria: (1) it is important to the Department's mission or the nation's well-being, (2) it is complex, (3) it involves sizable resources or expenditures, or (4) it requires significant management improvements. Because of the diverse nature of Commerce activities, these criteria sometimes cut across bureau and program lines. Experience has shown that by aggressively addressing these challenges the Department can enhance program efficiency and effectiveness; eliminate serious operational problems; decrease fraud, waste, and abuse; and achieve substantial savings.

Challenge 1

STRENGTHEN DEPARTMENT-WIDE INFORMATION SECURITY

Many of Commerce's information technology systems and the data they contain have national significance. Loss of or serious damage to any of these critical systems could have devastating impacts. Therefore, identifying weaknesses in them and recommending solutions is a continuing top priority for the Office of Inspector General. The Federal Information Security Management Act of 2002 (FISMA) provides a comprehensive framework for ensuring that information resources supporting federal operations and assets employ effective security controls. FISMA requires OIGs to perform independent security evaluations of their agencies annually.

During this fiscal year the Department has continued to focus on improving information security. On June 29, 2004, the Secretary issued a memorandum highlighting the need for giving high priority to information security: he directed secretarial officers and heads of operating units to allocate sufficient resources for this purpose, support their unit's chief information officer (CIO) in managing information security, and ensure that senior program officials who authorize systems to operate have received sufficient training in the certification and accreditation (C&A) process. When implemented properly, certification is a powerful tool for helping ensure that appropriate security controls are in place, functioning as intended, and producing the desired outcome.

TOP 10 MANAGEMENT CHALLENGES

1. Strengthen Department-wide information security.
2. Effectively manage departmental and bureau acquisition processes.
3. Successfully operate USPTO as a performance-based organization.
4. Control the cost and improve the accuracy of Census 2010.
5. Increase the effectiveness of marine resource management.
6. Promote fair competition in international trade.
7. Enhance export controls for dual-use commodities.
8. Enhance emergency preparedness, safety, and security of Commerce facilities and personnel.
9. Continue to strengthen financial management controls and systems.
10. Continue to improve the Department's strategic planning and performance measurement in accordance with GPRA.

Through accreditation, agency officials formally accept responsibility for the security of the systems over which they have management, operational, and budget authority and for any adverse impacts to the Department if a breach of security occurs.

The Department's CIO has continued to push completion of system certifications and accreditations; updated Commerce's information security policy on such topics as managing the IT system inventory, assessing security controls, and preparing plans of action and milestones for remediating security weaknesses; and developed a policy on peer-to-peer file sharing.² But similar to last year's FISMA review, our FY 2004 evaluation found that the Department still faces considerable challenges in adequately safeguarding the hundreds of Commerce systems, particularly with regard to effectively conducting these critical activities: (1) as-

² Peer-to-peer file sharing allows individual users of the Internet to connect directly through the Internet to each other so as to transfer or exchange computer files.

EXAMPLES OF CRITICAL DATA PROCESSED BY COMMERCE IT SYSTEMS

- The Bureau of Industry and Security's export license data helps control the release of dual-use commodities to countries and entities of concern.
- The National Oceanic and Atmospheric Administration's satellite, radar, and weather forecasting data and systems provide information used to protect lives and property.
- The Economics and Statistics Administration's economic indicators have policymaking implications that can affect the movement of global commodity and financial markets.
- The U.S. Patent and Trademark Office's patent and trademark information is essential to administering patent and trademark law, promoting industrial and technical progress, and strengthening the national economy.

sessing risk and determining appropriate security controls, (2) testing and evaluating these controls, (3) certifying and accrediting systems, and (4) ensuring that personnel with specialized information security responsibilities receive the necessary training. (See page 42.)

The Census Bureau is a case in point. Our review of the bureau's information security program (page 23) found significant deficiencies in its C&A documentation and processes, such as risk assessments that did not sufficiently identify system vulnerabilities, and security plans that assigned improper and inconsistent sensitivity levels to systems and did not adequately describe the controls that were in place or needed. The documentation also did not identify residual risks in the certified and accredited systems, and thus provided no evidence that the accrediting official understood the level of risk being assumed in authorizing system operations.

For the past 3 fiscal years, the Department reported information security as a Federal Management Financial Integrity Act (FMFIA) material weakness in its *Performance & Accountability Report* in part because our reviews of the C&A documentation for numerous national- and mission-critical systems reported as certified and accredited have continued to identify significant deficiencies.

This year we again reviewed the C&A documentation for a sample of the Department's national-critical and mission-critical systems reported as certified and accredited. Although we observed some improvements, our review found serious shortcomings in the risk assessments, security plans, contingency plans, and testing to ensure that security controls are implemented and working as intended. Thus, we recommended that information security should remain a material weakness for FY 2004. Nevertheless, we were

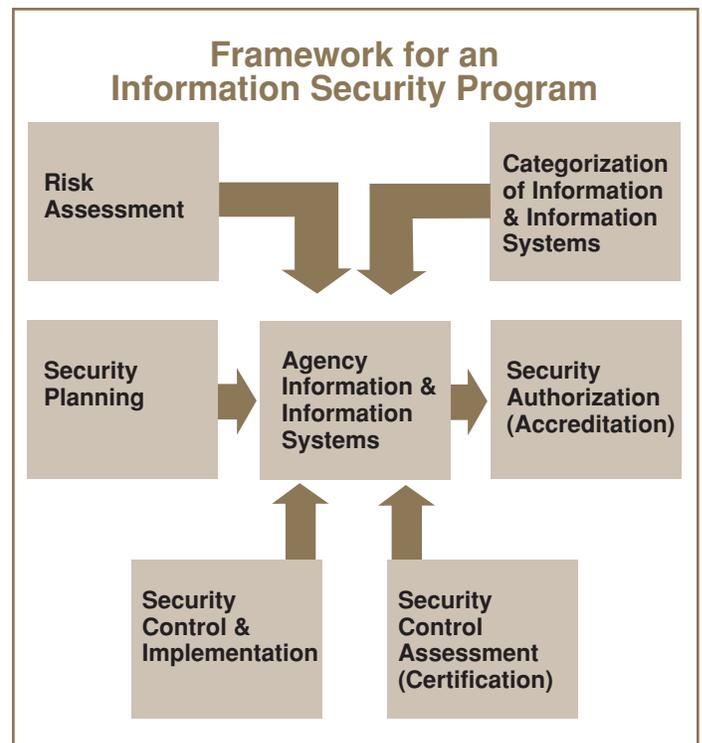
pleased to note some progress. In particular, based on our review of C&A documentation, we found the C&A processes of the Bureau of Economic Analysis and Office of the Secretary provide reasonable assurance that their national- and mission-critical systems are adequately protected.

MATERIAL WEAKNESS AT USPTO RESOLVED

Like the Department, USPTO reported information security as a material weakness in prior-year *Performance & Accountability Reports*, which it submits separately. However, USPTO has reported all of its critical systems as certified and accredited, and we are pleased to report that our review of a sample of C&A materials confirmed the adequacy of its C&A process and documentation. We therefore consider USPTO's material weakness resolved.

DEPARTMENT-WIDE CONTRACT SECURITY DEFICIENCIES REMAIN

We noted in our FY 2003 FISMA report that inadequate security provisions in Commerce IT service contracts also place systems at risk. The Department continued to rely heavily on contractors to provide IT services, spending 65 percent of its IT contract dollars in this area in FY 2003. Last year's FISMA evaluation found that while progress had been made in incorporating security pro-



Source: <http://csrc.nist.gov/organizations/fissee/conference/2004/presentations.html>, accessed October 5, 2003.

visions into recent IT service contracts, provisions for controlling contractor access to Department systems and networks were generally absent, and there was little evidence of contract oversight or of coordination among contracting, technical, and information security personnel in developing appropriate contract security. This year we provided additional analysis of the contract security issues as well as recommendations to further ensure that information and information systems are adequately secure when contractor-provided services are used. Specifically, we recommended that Commerce take steps to ensure that its service contracts contain the new security clauses, issued in November 2003, and that appropriate contract oversight occurs. (See page 43.)

COMPUTER INCIDENT RESPONSE WEAKNESSES NOTED

As part of our FISMA work, we evaluated Commerce's computer incident response capability and found that its decentralized structure is appropriate for the Department's diverse and multiunit organization. (See page 43.) However, we identified numerous weaknesses:

- No centralized entity to promote information sharing and consistency in response processes.
- Inadequate incident response procedures.
- Incomplete and inconsistent incident reporting by the operating units.
- The need for better intrusion detection approaches and specialized tools and training.

The Department CIO concurred with our findings and is taking action to improve Department-wide incident detection and response.

Challenge 2

EFFECTIVELY MANAGE DEPARTMENTAL AND BUREAU ACQUISITION PROCESSES

Federal acquisition legislation in the 1990s mandated sweeping changes in the way federal agencies buy goods and services. The intent was to reduce the time and money spent on purchasing and improve the efficiency of the process. The latest legislative effort to streamline acquisition is the Services Acquisition Reform Act of 2003, whose provisions further push for performance-based service contracting: the act provides that service contracts under \$25,000 may be treated as "commercial" if certain performance-based criteria are met and thereby be eligible for simplified acquisition procedures. As the Department's reliance on contractor-provided services increases, so does the challenge to effectively manage the streamlined acquisition processes these initiatives fostered,

while ensuring that taxpayer dollars are wisely spent and laws and regulations followed.

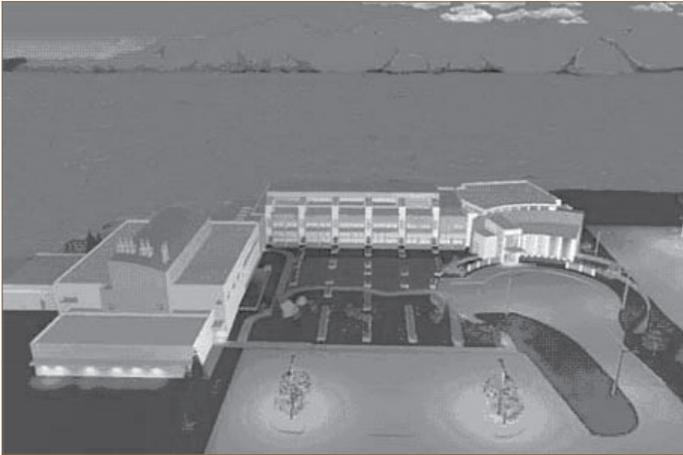
This balance is best maintained by adhering to basic acquisition principles: careful planning, promotion of competition, prudent review of competitive bids, adept contract negotiations, well-structured contracts, and effective contract management and oversight. These are essential to ensuring that sound contracting decisions are made and contracts successfully executed. Problems we have identified with service contracting in the past include failure to use performance-based task orders where they would be beneficial, inadequate training in the use of performance-based service contracting, insufficient planning for contract administration and monitoring, and failure to ensure that adequate security provisions are included and enforced in IT service contracts.

The Department has recently taken a number of steps to improve management of Commerce acquisition processes. In March 2004, it mandated the use of standardized clauses for IT security for all applicable solicitations and contracts, and as part of the Department's annual IT security compliance review, its Office of Acquisition Management (OAM) worked with the CIO's office to determine whether such clauses are being included in IT service contracts. Additionally, OAM has established a board to review the Department's major acquisitions, competitive sourcing opportunities, and interagency agreements; and it reports having achieved the goal of using performance-based acquisitions to award not less than one-half of the total dollar amount the Department expends on service contracts.

OIG ACQUISITION REVIEWS CONTINUE

The serious consequences of poor contract management were evident in our review last year of a NOAA/NWS contract modification for a transition power source for the NEXRAD weather radar, which resulted in NWS paying for defective equipment, contract costs increasing by an estimated \$4.5 million, and the purchase of a product that may not have been the best choice for NEXRAD. (See September 2003 *Semiannual Report*, page 25.) OIG continues to monitor the corrective action plan being implemented as a result of this review and is working with NOAA's director of acquisitions and grants to improve the consistency and thoroughness of NOAA's acquisition process. NWS has also taken actions in response to OIG's recommendations, including issuing a policy directive on acquisition management, and indicates that a critical element on procurement has been added to the performance plans of staff involved in the acquisition process.

Currently, we are reviewing NIST's contract administration process. Our objectives are to determine whether NIST has (1) effective policies and procedures for processing and managing procurement actions in accordance with pertinent laws and regulations, (2) an acquisition workforce that is adequately trained and



Artist's rendering of planned NOAA Fisheries research facility in Juneau. *Source:* <http://www.fakr.noaa.gov/lena/renderings.htm>, accessed October 15, 2004.

skilled to handle NIST's procurement actions, and (3) a system for effectively and efficiently processing procurements in accordance with Commerce/NIST policies and procedures.

MAJOR CONSTRUCTION AND RENOVATION PROJECTS

Contracts for large, costly, and complex capital improvement and construction projects carry numerous inherent risks. This is an area of particular vulnerability for the Department, given the many construction and/or renovation projects it has planned or under way for Commerce facilities. For this reason, we continue to monitor the progress of some of the Department's key current and planned construction projects.

We have just concluded a review of USPTO's progress in completing, furnishing, and occupying its new headquarters complex in northern Virginia (see Challenge 3 and page 39). We also plan to keep abreast of other major Commerce renovation and construction projects, such as Census's construction of its new Suitland, Maryland, headquarters; the Department's planned renovation of its headquarters (the Herbert C. Hoover Building in Washington, D.C.); and NOAA's construction of a Pacific Region Center in Hawaii and a fisheries research facility in Juneau, Alaska.

Challenge 3

SUCCESSFULLY OPERATE THE U.S. PATENT AND TRADEMARK OFFICE AS A PERFORMANCE-BASED ORGANIZATION

The United States Patent and Trademark Office's operation as a performance-based organization continues to warrant special attention. USPTO maintains that the efficiency with which it issues patents has a huge impact on the pace of technological advancement worldwide. The prompt registration of trademarks protects commercial investment, informs consumer choices, and promotes the availability of new goods and services.

USPTO has assumed responsibility for certain operational functions that were once controlled or monitored at the departmental level, and it is essential that the bureau effectively use its expanded authority over budget allocations and expenditures, personnel decisions and processes, procurement, and information technology operations to support the issuance of patents and trademarks.

Since 2002, USPTO has been working to implement its *21st Century Strategic Plan*. The 5-year plan was intended to help the agency overcome the challenges accompanying its transition to performance-based operations, successfully develop necessary

KEY USPTO PATENT STATISTICS	
2003	
Patent Examiners	3,579
Applications Filed	333,452
Applications Granted	173,072
Backlog	457,254
First Actions	283,111
Final Disposals	284,470
Average Pendency	26.7mos.

Source: USPTO

personnel policies, establish procurement and administrative policies as well as performance-oriented processes and standards for evaluating cost-effectiveness, and meet its performance goals under the Government Performance and Results Act (GPRA).

According to the agency, the plan provides a roadmap for major changes in patent and trademark processes. These include steps to (1) improve and maintain patent and trademark quality, (2) move to a paperless environment and promote e-government, (3) enhance employee development, and (4) explore competitive sourcing. The plan also calls for the agency to work with international intellectual property offices to create a global framework for enforcing intellectual property rights.

Our office recently performed three reviews at USPTO. First, we reviewed patent examiner production goals, performance appraisal plans, and awards to determine their effect on the output of the patent examiner corps. We found that patent examiner goals have



Artist's rendering of USPTO's five-building complex in Alexandria, Virginia, clockwise from lower left: Remsen, Jefferson, Madison, Knox, and Randolph. *Source:* USPTO

not changed since 1976 to reflect efficiencies in work processes; patent examiners' performance appraisal plans are not linked to their supervisors' goals or those of USPTO; and patent examiner awards do not appear to be having their intended impact of stimulating examiner production. (See page 38.)

Second, we reviewed progress on construction of the agency's new, state-of-the-art headquarters complex in Alexandria, Virginia, and its relocation to these facilities. This project is one of the federal government's largest real estate ventures. When completed in 2005, the 5-building complex will bring together the majority of USPTO employees and contractors, who are currently scattered among 18 buildings in Crystal City, Virginia. USPTO has already occupied 3 of the new buildings and expects to take occupancy of the remaining 2 earlier than anticipated. We found, among other things, that USPTO and GSA have provided adequate management and financial oversight of the project; USPTO successfully planned and executed its recent move of 2,093 employees to the 2 buildings completed at the time of our review; and cost increases that have occurred are due primarily to project delays beyond USPTO's control, as well as to new requirements, such as information technology changes and security upgrades. (See page 39.)

Third, in response to complaints and a request from the agency's chief financial officer/chief administrative officer, we reviewed certain aspects of the Office of Human Resources (OHR). We found among other things that the recruitment process for the human resources director position was flawed and that USPTO, in collaboration with the Department, needed to clarify its relationship with the Office of Personnel Management and establish sufficient human resources policies and procedures. (See page 40.)

Challenge 4

CONTROL THE COST AND IMPROVE THE ACCURACY OF CENSUS 2010

Few Commerce activities have more ambitious goals, higher costs, or more intensive resource requirements than the constitutionally mandated decennial census, and with each decade, this undertaking becomes more costly, complex, and challenging. Costs of \$2.2 billion in 1980 rose to \$3.3 billion in 1990 and to \$6.6 billion in 2000. They have been estimated to be \$9.3 billion in 2010 (in constant 2000 dollars).

Achieving an accurate population count has become more difficult and costly over the past 3 decades because the nation's population has increased and diversified dramatically. And much has changed in the methods and technologies used for decennial census taking during that time. But the primary weaknesses we noted in monitoring the 1980, 1990, and 2000 decennials have remained the same and are at least partially responsible for the ballooning costs: insufficient planning and lack of upfront funding for an undertaking that by its very nature requires long-term vision and development, as well as appropriate testing at key points along the way.

The Census Bureau has taken numerous steps toward improving 2010 operations and controlling costs. In September 2002 it adopted a reengineered framework for conducting the decennial: an American Community Survey to collect and tabulate long-form data throughout the decade; an enhanced address list and geographic information database; and a program of early planning, development, and testing for a short-form-only census. The three-pronged strategy is ambitious and intended to capitalize on the latest technology, such as handheld computers equipped with global positioning system capabilities for field operations, including address canvassing and nonresponse follow-up data collection.



The palm-sized handheld computer used for the 2004 NRFU operation.

In this semiannual period, we assessed the 2004 census test (see page 20), in which the bureau tested, among other things, the feasibility of using handheld computers to automate nonresponse follow-up (NRFU). The test was conducted in a portion of New York City and in three rural counties in south central Georgia. We found that the handheld computers and related automation are promising

PLANNED DECENNIAL CENSUS TESTS	
Site Tests	2004 Census Test 2006 Census Test
National Tests	2003 National Census Test 2005 National Census Test
Overseas Tests	2004 Overseas Census Test 2006 Overseas Census Test
Dress Rehearsal	2008
<i>Source: U.S. Census Bureau</i>	

replacements for paper-based processes, and the enumerator workforce was able to use the handhelds.

However, the test exposed issues that will have to be addressed for future tests and the 2010 census, including problems with data transmissions, technical support to the field, and the bureau's system and software engineering practices. Among other areas we noted in need of improvement were enumerator training, planning for tests of revised group quarters definitions, and several management and administrative activities.

We will continue our focus on the bureau's planning for the 2010 decennial, including its preparation for the 2006 site test, as well as review other issues and related matters that could have an impact on the decennial.

Challenge 5

INCREASE THE EFFECTIVENESS OF MARINE RESOURCE MANAGEMENT

The National Marine Fisheries Service (NOAA Fisheries) must balance two competing interests: (1) promoting commercial and recreational fishing as vital elements of our national economy and (2) preserving populations of fish and other marine life. The Magnuson-Stevens Act of 1976, the Marine Mammal Protection Act of 1972, and the Endangered Species Act of 1973 gave NOAA Fisheries responsibility for rebuilding and maintaining sustainable fisheries and promoting the recovery of protected marine species. The Magnuson-Stevens Act also made NOAA Fisheries the primary federal agency for managing marine fisheries and established a regional fishery management system to help the agency carry out its mission. The 1996 amendments to the act strengthened NOAA Fisheries' role in protecting and sustaining fisheries and their habitats.

PACIFIC COASTAL SALMON RECOVERY FUND

Established by Congress in 2000 at the request of the states of Washington, Oregon, California, and Alaska, the Pacific Coastal Salmon Recovery Fund provides grants to these states and their resident Native American tribes to support local salmon conservation efforts. The fund is the third largest source of federal support for salmon recovery efforts and the largest financial assistance program in this area administered by NOAA.

