



Semiannual Report to Congress

MARCH 2009



U.S. Department of Commerce
Office of Inspector General



**IG's
Semiannual
Report
to Congress**

March 2009

CONTENTS

From the Inspector General	1
Major Challenges for the Department	3
Overcome the Setbacks Experienced in Reengineering Decennial Processes, and Conduct a Successful 2010 Census	3
Better Position the Department to Address Information Security Risks	5
Effectively Manage the Development and Acquisition of NOAA's Two Environmental Satellites	6
Establish a Safety Culture at NIST	7
Ensure NTIA Effectively Carries Out Its Responsibilities Under the Digital Television Transition and Public Safety Act	8
Other Issues Requiring Significant Management Attention	10
OIG Recovery Act Oversight	14
Work in Progress	17
Agency Overviews	
Bureau of Industry and Security	21
Economic Development Administration	23
Economics and Statistics Administration	25
National Oceanic and Atmospheric Administration	31
National Institute of Standards and Technology	35
National Telecommunications and Information Administration	39
United States Patent and Trademark Office	45
Department-Wide Management	47
Office of Inspector General	49
Office of Investigations	49
Other OIG Activities	51
Tables and Statistics	53
Reporting Requirements	61



DEPARTMENT OF COMMERCE

UNITED STATES
DEPARTMENT OF COMMERCE

U.S. Department
of Commerce
Herbert C. Hoover
Building
Enter Here
←

FROM THE INSPECTOR GENERAL

We are pleased to present the Department of Commerce Office of Inspector General's *Semiannual Report to Congress* for the 6 months ending March 31, 2009.

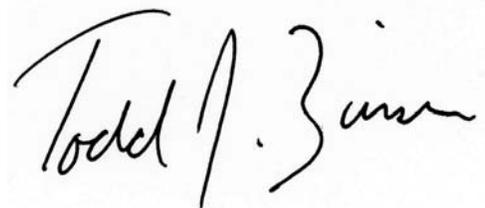
This report summarizes the work we have completed and initiated during this semiannual period on a number of critical departmental activities. Among other things, we identified the top management challenges facing the Department for the incoming Administration, issued a report with recommendations for modifying the contract type and fee structure of the Field Data Collection Automation (FDCA) contract, which aided Census in the renegotiation of this critical decennial contract, and reported on the fraud, waste, and abuse program for the digital-to-analog converter box coupon program. In addition, our investigative activities this reporting period resulted in two convictions and more than \$75 million in fines, restitutions, and recoveries.

Also during this semiannual period, the American Recovery and Reinvestment Act of 2009 became law. The Act provides nearly \$8 billion for stimulus projects for the Department, including \$4.7 billion for the Broadband Technology Opportunities Program. This presents the Department, and our office, with new responsibilities and challenges to spend funds provided under the Act in a transparent

and accountable manner, while also meeting the purposes of the Act.

We had the opportunity in March to testify before Congress on what we consider the major areas of risk facing the Department in spending stimulus funds effectively. These areas will be the basis for the majority of our Recovery Act work in the upcoming reporting period. We are taking steps to provide recommendations to the Department and its bureaus upfront in order to help prevent problems. We also established an OIG Recovery Act Task Force to lead the oversight efforts required under the Act and will work closely with key decision-makers.

We look forward to working with the Department and the Congress to address these many challenges. We thank the Secretary, senior officials throughout the Department, and members of Congress and their staffs, for their support of our work during this reporting period and for their responsiveness to our recommendations for improving Commerce operations.



AMONG NATIONS
COMMERCE SHOULD BE FAIR AND
EQUITABLE — FRANKLIN



MAJOR CHALLENGES FOR THE DEPARTMENT

In November 2008, we issued a report emphasizing the key challenges facing the new Administration. These are listed in detail below. Since that time the Department has been confronted with new challenges with the passage of the American Recovery and Reinvestment Act. These new challenges are also discussed below.

The Reports Consolidation Act of 2000 requires inspectors general to identify the top management challenges facing their departments. For FY 2009 Commerce OIG has identified five top challenges that require immediate and significant action from the Department, and four longer term issues that require sustained attention. These challenges provide the focus for much of our work, as we assess the Department's progress in meeting them.