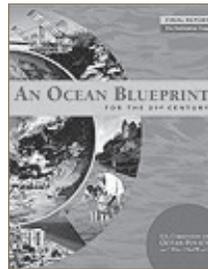
PACIFIC COASTAL SALMON RECOVERY FUNDING ADMINISTERED BY NOAA (IN MILLIONS)						
	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	Totals
Washington	\$18.0	\$30.2	\$34.0	\$27.8	\$26.0	\$136.0
Alaska	\$14.0	\$19.5	\$27.0	\$21.9	\$20.6	\$103.0
California	\$9.0	\$15.1	\$17.0	\$13.9	\$13.0	\$68.0
Oregon	\$9.0	\$15.1	\$17.0	\$13.9	\$13.0	\$68.0
Idaho	\$0.0	\$0.0	\$0.0	\$0.0	\$4.9	\$4.9
Pacific Coastal Tribes	\$6.0	\$7.4	\$11.0	\$8.9	\$8.4	\$41.7
Columbia River Tribes	\$2.0	\$2.5	\$4.0	\$3.0	\$3.1	\$14.6
Total	\$58.0	\$89.8	\$110.0	\$89.4	\$89.0	\$436.2
<i>Source: FY 2000-2004 figures at http://webapps.nwfsc.noaa.gov/servlet/page?_pageid=1292&_dad=portal30&_schema=PORTAL30, accessed October 15, 2004; totals provided by OIG.</i>						

Given the millions of dollars at stake and the importance of the NOAA program, we turned our attention this semiannual period to salmon recovery fund awards, concluding the first three in a series of planned audits.

Our initial reviews focused on programs operated by an Oregon state agency and a Washington state Indian commission. In each case, we questioned significant portions of costs claimed by the recipients and recommended recovery of federal funds. We are keeping NOAA advised of the results of our ongoing audits so that the agency is able to address common issues through strengthened grants management.

U.S. COMMISSION ON OCEAN POLICY

In September 2004, the U.S. Commission on Ocean Policy presented its final report—*An Ocean Blueprint for the 21st Century*—detailing its findings regarding the state of our nation’s ocean and coastal resources and offering recommendations for building a coordinated and comprehensive national ocean policy. The last comprehensive review of U.S. ocean policy was conducted 35 years ago. Since then, our oceans and coasts have changed drastically—more than 37 million people, 19 million homes, and countless businesses have been added to coastal areas.



In its report, the commission called for, among other things, a review of all federal agencies with ocean-related responsibilities, with an eye toward eliminating redundant programs, and recommended greatly expanding NOAA’s environmental stewardship activities. The areas identified in the commission’s report, especially those concerning NOAA’s broader environmental stewardship responsibilities, will draw our attention in the future.

Challenge 6

PROMOTE FAIR COMPETITION IN INTERNATIONAL TRADE

To compete effectively in today’s global marketplace, many U.S. companies need help accessing new or expanded export market opportunities as well as addressing unfair trade practices, trade disputes with foreign firms, noncompliance with or violations of trade agreements, inadequate intellectual property protection, and other impediments to fair trade. Commerce must ensure that its export promotion assistance and trade compliance and market

access efforts adequately serve U.S. exporters, and its enforcement of U.S. trade laws helps eliminate unfair competition from imports priced at less than fair market value or subsidized by foreign governments.

To help meet the challenges in highly competitive world markets, Commerce and its International Trade Administration (ITA) work with the Office of the U.S. Trade Representative, the Departments of State and Agriculture, and numerous other federal agencies to monitor and enforce trade agreements. The number and complexity of those agreements have increased substantially in recent years, and the Secretary of Commerce has made monitoring and enforcing trade agreements and laws a top priority for ITA and the Department as a whole. Over the years, Commerce has received additional funding for trade compliance activities, such as placing compliance officers overseas in several key markets. Increased funding has enabled ITA to attract needed staff without having to request special hiring authority or offer recruitment incentives (see March 2003 *Semiannual Report*, page 20).

Commerce’s many overseas posts and domestic U.S. export assistance centers (USEACs) help U.S. companies identify specific export marketing opportunities and trade leads and offer other trade promotion and export finance counseling services, especially to small and medium-size firms that are new to exporting or seeking to expand their overseas markets. During this past year, we reviewed three USEAC networks—Chicago, Pacific Northwest, and Philadelphia—that comprise 28 individual centers operated by ITA’s Commercial Service. We evaluated their management operations and ability to provide value-added export counseling to U.S. companies (see March 2004 *Semiannual Report*, page 24). During this semiannual period, we released a crosscutting report on strengths and weaknesses common to the networks (see page 25). In each network, we found that client satisfaction was high, strong relationships existed with local partners, and financial and administrative operations were generally sound. However, we also noted inconsistencies in reporting and oversight that led to overstated export success dollar values—a key barometer of performance. Since we first identified problems with export success reporting, ITA and Commercial Service have taken a number of steps to improve related quality controls and oversight of the process, and they are working to train managers and staff in correct reporting procedures. However, further improvements are needed in the reporting guidelines and management accountability.

Our USEAC findings mirrored those of our recent reviews of overseas operations. Inspections of Commercial Service posts in Greece and Turkey revealed that, again, most customers were satisfied with the products and services they received, but both posts had overstated the value of their export successes. (For more detail on Greece, see September 2003 *Semiannual Report*, page 22. For Turkey, see the March 2003 issue, page 19.)

Commerce has numerous mechanisms to monitor and help enforce U.S. trade agreements and review trade complaints. When warranted, its Trade Compliance Center forms teams to follow up on complaints and bring them to satisfactory conclusion. ITA's overseas offices, operated by the Commercial Service, and its other operating units perform a substantial amount of market access and trade compliance work. Overall, ITA's approach to trade compliance and market access is to engage the issue at the working level wherever possible, thus avoiding formal dispute settlement structures such as the World Trade Organization, which can take years to resolve trade disagreements. The Department and ITA pursue important matters of policy—such as intellectual property rights protection, standards development, trading rights, and distribution services—in government-to-government negotiations.

We also report in this issue the findings of our inspection of Commercial Service's post in India (see page 26). We found that the post is generally doing a good job of providing export assistance to U.S. companies and collaborates well with its trade partners, other components of the U.S. mission and ITA, and other government agencies. But as at the USEACs and other overseas posts we have inspected, the India post's reported export successes were problematic. In many cases we could not verify the link between Commercial Service assistance and the reported export success, and we identified several that did not meet the criteria of an export success. Although, as noted earlier, Commercial Service and ITA have taken steps to improve management oversight of reporting, we are concerned that Commercial Service's new, written FY 2004 reporting guidelines have reduced management accountability for ensuring the accuracy and integrity of export success reports. We will continue to monitor these areas and report on the Department's efforts to resolve issues we identify.

Challenge 7

ENHANCE EXPORT CONTROLS FOR DUAL-USE COMMODITIES

The National Defense Authorization Act (NDAA) for Fiscal Year 2000, as amended, directed the inspectors general of the Departments of Commerce, Defense, Energy, and State, in consultation with the directors of the Central Intelligence Agency and the Federal Bureau of Investigation, to report to Congress by March 30, 2000, and annually until the year 2007, on the adequacy of export controls and counterintelligence measures to prevent the acquisition of sensitive U.S. technology and technical information by countries and entities of concern. In addition, NDAA for FY 2001

requires the IGs to discuss in their annual interagency report the status or disposition of recommendations made in earlier reports submitted in accordance with the act.

Our FY 2004 NDAA work dealt with the effectiveness of dual-use deemed export regulations and policies,³ including their implementation by BIS, and compliance with the regulations by U.S. industry, Commerce agencies, and academic institutions. (See March 2004 *Semiannual Report*, page 14.) We found that certain aspects of BIS' deemed export outreach program are working well, but we also identified problems that hamper the efforts of both BIS and the U.S. government to more effectively prevent the transfer of sensitive technology to foreign nationals from countries or entities of concern while they are in the United States. In addition, our most recent follow-up report on prior OIG recommendations noted closure of all outstanding issues from 2000, but numerous recommendations from subsequent years are still open. (See March 2004 *Semiannual Report*, page 17.) BIS has since submitted an action plan to address our deemed export recommendations and notes that it is developing a deemed export compliance program and deciding whether to modify its regulations and public guidance. It also reports having increased its deemed export educational outreach to companies, universities, and research institutions.

For the 2004 interagency report, the IG review team (Commerce, Defense, Energy, State, and the CIA) and the Department of Homeland Security's OIG⁴ completed a crosscutting review of the adequacy and effectiveness of government-wide efforts to promote compliance with deemed export control laws and regulations and to determine whether they protect against the transfer of controlled U.S. technologies and technical information. (See page 14.)

REVIEW OF THE EXPORT LICENSING PROCESS FOR CHEMICAL AND BIOLOGICAL COMMODITIES

To comply with NDAA's FY 2005 requirement, we are reviewing the export licensing process for chemical and biological commodities to determine whether current licensing and enforcement practices are consistent with relevant laws and regulations, as well as established national security and foreign policy objectives, such

³ According to the Export Administration Regulations, any release to a foreign national of technology or software subject to the regulations is deemed to be an export to the home country of the foreign national. These exports are commonly referred to as "deemed exports" and may involve the transfer of sensitive technology to foreign visitors or workers at U.S. research laboratories and private companies.

⁴ Homeland Security participated in the 2004 assessment because of the nature of the review topic.

as those set forth in the President's *National Strategy to Combat Weapons of Mass Destruction* (December 2002). In addition, we are assessing the effectiveness of coordination between the various federal agencies during the export licensing process for these commodities.

While BIS, the administration, and Congress work to target federal licensing and enforcement efforts on exports that present the greatest proliferation and national security risks, and streamline or eliminate controls that hamper trade and are not necessary to address national security or foreign policy concerns, congressional enactment of a new Export Administration Act is vital to the success of the U.S. government's efforts to enhance export controls. We will continue to monitor BIS' efforts to improve the effectiveness of dual-use export controls.

Challenge 8

ENHANCE EMERGENCY PREPAREDNESS, SAFETY, AND SECURITY OF COMMERCE FACILITIES AND PERSONNEL

Since our March 2002 report on the status of emergency preparedness and security programs at a cross-section of Commerce facilities, the Department has made significant improvements, but the challenge remains. Heightened security requires a variety of measures: infrastructure risk assessments, emergency backup sites, upgraded physical security, and employee awareness and training, to name a few. Despite progress in these areas, the Department needs to regularly reassess its security status to ensure it provides adequate protections for employees and operations, and must make modifications as needed.

Commerce has reported a number of actions to enhance security thus far this year. These include drafting a new Department Administrative Order relating to foreign national visitors and guest researchers in Commerce facilities, which is currently being reviewed by Commerce bureaus. The Department also reported that it has conducted numerous risk assessments of Commerce facilities and compliance reviews of security containers⁵ and classified documents to help ensure the safety of Commerce personnel and national security information. Commerce's Office of Security is also working with bureaus to develop or update their continuity of operations and emergency operations plans.

Given the size of its workforce and the geographical spread of its hundreds of facilities nationwide and at more than 150 overseas

⁵ Security containers are secure receptacles (e.g., safes) or holding areas for classified documents and materials.

locations, complying with recent security-related guidance is a complex, resource-intensive undertaking for Commerce. Our inspections of overseas posts and domestic U.S. export assistance centers operated by the Commercial Service identified the need for more timely security upgrades, improved oversight of security operations, and in some cases, specific security improvements.

We believe Commerce is making progress on many emergency preparedness, safety, and security fronts, but the challenge is massive. OIG is currently conducting a follow-up review of the Department's emergency preparedness efforts to ascertain the status of these activities and to identify other areas that may still need to be addressed.

Challenge 9

CONTINUE TO STRENGTHEN FINANCIAL MANAGEMENT CONTROLS AND SYSTEMS

Federal law requires agencies to prepare and disseminate financial information, including audit reports on their financial statements, to enable Congress, agency executives, and the public to assess an agency's operational and program management and to determine whether its financial management systems comply with legislative mandates.

The Department has now implemented the Commerce Administrative Management System, achieved and maintained unqualified opinions on its consolidated financial statements, and come into substantial compliance with the Federal Financial Management Improvement Act—all significant accomplishments. These successes reflect management's commitment to and success at addressing the findings of deficient internal controls and financial management systems identified in our audits and other reviews over the past decade.

Nevertheless, maintaining sound financial management controls and systems remains a challenge, given the Department's size, the diversity of its mission-related activities, its complex mix of financial systems and operations, and the billions of dollars it must account for each year. We will continue to monitor a range of financial management issues, including Commerce's progress in meeting the accelerated financial reporting dates required by OMB for the FY 2004 financial statements audit—now due just 45 days after year-end; the effectiveness of the Department's internal controls; the International Trade Administration's progress toward implementing full cost recovery to comply with OMB Circular A-25; and the Department's maintenance and operation of financial systems, including change management for updating software.

Challenge 10

CONTINUE TO IMPROVE THE DEPARTMENT'S STRATEGIC PLANNING AND PERFORMANCE MEASUREMENT IN ACCORDANCE WITH THE GOVERNMENT PERFORMANCE AND RESULTS ACT

Congress and agency managers require relevant performance measures and credible performance data to effectively oversee federal programs. The Government Performance and Results Act of 1993 was designed to ensure the availability of such data by mandating that agencies set goals for program performance and report outcomes measured against them. Accurate performance results are essential to agencies' ability to develop integrated budget and performance information and to make sound funding decisions.

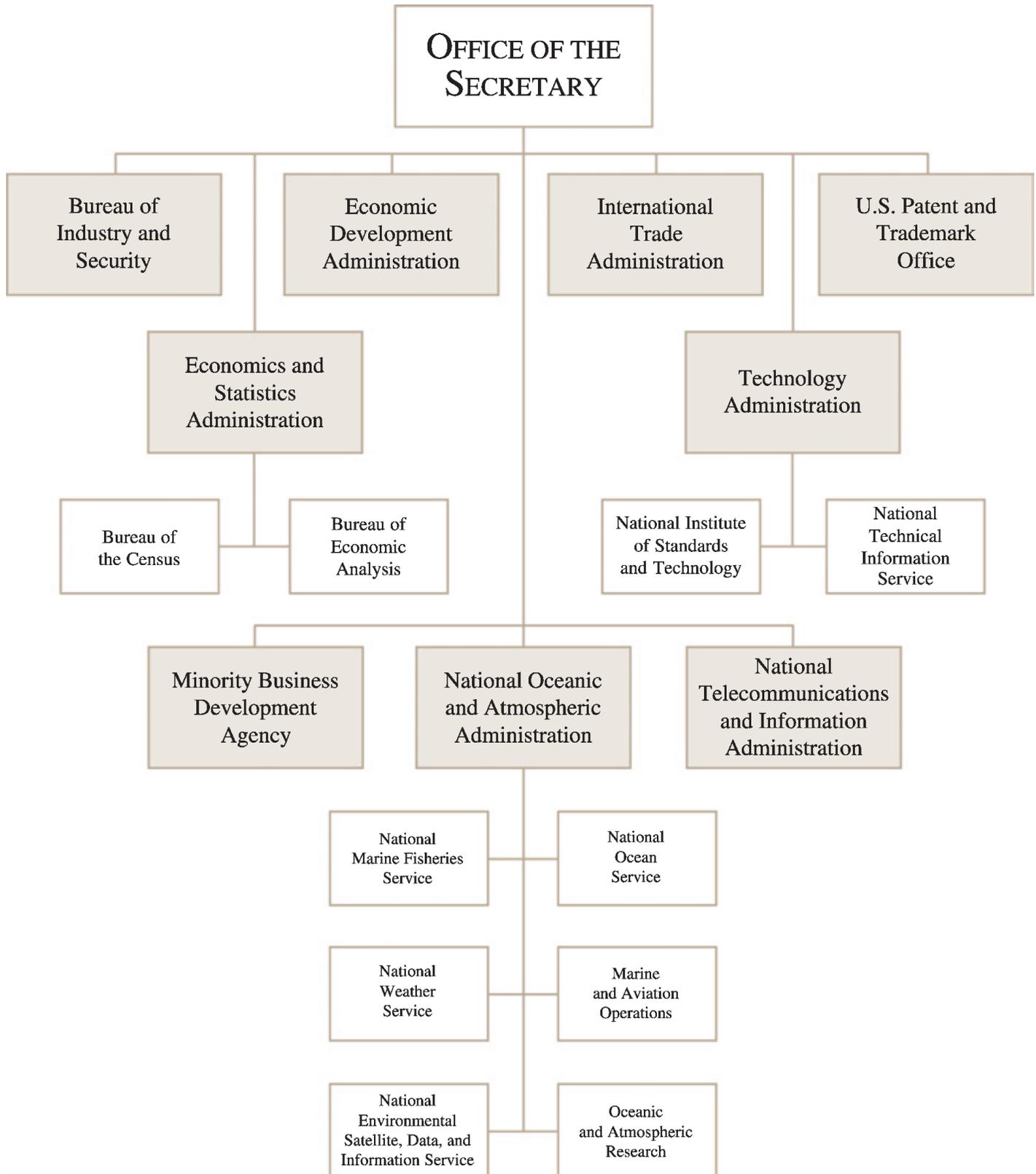
Over the past several years, we have reviewed the collection and reporting of performance data by eight of Commerce's largest operating units. Our audits have identified the need for (1) stronger internal controls to ensure that reported data is accurate, (2) measures that clearly articulate what is being assessed, and

(3) improved explanations and disclosures to clarify and enhance the usefulness of the results.

During this past semiannual period, these same issues emerged in our audit of NOAA performance measures supporting the agency's goals of building sustainable fisheries, recovering protected species, and predicting and assessing decadal to centennial climate change. We found that reporting for all three of the goals was problematic: in some cases, titles of measures did not clearly convey what was being assessed; in others, explanations and verification details were incomplete, or supporting documentation was inadequate. To correct these deficiencies, NOAA needs to (1) revise or otherwise clarify certain performance measures, (2) strengthen internal controls to ensure that reported data is fully supported and adequately explained, and (3) provide complete and appropriate detail in discussions of results. (See page 29.)

The operating units for which we have completed performance measure audits have been responsive to our recommendations: they have developed action plans to address identified deficiencies and have revised previously reported performance information accordingly. As each unit takes such steps, we are confident that performance data will become more reliable and useful, and thus better serve the purpose and intent of GPRA.

Department of Commerce Organization Chart





BUREAU OF INDUSTRY AND SECURITY

INTERAGENCY REPORT ECHOES DEEMED EXPORT CONTROL FINDINGS AT BIS

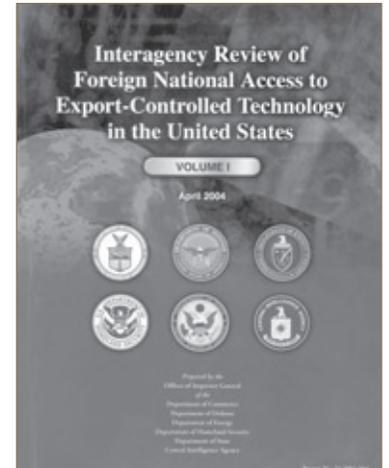
The Bureau of Industry and Security

is primarily responsible for administering and enforcing the nation's system for controlling exports of sensitive dual-use goods and technologies. BIS' major functions include formulating and implementing export control policy; processing export license applications; conducting various policy, technical, and economic analyses; promulgating regulations; conducting industry outreach; and enforcing the Export Administration Act and regulations. BIS is divided into two units:

Export Administration implements U.S. export control and nonproliferation laws and policies through export licensing, commodity classifications, and advisory opinions; technical, economic, foreign availability, and policy analyses; promulgation of regulations; and industry outreach. It also conducts various defense industry activities and enforces industry compliance with arms control treaties.

Export Enforcement participates in reviews of export license applications and conducts criminal and administrative investigations relating to the export control portions of the Export Administration Act and regulations. It also administers and enforces the antiboycott provisions of the act and regulations.

To meet the fifth-year requirement of the National Defense Authorization Act, the inspectors general of the Departments of Commerce, Defense, Energy, Homeland Security, and State and the CIA assessed whether U.S. industry, federal agencies, and academic institutions are complying with deemed export laws and regulations to prevent the transfer of sensitive U.S. technologies to foreign nationals from countries and entities of concern, and whether the regulations are thus having the desired effect. At Commerce, our assessment of BIS' implementation of deemed export regulations and policies, detailed in our March 2004 *Semiannual Report to Congress* (page 15), noted that some licensing policies and exemptions may inadvertently affect national security, and require further examination. The interagency report, issued during this semiannual period, identified these same concerns at the various other departments involved in administering the regulations.



REVIEW RESULTS

U.S. ORGANIZATIONS LACK AWARENESS AND UNDERSTANDING OF DEEMED EXPORT REGULATIONS

The agency IGs noted that companies and academic institutions often are unaware of or unclear about their obligations under federal law for safeguarding sensitive technology from foreign nationals who work with or visit them. The OIGs also found an acute lack of awareness that export control regulations apply to the technology associated with the use of controlled equipment, even when it is used by foreign nationals to conduct fundamental research. Federal agencies with export control responsibilities must expand their outreach and educational activities to improve awareness of and compliance with the regulations, and thereby reduce opportunities for the unauthorized transfer of export-controlled technology or commodities.

AGENCIES DO NOT SUFFICIENTLY MONITOR COMPLIANCE

Four of the six agencies reviewed did not conduct on-site compliance inspections or audits, or have other acceptable policies or procedures in place for promoting and verifying compliance with deemed export controls.

MANY FOREIGN NATIONALS ARE EXEMPT FROM REGULATIONS

As noted in past reviews, both the Export Administration Regulations and the International Traffic and Arms Regulations exempt a large number of foreign nationals from deemed export licensing requirements and thus raise the potential for the inappropriate transfer of sensitive U.S. technology: licenses are not required for foreign nationals who are permanent U.S. residents or who wish to access publicly available technology and software that is already published or will be published, or is educational. In addition, the fundamental research exemption, while it does not provide a blanket exemption for technology transfers to foreign nationals involved in fundamental research, does apply to technology that arises during, or results from, fundamental research. With regard to the first issue, the IGs noted that permanent residents may pose a risk because they can freely travel to and from their home country and potentially transport controlled technology without scrutiny. As for the second issue, publicly available, sensitive technology and research that is not published may ultimately be deemed too sensitive for unrestricted availability and withdrawn from the public domain. In the meantime, foreign students or researchers at U.S. academic and research facilities would have the access

and opportunity to convey the information to countries or entities of concern. The Commerce and Defense OIGs were also concerned that the definition of fundamental research may be unclear.

FOLLOW-UP ON RECOMMENDATIONS

The interagency team made no joint recommendations in this year's report, but as required by NDAA, we followed up on prior-year interagency recommendations: our FY 2002 report, *Interagency Review of Federal Automated Export Licensing System*, had a total of seven recommendations. Four of these were addressed to the Secretaries of Commerce, Defense, Energy, State, and Treasury, and to date, two remain open: one calling on the Secretaries to create a charter outlining the responsibilities of each agency in developing and operating a dual-use licensing system and in coordinating their individual efforts to improve their automated licensing systems; the other, to create a central repository for all unclassified data records pertaining to export license review and approval. (*Offices of Inspector General of the Departments of Commerce, Defense, Energy, Homeland Security, and State, and the Central Intelligence Agency: IPE-16177*)



ECONOMIC DEVELOPMENT ADMINISTRATION

PUBLIC WORKS PROGRAM

The Economic Development

Administration was established by the Public Works and Economic Development Act of 1965 to generate new jobs, help retain existing jobs, and stimulate commercial and industrial growth in economically distressed areas of the United States. EDA continues to fulfill this mission under the authority of the Economic Development Administration Reform Act of 1998, which introduced the concept of Comprehensive Economic Development Strategies, a local planning process designed to guide the economic growth of an area. Based on these locally and regionally developed strategies, EDA works in partnership with state and local governments, regional economic development districts, public and private nonprofit organizations, and Indian tribes to help distressed communities address problems associated with long-term economic deterioration and recent, severe economic dislocations, including recovery from the economic impact of natural disasters, the closure of military installations and other federal facilities, changes in trade patterns, and the depletion of natural resources. EDA provides eligible recipients with technical assistance, as well as grants for public works and economic development, planning, training and research, and economic adjustment.

EDA's Public Works Program empowers distressed communities in economic decline to revitalize, expand, and upgrade their physical infrastructure to attract new industry, encourage business expansion, diversify local economies, and generate or retain long-term, private sector jobs and investment. In many cases, public works projects are used to upgrade or expand an area's economic infrastructure to support the next generation of industry or commerce. Whenever possible, this program seeks to redevelop existing facilities and industrial/commercial locations. EDA encourages such projects because they promote sustainable economic development by taking advantage of readily available infrastructure and markets. During this reporting period, we conducted audits of three public works grant awards, recommending that two of the three be terminated.

Audit Results in Termination of California Incubator Project

A northern California nonprofit organization received a \$6.44 million public works grant in September 2002 to construct a 40,000-square-foot business incubator for start-up biotech firms. The project proposed to launch as many as 40 companies within 5 years, attract nearly a billion dollars in venture capital, and create 3,000 new jobs. The recipient was required to provide a matching share of \$1.61 million, bringing the total estimated cost of the project to \$8.05 million. Under the special terms and conditions of the 4-year award, construction had to start by September 30, 2004.

In May 2004, EDA's mounting concerns regarding the grantee's financial stability prompted us to conduct an interim, limited-scope audit of the award to assess the organization's ability to complete the project, and to determine whether disbursed grant funds had been spent for nonproject purposes.

Based on information developed during the audit, we concluded that the organization was on the brink of insolvency and sustaining its day-to-day operations only through the improper use of EDA project funds. The recipient's most recent financial statements reflected a net deficit position. In addition, our analysis of monthly cash flow demonstrated that operating expenditures were routinely exceeding revenues, and that EDA construction funds were being used to cover the ongoing cash shortfalls. As of April 30, 2004, EDA had disbursed nearly \$2.5 million to the grantee, most of which was earmarked for purchase of the land on which the incubator would be built. We calculated that the organization should have had more than \$2 million in project funds on hand at the time of our audit, but only \$1.7 million remained because some \$300,000 had been used to cover nonproject expenses. We also found that the grantee's financial management system did not meet federal requirements: accounting records did not separately account for EDA project costs, and controls over project funds were inadequate.

We considered these financial and administrative deficiencies to be so serious that we recommended that EDA designate the recipient as a high-risk organization, immediately suspend the award, and require the grantee to deposit all remaining project funds into a separate, interest-bearing account. We further recommended that EDA terminate the award if, within 60 days, the recipient failed to reimburse all funds spent for nonproject purposes and demonstrate its financial and administrative capability to complete the project. The agency accepted our recommendations and suspended the award in July 2004.

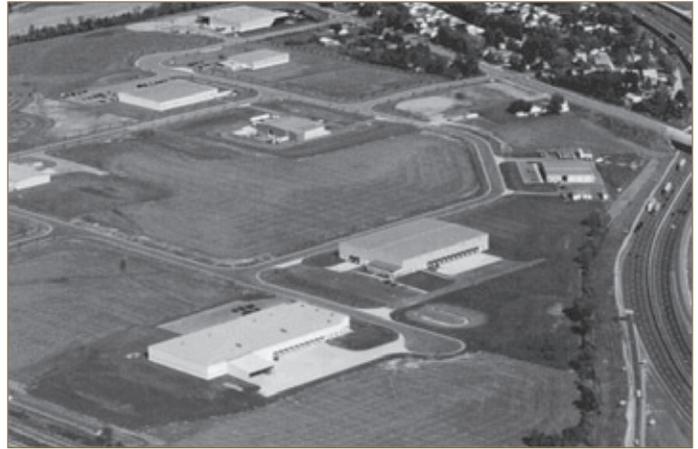
In response to our report, the grantee admitted that it had improperly spent more than \$300,000 in EDA funds in order to keep its organization afloat, and acknowledged its inability to repay the misspent funds within 60 days. Nonetheless, the organization asserted that its fiscal woes would soon be remedied, claiming to have put in place an operating plan to achieve financial stability, which relied on the infusion of significant revenue from various public and private funding sources. In our view, however, the recipient's plan was speculative at best: it provided no credible assurances that the projected funding was actually forthcoming or that it would be available to cover the routine operating expenses of the organization. Moreover, the response failed to demonstrate that the organization was a responsible recipient of federal funds or that it had the financial and administrative capability to complete the incubator project in accordance with the terms and conditions of the EDA award.

In September 2004, EDA notified the recipient that the award would be terminated for cause, and directed repayment of more than \$2 million in grant funds disbursed for the construction project. (*Atlanta Regional Office of Audits: ATL-16838*)

Audit of Grant to Ohio City Discloses Material Violations and \$2.9 Million in Questioned Costs

In September 1998, a city in Ohio received a public works grant for infrastructure improvements to a parcel of land being developed as an industrial park. The three-phase project, initiated in 1996, was being developed by the property owner on the city's behalf. At the time of the EDA award, the developer—a for-profit company—had completed phase I using a \$1.4 million municipal grant. The EDA grant was to augment city funding for phases II and III. Total estimated cost of the remaining two phases was \$2.3 million, with the federal share not to exceed \$900,000.

In May 1999, EDA suspended the grant pending the outcome of a lawsuit by the Environmental Protection Agency: EPA had charged that the city's wastewater treatment facilities did not meet federal environmental requirements and could not handle additional industrial users. Though EDA advised the city to defer work on the



Aerial view of industrial park project.

Source: OIG

project while the award was suspended, the developer proceeded with construction and completed the project in October 2000. In late 2001, the city requested that the grant be reinstated, noting that the lawsuit had been settled and the project concluded. In 2003 the city submitted a claim for total project costs of \$2.9 million, at which point EDA learned that administration of the project had been transferred to the developer—an ineligible recipient of public works funds. Despite concerns about this transfer and completion of the project without EDA approval, the agency disbursed \$900,000 in grant funds with the caveat that all claims would be subject to an OIG audit.

AUDIT DISCLOSES SERIOUS NONCOMPLIANCE ISSUES

- **Project transferred to ineligible recipient.** Under the terms of EDA's public works program, for-profit concerns may not receive grant funds. The city—in awarding a subgrant to the developer—transferred project management to a for-profit entity, and thereby effectively passed EDA funds through to an ineligible recipient. Additionally, as owner of the property under development, the company was the primary beneficiary of the publicly funded project.
- **Conflicts of interest.** As project manager, the developer executed contracts with prohibited parties—one, for excavation work by a company it controlled; the other for landscaping services from a firm owned by the developer's son-in-law, who was also employed by the development company as project manager of the industrial park.
- **Improper procurement procedures.** The city, through the developer, failed to ensure full and open competition in procuring materials and services for the project. It awarded contracts without seeking competitive bids or

conducting formal price comparisons. It also failed to obtain required EDA approvals or maintain adequate procurement records.

- **Noncompliant financial management system.** The city did not track and record EDA-funded project costs separately from those paid for with city funds, and therefore could not adequately document costs claimed as allocable to the EDA grant.
- **Inadequate audits.** Annual audits of the city's financial statements were not conducted in accordance with the Single Audit Act.

We questioned all costs claimed by the city because one or more violations of the terms and conditions of the grant award were found with respect to each of the transactions comprising the claim.

Given the seriousness of the violations we identified, we recommended that EDA terminate the grant for cause, disallow the entire \$2.9 million of claimed costs, and recover the federal share of \$900,000. EDA's response to this recommendation is pending. (*Denver Regional Office of Audits: DEN-16511*)

Matching Share, Development Agreement, and Project Safety at Issue in Illinois Audit

In September 2001, EDA awarded a public works grant to a village in southwest Illinois for infrastructure improvements to an abandoned limestone mine slated for development as an underground business complex that would provide space for cold storage and other warehousing operations. The project includes installation of water, sewer, and electric lines; roof and portal reinforcement; and construction of a concrete access roadway. Total estimated costs of the project are \$3,156,755, of which the EDA grant will fund a maximum of \$1,894,053. The \$1,262,702 balance is to be covered by matching funds from the state of Illinois, which are contingent upon a certification that the project will create 60 jobs.

The village contracted with a private developer to oversee the improvements and market the space to commercial prospects. In January 2004, EDA suspended the award because the project had no committed tenants and the state's matching share had been withheld.

We performed an audit to assess whether the funds necessary to complete the project would be available. We also reviewed the village's agreement with the developer to determine whether it complied with grant requirements, and examined the safety and physical viability of the project. At the time of our audit, no construction contracts had been awarded and no EDA funds disbursed.

MATCHING SHARE IS AVAILABLE

Subsequent to the completion of our audit fieldwork in April 2004, the state obtained a certification that a company owned by the developer had committed to constructing a commercial facility in the underground complex that would create 60 jobs. As a result, state matching funds were made available to the village. Based on the earlier problems experienced, we recommended that EDA monitor the project to ensure that matching funds are paid out at the same general rate as federal funds, and that the promised job creation actually occurs.

PROBLEMS WITH DEVELOPMENT AGREEMENT REMEDIED

The village's original agreement with the developer afforded the developer the right of first refusal to purchase the mine property. In our draft report we noted that exercise of this provision would have the effect of passing through the public works grant to an ineligible recipient—a for-profit company—that would also become the primary beneficiary of the EDA-funded project. In response, the city terminated the developer's right of first refusal. In our final report, we recommended that EDA make clear to the city that, should it sell the mine after improvements are made, it must reimburse EDA for its share of the proceeds, based on the agency's participation in the cost of the project.

STEPS TAKEN TO ENSURE PROJECT SAFETY

During our review, we examined a report from a geological engineering firm that had surveyed the mine's stability and concluded that loose rock in the roof posed an unacceptable risk to public safety. It proposed a three-step process for shoring up the roof and thus minimizing the risk. In its response to our draft report, the village confirmed its intention to adhere to the three-step plan. We recommended that EDA condition release of grant funds on the village's compliance with the engineering firm's recommendations.

FUNDS PUT TO BETTER USE

By ensuring that agreements between the project developer and the city adhere to grant requirements, mine safety conditions are met, and matching funds are contributed, project funds amounting to \$3,156,755 will be put to better use. (*Denver Regional Office of Audits: DEN-16837*)

INVESTIGATIONS

RLF Administrators Convicted of Conspiracy and Program Fraud

In our March 2004 *Semiannual Report* (page 43), we reported that two of four officials of an EDA-funded revolving loan fund (RLF) pleaded guilty in U.S. District Court for the District of Massachusetts to program fraud, money laundering, and conspiracy. In June 2004, one of the defendants was sentenced to 41 months' incarceration and 3 years' probation, and was ordered to pay a fine of \$300 and restitution to the government in the amount of \$723,553. The other defendant who entered a guilty plea is scheduled for sentencing in October 2004.

The two remaining defendants were found guilty in April 2004 of multiple fraud and conspiracy charges. In July 2004, one defendant was sentenced to 6 months' home detention, 3 years' probation, and 300 hours of community service, and ordered to pay restitution of \$29,000 and a fine of \$5,000. In August 2004, the other defendant was sentenced to 6 months' home detention, 4 years' probation, and 300 hours of community service, and ordered to pay restitution of \$68,000 and a fine of \$5,000. (*Arlington Resident Office of Investigations*)

RLF Directors Indicted for Public Corruption and Program Fraud

In September 2004, a federal grand jury in the Western District of Missouri charged the former executive director and former assistant director/community planner of a regional rural economic development commission with a 19-count indictment that included charges of conspiracy, federal program fraud, and making false statements. A separate nonprofit corporation, for which one of the defendants also served as executive vice president, was created by the development commission to receive federal grant funds, and received funding from a number of agencies, including EDA, the Small Business Administration, and the Departments of Housing and Urban Development, Labor, and Agriculture. The EDA funds were disbursed through a grant to capitalize an economic development revolving loan fund administered by the corporation. A joint OIG/FBI investigation disclosed that the defendants used federal funds to make unauthorized loans and payments totaling more than \$900,000 to benefit themselves and the companies they operated and controlled. We also determined that annual certifications provided by the defendants to EDA regarding the disposition of RLF funds contained false statements concealing the fraudulent activity and false certifications that EDA policies had been followed. (*Denver Resident Office of Investigations*)



ECONOMICS AND STATISTICS ADMINISTRATION

CENSUS 2004 TEST: REENGINEERED NONRESPONSE FOLLOW-UP IS PROMISING, BUT PROBLEMS REMAIN

The Economics and Statistics

Administration analyzes economic developments, formulates policy options, and produces a major share of U.S. government 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 agencies:

Bureau of the Census is the country's preeminent statistical collection and dissemination agency. It 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 decennial census of industry.

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

The Census Bureau put its reengineered decennial strategy to the first major test this past spring, conducting automated nonresponse follow-up (NRFU) using handheld computers (HHCs). The testing occurred at two fully operational local census offices (LCOs) established to evaluate the functionality of new NRFU systems and procedures under rural and urban conditions. The urban LCO served a portion of the New York City Borough of Queens; the rural office served three counties in south central Georgia.

Nonresponse follow-up is the most labor-intensive and costly operation in the decennial: temporary Census employees (enumerators) visit addresses from which the bureau did not receive a completed questionnaire. For the test, enumerators visited more than 120,000 households.

Automating NRFU's paper-based processes is a key feature of the bureau's redesign for Census 2010, and if successful, should enhance operational efficiency, data quality, and enumerator productivity, while containing costs. The transformation is built around an HHC designed to allow enumerators to manage their housing assignments, locate housing units using electronic maps and global positioning system (GPS) technology, interview household occupants via an automated questionnaire with English and Spanish text, and exchange data with Census headquarters. A major objective of the 2004 test was to determine whether HHCs could effectively support nonresponse follow-up activities and whether enumerators could ably use them to perform their work.

A multidisciplinary team from OIG's Offices of Audits, Inspections and Program Evaluations, and Systems Evaluation assessed selected aspects of the 2004 test: (1) the HHCs and associated systems involved in automating NRFU; (2) enumerator hiring, training, and quality control processes; (3) revised definitions and methods for distinguishing between group quarters and housing units; and (4) management, administrative, and logistical support. Our key findings are detailed below.

AUTOMATED NONRESPONSE FOLLOW-UP APPEARS FEASIBLE, BUT TECHNICAL ISSUES NEED TO BE RESOLVED

The test demonstrated that HHCs and related automation are promising replacements for paper-based NRFU. The enumerator workforce—recruited, hired, and trained using the bureau's traditional practices—was able to use the handheld computers. HHC assignment and questionnaire functions generally appeared to work well, as did the Operations Control System (OCS) used for assigning cases to enumerators' HHCs, processing their questionnaire data, and providing other critical management functions.

However, the test exposed numerous weaknesses: transmission problems and inadequate help desk support seriously disrupted enumerator training and NRFU operations, as did the delivery of inadequately tested HHC software and the consequent need to transmit improved software during training. In the field, the handheld computers often crashed, disrupting the interview and sometimes losing data. Finally, the HHCs' electronic maps were generated so slowly that enumerators often opted not to use them, leaving the bureau with little data for assessing this and related navigation aids.

NRFU TRAINING NEEDS IMPROVEMENT

Curriculum Modifications. The bureau has traditionally trained enumerators using a rigidly scripted “verbatim” methodology. Some problems we observed with NRFU operations—such as enumerators omitting or rewording questions, or ineptly handling reluctant respondents—appeared to be systemic, long term, and linked to weaknesses in training. Introduction of the handheld computer has made training even more difficult, particularly because many trainees have various levels of expertise, and sometimes no experience with computers and related terminology. The bureau’s verbatim curriculum needs to be augmented with other methods to better address the systemic and technical learning issues we observed. To improve training, the bureau should consider preparing alternative scripts or explanations for asking awkward questions, and adopting more dynamic training methods such as multimedia and computer-based instruction.

Site Selection. The addition of the handheld computer component to the training curriculum has changed the bureau’s training space needs—classes are now longer and sites must have adequate infrastructure, such as telephone lines capable of handling HHC transmissions. Given that the bureau tries to use free or low-cost space,

finding sites that have the necessary features may be more difficult than in the past. The bureau, through its site selection process, must verify that facilities can accommodate technology requirements or that they can otherwise adequately support the training.