TOP 5 MANAGEMENT CHALLENGES

1. Overcome the Setbacks Experienced in Reengineering the Decennial Processes, and Conduct a Successful 2010 Census.
2. Better Position the Department to Address Information Security Risks.
3. Effectively Manage the Development and Acquisition of NOAA's Two Environmental Satellites.
4. Establish a Safety Culture at NIST.
5. Ensure that NTIA Effectively Carries Out Its Responsibilities Under the Digital Television Transition and Public Safety Act.

Challenge 1

Overcome the Setbacks Experienced in Reengineering Decennial Processes, and Conduct a Successful 2010 Census

The Census Bureau's ability to carry out a successful 2010 population count continues to be one of the most critical challenges facing the Department: the first major operation of the 2010 census—address canvassing—is already under way and deadlines for several others are approaching. The time lost in revamping operations to accommodate the Department's late decision to scale back use of handheld computers has left Census little or no window for testing a number of its replacement processes, procedures, and strategies before conducting live operations. At this point in the life cycle, the new Secretary will have little opportunity to impact the 2010 decennial. The new Secretary does have the opportunity to impact planning for the 2020 census. We believe that applying the lessons learned from the 2010 decennial to the planning and reengineering of the 2020 decennial should be a high priority and begin as soon as possible.

The 2010 census was to be the first high-tech count in the nation's history, with employees using

handheld computers equipped with global-positioning software to verify addresses, collect data from households that did not mail back census questionnaires (“nonresponse follow-up”), and manage a variety of information and tasks. The mounting problems with the Field Data Collection Automation (FDCA) contract prompted the decision to abandon use of handheld computers for nonresponse follow-up but keep them for address canvassing.



Source: Photograph by the U.S. Census Bureau, Public Information Office (PIO)

During non-response follow-up, enumerators will obtain questionnaire answers directly from respondents.

During this semiannual period we issued three reports on high-risk 2010 plans and operations. To aid the bureau’s contract restructuring and negotiation of the FDCA contract, we audited

FDCA’s original contract terms to determine whether they were the most suitable for acquiring the needed systems and services. We found several weaknesses in the contract, including its formula for determining “award fees,” which are designed to reward and encourage excellent performance. (See page 27.)

We issued two reports on the Census’s preparations for address canvassing—the operation intended to verify the accuracy of the address list and maps used in conducting the census. One review focused on the procedural aspects of the 2008 address canvassing dress rehearsal and found, among other things, that address canvassing cannot be relied on to improve address information for certain types of housing units and communities, such as apartments and trailer parks. (See page 26.) The second review focused on information technology aspects of the tested operation and the status of the Census’s efforts to roll out a network of local offices to support the operation. We found delays in defining requirements and completing software development and testing, local office deployment, and establishment of technical help desk support, all of which have increased operational risk. (See page 29.)

We are currently assessing various aspects of the live address canvassing operation, including the Census’s efforts to mitigate problems we identified during testing. We are also looking at other key initiatives, such as the partnership program designed to increase participation among minority communities and hard-to-reach populations. We plan to issue a series of expedited reports to advise Census of our findings in an effort to inform decision making and allow for prompt adjustments to improve the operation’s outcome, and by extension, the accuracy of the 2010 count.

The infusion of \$1 billion in stimulus funding gives the Census Bureau additional resources for enhanced program management, partnership and outreach efforts to minority communities and hard-to-reach populations. Effective use of this funding adds new challenges to Census’s execution of the 2010 count. We have added these activities to our list of short-term oversight.

Challenge 2

Better Position the Department to Address Information Security Risks

As in many federal agencies, putting proper information security controls in place has been an intractable problem at the Department of Commerce and a long-standing item on OIG's watch list. Despite significant expenditures to mitigate the problem, the Department has reported information security as a material weakness every year since FY 2001.

The reason for the material weakness is ineffective certification and accreditation (C&A): the Federal Information Security Management Act (FISMA) and OMB policy require agencies to certify that their systems and data are protected with adequate, functioning security controls before authorizing (accrediting) a system to operate. But year after year our FISMA reviews have found ineffective C&A processes that do not adequately identify and assess needed controls and ultimately fail to assure that systems and data are protected.