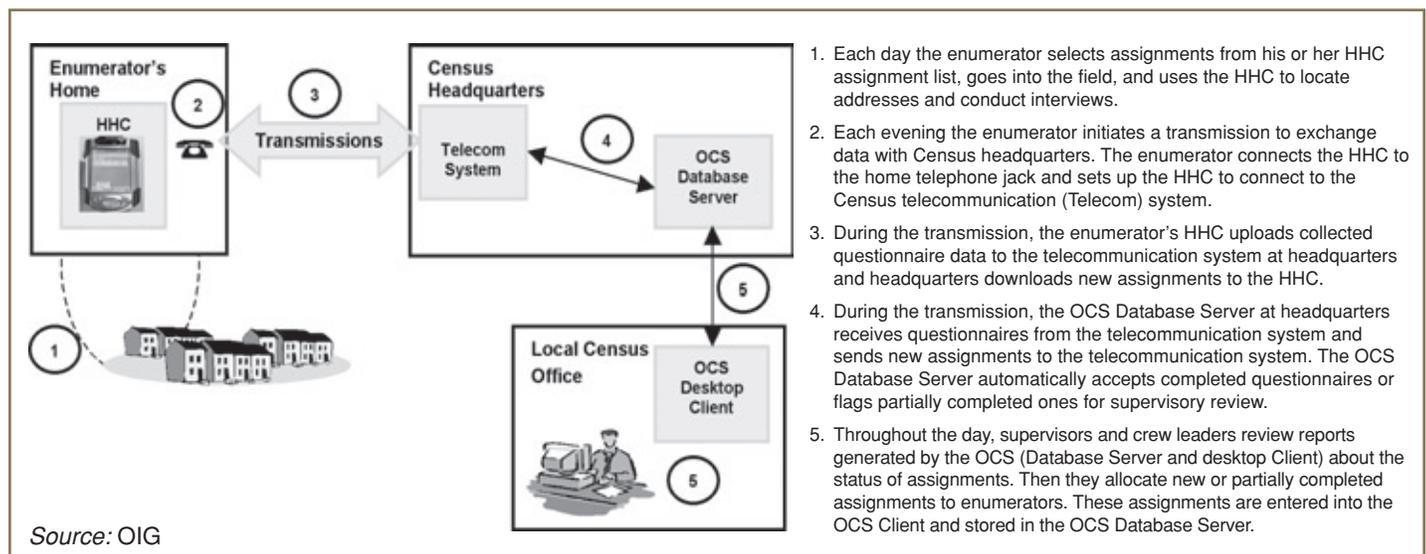
INSUFFICIENT PLANNING HAMPERED TEST OF REVISED GROUP QUARTERS DEFINITIONS

The 2004 test did not further the bureau’s goals of distinguishing hard-to-identify group homes from housing units and of improving enumeration of students living off campus. First, the revised definitions for group quarters were ambiguous and late in coming—they became available only after training materials for determining a structure’s type had been prepared. The materials therefore did not provide adequate instruction on differentiating and properly categorizing certain types of group homes.

Second, the newly added off-campus, university-*leased* housing category was not adequately tested because neither site contained such housing. As the bureau has already selected the 2006 sites, it should determine whether these locations contain the defined housing situations, and if they do not, consider expanding site boundaries to include such housing or find an alternative for testing this new category.

NEW QUALITY ASSURANCE OPERATION SUPPORTS DATA INTEGRITY

To ensure the accuracy of data collected during NRFU, each local census office conducts “reinterviews,” during which quality assurance enumerators contact a sample of previously enumerated households. This operation is designed to detect and deter data falsification. In Census 2000, the reinterview process was handled



BEYOND THE 2004 TEST: PREPARING FOR THE 2010 DECENNIAL CENSUS

To meet performance and cost goals for the 2010 decennial, the Census Bureau should develop and implement plans that accomplish the following:

2006 Test

- Balance the dual objectives of managing a test and conducting a census, including complete documentation of test problems and operations.
- Confirm that test sites support test objectives (e.g., select representative group quarters housing to test university-leased, off-campus definition) or find an alternative for testing the objective.
- Explore and test alternative methodologies to train enumerators.

Automated Operations

- Reevaluate and improve data transmissions.
- Reevaluate and improve field operations technical support.
- Define complete and verifiable specifications that address functional, performance, and human factor requirements for further system development and acquisition.
- Improve system and software engineering practices to ensure the deployment of thoroughly tested automated capabilities before training and operations begin.
- Plan contingencies for essential NRFU components whose failure would jeopardize field operations.
- Improve performance of and further test map functions.
- Upgrade selection criteria for crew leaders to reflect higher level skill requirements.
- Ensure HHC training can be effective in facilities lacking functional and accessible electrical outlets and telephone lines.
- Establish better inventory controls for reclaiming HHCs from departing employees.

Other Considerations

- Gain consensus for new definitions (e.g., group quarters) prior to applying them in an operation.
- Reinforce Census hiring policies to LCO staff.
- Continue to emphasize partnership efforts to recruit staff and publicize the census (i.e., increase participation).
- Verify that the quality assurance operation supports data integrity.

Source: OIG

by the assistant manager for field operations. However, problems with data falsification⁶ prompted the bureau to separate the reinterview process and its management from NRFU field operations. The process is now under an assistant manager for quality assurance (AMQA), who reports directly to the LCO manager.

We found that ambiguities in quality assurance training manuals could compromise the AMQA's independence. For example, though the manuals give this assistant manager authority for investigating possible falsification or poor-quality enumeration, the procedures for doing so often require the AMQA to seek answers regarding irregularities from field operations management rather than from crew leaders and enumerators—a process that makes it possible for field managers to minimize problems.

SOME MANAGEMENT AND ADMINISTRATIVE ISSUES NEED ATTENTION

While we found that the Queens LCO systematically tested and documented what did and did not work, the Georgia staff did not do so and had less of an understanding of the purpose of the test.

AGENCY RESPONSE

The bureau had no substantial disagreements with our observations, and noted that it would consider our suggestions in looking for ways to improve the 2006 census test, the 2008 dress rehearsal, and the 2010 decennial. (*Offices of Audits, Inspections and Program Evaluations, and Systems Evaluation: OIG-16949*)

REVIEW OF FEDERAL AUDIT CLEARINGHOUSE DATABASE FINDS FEW PROBLEMS

During this period, the Office of Inspector General assessed the accuracy of the Federal Audit Clearinghouse Database—the repository and distribution mechanism for single audit reports.⁷ Roughly 30,000 new reports are added to the database each year, according to OMB, and since our last review of the clearinghouse in 2000, the process for entering and accessing database information has moved from a manual to Internet-based system.

Our FY 2004 review analyzed a representative sample of 200 audit reports and related database entries. We assessed the completeness of audit reporting packages submitted to the clearinghouse and compared and verified database information against that contained in the reports and other documents in the packages. We tested the utility of the database's Internet search function and the

⁶ Department of Commerce Office of Inspector General. *Re-enumeration at Three Local Census Offices in Florida: Hialeah, Broward, and Homestead*, ESD-13215-0-0001, September 2000.

⁷ "Single audits" are audits of federal financial assistance recipients performed by state and local government auditors or independent public accountants, in accordance with OMB Circular A-133.

OMB CIRCULAR A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, designates the Bureau of the Census as the federal agency responsible for maintaining the clearinghouse. The clearinghouse processes incoming reporting packages and related data collection forms, maintains a governmentwide database of audits, distributes reports with audit findings to individual federal agencies for audit resolution, and maintains an archival copy of all reports.

accuracy and accessibility of web site information. In a related audit, we conducted limited tests of the database's information technology controls to determine their effectiveness in protecting the integrity of clearinghouse information.

REVIEW FINDINGS

Our review of the hard-copy reports found that only 3 of 200 were incomplete: one was missing a corrective action plan detailing how the auditee planned to resolve the audit findings, and two did not contain the required Summary Schedule of Prior Audit Findings.

The comparison of the reports with their database entries revealed the following:

- Missing findings—the database did not contain findings for 7 of the 200 reports because auditors had not entered the findings on the data collection forms in the audit packages.
- Erroneous data elements—159 elements (from a universe of 14,800) were incorrect. Of these errors, 138 were the fault of the auditors or auditees, who provided incorrect or incomplete information in the reporting packages; the remaining 21 were bureau errors resulting from either programming problems or incorrect data entry. For the bureau's part, this is a vast improvement over our FY 2000 findings, in which 244 of 370 errors were attributable to the clearinghouse.

Tests of the web site's functionality and the related accuracy of specific searches and information available to users found only minor data errors, largely due to delays in updating web site information. The clearinghouse is correcting the programs that generate this information.

Our analysis of IT general controls, issued in a separate report, found weaknesses in five areas: entity-wide security program planning and management, access controls, application software development and change control, system software, and service continuity. Specifically, we noted that the clearinghouse system lacked (1) current, accurate technical documentation; (2) adequate policies and procedures for implementing changes; and (3) a centralized source of management and technical expertise.

The Census Bureau generally agreed with the results of our review and the recommendations in our IT report. (*Atlanta Regional Office of Audits: ATL-16202-1 and -2*)

WEAKNESSES IN CERTIFICATION AND ACCREDITATION PROCESS LEAVE SECURITY OF CRITICAL BUREAU INFORMATION SYSTEMS IN QUESTION

As part of our FY 2004 Department-wide FISMA review (see page 42), we evaluated the security of Census's national-critical systems and elements of its mission-critical systems to determine whether the bureau's related policies and procedures complied with the act as well as with OMB requirements and Commerce's IT security policy.

Our evaluation found that the bureau's IT security program generally conformed in structure and intent with requirements of the Department's IT security program policy and other mandates, but that those requirements were not always appropriately applied, with the result that critical systems may not be adequately protected. Among our specific findings were the following:

C&A PROCESSES AND DOCUMENTATION WERE SIGNIFICANTLY DEFICIENT

Certification and accreditation processes and documentation did not comply with either Department or FISMA requirements in a number of areas: risk assessments did not sufficiently identify system vulnerabilities; security plans assigned improper and inconsistent sensitivity levels to systems and did not adequately describe the controls that were in place or needed; and one package lacked a complete contingency plan for a certified and accredited national-critical system. The documentation also did not identify residual risks in the certified and accredited systems, and thus provided no evidence that the accrediting official understood the level of risk being assumed in authorizing system operations.

SECURITY TESTING OF NATIONAL-CRITICAL SYSTEMS IS INADEQUATE

The bureau's national-critical systems are part of the federal government's critical infrastructure and must therefore be protected from major disruptions. The bureau has not designated its national-critical systems as having the highest sensitivity for purposes of certification and accreditation and thus does not test their security controls as rigorously as the Department's IT security policy requires. In the event of a national security emergency, these

Certification is the formal testing of the security safeguards and controls implemented in a computer system to determine whether they meet applicable requirements and specifications.

Accreditation is management's formal authorization to allow systems to operate. It includes an explicit acceptance of the identified residual risks.

System sensitivity refers to FISMA's three security objectives for information and information systems: *confidentiality*, *integrity*, and *availability*. System owners must assign a sensitivity level of high, medium, or low to each objective to reflect the impact that a system's compromise would have on the agency's mission, and must justify the level assigned.

systems—as currently defined—may not have the capability to perform required processing.

DESIGNATED APPROVING AUTHORITY SHOULD BE AN OFFICIAL WITH MANAGEMENT, OPERATIONAL, AND BUDGET AUTHORITY OVER SYSTEM

Departmental and OMB policy specify that designated approving authorities or accrediting officials must be program officials who have management, operational, and budget authority for the system, and that they may not be system owners (i.e., division or office chiefs). Census's policy, however, names its chief information officer as the designated approving authority for all systems, even though this official does not have the required authority over the bureau's entire inventory.

PLANS OF ACTION AND MILESTONES DO NOT ACCURATELY REFLECT SYSTEM SECURITY DEFICIENCIES

Contrary to OMB and the Department's security policy, Census is not using POA&Ms to list all identified security weaknesses and

track and manage efforts to resolve them. POA&Ms did not identify residual risks for which additional controls are needed, the lack of contingency plans, or the need for additional testing to ensure that systems are certified at a level commensurate with their sensitivity.

BUREAU RESPONSE

Census officials generally agreed with our findings and described actions being taken or planned to implement our recommendations. However, its actions for correcting the C&A deficiencies did not fully address our concerns: they did not ensure that (1) only an acceptable level of risk remains in accredited systems, (2) testing is commensurate with the level of each system's sensitivity, and (3) all known information security weaknesses are included in POA&Ms. (*Office of Systems Evaluation: OSE-16519-1 and -2*)

INVESTIGATIONS

Former Census Manager Convicted and Sentenced in Payroll Scam

In our March 2004 *Semiannual Report* (page 43), we reported that a former Census assistant field manager was indicted for theft in the U.S. District Court for the Western District of Michigan. An OIG investigation revealed that the individual created a payroll account in the name of another former Census employee, forged endorsements on the paychecks, and deposited the funds into a personal bank account. In August 2004, the former assistant manager pleaded guilty to one count of theft and was sentenced to 4 months' imprisonment, 4 months' home detention, and 3 years' probation, and ordered to pay restitution in the amount of \$14,254. (*Arlington Resident Office of Investigations*)



INTERNATIONAL TRADE ADMINISTRATION

SHARED STRENGTHS AND WEAKNESSES NOTED AT THREE U.S. EXPORT ASSISTANCE CENTER NETWORKS

The **International Trade Administration** is responsible for trade promotion and policy issues associated with most nonagricultural goods and services. ITA works with the Office of the U.S. Trade Representative to coordinate U.S. trade policy. ITA has four principal units:

Market Access and Compliance develops and implements international economic policies of a bilateral, multilateral, or regional nature. Its main objectives are to obtain market access for American firms and workers and to ensure full compliance by foreign nations with trade agreements signed with the United States.

Trade Development advises on international trade and investment policies pertaining to U.S. industrial sectors, carries out programs to strengthen domestic export competitiveness, and promotes U.S. industry's increased participation in international markets.

Import Administration defends American industry against injurious and unfair trade practices by administering the antidumping and countervailing duty laws of the United States and enforcing other trade laws and agreements negotiated to address such trade practices.

U.S. Commercial Service promotes the export of U.S. products and helps small and medium-sized businesses market their goods and services abroad. It has 106 domestic offices and more than 157 overseas posts.

The U.S. Commercial Service (CS) operates 106 domestic U.S. export assistance centers (USEACs)—one-stop shops intended to bring together a range of federal and nonfederal trade-related agencies to provide local export assistance to small and medium-sized firms. The USEACs are grouped geographically into 12 networks across the country.

In FY 2003 and 2004, OIG inspected three USEAC networks (Chicago, Pacific Northwest, and Philadelphia), which comprise 28 separate USEAC offices, to evaluate their management, program operations, and financial and administrative practices. We reported the findings of our individual reviews in our March 2004 *Semiannual Report* (page 24). During this semiannual period, we issued a cross-cutting report that identified strengths and weaknesses common to the three networks and recommended actions to resolve them.

USEACS HAVE GENERALLY SOUND OPERATIONS AND WORK WELL WITH TRADE PARTNERS AND CLIENTS ALIKE

Each of the three USEAC networks is doing a good job of providing export assistance to U.S. companies and has fairly sound financial and administrative operations. Relationships with trade partners at the federal, state, and local level are strong and mutually beneficial. In some centers, Commercial Service is collocated with one or more trade partners, such as the Small Business Administration, Export-Import Bank, state trade agencies, and universities. These collaborative relationships better enable the USEACs to provide U.S. companies with one-stop shopping for their export counseling, market research, and trade financing needs.

Clients at all three networks reported satisfaction with the USEACs' assistance and products, and generally found USEAC staff to be innovative, knowledgeable of overseas markets, and well connected to trade partners and government contacts abroad. Some believed the USEACs needed to better promote their services. Others believed the centers could offer more specialized trade assistance and market information.

OVERSTATED PERFORMANCE DATA AND OTHER DEFICIENCIES SUGGEST THE NEED FOR IMPROVED MANAGEMENT OVERSIGHT

The networks failed to comply with CS guidelines on the reporting of export successes—the organization's key performance measure—and thus overstated their performance data for the period we reviewed: Chicago's reported export value of \$42.1 million was overstated

by \$4.3 million (10 percent); Pacific Northwest's reported export value of \$263 million was overstated by \$156 million (59 percent); and Philadelphia's export value of \$145.1 million was overstated by \$14.5 million (10 percent).⁸ We also found export success reports that failed to clearly demonstrate the link between the outcome and the assistance provided, and client records that did not sufficiently demonstrate the chain of events leading to the success. Further, we noted that despite a CS strategic goal to expand the number of U.S. exporters, Commercial Service does not accurately track USEAC assistance to firms that are new to exporting.

Coupled with these common problems, we noted some operational, financial, and administrative weaknesses unique to each network, which, in combination with the shared deficiencies, suggest that Commercial Service needs to improve its oversight of domestic field operations.

ACTIONS NEEDED TO BRING ITA INTO COMPLIANCE WITH OMB CIRCULAR A-25

At the time we conducted our USEAC reviews, we found that Commercial Service's user fee policy—to recover just some of its direct costs—conflicted with OMB Circular A-25, which requires full cost recovery for goods and services agencies provide when such resources convey benefits beyond those enjoyed by the general public. ITA asked OMB to waive the requirement, but OMB denied the request.

AGENCY RESPONSE

Both ITA and Commercial Service agreed that oversight of export success reporting, fee collections, and compliance with CS policies could be strengthened. To that end, ITA noted that it has appointed a quality control officer to monitor export success reporting worldwide, and is working to revise its client management database to capture assistance provided to new exporters. Commercial Service noted that it has developed and implemented new reporting guidelines that should minimize reporting errors and improve compliance, and it is working to train CS managers and staff on correct reporting procedures. We evaluated the guidelines and recommended that Commercial Service revise them to include instructions for (1) reporting export successes with financial institutions, and (2) determining how soon after interacting with a client, staff should create a formal client record in Commercial Service's client management database. The agency is evaluating our suggested revisions.

Finally, ITA reported that it is taking steps to comply with OMB Circular A-25: it is acquiring a new accounting system that should

⁸ For the Chicago network, we reviewed the 273 export success records approved from October 1, 2002, to July 9, 2003. For the Pacific Northwest and Philadelphia networks, we examined a random sample of approximately 20 percent of the export success records approved during FY 2003—761 and 489, respectively.

be implemented in 2006 and developing product pricing templates to capture the full direct and indirect costs for its products. The agency also submitted a Circular A-25 compliance plan to OMB in September 2004. We note that, in addition to these actions, ITA staff will need guidelines and training on the need to charge for government services and on calculating and collecting appropriate fees. (*Office of Inspections and Program Evaluations: IPE-16728*)

CS INDIA GENERALLY OPERATES WELL, BUT CLOSER ATTENTION TO EXPORT SUCCESS REPORTING AND TRADE EVENTS IS NEEDED

With offices in seven cities, Commercial Service's post in India is one of its largest overseas operations. India is the world's 12th largest economy and one of the fastest growing as well. It has more than 1 billion residents, a huge and expanding middle class (currently some 200 million), and a demand for U.S. consumer goods that is strong and expected to remain so. The United States is India's single largest trading partner: U.S. exports to that country in 2003 were \$5 billion, up 22 percent from the previous year. Corresponding imports from India to the U.S. totaled \$13.1 billion, up 10.4 percent.

We conducted an inspection of CS India in May and June 2004, visiting all seven offices: Ahmedabad, Bangalore, Calcutta, Chennai, Hyderabad, Mumbai, and New Delhi. We assessed the post's management, program, financial, and administrative operations, as well as its coordination with other organizations in achieving ITA and Commerce goals. Our purpose was to determine whether the post plans, organizes, and controls its work and resources effectively; meets the needs of U.S. exporters; is helping increase U.S. export levels and market access; and has appropriate internal controls and financial management procedures.

We found that the post is generally well run and doing a good job of providing export assistance to U.S. companies: clients we spoke with are generally satisfied with CS India's products and services, and the post collaborates well with its trade partners, other components of the U.S. mission and ITA, and other government agencies. However, we identified a number of issues that warrant Commercial Service's attention, as follows:



Source: <http://www.mapsofindia.com>, accessed July 19, 2004.

POST MANAGEMENT HAS RESTRUCTURED AND STRENGTHENED OPERATIONS, BUT EXPORT SUCCESS REPORTING REMAINS PROBLEMATIC

The current senior commercial officer (SCO), who arrived at post in July 2003, has set a strong management tone, instituted a number of measures to enhance staff interactions with customers and trade partners, and refocused staff energies on Commercial Service's core mission of assisting U.S. exporters. He set an FY 2004 goal of doubling the number of export successes achieved in the prior year. As of June 2004, the post had already reported 505 successes—a 241 percent increase over the FY 2003 total of 148.

However, our review of FY 2004 export successes reported by three offices (Bangalore, Chennai, and Hyderabad) found that many did not meet CS guidelines. In a number of cases we could not verify the link between CS assistance and the reported success, and identified several that did not meet export success criteria. As a result, the SCO reviewed export successes and either removed, withdrew, or combined 50 of them in the CS database, and some additional deletions may still be needed. Although ITA and Commercial Service have taken steps to highlight the importance of accurate ex-

port success reports and to improve quality controls and oversight of performance reporting, we are concerned that Commercial Service, in revising its reporting guidelines this past fiscal year, may have reduced management accountability for ensuring the accuracy of export success reports. This may explain some of the reporting errors. We thus recommended that current CS performance measure guidelines be revised to include the specific oversight responsibilities delineated in prior guidelines.

FEE ARRANGEMENTS AND SUPPORT PROVIDED FOR SEVERAL TRADE EVENTS WERE INAPPROPRIATE

For several trade fairs held during FY 2003-2004, CS India inappropriately collected or agreed to accept fees that were based on the cost per square meter of space rented by participants the post recruited, rather than on the cost of the CS services provided. In addition, these events were not certified by the Department of Commerce, and as such, we questioned whether the post's involvement in them was greater than it should have been. (See box next page.)