Securing systems from cyber threats is clearly the most difficult piece of the challenge because these threats represent a moving target: they increase in number and sophistication almost daily. And as agencies incorporate wireless and other technologies to support their operations and workplace flexibilities, they invite new risks that must be anticipated and mitigated.

To be effective in this environment, the Department's IT security program must be proactive and flexible, staffed by IT security professionals who have the appropriate skills, experience, and clearances to implement required security controls, assess their effectiveness, and anticipate and respond to emerging threats. Key to the Department's success in establishing such a program are the following:

- *Improved IT security staffing.* Our assessments over the years have found that IT security staff lacks adequate understanding of Commerce IT security policy, NIST stan-

dards and guidance, and security technology, and therefore cannot appropriately apply them. We are auditing the efforts within the Department to address these problems and strengthen IT workforce capabilities, as well as future plans for maintaining sufficient staff expertise.

- *Consistent, repeatable C&A processes.* We continue to work with the Department to eliminate the material weakness by the end of this calendar year under a jointly developed plan that incorporates realistic milestones and measurable steps for building consistent and repeatable C&A practices. Our FISMA reviews have increased their emphasis on the Department's efforts to conduct continuous monitoring—a crucial strategy for eliminating the material weakness, by which agencies regularly assess and adjust their security controls to maintain or improve protective measures. The limited number of reviews for which we have completed fieldwork thus far—while not sufficient to draw final conclusions—have found improved C&A processes.
- *Cyber Security Assessment and Management (CSAM) tool.* As part of the effort to build repeatable processes, Commerce's Chief Information Officer (CIO) initiated a pilot project to facilitate Department-wide implementation of CSAM—a software application developed by the Department of Justice that allows users to take a 360-degree approach to C&A. They can input system information as they begin the C&A process and, among other things, generate and implement a security plan that complies with FISMA requirements, analyze security requirements, and track resolution of vulnerabilities and the results of security control monitoring.

The six bureaus participating in the pilot are using CSAM to certify and accredit one of their operational systems with the goal of identifying challenges to and requirements for integrating the tool with current C&A processes. The project is scheduled for

completion in June 2009. When fully integrated throughout the Department, CSAM should bring greater consistency to the C&A process across all Commerce bureaus.

Finally, in response to growing cyber threats and cyber security incidents, the Department has taken significant steps toward shoring up IT security at headquarters. It has established a network security operations center that uses state-of-the-art monitoring tools to provide real-time identification of potential threats, isolated certain critical networks and enhanced their security measures, and is creating a specialized stand-alone network for processing extremely sensitive information.

Challenge 3

Effectively Manage the Development and Acquisition of NOAA's Two Environmental Satellites

NOAA is modernizing its environmental monitoring capabilities, spending billions of dollars on two satellite systems that provide critical data: the National Polar-orbiting Operational Environmental Satellite System (NPOESS) and Geostationary Operational Environmental Satellite-R Series (GOES-R).

Space acquisitions like NPOESS and GOES-R are highly technical and complex and have a history of cost overruns, schedule delays, and performance shortfalls. The costs and schedules of both of these systems have significantly increased since the projects commenced. They therefore require careful oversight to minimize any further disruption and to prevent any gaps in satellite coverage—a situation that could have serious consequences for the safety and security of the nation.

More Setbacks for NPOESS. The NPOESS project is intended to provide continuous weather and environmental data for longer term weather forecasting and climate monitoring through the coming



two decades.¹ The initial plan called for the purchase of six satellites at a cost of \$6.5 billion, with a first launch in 2008. But problems with a key sensor—the Visible/Infrared Imager/Radiometer Suite (VIIRS)—were a major contributor to the program's June 2006 restructuring, which increased the estimate to \$12.5 billion, reduced the number of satellites to four, and pushed the first launch back to 2013. (See September 2006 *Semiannual Report to Congress*, pages 9 and 29.)

In December the NPOESS total life cycle cost was revised to \$14 billion. The updated estimate reflected additional costs for the development of VIIRS as well as revised operations and support costs. Subsequently, NOAA announced in March it would delay the first launch by another year—to 2014—because of continuing problems with VIIRS. It also slipped the NPOESS Preparatory Project (NPP)² launch date from 2010 to 2011.

Preliminary analysis by a team of independent satellite experts indicates among other things that the NPOESS program as currently defined has a low probability of success, that the current estimate of \$14 billion should be increased, and that the decision making by the triagency committee of senior NOAA, NASA, and the Department of Defense officials continues to be ineffective. Although current satellites are expected to operate until 2014, a launch failure or delays beyond 2014 could result in gaps in the availability of long-term environmental data.

Under the American Recovery and Reinvestment Act of 2009, \$74 million will be used for development activities to mitigate NPOESS cost and schedule risk and for instruments that will monitor factors affecting climate change.

GOES-R Acquisitions are Underway. The \$7.7 billion GOES-R system will offer an uninterrupted flow of high-quality data for short-range weather forecasting and warning, and climate research through 2028. An



¹ The cost of the NPOESS program is shared equally by NOAA and the Department of Defense.

² NPP was planned as a risk reduction effort to test NPOESS new instruments in flight. NASA is the lead on this effort.

inadequate acquisition and management process contributed to underestimated costs for GOES-R and planned satellite capabilities that were too ambitious. As a result, the projected cost of GOES-R has increased from \$6.2 billion to \$7.7 billion, a major sensor has been removed, and the number of satellites to be purchased has decreased from four to two.

Currently NOAA is evaluating the ground segment proposals, and contract award is planned for summer 2009. NASA awarded the spacecraft contract in December 2008, but the award was protested to GAO and NASA issued a stop work order shortly thereafter. Since then, NASA re-evaluated the proposals and re-awarded the contract in May.

Reining in additional costs and delays in both programs requires very specific action and vigilant oversight. For NPOESS, the three agencies developing the system—NOAA, NASA, and the Department of Defense—must (1) control and resolve the continuing problems with VIIRS, (2) identify the best approach to minimize a potential gap in data continuity, and (3) improve triagency decision making. Because NPOESS is the only source of critical weather and environmental data, it is especially important that VIIRS problems be resolved and congressional confidence in and support of the program be maintained.

For GOES-R, (1) the Department needs to follow best practices in overseeing the acquisition while awaiting development of formal Commerce oversight policies and procedures to guide such projects, and (2) the Department and NOAA need to work with Congress to update the baseline life-cycle cost estimate used in its annual reporting on the satellite system.

Challenge 4

Establish a Safety Culture at NIST

A June 2008 plutonium spill at the National Institute of Standards and Technology's Boulder, Colorado, laboratory raised serious concerns about NIST's ability to perform state-of-the-art research with radioactive and other dangerous materials while

protecting the safety of workers and the community at large.

The plutonium spill was one of several incidents reported at NIST labs in the past few years that have revealed management flaws and a lax safety culture at the agency. But it was by far the most serious in terms of the potential for widespread harm.

The plutonium spill prompted a series of reviews by independent health and safety experts, the Department of Energy, and NIST's Ionizing Radiation Safety Committee. NIST also arranged for an independent consultant to analyze the root cause of the plutonium spill. All of the experts shared a common finding—a commitment to safety at NIST Boulder is seriously lacking. (These reports are available at http://www.nist.gov/public_affairs/releases/boulder-incident.html)

One area related to safety is facility maintenance. Two studies conducted by NIST identified a backlog of more than \$500 million in facility maintenance and repair requirements. A 2004 study found \$458 million in deficiencies at NIST's Gaithersburg campus and a 2008 study identified \$48 million in deficiencies at Boulder. Many of the items relate directly to safety.

NIST noted that it should be investing at least \$50 million to \$70 million annually to bring its facilities to a "fair" condition and stay ahead of further deterioration. It will have nearly double that amount to spend on the backlog in FY 2009: the agency reported its FY 2009 appropriation included \$68.3 million to address the backlog at Boulder and Gaithersburg, to which it added another \$11.9 million (\$3.7 million for Boulder, \$8.2 million for Gaithersburg). The Recovery Act allocated \$39 million for addressing the backlog in FY 2009, for a total of \$119.2 million. Additionally, the Recovery Act allocated \$26.5 million specifically for safety improvements at Boulder and Gaithersburg.

While these funding commitments will be helpful in improving the safety and physical condition of NIST's facilities, it is clear from the circumstances surrounding the plutonium incident and subsequent revelations that, at a minimum, NIST must make

safety a primary concern at all organizational levels and strictly comply with all federal requirements and industry standards. It must establish and enforce stringent policies and procedures for handling hazardous materials and strict lines of accountability for implementing them.