MISMANAGED TRADE PROGRAM LEAVES \$25,000 IN FUNDS AVAILABLE FOR BETTER USE

USA Day Events was a series of trade events initiated in FY 2001, planned for 12 cities in western India, and financed with \$93,000 from companies agreeing to sponsor the series. Plagued by financial and management problems, USA Day Events was discontinued in FY 2002, but financial-related issues remained unresolved at the time of our inspection in 2004. Commercial Service and ITA had intended to disburse approximately \$25,000 to the event organizer to cover the cost of the six events that had been held before the program's cancellation, with the expectation that the organizer would refund all sponsor contributions. However, we advised ITA and Commercial Service that there was no written agreement with the organizer requiring that it refund sponsor donations and hence no guarantee that it would, and further, that it was uncertain whether the organization still had the remaining \$68,000 needed to make a full refund. We recommended that the agencies therefore not make the \$25,000 payment. They agreed, which resulted in \$25,000 to be put to better use. We also recommended that ITA do the following: (1) ask the Department's Office of General Counsel to clarify whether Commercial Service can collect promotional fees from non-U.S. government event organizers; (2) oversee post trade events to help ensure that finances for these activities are handled appropriately; and (3) ensure that commercial officers worldwide receive training on ITA policies regarding trade fairs and trade event financing, as well as Commerce guidelines on interoffice and other special agreements.

CERTIFIED VS. NONCERTIFIED EVENTS

Each year the Department of Commerce selects trade fairs in prime markets worldwide and certifies them via the Trade Fair Certification Program. This program is a cooperative arrangement between U.S. private sector trade show organizers and Commerce through which the Department aids organizers' efforts to recruit U.S. exhibitors and manage an official U.S. government-sponsored pavilion, and arranges for support from Commercial Service's domestic offices and posts.

According to an official from CS' Trade Certification Program, post support for certified fairs involves actively recruiting exhibitors and arranging support services from domestic CS offices. For noncertified fairs, CS support is supposed to be limited to information sharing, e.g., market briefings and public relations duties. This official noted that when posts provide the same level of services for certified and noncertified fairs, they dilute the value of certification and of Commerce's endorsement.

GENERALLY SOUND POST OPERATIONS HAVE A FEW AREAS OF WEAKNESS

In general, CS India's financial and administrative operations were sound, but several issues need to be resolved:

- **Questionable resource utilization.** The post's business information centers are underutilized and ill equipped, and in some instances occupy an inordinate amount of office space. Nearly half of all foreign service nationals perform a mix of non-trade-related functions rather than core mission duties. Two offices are located in luxury hotel space rather than readily available commercial space. And finally, CS New Delhi is paying \$66,000 per

year in rent on space that is much larger than needed. We recommended that Commercial Service evaluate staffing allocation and utilization throughout India and explore options for reducing CS India's rent obligations.

- **Inconsistent handling of currency collections.** CS India sometimes deposited payments from clients with the State Department, rather than in its lockbox, as required, and failed to charge associated service fees, largely because of conflicting written guidance on the matter.
- **Untimely completion of performance appraisals.** Post management was sometimes late in providing personnel evaluations, and pay increases for some foreign service nationals were delayed as a result.

AGENCY RESPONSE

ITA and Commercial Service concurred with most of our recommendations and, among other things, agreed to do the following:

1. Review current staffing patterns and resource allocations in India and recommend appropriate changes.
2. Evaluate the post's office space allocations and rent obligations, and address issues pertaining to the business information centers.
3. Provide appropriate financial and administrative training to CS India officers and foreign national staff.
4. Continue to improve the post's record for completing timely personnel evaluations.

Both agencies disagreed with our finding that its FY 2004 export success reporting guidelines have reduced management accountability for ensuring the quality and integrity of reported successes. (*Office of Inspections and Program Evaluations: IPE-16808*)



NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

LATEST AUDIT OF NOAA PERFORMANCE MEASURES IDENTIFIES CONTINUED WEAKNESSES IN REPORTING PROCEDURES

The National Oceanic and Atmospheric Administration

studies climate and global change; ensures the protection of coastal oceans and the management of marine resources; provides weather services; and manages worldwide environmental data. NOAA does this through the following organizations:

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

National Ocean Service issues nautical charts; performs geodetic surveys; conducts research; and develops policies on ocean mining and energy.

National Marine Fisheries Service (NOAA Fisheries) 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 inland waters, the lower and upper atmosphere, space environment, and the Earth.

Office of Marine and Aviation Operations operates NOAA's ships and aircraft and provides NOAA programs with trained technical and management personnel from the nation's seventh uniformed service.

Our focus on NOAA's annual performance reporting continued this past semi-annual period with an audit of its procedures for collecting, verifying, and presenting data for another three performance goals: (1) build sustainable fisheries, (2) recover protected species, and (3) predict and assess decadal to centennial climate change. The first two goals are supported by National Marine Fisheries Service (NOAA Fisheries) activities; the third goal, by the Office of Oceanic and Atmospheric Research (OAR) and the National Environmental Satellite, Data, and Information Service (NESDIS).

We assessed the collection and reporting of information and documentation supporting performance data contained in the Department's FY 2002 *Performance and Accountability Report* to determine whether NOAA had internal controls of sufficient quality to ensure that data is accurate, consistent, and reliable. The findings in this audit mirrored those of the two we concluded in FY 2003.⁹ Once again, we found that for each goal, the usefulness of the reported data was compromised by unclear measures, weak procedures for ensuring data reliability, insufficient documentation, and inadequate explanations.

Imprecise Wording. As currently worded, certain measures under these goals do not clearly or accurately convey the reported activity. For example, FY 2001 results reported under "recover protected species" incorrectly imply that NOAA Fisheries is assessing its successes at improving individual species to the point where they move from the threatened or endangered categories. However, this is not the case. NOAA Fisheries officials explained the measures are intended to report any success at stabilizing or improving the status of a species, though it might remain in the threatened or endangered categories.

OAR and NESDIS reporting under "predict and assess decadal to centennial climate change" is flawed as well. For example, the measure for long-term changes in temperature and precipitation does not convey that data is collected from the contiguous United States only.

⁹ Department of Commerce, Office of Inspector General, *Improvements Needed in Reporting of Performance Measures Related to Promoting Safe Navigation and Sustaining Healthy Coasts*, Report No. FSD-14998, February 2003; and *Improvements Needed in the Reporting of Performance Measures Related to Goals for Advancing Short-Term Warnings and Implementing Seasonal to Interannual Climate Forecasts*, Report No. FSD-15643, September 2003.

NOAA GOALS AND MEASURES ASSESSED

Performance Goals	Associated Measures
Build Sustainable Fisheries	<ul style="list-style-type: none"> • Reduce the number of overfished major stocks of fish from 56 to 45 by FY 2007 • Reduce the number of major stocks with an “unknown” stock status to no more than 98 by FY 2007 • Increase the percentage of plans to rebuild overfished major stocks to sustainable levels
Recover Protected Species	<ul style="list-style-type: none"> • Reduce by 10 (from a FY 2000 baseline of 27) by FY 2007, the number of threatened species at risk • Increase the number of commercial fisheries that have insignificant marine mammal mortality • Reduce by 11 (from a FY 2000 baseline of 29) by FY 2007, the number of endangered species at risk of extinction
Predict and Assess Decadal to Centennial Climate Change	<ul style="list-style-type: none"> • Assess and model carbon sources and sinks throughout the United States • Assess and model carbon sources and sinks globally • Determine actual long-term changes in temperature and precipitation throughout the United States

Problematic Baseline Data. For measures under the sustainable fisheries and protected species goals, NOAA Fisheries uses baseline fish stock data that, for some measures, precludes accurate assessment: not only is the data always changing but the changes may reflect a worsening condition for a species as well as an improvement. For example, in reporting its FY 2001 performance under “reduce the number of overfished major stocks,” NOAA Fisheries compared the number of species listed as overfished in the FY 2000 baseline against its performance with these species in FY 2001 and indicated a significant improvement. However, nine species in the FY 2000 baseline had actually been moved to worse categories in FY 2001.

Inadequate and Inaccurate Documentation and Explanations. The responsible NOAA agencies did not maintain appropriate documentation for many of the measures under the three goals. In some cases, documentation did not support reported data, and in others it was simply not available. Explanations often did not include details essential to understanding the data or the agency’s real impact on reported outcomes; contained erroneous or incomplete information; described verification procedures that ascertained the scientific quality of the data rather than the accuracy of the numbers; or did not explain that the data was cumulative.

Insufficient Oversight. For the goal, “predicting and assessing decadal to centennial climate changes,” NOAA does not have procedures or an established chain of command at the program level for verifying the accuracy of collected data and related explanations, a deficiency that permitted the reporting of incorrect information. To ensure data reliability, management must give greater attention to the reporting process and see that performance measures clearly represent what is being reported, appropriate supporting documentation is maintained, and explanations contain sufficient and accurate details.

NOAA’S RESPONSE

NOAA generally concurred with our recommendations for improving performance measures and reporting and identified actions taken or planned to address them. (*Financial Statements and Accountability Division: FSD-15989*)

INQUIRY INTO HIRING FOR SENIOR EXECUTIVE POSITION FINDS ROOM FOR IMPROVEMENT

We received a complaint charging that NOAA, in filling the position of assistant administrator for weather services, chose an applicant who was not a meteorologist and therefore did not meet the advertised qualifications for the job. The complainant further charged that NOAA’s human resources management (HRM) director circumvented the selection process by improperly adding names to the list of candidates that the screening panel referred to the selecting official.

Our inquiry found that the occupational series under which the position was advertised does require a degree in meteorology, but only for general schedule employees. The assistant administrator for weather services is a senior executive service position, and as such was exempt from this educational requirement. In fact, the professional and technical qualifications contained in the announcement did not include a degree in meteorology or any other science. The candidate ultimately chosen met all stated requirements for the position and was rated well qualified or higher by all members of the screening panel.

However, we did find that NOAA failed to fully comply with its own selection procedures, as stipulated in its Executive Resources Merit Staffing and Recruitment Plan:

- The plan calls for screening panel members to rate and rank each applicant, and sign an overall rating form for all candidates. The panel never signed off on that form.

- The plan also requires the panel to reach consensus on a list of best-qualified candidates for referral to the selecting official and document its choices. The panel did not prepare such documentation.

Should panel members fail to reach consensus on the best-qualified candidates, the plan is silent on how to resolve their disagreement. The Department's *Executive Personnel Policy Manual*, for example, gives the director of human resources authority for resolving such matters. The NOAA plan does not. Rather than try to facilitate consensus, NOAA's HRM director simply referred to the selecting official all candidates deemed by the panel to be either highly qualified (one) or well qualified (five). Though we concluded that it would have been prudent for the HRM director to reconvene the screening panel and attempt to obtain consensus, we believe that—given the small pool of highly and well-qualified candidates—the director's decision to refer them all was reasonable.

To avoid similar problems in the future, we recommended that NOAA require panel members to thoroughly document their decisions, and revise its recruitment plan to be consistent with the Department's *Executive Personnel Policy Manual* and to include clear procedures for resolving panel member disagreements. NOAA agreed to implement our recommendations. (*Office of Inspections and Program Evaluations: IPE-16823*)

PACIFIC COASTAL SALMON RECOVERY FUND

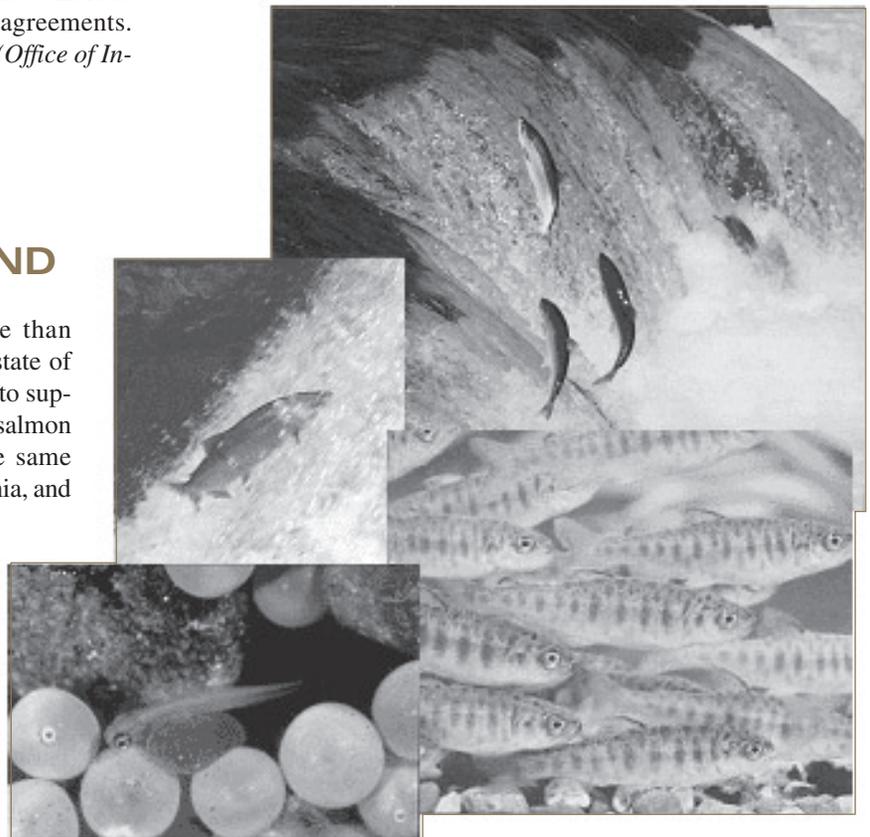
Between 2000 and 2004, NOAA provided more than \$68 million in salmon recovery fund grants to the state of Oregon and \$136 million to the state of Washington to support approximately 1,500 state and local projects in salmon recovery and watershed assessment. During these same years, resident tribes in Oregon, Washington, California, and Idaho received \$56.3 million in funding for salmon habitat restoration and enhancement programs. Grants awarded to states require a 25 percent match. Grants to tribes require no match.

The Office of Inspector General began a series of audits of salmon recovery fund awards this semi-annual period, looking at the administration of the subgrant program operated by the state of Oregon, and two tribal projects in Washington funded under a grant to a nonprofit Indian commission. The results of our initial audits are summarized here.

Nearly \$670,000 in Administrative Costs Questioned in Oregon Salmon Recovery Program

An Oregon state board received a multiyear salmon recovery fund grant in June 2000 for projects to eliminate waterway barriers to fish passage, enhance in-stream habitats, and conduct other salmon recovery efforts. Estimated costs of the program totaled \$30 million, including \$24 million in federal funds and a 25 percent state match. Under the terms of the grant, the agency was permitted to use no more than 3 percent of the federal share to administer \$29,293,265 in subgrants to project participants.

Our interim audit examined \$671,463 in administrative costs claimed through March 2003. Of that amount, we questioned \$669,369 consisting of unsupported personnel costs and related fringe benefits, and costs that were not included in the approved program budget. We also determined that the recipient's interim claim for administrative costs exceeded the 3 percent limit by \$216,355.



Source: <http://www.co.clackamas.or.us/wes/sr/main.htm>, accessed October 15, 2004.

We recommended that the director of NOAA grants management, among other things,

- disallow questioned costs of \$669,369 and
- require the recipient to implement controls to support and properly account for grant-related expenses, adhere to administrative cost ceilings, and restrict spending to approved budget categories.

(Seattle Regional Office of Audits: STL-15727)

Audit Recommends Recovery of \$871,000 from Washington Tribes

In April 2000, NOAA awarded a \$5 million salmon recovery fund grant to a Native American commission representing 20 Washington state tribes. Subsequent amendments to the 5-year award brought the total to \$27.3 million. No matching funds were required.

The commission entered into a memorandum of understanding with NOAA, which gave it responsibility for administering the grant—reviewing, approving, and funding projects proposed by its 20 members. The commission in turn executed subgrants with its member tribes, allotting each an equal share (roughly \$1.3 million) of grant funds for tribal projects and establishing project parameters and reporting and cost reimbursement requirements.

During this semiannual period, we completed interim audits of salmon recovery fund projects conducted by two tribes to determine whether they were complying with the terms and conditions of the NOAA award and the subgrants; claimed costs were reasonable, allowable, and allocable to the project; and program objectives were being achieved. Our audit covered the period from April 2000 through September 2003.

While we determined that both tribes were making sufficient progress toward their program goals, our audits disclosed administrative deficiencies in each case that resulted in our questioning costs and recommending several other remedies, as follows:

Tribes Owe the Government a Combined Total of \$870,982.

During our audit period, one tribe submitted costs to the commission totaling \$868,834. Of that amount, we questioned \$599,506 in labor and related fringe benefits and indirect costs because the tribe failed to adhere to federal cost principles and uniform administrative requirements. In addition, the tribe had not implemented the minimum property management standards required under the award and did not have fidelity bonding on its contract accounting staff to safeguard award assets from loss or misappropriation.

The second tribe submitted costs totaling \$922,912, of which we questioned \$271,476 as unsupported, again because the recipient did not comply with federal cost principles and uniform administrative requirements. Also, the tribe was often either seriously delinquent in submitting required progress reports or did not provide them at all.

Audit Recommendations. We recommended that the director of NOAA grants management disallow the questioned costs identified in both audits, recover the combined federal share of \$870,982, and direct the commission to take specific actions to resolve the internal control and other management weaknesses we noted in each tribe's administration of its project. (Seattle Regional Office of Audits: STL-16657-1 and -3)

INVESTIGATIONS

Former NOAA Intern Convicted of Interstate Communication of a Threat

In our March 2004 *Semiannual Report* (page 44), we reported that a former NOAA intern was indicted on one count of interstate communication of a threat for transmitting an e-mail message threatening bodily harm to another NOAA employee. In June 2004, the former intern pleaded guilty in U.S. District Court for the District of South Carolina, and was sentenced to 12 months' probation and ordered to pay a \$500 fine. (Atlanta Field Office of Investigations)

NOAA Manager Reprimanded for Accepting Gratuity and Attempting to Interfere with Investigation

An OIG investigation disclosed that a NOAA manager solicited and accepted a gratuity from a prohibited source when he requested and received the assistance of a contract employee in making design improvements to his personal residence, including redesign of the family room. During the course of our investigation, the manager made statements to the investigating agents that were apparently intended to interfere, obstruct, or impede the inquiry. As a result, in July 2004, the employee received a Letter of Reprimand for his misconduct. (Washington Field Office of Investigations)



NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

MINOR NONCOMPLIANCE FOUND IN AUDIT OF FLORIDA GRANTEE

The National Telecommunications and Information Administration serves through the Secretary of Commerce as the executive branch's principal advisor to the President on domestic and international telecommunications and information policy issues. NTIA manages the federal use of the electromagnetic spectrum, provides grants for national information and public broadcasting infrastructure projects, and performs telecommunications research and engineering. It works to enhance citizens' access to cable television, telephone, and other telecommunications services; and educates state and local governments and other entities on ways to use information technology and telecommunications more effectively.

In September 2001, NTIA awarded an \$807,687 Public Telecommunications Facilities Program grant to a public broadcasting TV station in central Florida operated by a community college that, in partnership with a local network station, planned to build a digital transmission facility the two would share. The grant, which expired in September 2003, required matching funds of roughly \$2.4 million, for total project costs of \$3.2 million. The stations serve a combined population of 3.4 million.

The Public Telecommunications Facilities Program is NTIA's competitive grants program designed to help public broadcasting stations, state and local governments, Indian tribes, and nonprofit organizations construct broadcasting facilities that offer educational and cultural programming. In conjunction with the Corporation for Public Broadcasting, the program provides grants to public broadcasters to fund conversion to digital transmission, maintain existing equipment, and expand broadcasting services.

We audited the award to determine whether the grantee had complied with applicable federal laws and regulations and NTIA grant terms and conditions. Our audit disclosed that the college had not complied with certain federal and departmental administrative reporting requirements, as follows:

- **Final inventory lists.** Federal regulations require recipients to submit complete inventory lists of purchased equipment at a project's conclusion. The college's initial list contained inaccurate pricing information. At the time of our audit, it had not provided a corrected version.
- **Timely financial and performance reporting.** The Department requires financial assistance recipients to submit semiannual reports on a project's financial status and quarterly reports on performance within 30 days of the end of the reporting period. The college was late in submitting two of its four financial reports and one performance report.
- **Project closeout.** Once a project is concluded and costs determined, recipients must report final costs. The college submitted a closeout report that detailed costs of more than \$3.3 million, representing all costs incurred on the project. However, approved project costs totaled only \$3,250,750, and the college did not submit a new closeout report reflecting the lower amount.

In response to our audit, the college agreed to submit corrected inventory and financial reports. (*Atlanta Regional Office of Audits: ATL-16806*)



TECHNOLOGY ADMINISTRATION

PENNSYLVANIA FIRM AGREES TO PAY \$1.75 MILLION TO SETTLE AUDIT FINDINGS AND FALSE CLAIMS ACT ALLEGATIONS

The
**Technology
Administration**

serves the needs of technology-based industry, advocates federal actions and policies to speed the transfer of technology from the laboratory to the marketplace, and removes barriers for commercializing new technologies. It includes three major organizations:

Office of Technology Policy works to raise national awareness of the competitive challenge, promotes industry/government/ university partnerships, fosters quick commercialization of research results, promotes dedication to quality, increases industry's access to and participation in foreign research and development, and encourages adoption of global standards.