We have been monitoring NIST's efforts to improve safety since the incident and, as part of our Recovery Act oversight, we will closely watch how effectively the agency uses related allocations specifically dedicated to the backlog and safety issues. Following the plutonium spill, NIST established the position of special assistant to the director for environment, safety, and health. It also is developing a system for compiling all findings and recommendations related to NIST safety—those from the many experts who reviewed the spill as well as those from other reports issued over the years—and for tracking related implementation activities. Separately, we are assessing the status of NIST's efforts to implement safety-related recommendations.

Challenge 5

Ensure NTIA Effectively Carries Out Its Responsibilities Under the Digital Television Transition and Public Safety Act

The Digital Television Transition and Public Safety Act of 2005 assigned the National Telecommunications and Information Administration responsibility for implementing a \$2.5 billion initiative for the conversion to digital television and improvements to public safety communications. The act authorizes NTIA to use \$1.5 billion to support the nation's switch to all-digital broadcasting by offering coupons toward the purchase price of converter boxes that will enable analog television sets to receive digital broadcasts.

A primary purpose of the switch is to free up radio frequencies for advanced wireless emergency communications at state and local levels. NTIA will use approximately \$1 billion to fund grants for public safety interoperable communications (PSIC) projects in all 50 states, the District of Columbia, and the U.S. territories—a total of 56 entities.

The authorizing legislation requires NTIA to coordinate with the Department of Homeland Security in administering the PSIC program and set a statutory deadline of September 30, 2010, to expend grant funds. Subsequent legislation set a statutory deadline of September 30, 2007, to award grants.

Converter Box Coupon Program Is Progressing. On February 11, 2009, President Obama signed the DTV Delay Act, which moved the date for the switch to all-digital broadcasting from February 17 to June 12, 2009. The delay responded to concerns that certain hard-to-reach populations—such as rural residents and the elderly—were not yet digital ready. Though NTIA had made substantial progress preparing television viewers for the switch by dispensing converter box coupons, the agency reported it had a waiting list of over 4.3 million coupon requests as of February 25, 2009, because Commerce had reached the \$1.34 billion funding limit for the coupons. As a result, NTIA could send out new coupons only as unredeemed ones reached their 90-day expiration date.

The DTV Delay Act extended the deadline for coupon requests to July 31, 2009, and authorized NTIA to issue replacement coupons to consumers who had allowed their original coupons to expire. The Recovery Act provided \$650 million for additional coupons and related activities such as education and outreach to vulnerable populations. As of March 24, the waiting list had been cleared, and NTIA was filling coupon requests as they came.

Maintaining strict accountability for the program requires careful oversight and strong internal controls to, among other things, guard against waste, fraud, and abuse among retailers, and to adapt to evolving program requirements. We have been carefully monitoring NTIA's program administration. Our audit of the agency's oversight, completed during this semiannual period, found that NTIA has made significant progress in implementing an initiative to deter waste, fraud, and abuse, but needed to revise the plan detailing its waste, fraud, and abuse activities. NTIA took numerous corrective actions to address our findings and recommendations before

our report was issued and continues to augment its waste, fraud, and abuse activities. (See page 39.)

The delay in transitioning to digital programming, coupled with the stimulus funding, adds new challenges for NTIA in administering the converter box coupon program. The agency needs to continue to maintain an effective waste, fraud, and abuse detection effort, meet requests for coupons, and avoid comingling program and Recovery Act funds. The Recovery Act also provides funding to allow NTIA to continue to work with stakeholders representing at-risk groups, and the FCC, which has primary responsibility for consumer education and outreach, to ensure a smooth transition to digital television.

PSIC Grantees May Not Be Able to Finish Projects Within the Mandated Time Frame. The PSIC program is a one-time grant opportunity to target specific funds and resources toward improving the interoperability of local and state voice and data communications. But grantees are moving slowly, and whether they can complete their projects by the statutory deadline of September 30, 2010, is questionable.

As of March 2009, grantees had spent less than 9 percent of the available \$1 billion, which leaves them only 18 months to complete their projects or lose funding. In March 2009 we contacted 21 grantees, including 18 of the 20 receiving the largest grants. Only two stated they planned to acquire most of their interoperable communications equipment within the first half of 2009. Ten told us they will start acquiring equipment in late FY 2009 and 2 at the beginning of FY 2010. Seven of the 21 grantees contacted were concerned that they may

be unable to finish projects by September 30, 2010. Given all that must follow the purchase of equipment—installation, operational testing, and training at a minimum—grantees who are still in the acquisition stage as late as FY 2010 face the very real possibility of arriving at the program’s September 30, 2010 deadline with partially completed projects but without funding to finish them out.



Source: OIG, December 2008

Police car outfitted with a communication system from a PSIC grant.

NTIA should expeditiously identify grantees who are at high risk of not meeting the statutory deadline for completing their projects, give them the technical assistance they need to accelerate the process, carefully monitor their progress, and keep Congress informed of the PSIC program’s status toward achieving its objectives. If any entities seem still unlikely to meet the deadline, NTIA should work with Congress to obtain the authority to extend the deadlines for these entities.

OTHER ISSUES REQUIRING SIGNIFICANT MANAGEMENT ATTENTION

Weaknesses in the Department's Acquisition Oversight and Acquisition Workforce

Acquisition and contract management has been a consistent watch list item for inspectors general, as related government spending has ballooned in recent years without a commensurate growth in the acquisition workforce or the higher-level skills needed to properly oversee complex procurements. Cost overruns, fraud, and a lack of oversight and accountability are common findings in IG audits and GAO reviews government-wide.

Our top management challenges report described an acquisition infrastructure at Commerce that does not have coherent policies to guide systems acquisition or effective oversight mechanisms. Hiring and retaining a skilled acquisition workforce has been difficult at the Department, as it has been for all federal agencies. The Department has a limited number of contracting specialists to meet its multibillion-dollar workload. It has no reliable count of its program and project managers or contracting officer representatives—critical positions in the contracting oversight chain.

The billions of new dollars available to Commerce for acquisitions grants, and contracts under the Recovery Act, coupled with the act's call for accelerated spending and "fixed price" contracts when practicable, will undoubtedly further tax an already overwhelmed acquisition workforce and exacerbate acquisition management weaknesses. Our procurement audits have found repeated instances in which the

Department's lack of skilled contracting and project management professionals has resulted in inadequate contract management, and significant cost and schedule overruns and performance shortfalls.

Our recent audit of the Census Bureau's Field Data Collection Automation contract (see page XX) found that poorly defined requirements were a significant contributor to the problems encountered in developing the handheld computers for automating key operations and the resulting \$3 billion increase in estimated costs for conducting the 2010 census. This audit and an audit of a satellite acquisition at NOAA found that contractors were receiving high award fees for projects that were experiencing serious performance shortfalls and large cost overruns.

The Department has taken several steps to address some of its contract and procurement weaknesses. It is working to complete revisions to its major systems acquisition procedures. It has improved its certification program for contracting officer representatives, in response to our recommendation. And it has taken additional steps intended to support sound management of Recovery Act funds: for example, it combined the Commerce IT Review Board and the Acquisition Review Board into a single Investment Review Board, which has scheduled reviews for programs that will receive Recovery Act funding.

Also notable are several actions by the Department's Office of Acquisition Management: it recently issued

Implementation of the American Recovery and Reinvestment Act—a quick guide for the acquisition workforce—and created a Risk Management and Oversight Plan, currently in draft, to highlight contracting and grant risks and help agency program leaders and acquisition staff prepare mitigation plans.

But these efforts will not be enough to improve the Department's overall acquisition operations without commensurate improvements in the size and skill of its acquisition workforce—needs that must be addressed immediately to oversee Recovery Act spending effectively. In the short term, the Department reports that it plans to take advantage of all hiring flexibilities made available by the Office of Personnel Management and use contractors to augment its acquisition staff for both Recovery Act and normal acquisition spending.

Apart from these plans, the Department needs a comprehensive human capital strategy that addresses both its immediate and long-term hiring needs. That strategy must, among other things, (1) explicitly define the requisite acquisition skills and competencies, (2) tap into government-wide recruiting initiatives, and (3) offer professional development and other incentives to attract and keep qualified candidates.