National Institute of Standards and Technology promotes U.S. economic growth by working to develop and apply technology, measurements, and standards. NIST manages four programs: the Advanced Technology Program, the Manufacturing Extension Partnership program, and the Baldrige National Quality Program.

National Technical Information Service is a self-supporting agency that promotes the nation's economic growth and job creation by providing access to information that stimulates innovation and discovery. NTIS accomplishes this mission through information collection and dissemination to the public and through information and production services to federal agencies.

A Pennsylvania medical research firm has agreed to pay the government \$1.75 million to resolve outstanding audit findings and allegations of False Claims Act violations arising from the firm's administration of a \$21.3 million award under NIST's Advanced Technology Program (ATP). The award was intended to fund a joint venture to develop a searchable multimedia database for the healthcare industry.

The civil settlement was the result of nearly 3 years of OIG audit and investigative work that identified millions of dollars of questioned costs charged to the project, and uncovered substantial evidence that the firm had submitted multiple false claims to NIST between June 1999 and September 2000 in order to satisfy a portion of its required \$6.7 million cost share. We found that employees of the firm had created false time records for two physicians unassociated with the project—forging the signature of one of them—and charged the project for the purchase of medical equipment that was never used, resulting in NIST's reimbursement to the firm for approximately \$280,000 in fraudulent claims. The firm denied the government's allegations of wrongdoing, but agreed to settle the matter in order to finally resolve all outstanding issues between the parties.

The civil settlement agreement was reached between the firm, NIST, and the U.S. Attorney's Office for the Western District of Pennsylvania. Under the terms of the settlement agreement, NIST will receive about \$1.6 million, with the balance of the funds to be returned to the U.S. Treasury. (*Atlanta Regional Office of Audits and Atlanta Field Office of Investigations*)

ADVANCED TECHNOLOGY PROGRAM

As part of its efforts to spur technological development, NIST administers the Advanced Technology Program to provide financial assistance through cooperative agreements, with the goal of transferring cutting-edge technology to industrial uses. During this semiannual period, we audited costs claimed under five ATP awards. We questioned costs in all five projects, for a total of \$781,782. In addition, we recommended that \$102,489 in federal funds from one project be put to better use.

AWARD SUSPENSION REAFFIRMED BY FOLLOW-UP AUDIT

In September 2001, NIST awarded a \$2 million ATP cooperative agreement to a New York City firm that engineers technologies for computer-aided surgery. The purpose of the project was to enhance the usability of computerized anatomic models for testing cancer treatment surgeries. The 3-year agreement required the firm to contribute \$110,500 in direct costs, bringing total estimated direct costs of the project to \$2,110,500.

In July 2003, we issued a limited scope audit report (see September 2003 *Semiannual Report to Congress*, page 33) informing NIST that the company had failed to contribute any of its matching share (\$54,084 was due at that point), had drawn down \$205,125 in excess of the federal share of project costs, and had overstated expenses in its financial reports to justify the excess drawdowns. At our recommendation, NIST suspended the award pending the firm's repayment of \$205,126 and its submission of corrected financial status reports.

Subsequent to our July 2003 audit, the recipient revised its financial status reports and hired a new accounting firm (its third on this project) to review project expenditures and adjust its books accordingly. We conducted a follow-up audit to review the revised records and other documentation provided by the firm in support of its claimed costs.

We found that the company's revised financial reports were still inaccurate. We questioned costs totaling \$547,426 in inappropriately charged rent, utilities, and certain salary, fringe benefit, and other expenses. We determined that these costs were either (1) unallowable under ATP award terms, (2) in excess of budgetary limits, or (3) expenses that should have been categorized as indirect costs and therefore the firm's responsibility. The improper claims occurred, in part, because the recipient's financial management system did not meet federal standards for identifying and separating direct and indirect costs.

We recommended that NIST disallow the questioned amount of \$547,426 and recover \$582,222 in excess federal disbursements, including the \$205,126 in improper drawdowns identified in our July 2003 audit, which has not yet been repaid. (*Atlanta Regional Office of Audits: ATL-16095*)

UNDOCUMENTED COSTS AND EXCESS FEDERAL DISBURSEMENTS FOUND IN GEORGIA-BASED BIOTECH PROJECT

In October 2000, NIST awarded a \$1.97 million ATP cooperative agreement to a Georgia-based biotechnology company to develop genetic-transfer processes for enhanced chicken breeding. NIST subsequently reduced the award amount to \$1.95 million and required a \$400,838 match from the recipient, bringing total project funds to roughly \$2.36 million.

At NIST's request, we conducted an audit in January 2004 to determine the propriety of selected costs charged to the award, and the recipient's compliance with applicable federal laws and regulations and award terms and conditions.

We questioned \$101,887 in costs claimed for equipment leasing, salaries, fringe benefits, and travel: the leasing costs were incurred after the award's expiration date, the salary costs were not adequately documented, and the travel costs should have been charged to an unrelated project.

The cooperative agreement expired in October 2003, and the final closeout payment was made by NIST in December 2003. Our closeout audit determined that the recipient had received \$84,566 in reimbursements beyond the allowable federal amount. We recommended that NIST disallow all questioned costs, recover the excess federal disbursements of \$84,566, and deobligate the remaining \$102,489 in award funds, which will allow the agency to put those funds to better use. (*Atlanta Regional Office of Audits: ATL-16672*)

QUESTIONED COSTS IN PENNSYLVANIA JOINT VENTURE PROJECT DUE TO NONCOMPLIANT FINANCIAL SYSTEMS

A Pennsylvania manufacturer of diabetes equipment received an ATP award as administrator of a joint venture formed to develop an optical blood glucose monitor that could be implanted under the skin. Total estimated costs of the 3-year project were \$5.7 million, with the government's share not to exceed \$2.8 million, or 49 percent of allowable costs.

Our interim financial audit examined the firm's requests for reimbursement submitted during the project's initial 17 months (October 2001 to March 2003): the administrator submitted costs on

behalf of the joint venture of \$721,672 and received federal reimbursement of \$354,000. It retained \$197,264 as its share and disbursed the remaining \$156,736 to its joint venture partner.

We questioned \$89,103 of the administrator’s claimed costs—the majority of which were for fringe benefits—because the administrator improperly included company overhead costs in its fringe benefit allocation. We recommended that NIST disallow all questioned costs and recover excess federal funds of \$44,170. (*Denver Regional Office of Audits: DEN-16669*)

AUDIT FINDS UNSUPPORTED COSTS, IMPROPER LOAN, AND INADEQUATE INTERNAL CONTROLS

In May 2002, NIST awarded an ATP cooperative agreement to a New York information technology firm to develop an e-mail program for secure data transfer as an alternative to web-based security architectures. The 3-year award, which will run through June 2005, has total estimated costs of \$2.1 million, including \$99,053 in direct and indirect costs to be absorbed by the recipient. The federal government’s share is not to exceed \$2.0 million of allowable direct costs.

For the period July 1, 2002, through December 31, 2003, the recipient submitted project costs of \$943,223 to NIST, which included \$482,609 in subcontractor expenses. Federal disbursements as of that date were \$952,500.

We conducted an interim financial audit to determine the allowability of the claimed costs and to assess the firm’s compliance with federal regulations and ATP award terms and conditions.

We questioned \$27,801 in unsupported subcontractor costs—the difference between the subcontractor’s expense reports (which documented costs of \$454,808) and the amount billed to NIST by the recipient (\$482,609). We recommended that NIST disallow questioned costs and recover a total of \$37,533 in excess federal disbursements, based on the following calculations:

Direct costs claimed	\$ 942,768
Less questioned costs	<u>27,801</u>
Direct costs accepted	914,967
Federal funds disbursed	\$ 952,500
Less accepted costs	<u>914,967</u>
Amount due to NIST	\$37,533

Our audit also disclosed that the firm had improperly borrowed \$17,000 in ATP funds. Although the money was subsequently repaid, the use of project funds for nonproject purposes is strictly prohibited by the terms of the award. In addition, we found that the firm did not have the required procedures for managing federal funds and project-related property.

In response to our draft audit report, the recipient submitted written policies and procedures addressing these findings, which we reviewed and found to be adequate. We recommended that NIST take action to ensure the recipient implements them. (*Denver Regional Office of Audits: DEN-16591*)

COST AND COMPLIANCE ISSUES IN DELAWARE JOINT VENTURE PROJECT

A joint venture is conducting a \$5.4 million ATP project to develop new, more efficient technologies for purifying natural gas. Federal funding for the 48-month project is limited to \$2.7 million (49.9 percent) of allowable costs, and the award period is November 2000 through October 2004.

We conducted an audit of \$3,054,875 in costs claimed by the joint venture from the project’s inception through June 2003. We also assessed the joint venture administrator’s accounting and financial management systems and compliance with ATP award terms and conditions.

Our audit disclosed \$15,565 of questioned costs for materials and supplies that were used for research activities not attributable to the NIST project, and a \$100 overcharge in a reimbursement claim for equipment that was purchased for the project. In addition, (1) the joint venture did not have an approved indirect cost rate, yet had charged \$267,881 in indirect costs; and (2) subcontract agreements did not specify the obligation of subcontractors to adhere to federal laws and regulations in project-related work.

We recommended that NIST disallow questioned costs of \$15,665 and recover the federal share of \$7,816. We further advised that—should the administrator fail to obtain an indirect cost rate and amend subcontract agreements—NIST should disallow all related costs as well. (*Denver Regional Office of Audits: DEN-16651*)

NEW DEPARTMENTAL GUIDANCE AND NIST SELF-ASSESSMENT ADDRESS OIG CONCERNS ABOUT REIMBURSABLE AGREEMENTS

Federal agencies' management of interagency agreements and other intragovernmental transactions has been historically problematic, prompting GAO to classify accounting for such transactions as a material weakness in FY 2001 and FY 2002. The National Institute of Standards and Technology relies heavily on such agreements for operating revenue: in FY 2002, for example, more than a quarter of the \$405.5 million in federal funding received by NIST laboratories came from other federal agencies; the balance was from direct appropriations.

We initiated an audit to determine whether NIST was properly recording and recovering costs of its reimbursable work. However, during our review the Department issued draft guidance addressing known problems with the administration of reimbursable agreements and NIST completed its own internal assessment, which made recommendations for resolving issues similar to those we were identifying. We therefore suspended our audit and reported the problems we had noted thus far, for NIST's use in implementing corrective actions.

We reviewed 30 interagency agreements active in FY 2002. However, we could not determine whether NIST was recovering full costs on any of them because the agency was not properly recording and tracking related program and cost data, and could not provide adequate documentation of agreements, including proposals and statements of work. In the absence of information on work required, work performed, and the total amount spent, external reviewers and NIST managers cannot assess whether full costs are being recovered. We also found that, contrary to NIST guidance, some agreements had been approved without statements of work and none showed evidence of legal review.

As a result of its internal assessment, NIST revised its policies and procedures for handling reimbursable agreements. We believe the revised guidance, in conjunction with the Department's new guidance, will address our concerns. (*Business and Science Division: STD-14439*)

AUDITS UNRESOLVED FOR MORE THAN 6 MONTHS

MASSACHUSETTS MEP

Our March 2004 *Semiannual Report* (page 36) detailed an audit of an MEP cooperative agreement as being unresolved for more than 6 months. Our audit had recommended that NIST disallow questioned costs of \$8,177,606, recover the federal share of \$1,599,349, and require the recipient to implement improvements to its financial reporting system. After detailed analyses of NIST's audit resolution proposal and other documents provided by NIST and the recipient, we advised NIST of our substantial nonconformance with its audit resolution proposal. We continue to work with NIST to resolve our differences.

TEXAS MEP

Our March 2004 issue (page 36) also reported another MEP cooperative agreement audit as being unresolved for more than 6 months. Our audit had recommended that NIST disallow questioned costs of \$1,954,279 and recover \$771,555 in resulting excessive disbursements. We also found that elimination of questionable items from subsequent financial reports would result in \$3,360,000 being put to better use during the remainder of the cooperative agreement period. We have not responded to NIST's audit resolution proposal, pending the outcome of our work with NIST in resolving our audit of the Massachusetts MEP, described above, which has similar outstanding issues.



UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT EXAMINER GOALS AND PERFORMANCE APPRAISAL SYSTEM ARE OUTDATED

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.

Patent examination is a labor-intensive process: individual examiners compare an applicant's claimed invention against statutory requirements and prior art (previous patents, databases, or journals) to determine whether the invention is indeed new and warrants a patent. The process over the years has changed as examination tools and technologies have advanced. At the same time, emerging technologies have dramatically increased the number of patent applications, further straining an already overburdened patent processing system: for example, patent application filings since 1998 have risen by 39 percent. In fiscal year 2003, USPTO received 333,452 new applications, on top of the 362,612 applications already backlogged.

USPTO's *21st Century Strategic Plan* offers a blueprint for overhauling its patent and trademark processes to boost productivity, substantially reduce the backlog of applications, and grant patents of the highest quality (as measured by their legal patentability and other criteria). It proposes a variety of initiatives, including expanding automated processing (e-government), sharing search results with foreign patent offices, improving quality assurance, and outsourcing patent searches. However, GAO reports that such initiatives can take years to implement, and USPTO recognizes that it must pursue improved productivity through available means—production goals, performance plans, and incentive awards, as appropriate.

USPTO's patent corps has 8 technology centers that process patents. Together, the centers have 271 art units, each with a staff of examiners that specializes in a unique technology, scientific method, or classification.

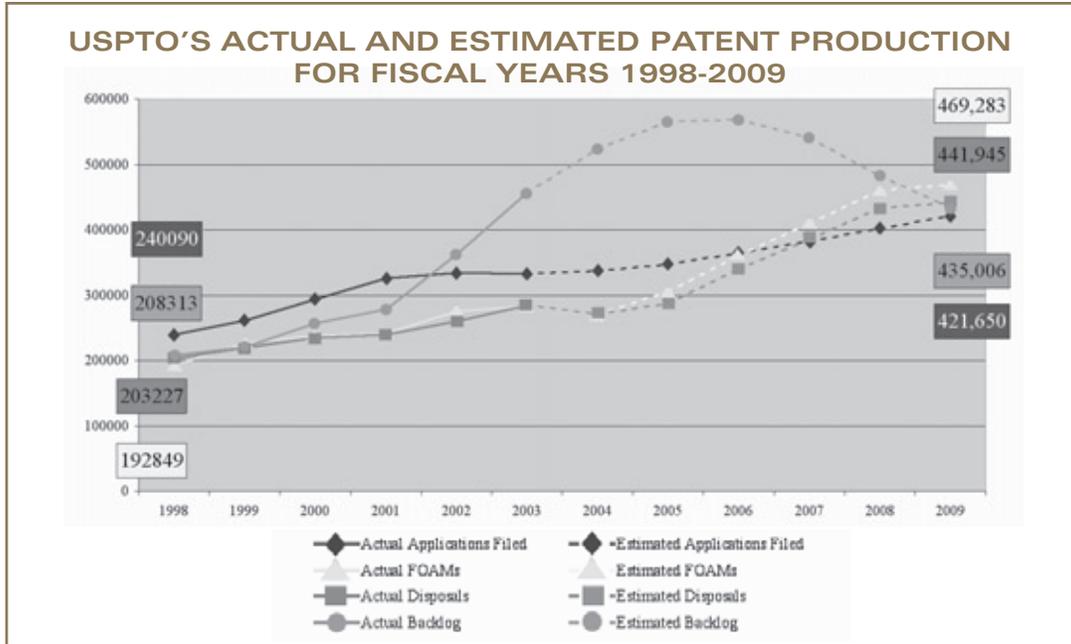
During this semiannual period, OIG completed a comprehensive review of USPTO's production goals, performance appraisal plans, and employee awards to assess their impact on the output of the patent examiner corps. Our key findings are as follows:

PATENT EXAMINER GOALS HAVE NOT CHANGED SINCE 1976, DESPITE ENHANCED WORK PROCESSES AND IMPROVED TECHNOLOGY

We found that examiner production goals have not been reevaluated in light of the efficiencies in work processes and improvements in technology that have occurred over the years. Our review of fiscal year 1999-2003 production statistics reported by seven of USPTO's eight patent technology centers revealed that all seven processed applications in less time than allotted, suggesting that examiner production goals may be too easily obtainable. Examiners told us that they could do more work, but there is no incentive for producing more. We recommended that USPTO reevaluate current patent examiner goals and consider revising them to reflect efficiencies in and changes to work processes resulting from automation and other enhancements.

PATENT EXAMINER PERFORMANCE APPRAISAL PLANS ARE NOT LINKED TO MANAGEMENT AND AGENCY GOALS

The American Inventors Protection Act of 1999 establishes specific time frames within which USPTO should complete each major step of the application review process. USPTO also sets goals of its own, which are more aggressive than those of the act. However, examiner



appraisal plans do not link an individual’s performance to agency goals. Rather, examiners can set their own annual production goals according to the awards they want to receive.

We noted that USPTO recently proposed revisions in appraisal plans for GS-13 and -14 trademark attorneys so as to align their productivity goals with overall agency objectives for trademark output. However, implementation of these changes is pending third-party arbitration with its union. We believe USPTO should consider similarly revising performance plans for patent examiners, linking them to agency goals for production and overall pendency, as well as to measures of examiners’ success at processing applications within specified time periods.

AWARD SYSTEM IS NOT WELL STRUCTURED

USPTO offers examiners three cash incentives—gain sharing, special achievement, and pendency reduction awards—all of which are tied to examiners’ production or workflow management. We found the gain sharing and special achievement awards—both of which require examiners to attain 110 percent or better of their production goals for specified periods—offer little incentive to aim higher: while most examiners achieve the 110 percent, few obtain the higher level awards that are offered at 120 percent and 130 percent of their production goals. Examiners reported that the potential reward is not worth the extra effort.

Eligibility for the pendency reduction award is tied to, among other things, the workflow management element of examiners’ appraisal plans, but this element has only a marginal impact on the duration of pendency. Again, examiners told us that the payout is minimal in comparison with the additional work required. Hence, few ex-

aminers ever qualify for this award. We recommended that USPTO evaluate its current patent examiner award system to determine whether there is a more effective and efficient way to stimulate increased production.

AGENCY RESPONSE

UPSTO concurred with our three recommendations, agreeing to reassess patent examiner goals, performance appraisal plans, and the awards system, and the effectiveness of these measures in achieving the objectives of its *21st Century Strategic Plan*. (*Office of Inspections and Program Evaluations: IPE-15722*)

MOVE TO NEW HEADQUARTERS COMPLEX IS ON TRACK, BUT ADDITIONAL SPACE NEEDS MUST BE ADDRESSED

In December 2003, USPTO began its planned move of personnel and equipment from 18 buildings in Crystal City, Virginia, to 5 newly constructed buildings in Alexandria, Virginia. When the move is completed in 2005, the agency will have relocated approximately 7,350 employees and contractors to the new site—the culmination of a long and rigorous process to replace the 33 Crystal City leases with a single comprehensive lease agreement and a modern, consolidated campus. USPTO expects the consolidation will improve work processes, security, and employee amenities; and over the next 20 years, will shave approximately

\$72.4 million from its current space costs. The complex is being built for GSA by a private developer, and USPTO will occupy it under an operating lease with GSA.

During this period, OIG evaluated USPTO's efforts thus far to monitor construction and execute the relocation.

OUR FINDINGS

USPTO HAS ADEQUATELY MANAGED THE PROJECT AND BUDGET, BUT ADDITIONAL COSTS HAVE BEEN INCURRED

Both USPTO and GSA are adequately managing the project, including providing sufficient oversight of construction and lease costs. Though overall project costs have risen from an initial estimate of \$223 million to \$251.5 million,¹⁰ most of the increase is due to project delays beyond USPTO's control as well as to modifications, such as building redesign to comply with city requirements, information technology changes, and security upgrades. To help cover the extra expenses, GSA added \$9.93 million to USPTO's above standard build-out allowance, which will be amortized over the 20-year lease period.

USPTO AND GSA NEED TO FINALIZE AN OCCUPANCY AGREEMENT

Because the buildings are being completed and accepted ahead of schedule, GSA has sought \$6 million from USPTO in additional rent for fiscal years 2004 and 2005. In September 2004, USPTO agreed to pay GSA \$3.3 million, an amount based on the lost Crystal City rent that GSA had expected to collect from USPTO had the new buildings been delivered on schedule. This settlement of the rent dispute should allow the two agencies to finalize the long-delayed, federally required occupancy agreement for the new headquarters complex. We recommended that USPTO sign an agreement with GSA as soon as possible to document each agency's financial, management, and operational responsibilities for the new buildings.