Special Acquisition Challenges Face NOAA and NIST

A significant portion of Recovery Act funding going to NOAA and NIST will be used for construction projects to build science facilities. Monitoring construction projects poses special challenges: these initiatives are often at risk for anticompetitive practices, and substandard workmanship, defective materials, nonperformance, and corruption. Our audits and investigations of public works projects, for example, have identified significant instances of nonperformance and misuse of federal funds.

These are just some of the potential problems NOAA and NIST grants and procurement specialists must be attuned to. Negotiating fair terms for construction projects and managing the work requires a distinctly different skill set from that needed to oversee research projects—the ability to evaluate architectural and

engineering proposals, work schedules, and labor rates, and assess whether proposed and actual materials costs are reasonable, to name a few. NOAA and NIST, as well as the other Commerce agencies, must ensure they have the necessary skills and expertise to carry out these projects.

USPTO's Long and Growing Patent Processing Times, and Its Financing Vulnerabilities

The efficiency with which the U.S. Patent and Trademark Office processes patent applications has a direct bearing on how well it achieves its mission of promoting U.S. competitiveness. Meeting the demand for new patents in a timely manner has been a long-standing challenge for USPTO. Increases in both the volume and complexity of patent applications have lengthened application processing times and backlogs dramatically. In 2004, USPTO had a patent backlog of nearly a half-million applications and processing times of 27 months. By 2007, processing times averaged nearly 32 months, with wait times for communications-related patents as long as 43 months.

As of September 30, 2008, USPTO reported a backlog of 750,596 applications and estimated that the backlog will exceed 860,000 by September 2011. USPTO's current estimates put that backlog at 740,000 applications by the end of FY 2009, which is a decrease of 10,000 applications over end of FY 2008 numbers. The USPTO needs to further decrease the backlog by continuing to implement measures discussed in its 2007-2012 strategic plan that have a significant impact on reducing the backlog, such as shortening application review times, improving examiner error rates, and continuing its initiatives to improve the hiring, training, and retaining skilled examiners. In addition, the USPTO will persist in pursuing and implementing, where possible, other measures such as international work sharing and cooperative efforts to aid in decreasing the backlog and enhancing examiner efficiencies.

USPTO's unique financing structure also presents challenges. There is a complex relationship between the number of patent applications filed, the size of the application backlog, the number of patents

issued, and the fees USPTO collects in connection with the patent process. The agency uses fees collected today to pay for patent applications filed and examined in prior years. In our November report, we cautioned that with the backlog growing, processing times increasing, and the number of patents issued flattening, this method of financing is becoming increasingly risky because of the potential shortfall in future fee collections. This has quickly become an immediate concern. For FY09, USPTO is projecting that it will likely end the year collecting roughly \$100 million below what it had projected. The current model for financing USPTO's critical mission warrants attention to ensure that it will continue to provide sufficient funding to process all backlogged applications as well as any newly filed applications.

NOAA's Ability to Conserve the Nation's Fragile Oceans and Living Marine Resources While Ensuring a Vital U.S. Commercial Fishing Industry

According to NOAA, 3.5 million square miles of our coastal and deep ocean waters and the Great Lakes support over 28 million jobs—one of every six—in the United States, and the value of the U.S. ocean economy tops \$115 billion. But these economic benefits come at great cost as the health of our ocean and coastal ecosystems continues to decline in the face of increasing coastal development, pollution, overfishing, climate change, and the destructive impact of invasive species.

Charged with maintaining and improving the viability of marine and coastal ecosystems while supporting global marine commerce and transportation, NOAA manages a significant portion of the federal government's investment in living marine resources. It faces difficult challenges in promoting the health of these resources while ensuring they sustain the vital economic benefits we derive from them. The difficulty is perhaps most apparent in NOAA's management of commercial fisheries, and its enforcement of numerous related statutes and regulations.

Ecosystem Management Defined

An ecosystem is a geographically specified system of organisms, including humans, their environment, and the processes that control their dynamics. NOAA defines an "ecosystem approach to management" as a geographically specified, adaptive approach that takes account of ecosystem knowledge and uncertainties, considers multiple external influences, and strives to balance diverse societal objectives. Implementation will need to be incremental and collaborative. NOAA recognizes that transition to and implementation of an ecosystem approach to management needs to be incremental and collaborative.