USPTO NEEDS TO PLAN FOR FUTURE GROWTH

The agency moved 2,093 employees to the first two completed buildings in early 2004, and anticipates moving 5,257 workers

¹⁰ The original budget of \$223 million, established in 1995, consists of \$88 million in standard building costs amortized in USPTO's rent plus \$135 million for build-out, transition, and moving costs. Current estimated costs of \$251.5 million represent \$98 million in standard building costs amortized in USPTO's rent plus \$153.5 million of build-out, transition, and moving costs.

into the remaining three buildings and nearby townhouse offices in late 2004 and early 2005, thus occupying all newly leased space. However, it needs to find space for 100 employees still in Crystal City and for the 650 new employees it hopes to hire in fiscal year 2006. We recommended that USPTO determine its future space needs and submit the appropriate documentation to GSA to obtain the additional space needed for employees and contractors who cannot be accommodated at the new complex.

AGENCY RESPONSE

USPTO concurred with our two recommendations, agreeing to proceed toward finalizing an occupancy agreement with GSA and to submit the required documentation for additional space to accommodate future staff growth. (*Office of Inspections and Program Evaluations: IPE-16268*)

USPTO NEEDS TO CLARIFY ITS RELATIONSHIP WITH OPM AND ESTABLISH ADEQUATE HR POLICIES AND PROCEDURES

Allegations that USPTO used improper hiring practices to recruit for a new human resources director and a related request for review from USPTO's chief financial/chief administrative officer prompted our audit of that recruitment effort. As we sought to determine the validity of the complaints, we also attempted to identify systemic weaknesses that might be fostering problems.

USPTO suspended the recruitment effort, pending the outcome of our audit. We ultimately determined that the hiring process for this position was flawed and that USPTO does not have sufficient HR policies and procedures in place to guide its personnel function. In light of these and other findings, we questioned the agency's ability to ensure adherence to merit system principles.

SUMMARY OF FINDINGS

The Patent and Trademark Office Efficiency Act of 1999 granted USPTO independent control of its personnel function, which includes developing and administering personnel management policies and programs. We found that USPTO had not obtained delegated examining authority from the Office of Personnel Management (OPM)—a prerequisite for filling federal jobs with nonfederal applicants—contending that, under the Efficiency Act, this authority had been transferred to it from the Department.

Further, when we asked for copies of the policies and procedures used to carry out HR responsibilities at the agency, USPTO officials stated that they relied on departmental policies and procedures,¹¹ Title 5 of the United States Code, and “some of their own” guidance. During our review, we did identify some USPTO-specific HR policies and procedures, such as the telework policy and the merit assignment program. However, we found that USPTO had not completed agency administrative orders, organizational descriptions for aspects of HR operations, and other standard operating procedures that would provide the basis for management actions. Given that USPTO anticipates hiring hundreds of new examiners in a very short time frame, it is essential that the appropriate hiring policies and procedures be in place and understood by all involved.

Title 5 requires that agencies classify and assign grades to positions under their jurisdiction according to standards set by OPM. These standards link job definitions to specific work functions and responsibilities, thereby providing the basis for assigning a title, series, and grade to each position. We found that the HR

¹¹ Prior to enactment of the Efficiency Act, the Department had oversight responsibility for USPTO’s HR operations.

director’s position was reclassified from human resources management to miscellaneous administration prior to the recruitment effort. Outside classification experts we consulted indicated that the position, as described, should have remained in the human resources occupational series.

RECOMMENDATIONS AND AGENCY RESPONSE

We advised USPTO to promptly create an effective Office of Human Resources with strong leadership that implements management controls to ensure it adheres to merit system principles, seeks delegated examining authority from OPM, and establishes sound HR policies and procedures to guide its operations and decision making.

USPTO was generally receptive to our findings and recommendations. It has, for example, been working with OPM to recruit and hire a new HR director, and taken a number of other positive steps to address some of the conditions that have contributed to its HR problems over the years. These include hiring a contractor to assess its Office of Human Resources organization and staff, and to develop short- and long-term improvement strategies. (*Business and Science Division: BTD-16432*)



DEPARTMENT-WIDE MANAGEMENT

DEPARTMENT-WIDE FISMA REVIEWS DOCUMENT IT SECURITY IMPROVEMENTS AND PERSISTENT WEAKNESSES

The United States Department

of Commerce promotes job creation and improved living standards for all Americans by creating infrastructure that fosters economic growth, technological competitiveness, and sustainable growth. The Department has three strategic goals:

Goal 1: Provide the information and the framework to enable the economy to operate efficiently and equitably.

Goal 2: Provide the infrastructure innovation to enhance American competitiveness.

Goal 3: Observe and manage the Earth's environment to promote sustainable growth.

The Department has also established a Management Integration Goal that is equally important to all bureaus: **Strengthen management at all levels.**

Our FY 2004 independent evaluation of Commerce's information security program, as mandated by the Federal Information Security Management Act, looked at a total of 24 systems and 5 programs in place at various bureaus and at the Department level.

Among our primary areas of focus were the status of (1) system certifications and accreditations (C&As), (2) incident response, and (3) efforts to include security provisions in IT service contracts. Overall, we documented continued improvements in the security status of critical IT systems and contract documents as well as progress in the Department's efforts to implement an effective incident response capability. However, in each area we also noted weaknesses of varying severity that, until resolved, leave the security of Commerce IT systems and data at risk. The details of our three Department-wide FISMA reports follow. (See page 23 for the results of our Census FISMA evaluations.)

Certification and Accreditation Problems Still Constitute a Material Weakness

Commerce has complied with the requirements of FISMA in many areas. For example, it requires operating units to obtain the Department CIO's review and approval of all major IT investments; it regularly updates its inventory of major systems; it has established a process for documenting known IT security weaknesses; and it provides security awareness training to virtually all employees.

However, in the critical area of certification and accreditation, we noted serious and persistent weaknesses. Our review of C&A documentation for 21 systems (not including USPTO's) deemed national critical (part of the critical infrastructure) and mission critical identified deficiencies in risk assessments, security plans, and testing and evaluation of security controls. Specifically, (1) 10 had risk assessments that do not sufficiently identify threats and vulnerabilities; (2) 8 had security plans that do not adequately describe the system environment, interconnections, or sensitivity of the data being processed; (3) 18 did not provide evidence that certification assessment and testing were adequate to ensure that security controls are implemented properly and functioning as intended; and (4) 5 did not have contingency plans that are complete and provide adequate recovery procedures. We also noted that weaknesses documented in the C&A materials for 15 systems were not included in plans of action and milestones—the Department's primary tool for tracking the status and resolution of vulnerabilities.

We found many of these same shortcomings in our FY 2003 review and advised the Department to report information security as a material weakness under the Federal Managers' Financial Integrity Act, which it has done since 2001. Because these deficiencies persist, we believe information security remains a material weakness and should be reported as such again this year.

USPTO'S MATERIAL WEAKNESS RESOLVED

Beginning in FY 2003 we incorporated our review of USPTO's IT security program into our Commerce-wide review, in keeping with OMB's consolidation of the two in its annual report to Congress on federal information security reform. We noted in our FY 2003 FISMA report that USPTO was using a disciplined C&A process that provided rigorous testing of security controls. But because it was unable to certify and accredit all mission-critical systems by fiscal year-end, the bureau—at our recommendation—reported IT security as a material weakness. Our review of its status this year found that USPTO has completed certifying and accrediting all systems using this same disciplined approach. We therefore consider its material weakness resolved. (*Office of Systems Evaluation: OSE-16954*)

Information Security in IT Service Contracts Is Improving, but Additional Efforts Are Needed

In our September 2002 *Semiannual Report to Congress* (page 51), we reported the results of our review of security provisions contained in a sample of the Department's IT service contracts: most of the 40 contracts we examined had either insufficient security provisions or none at all, and we concluded that federal and departmental policy and guidance for incorporating such provisions were lacking.

We followed up in FY 2003 by assessing the Department's new security policy, issued at our recommendation, and reported that it contained appropriate requirements for contractors and other government agencies that support Commerce in the IT services area (see September 2003 *Semiannual Report to Congress*, page 37). The Department had also drafted standard contract security provisions for safeguarding sensitive but unclassified systems involving contractor connections to Commerce networks or storage of Commerce data on contractor-owned systems.¹² However, the contract actions we reviewed still lacked adequate provisions for controlling access. We also found little coordination among the contracting, technical, and security staff responsible for developing contract-specific security requirements and minimal oversight of contractors' compliance with those requirements.

During the intervening year, the contract clauses have been finalized and their use mandated. In light of these events, we revisited the issues we identified in our FY 2003 assessment and recommended that—to further ensure that information and information systems are adequately secure when contractor-provided services are used—the Department should (1) periodically review a sample of contracts in each operating unit to confirm that they contain the

appropriate security provisions; (2) implement procedures to strengthen communication among contracting officers, contracting officer's technical representatives, and information security staff to foster consistent integration of security in IT contracts; and (3) establish procedures and accountability for reviewing contractor compliance with security procedures and controls.

The Department agreed with our recommendations and is taking steps to implement them. (*Office of Systems Evaluation: OSE-16513*)

Weaknesses Noted in Commerce's Computer Incident Response Capability

Commerce's information security policy requires all operating units to have a computer incident response capability (CIRC), defined as a set of formal mechanisms and procedures that allow an organization to react quickly, decisively, and consistently when an incident occurs. Any operating unit personnel may perform CIRC duties as needed. A unit may also establish its own computer incident response team (CIRT) that formally monitors IT intrusions and handles incidents and associated reporting. An operating unit that does not

REPORTABLE IT SECURITY INCIDENTS

The Department's policy defines a reportable incident as any act that violates an explicit or implied security policy within the Department or its operating units. It further states that an incident is any adverse event that threatens the security of information resources. The policy states that incidents may include but are not limited to the events described below.

Event	Description
Compromise of integrity	A virus infects a system or network.
Denial of service attack	An attacker has disabled a system or a network worm has used all available network bandwidth.
Loss of accountability/misuse	An intruder or insider uses an account or a system for unauthorized or illegal purposes.
Damage to any part of the system	A virus or disgruntled employee destroys data.
Compromise of confidentiality/intrusion	An unauthorized outsider gains access to your IT resources.

Source: *IT Security Program Policy and Minimum Implementation Standards*, U.S. Department of Commerce, January 24, 2003.

¹² At the time of our fiscal year 2003 FISMA report, the contract provision was under departmental review. It was finalized in November 2003.

have its own CIRT receives support from the Department of Commerce CIRT, which resides in the Office of the Secretary.

We assessed the Department's computer incident response capability with a focus on its organizational structure, roles and responsibilities, and operating unit procedures for identifying, analyzing, responding to, and reporting incidents. Overall, we found that the structure—in allowing units to either formalize their own response capability or rely on the Department's—is appropriate for Commerce's decentralized organization but lacks a means to give the Department CIO a Commerce-wide view of vulnerabilities and threats. As such, it may be undercutting the efficiency and effectiveness of incident response throughout Commerce. Our specific findings are as follows:

A MECHANISM FOR COORDINATING INCIDENT RESPONSE ACROSS COMMERCE IS NEEDED

NIST guidance on computer security incident handling points out that distributed teams should be part of a single centralized entity so that the incident response process is consistent across the organization and information is shared among teams. The Department CIO intended to establish a "CIRT federation" to support coordination and communication by July 2002, but had not done so at the time of our review. Thus, coordination and communication regarding incident prevention and response do not occur systematically, and the CIO's ability to have an accurate Commerce-wide view of incidents and capabilities is hampered.

SOME OPERATING UNITS LACK ADEQUATE INCIDENT RESPONSE PROCEDURES AND MOST LACK THE REQUIRED APPROVALS

The Department's policy requires all operating units to have formal response procedures and to submit them to their own CIO and to the Department for review and approval. Four of the 10 operating units we reviewed—including the Office of the Secretary, which houses the Department's CIRT—did not have procedures that were complete enough to support effective incident response, 6 had not received their CIO's approval for their procedures, and only 1 had procedures approved by the Department CIO's office.

BUREAUS' INCIDENT REPORTING IS INCOMPLETE AND INCONSISTENT

Analyzing reported incidents is an important way for the Department to gain a better understanding of its threats and vulnerabilities, and, consequently, both FISMA and Department policy require that incidents be reported to the Federal Computer Incident

Response Center (FedCIRC). However, the operating units report few detected incidents, partly because some units are unfamiliar with the Department's reporting requirements, and the Department has not enforced them.

SYSTEMS AND IT SECURITY STAFF NEED BETTER INTRUSION DETECTION APPROACHES, TOOLS, AND TRAINING

Intrusion detection systems and regular reviews of network logs facilitate incident prevention and detection. However, we found instances in which (1) log information was reviewed too infrequently or not at all, and (2) large quantities of data were examined visually rather than via automated tools. Commerce personnel who are responsible for responding to incidents and reviewing log information receive some specialized security training, but it is not systematic and does not ensure that staff members have the requisite knowledge and skills.

OIG RECOMMENDATIONS AND AGENCY RESPONSE

We recommended, among other things, that the Department CIO define and implement an approach for establishing coordination and communication among the distributed incident response teams, develop and enforce a formal process through which operating units promptly report incidents to both Commerce and FedCIRC, enforce Department policy for reviewing systems activity logs, and ensure operating unit personnel have the appropriate automated tools and training needed to effectively monitor and detect incidents. The Department concurred with our recommendations and described actions that, when implemented, should improve incident detection and response. (*Office of Systems Evaluation: OSE-16522*)

INVESTIGATIONS

Former Commerce Employee Convicted and Sentenced for Theft

In our March 2004 *Semiannual Report* (page 43), we reported that a timekeeper in the Office of the Secretary was indicted for fraud and theft in Superior Court for the District of Columbia for obtaining approximately \$3,300 by claiming overtime hours she never worked. In May 2004 she pleaded guilty to one count of misdemeanor theft and was sentenced to 180 days' incarceration. The sentence was suspended, conditioned on her completion of 2 years' probation and payment of \$750 in restitution. As part of

the plea agreement, the individual resigned from her federal position. (*Arlington Resident Office of Investigations*)

Office of Public Affairs Employee Convicted and Sentenced for Conflict of Interest

An OIG investigation established that an employee in the Office of the Secretary’s Office of Public Affairs had used his official position to obtain a government contract for his private production company. In April 2004 the individual pleaded guilty to one felony count of conflict of interest and in July was sentenced to 1 year supervised probation and 100 hours of community service, and ordered to pay a \$900 fine. The individual resigned his position with the Department in March 2004 as part of the plea agreement. (*Arlington Resident Office of Investigations*)

PREAWARD FINANCIAL ASSISTANCE SCREENING

As part of our ongoing emphasis on prevention of fraud, waste, and abuse, we continue to work with the Office of Acquisition Management, NOAA and NIST grant offices, and EDA program offices to screen the Department’s proposed grants and cooperative agreements before they are awarded. Our screening serves two functions: it provides information on whether the applicant has unresolved audit findings and recommendations on earlier awards, and it identifies negative financial or investigative history relating to individuals or organizations connected with a proposed award.

On January 1, 2004, we implemented new policies and procedures for our preaward screening process. OIG and the Department determined that there are several categories of recipients for whom the costs and administrative burden of the screening process may well outweigh the government’s risk of financial loss. Our new policies exempt from review, recipients who (1) receive awards in amounts of \$100,000 or less, (2) have received financial assistance from the Department for 3 or more consecutive years without any adverse program or audit findings, or (3) are units of a state or local government.

During this period we screened 426 proposed awards. For 105 of the awards, we found major deficiencies that could affect the ability of the prospective recipients to maintain proper control over federal funds. On the basis of the information we provided, the Department delayed 56 awards and established special conditions for 49 awards. (*Office of Audits*)

PREAWARD SCREENING RESULTS

Results	Awards	
	Number	Amount
Awards delayed to resolve concerns	56	\$50,639,368
Special award conditions established	49	\$36,048,786

NONFEDERAL AUDIT ACTIVITIES

In addition to undergoing OIG-performed audits, certain recipients 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 the audit requirements for most of these audits. For-profit organizations that receive Advanced Technology Program funds from NIST are audited in accordance with *Government Auditing Standards* and *NIST Program-Specific Audit Guidelines for ATP Cooperative Agreements*, issued by the Department.

We examined 157 audit reports during this semiannual period to determine whether they contained any audit findings related to Department programs. For 96 of these reports, the Department acts as oversight agency and monitors the audited entity’s compliance with the OMB circular or NIST’s program-specific reporting requirements. The other 61 reports are from entities for which other federal agencies have oversight responsibility. We identified 22 reports with findings related to the Department of Commerce.

Report Category	OMB	ATP	Total
	A-133 Audits	Program-Specific Audits	
Pending (April 1, 2004)	17	61	78
Received	104	64	168
Examined	104	53	157
Pending (September 30, 2004)	17	72	89

The following table shows a breakdown, by bureau, of the roughly \$436 million in Commerce funds audited.

Bureau	Funds
EDA	\$ 28,965,131
NIST*	99,118,235
NOAA	30,240,915
NTIA	982,280
Multiagency	270,318,103
Agency not identified	6,508,000
Total	\$436,132,664

* Includes \$99,118,235 in ATP program-specific audits.

We identified a total of \$2,171,730 in questioned costs and \$215,361 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 22 reports with Commerce findings are listed in Appendix B-1. (*Atlanta and Denver Regional Offices of Audits*)

QUALITY CONTROL REVIEWS OF SINGLE AUDITS DISCLOSE FAILURES TO MEET FEDERAL REQUIREMENTS

The Single Audit Act requires that state and local governments and nonprofit organizations expending \$500,000 or more in federal financial assistance in a single year be audited in accordance with the act and its implementing regulations, OMB Circular A-133. Single audits are generally conducted by either state audit agencies or private certified public accounting firms and play an integral role in the government’s efforts to provide oversight and ensure accountability for federal assistance funds. As the audit oversight agency for the Department of Commerce, we conduct quality control reviews (QCRs) of selected single audits performed on organizations that receive most of their funding from the Department. The objective of a QCR is to determine whether the nonfederal audit was conducted in accordance with *Government Auditing Standards* and A-133.

During this semiannual period, we conducted quality control reviews of four single audit engagements for organizations that administer EDA revolving loan funds, as RLFs are particularly vulnerable to fraud, waste, and abuse. In each case, we found the single audits had not been properly conducted for 5 or more years. Summaries of our findings for the QCRs follow.

Audit Fails to Disclose Conflict of Interest in RLF Loan

Our quality control review of the fiscal year 2003 single audit of a southwestern Oklahoma nonprofit organization noted that the public accounting firm—in failing to identify the RLF as a major program and include it in the schedule of expenditures of federal awards—did not report and question a substantial loan made to the son of a member of the recipient’s board of directors. EDA grant terms and conditions expressly prohibit loans to board members’ relatives or business associates. This is the fifth consecutive year in which the CPA firm has failed to conduct an acceptable single audit, as it has consistently excluded the RLF from the schedule of expenditures and the additional audit procedures required of major programs. We recommended that the CPA firm reissue the 2003 single audit report to include the EDA revolving loan fund as a major program, and question the related-party loan. (*Denver Regional Office of Audits: DEN-16870*)

Inadequate Audits of Central Oklahoma Organization Span 6 Years

The fiscal year 2003 single audit conducted for a central Oklahoma economic development organization was technically deficient because the CPA firm omitted revolving loan fund activity of \$676,786 in its calculation of federal award expenditures. As a result, the RLF was not subject to the additional audit procedures required for major programs. Single audits of the organization dating back to 1998 have not reflected RLF activity in the schedule of expenditures of federal awards, and have hence failed to meet A-133 standards. (*Denver Regional Office of Audits: DEN-16871*)

Two Iowa CPA Firms Failed to Comply with Single Audit Act for Multiple Years

Southern Iowa. Our QCR of a public accounting firm’s fiscal year 2002 audit of an EDA grantee in Iowa found that, while the firm had conducted audits according to generally accepted auditing standards, they did not meet Single Audit Act and A-133 requirements, which prescribe additional procedures to (1) assess the adequacy of internal controls over federal funds and (2) substantively test the support for costs charged to major federal programs. The firm failed to perform any of the required procedures as part of its FY 2002 audit, and has not done so in any audit of the organization since 1997. (*Denver Regional Office of Audits: DEN-16583*)

South Central Iowa. Our QCR of the FY 2003 single audit report for a south central Iowa planning commission disclosed that the public accounting firm conducting the audit had not included RLF activity in its calculation of the commission's federal expenditures. By failing to include the RLF, the firm did not properly prepare and present the schedule of expenditures of federal awards

and did not test the RLF as a major program. We also determined that—as the auditors had not included the RLF in the schedule of expenditures since 1998—the EDA recipient did not obtain an acceptable single audit between 1998 and 2002. (*Denver Regional Office of Audits: DEN-16584*)



OFFICE OF INSPECTOR GENERAL

OIG CONDUCTS QUALITY ASSESSMENT REVIEW OF TENNESSEE VALLEY AUTHORITY OIG OFFICE OF INVESTIGATIONS

The mission of the **Office of Inspector General** is to promote economy, efficiency, and effectiveness and detect and prevent waste, fraud, abuse, and mismanagement in the programs and operations of the U.S. Department of Commerce. Through its audits, inspections, performance evaluations, and investigations, OIG proposes innovative ideas and constructive solutions that lead to positive changes for the Department. By providing timely, useful, and reliable information and advice to departmental officials, the administration, and Congress, OIG's work helps improve Commerce management and operations as well as its delivery of services to the public.

All OIGs granted statutory law enforcement authority under the Homeland Security Act are required by the Attorney General's Guidelines for such organizations to participate in a regular program of quality assessment review. Pursuant to this program, the investigative operations of each OIG are subject to a peer review by a fellow OIG every 3 years. The purpose of the review is to ascertain whether adequate internal safeguards and management procedures exist to ensure that the law enforcement power conferred by the 2002 amendments to the Inspector General Act are properly exercised. The results of these reviews are communicated to the Attorney General and the reviewed OIG, and are intended to ensure compliance with applicable guidelines established by the President's Council on Integrity and Efficiency and the Attorney General, as well as to facilitate substantive communications within the OIG investigative community regarding efficient procedures and best practices.

During this reporting period, we conducted a quality assessment review of the Tennessee Valley Authority (TVA) Office of Inspector General and concluded that TVA's Office of Investigations was in full compliance with established guidelines. We based our findings on an assessment of that OIG's compliance with its own system of internal policies and procedures, interviews with criminal investigators and administrative and management personnel, and evaluation of investigations completed by the OIG during the 12-month period ending February 1, 2004.

INVESTIGATIVE ACTIVITIES

In addition to the bureau-related investigations detailed throughout this semiannual report, our Office of Investigations assisted other OIGs and law enforcement agencies with the following two operations:

CENSUS EMPLOYEE AND SPOUSE ARRESTED FOR DEFRAUDING THE GOVERNMENT; GUILTY PLEA FOLLOWS

A Census employee and her spouse were arrested in June 2004 by special agents from the Commerce OIG and the Department of Agriculture (USDA) OIG in connection with a fraud investigation initiated by USDA OIG. The employee, arrested at Census headquarters, was charged with attempting to defraud the government of approximately \$39,000, after an investigation found that she had falsely reported the amount of income she received as a Commerce employee in order to qualify for and receive food stamps and child care benefits from USDA and the Department of Housing and Urban Development. In September 2004, the employee pleaded guilty in U.S. District Court for the District of Maryland to one felony count of theft. Sentencing is set for December 2004. The employee's spouse is scheduled for trial in November 2004. This is a joint investigation with USDA OIG. (*Washington Field Office of Investigations*)

FUGITIVE DETAINED DURING FRAUD INVESTIGATION

In August 2004, while conducting a fraud investigation, special agents learned that the subject of their investigation was also the subject of numerous investigations in Arizona and was a known fugitive, wanted in Michigan since December 2001 for stealing

more than \$20,000 from a private business. Special agents located and detained the individual in Mesa, Arizona. With their assistance, the Mesa Police Department arrested the individual and charged her with multiple state felonies, including 25 counts of forgery, 2 counts of identity theft, and 1 count of embezzlement. (*Arlington Resident Office of Investigations*)

TABLES AND STATISTICS

STATISTICAL OVERVIEW

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TABLE 1. INVESTIGATIVE STATISTICAL HIGHLIGHTS FOR THIS PERIOD

Allegations Processed	
Accepted for investigation	32
Referred to operating units	54
Evaluated but not accepted for investigation or referral	11
TOTAL	97
Investigative Activities	
Matters referred for prosecution	10
Matters accepted for prosecution	10
Arrests	3
Indictments and informations	5
Convictions	7
Personnel actions	5
Fines, restitutions, judgments, and other civil and administrative recoveries	\$2,598,257

AUDIT RESOLUTION AND FOLLOW-UP

The Inspector General Act Amendments of 1988 require us to present in this report those audits issued before the beginning of the reporting period (April 1, 2004) for which no management decision had been made by the end of the period (September 30, 2004). Two audit reports remain unresolved for this reporting period (see page 37).

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.

TABLE 2. AUDIT RESOLUTION FOLLOW-UP

Report Category	Modifications	Appeals
Actions pending (April 1, 2004)	0	9
Submissions	0	7
Decisions	0	8
Actions pending (September 30, 2004)	0	8

TABLE 3. AUDIT AND INSPECTION STATISTICAL HIGHLIGHTS FOR THIS PERIOD

Questioned costs	\$5,436,699
Value of audit recommendations that funds be put to better use	5,484,163
Value of audit recommendations agreed to by management	13,715,745
Value of inspection recommendations that funds be put to better use	25,000

TABLE 4. AUDITS WITH QUESTIONED 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	31	\$10,401,983	\$3,605,407
B. Reports issued during the reporting period	28	5,436,699	1,805,765
Total reports (A+B) requiring a management decision during the reporting period ¹	59	15,838,682	5,411,172
C. Reports for which a management decision was made during the reporting period ²	31	6,994,367	3,605,407
i. Value of disallowed costs		1,715,266	623,094
ii. Value of costs not disallowed		5,279,178	2,982,577
D. Reports for which no management decision had been made by the end of the reporting period	28	8,844,315	1,805,765

¹ Ten 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.

² In Category C, lines i and ii do not always equal the total on line C because resolution may result in values greater than the original recommendations.

TABLE 5. AUDITS WITH RECOMMENDATIONS 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	10	\$10,000,360
B. Reports issued during the reporting period	7	5,484,163
Total reports (A+B) requiring a management decision during the reporting period ¹	17	15,484,523
C. Reports for which a management decision was made during the reporting period ²	10	8,649,918
i. Value of recommendations agreed to by management		12,000,479
ii. Value of recommendations not agreed to by management		657,058
D. Reports for which no management decision had been made by the end of the reporting period	7	6,834,605

¹Ten audit reports included in this table are also included in the reports with questioned costs (see table 4). However, the dollar amounts do not overlap.

²In Category C, lines i and ii do not always equal the total on line C because resolution may result in values greater than the original recommendations.

DEFINITIONS OF TERMS USED IN THE TABLES

Questioned cost: 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.

Unsupported cost: a cost that, at the time of the audit, is not supported by adequate documentation. Questioned costs include unsupported costs.

Recommendation that funds be put to better use: an OIG recommendation that funds could be used more efficiently if Commerce management took action to implement and complete the recommendation, including (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.

Management decision: 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.

APPENDIX A. REPORT TYPES THIS PERIOD

Type	Number of Reports	Appendix Number
Performance audits	5	A-1
Financial assistance audits	12	A-2
Quality control reviews	4	A-3
Inspections and systems evaluations	12	A-4
Total	33	

APPENDIX A-1. PERFORMANCE AUDITS

Report Title	Report Number	Date Issued	Funds to Be Put to Better Use
Economic and Statistics Administration			
Results Assessment of Federal Audit Clearinghouse Database Utilizing Agreed-Upon Procedures	ATL-16202-4-0001	05/21/04	
Federal Information Systems Controls Audit Manual Review of the Federal Audit Clearinghouse Database for Fiscal Year 2003	ATL-16202-4-0002	05/21/04	—
National Oceanic and Atmospheric Administration			
Improvements Needed in the Reporting of Performance for NOAA Goals – Build Sustainable Fisheries, Recover Protected Species, and Predict and Assess Decadal to Centennial Climate Change	FSD-15989-4-0001	09/07/04	—
National Institute of Standards and Technology			
NIST’s Management of Interagency Agreements	STD-14439-4-0001	09/30/04	—
United States Patent and Trademark Office			
USPTO Needs Strong Office of Human Resources Management Capable of Addressing Current and Future Challenges	BTD-16432-4-0001	06/16/04	—

APPENDIX A-2. FINANCIAL ASSISTANCE AUDITS

Report Title	Report Number	Date Issued	Value of Funds to Be Put to Better Use	Federal Amount Questioned	Federal Amount Unsupported
Economic Development Administration					
Advancing California's Emerging Technologies	ATL-16838-4-0001	07/15/04	\$2,009,558		
Village of Valmeyer, IL	DEN-16837-4-0001	08/25/04	3,156,755		
City of Toledo, OH	DEN-16511-4-0001	09/30/04		\$1,147,250	\$23,044
National Institute of Standards and Technology					
Umbanet, Inc., NY	DEN-16591-4-0001	08/18/04		27,801	27,801
Computer Aided Surgery, Inc., NY	ATL-16095-4-0002	08/25/04		547,426	
AviGenics, Inc., GA	ATL-16672-4-0001	09/30/04	102,489	84,556	16,429
MEDAL, L.P., DE	DEN-16651-4-0001	09/30/04		7,816	7,816
Animas Corp., PA	DEN-16669-4-0001	09/30/04		43,643	
National Oceanic and Atmospheric Administration					
Oregon Watershed Enhancement Board	STL-15727-4-0001	09/30/04		535,495	454,981
Northwest Indian Fisheries Commission, Audit of the Subgrant with the Puyallup Tribe, WA	STL-16657-4-0001	09/30/04		599,506	599,506
Northwest Indian Fisheries Commission, Audit of Subgrant with the Lower Elwha Klallam Tribe, WA	STL-16657-4-0003	09/30/04		271,476	29,882
National Telecommunications and Information Administration					
Daytona Beach Community College, FL	ATL 16806-4-0001	09/24/04			

APPENDIX A-3. QUALITY CONTROL REVIEWS

Report Title	Report Number	Date Issued
Economic Development Administration		
Ted Willets CPA for the Audit of Southern Iowa Council of Governments for the year ended September 30, 2002	DEN-16853-4-0001	09/22/04
Peak & Gerdes, LLP, for the Audit of Area 15 Regional Planning Commission for the year ended June 30, 2003	DEN-16854-4-0001	09/22/04
Carlson & Cottrell, CPAs PLC, Audit of South Western Oklahoma Development Authority for the year ended September 30, 2003	DEN-16870-4-0001	09/30/04
Becky Fleming, C.P.A., Inc., Audit of Central Oklahoma Economic Development District for the year ended June 30, 2003	DEN-16871-4-0001	09/30/04

APPENDIX A-4. INSPECTIONS AND SYSTEMS EVALUATIONS

Report Title	Report Number	Date Issued	Funds to Be Put to Better Use
Bureau of Industry and Security			
Interagency Review of Foreign National Access to Export-Controlled Technology in the United States	IPE-16177	04/16/04	—
Economics and Statistics Administration			
Improving Our Measure of America: What the 2004 Census Test Can Teach Us in Planning for the 2010 Decennial Census	OIG-16949	09/30/04	—
Weaknesses in Census Bureau's Certification and Accreditation Process Leave Security of Critical Information Systems in Question	OSE-16519-1	09/28/04	—
The Census Bureau Should Redefine Its National-Critical Systems	OSE-16519-2	07/30/04	—
International Trade Administration			
USEACs Are Meeting Client Needs, But Better Management Oversight Is Needed	IPE-16728	09/30/04	—
CS India: Challenges Remain for a Large and Economically Diverse Post	IPE-16808	09/30/04	\$25,000
National Oceanic and Atmospheric Administration			
Complaints Surrounding the Recent Selection of the Assistant Administrator for Weather Services	IPE-16823	04/30/04	—
United States Patent and Trademark Office			
USPTO Should Reassess How Examiner Goals, Performance Appraisal Plans, and the Award System Stimulate and Reward Examiner Production	IPE-15722	09/30/04	—
USPTO's Move to Alexandria, Virginia, Is Ahead of Schedule, But Some Key Issues Need to Be Resolved	IPE-16268	09/30/04	—
Office of the Secretary			
FY 2004 Independent Evaluation of the Department of Commerce's Information Security Program Under the Federal Information Security Management Act for FY 2004	OSE-16954	09/30/04	—
Information Security in Information Technology Service Contracts Is Improving, But Additional Efforts Are Needed	OSE-16513	09/29/04	—
Management Attention Is Needed to Assure Adequate Computer Incident Response Capability	OSE-16522	09/28/04	—

APPENDIX B. PROCESSED REPORTS

The Office of Inspector General reviewed and accepted 157 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 Appendix B-1.

Agency	Audits
Economic Development Administration	43
National Institute of Standards and Technology*	60
National Oceanic and Atmospheric Administration	15
National Telecommunications and Information Administration	3
Multiagency	35
Agency not identified	1
Total	157

*Includes 53 ATP program-specific audits.

APPENDIX B 1. PROCESSED REPORTS WITH AUDIT FINDINGS

Report Title	Report Number	Date Issued	Value of Funds to Be Put to Better Use	Federal Amount Questioned	Federal Amount Unsupported
Economic Development Administration					
Cornell Agriculture and Food Technology Park Corp., NY	ATL-09999-4-1653	09/13/04		\$12,020	\$12,020
Operation Hope, CA	ATL-09999-4-1883	09/13/04		175,662	
National Association of Development Organizations and NADO Research Foundation, DC	ATL-09999-4-1715	09/14/04		28,969	17,143
Northwest Wisconsin Business Development Corp.	ATL-09999-4-1753	09/14/04		189,374	
National Institute of Standards and Technology					
Allvac, NC	DEN-09999-4-1485	04/02/04		4,869	
Palo Alto Research Center, CA	ATL-09999-4-1828	05/12/04		84,666	
Isogenis, Inc., CO	DEN-09999-4-1744	06/16/04	107,084	42,491	
IndX Software Corp., CA	ATL-09999-4-1496	06/23/04		391,317	281,572
MicroDexterity Systems, Inc., NM	ATL-09999-4-1528	06/23/04		381,243	335,571
GlycoFi, Inc., NH	DEN-09999-4-1808	07/07/04		4,548	
Baan USA, Inc., VA	ATL-09999-4-1132	07/08/04		295,827	
Black Pearls, Inc./Kona Blue Water Farms, HI	ATL-09999-4-1293	08/03/04		26,747	
Honeywell International, Inc., MN	ATL-09999-4-1967	08/05/04		29,325	
Apelon, Inc., CT	ATL-09999-4-1963	08/11/04	40,000	30,148	
ISTO Technologies, Inc., MO	ATL-09999-4-1306	09/10/04	16,419		
Mendel Biotechnology, Inc., CA	ATL-09999-4-1322	09/10/04		146,300	
Physical Optics Corp., CA	ATL-09999-4-1641	09/10/04		105,708	
Timken US Corp., MI	ATL-09999-4-1687	09/10/04		24,708	
STEP Tools, Inc., NY	ATL-09999-4-0902	09/13/04	51,858	178,445	
Maine Manufacturing Extension Partnership	ATL-09999-4-1889	09/14/04			
Manufacturing Extension Partnership of New Hampshire, Inc.	ATL-09999-4-1854	09/30/04			
National Oceanic and Atmospheric Administration					
Mid-Atlantic Fishery Management Council, DE	ATL-09999-4-1882	09/13/04		19,363	

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	59–60
5(a)(1)	Significant Problems, Abuses, and Deficiencies	14–47
5(a)(2)	Significant Recommendations for Corrective Action	14–47
5(a)(3)	Prior Significant Recommendations Unimplemented	59
5(a)(4)	Matters Referred to Prosecutive Authorities	50
5(a)(5) and 6(b)(2)	Information or Assistance Refused	60
5(a)(6)	Listing of Audit Reports	50–58
5(a)(7)	Summary of Significant Reports	14–47
5(a)(8)	Audit Reports—Questioned Costs	51
5(a)(9)	Audit Reports—Funds to Be Put to Better Use	52
5(a)(10)	Prior Audit Reports Unresolved	60
5(a)(11)	Significant Revised Management Decisions	60
5(a)(12)	Significant Management Decisions with which OIG Disagreed	60

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 the economy and efficiency of the management of programs and operations administered or financed by the agency or on 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 the reasons why recommended action has not occurred, except when the management decision was made within the preceding year.

To include a list of all significant unimplemented recommendations in this report would be duplicative, costly, unwieldy, and of

limited value to Congress. Any list would have meaning only if it explained whether adequate progress is being made to implement each agreed-upon corrective action. Management updates the Department's Audit Tracking System annually, most recently as of July 2004. Information on the status of any audit recommendations can be obtained through OIG's Office of Audits.

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 instances during this semi-annual period and no reports to the Secretary.

SECTION 5(A)(10): PRIOR AUDIT REPORTS UNRESOLVED

This section requires 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), an explanation of why a decision has not been made, and a statement concerning the desired timetable for delivering a decision on each such report. There were two NIST reports more than 6 months old.

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 performance audits, OIG must be consulted and must approve in advance any modification to an audit action plan. 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. The decisions issued on the eight appeals of audit-related debts were finalized with the full participation and concurrence of OIG.

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 to the council.

ACRONYMS

AMQA	assistant manager for quality assurance
ATP	Advanced Technology Program
BIS	Bureau of Industry and Security
C&A	certification and accreditation
CIO	chief information officer
CIRC	computer incident response capability
CIRT	computer incident response team
CPA	certified public accountant
CS	Commercial Service
EDA	Economic Development Administration
EPA	Environmental Protection Agency
ESA	Economics & Statistics Administration
FedCIRC	Federal Computer Incident Response Center
FFMIA	Federal Financial Management Improvement Act
FISCAM	Federal Information System Controls Manual
FISMA	Federal Information Security Management Act
FMFIA	Federal Managers' Financial Integrity Act
FOAM	first office action on the merits
GPS	global positioning system
GPRA	Government Performance and Results Act
HHC	handheld computer
HRM	human resources management
IG	inspector general
IT	information technology

ITA	International Trade Administration
LCO	local census office
MEP	Manufacturing Extension Program
NDAA	National Defense Authorization Act
NEXRAD	Next Generation Weather Radar
NIST	National Institute of Standards and Technology
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NRFU	nonresponse follow-up
NTIA	National Telecommunications and Information Administration
NWS	National Weather Service
OIG	Office of Inspector General
OMB	Office of Management and Budget
OCS	Operations Control System
PAR	Performance & Accountability Report
POA&M	plan of action and milestones
QAR	quality assessment review
QCR	quality control review
RLF	revolving loan fund
SCO	senior commercial officer
USEAC	U.S. export assistance center
USDA	U.S. Department of Agriculture
US&FCS	U.S. & Foreign Commercial Service
USPTO	United States Patent and Trademark Office

TYPES OF OIG WORK PRODUCTS

The various kinds of audits, evaluations, inspections, and investigations at our disposal enable the IG's office to assess Commerce programs and operations from a range of perspectives. Thus we are able to provide program managers with reviews and recommendations that are either narrowly focused or comprehensive, as needed, to aid them in ensuring the most efficient and effective use of taxpayer dollars.

AUDITS

Performance Audits address the efficiency, effectiveness, and economy of the Department's programs, activities, and information technology systems. They may check a unit's compliance with laws and regulations, and evaluate its success in achieving program objectives. They may also involve reviewing the Department's financial assistance awards by assessing an award recipient's compliance with laws, regulations, and award terms; allowance of costs; and the degree to which projects achieved intended results.

Financial Audits determine whether (1) a reporting entity's financial statements are presented fairly and in accordance with generally accepted accounting principles; (2) the entity has an internal control structure that provides reasonable assurance of achieving the control objectives set forth by OMB; and (3) the entity complied with laws and regulations that could have a direct and material effect on the financial statements, the Federal Financial Management Improvement Act, and other laws and regulations.

Attestation Engagements involve examining, reviewing, or performing agreed-upon procedures on a subject matter or an assertion about a subject matter and reporting the results. Attestation engagements can have a broad range of financial or nonfinancial focuses, such as an entity's compliance with laws and regulations;

management's discussion and analysis presentations; and allowability and reasonableness of final grant and contract costs.

INSPECTIONS

Inspections are reviews of an activity, unit, or office, or a contractor or other nonfederal entity that receives funds from the Department. They focus on an organization, not a whole program, and are often designed to give agency managers timely and useful information about operations, including current and foreseeable problems.

EVALUATIONS

Program Evaluations are in-depth reviews of specific management issues, policies, or programs.

Systems Evaluations review system development, acquisitions, operations, and policy, focusing on computer systems and other technologies.

INVESTIGATIONS

Investigations are conducted based on alleged or suspected wrongdoing by Department employees, contractors, recipients of financial assistance, and others responsible for handling federal resources. Investigations that expose violations of Department rules and regulations or acts of fraud committed against the U.S. government can result in administrative sanctions and/or criminal or civil prosecution.