<http://ecosystems.noaa.gov>

During this semiannual period, we responded to a congressional request to investigate a series of issues regarding the quality of the science used to determine catch limits for New England commercial fisheries and related allegations from the fishing industry and non-NOAA scientists (see page 31)—a situation that epitomizes the difficult balance NOAA must maintain in fulfilling its mission. Overall we found NOAA met the "best available science" requirements of the Magnuson-Stevens Fishery Conservation and Management Act in setting catch limits to protect and rebuild compromised species. But the history of contention between the groundfish industry and NOAA in the Northeast Region, coupled with NOAA's ineffective communications and limited progress in improving transparency, among other things, set the stage for challenging the limits and assailing NOAA's objectivity in setting them.

Open communications and transparency are essential to a productive NOAA-industry partnership that succeeds in balancing commercial interests with conservation goals. But also critical are ecosystem approaches to fisheries management, as these support more comprehensive assessments of species and better inform resulting regulations. NOAA is slowly making the transition to ecosystem management, and its efforts in this regard must be monitored. NOAA's ecosystem-based management approaches should

assist NOAA officials in addressing difficulties in issuing or revising fishing regulations to minimize bycatch of protected species, including marine mammals, turtles, and birds, or overharvested fish and mollusks.

Ecosystem management must also consider activities occurring outside of the U.S. exclusive economic zone,³ where illegal, unreported, and unregulated (IUU) fishing depletes migratory fish stocks, degrades bottom habitat, increases bycatch, and can lead to a fishery's collapse. The Magnuson-Stevens Reauthorization Act gave NOAA new authorities to combat IUU fishing. It is important to monitor NOAA's use of these authorities in protecting U.S. and global fisheries.

Finally, approximately \$210 of the \$860 million NOAA received in stimulus funding is expressly dedicated to restoring marine and coastal habitats, addressing backlogs in hydrographic surveys (measuring the depth and bottom configuration of water bodies), and issuing biological consultations required by the Endangered Species Act. For example, NOAA plans to invest up to \$167 million to support restoration projects addressing coral reef conservation, the restoration of fish habitats, the recovery of endangered species such as salmon and sea turtles, and the improvement of coastal resiliency in response to sea level rise and natural hazards. Our office plans to monitor how effectively NOAA spends these funds and implements these programs.

BIS' Setbacks in Modernizing Its Obsolete Information Technology Infrastructure to Strengthen the Dual-Use Export Control System

In January 2007, GAO added the Bureau of Industry and Security's dual-use export control system to its government-wide high-risk list. One of the key challenges facing BIS in ensuring that the dual-use export control system is properly equipped to advance U.S. national security, foreign policy, and economic interests is the replacement of its obsolete

Export Control Automated Support System (ECASS). BIS' core export administration and enforcement business processes are directly supported by ECASS. Approximately 450 federal staff and 28,000 exporters currently use the system. However, the database structure—originally deployed in 1984—is complex and no longer supported by the technology industry. The effort to modernize ECASS began in 1996, but the project has been beset by technical problems, schedule slips, and funding shortages.

The current projected completion date for the ECASS modernization is FY 2014. Based on our interviews, the total funding requirements for ECASS modernization are not clearly established. BIS must provide a comprehensive plan for what is required to modernize ECASS, including how much it will cost and how it will avoid the management and technical problems experienced in past modernization attempts.

Enhancing the performance of ECASS and ensuring continued operation of an effective licensing information system are far too important to postpone any longer. BIS must demonstrate that it has a modernization strategy and plan in place to convincingly make the case for increased funding, or develop a plan to implement its ECASS modernization effort with existing resources (i.e., reallocate existing funding).

³ The exclusive economic zone (EEZ) is the 200 nautical miles extending from a nation's shores. Nations control the undersea resources, primarily fishing and seabed mining, in their EEZ.

OIG RECOVERY ACT OVERSIGHT

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 into law. The Recovery Act requires an unprecedented amount of transparency and accountability and sets out specific responsibilities for the OIG to provide oversight of the Department's activities under the Act and its spending of funds appropriated by the Act. The Department of Commerce—five bureaus, plus the Office of Inspector General—received \$7.946 billion in the Recovery Act, as follows:

- Economic Development Administration: \$150 million for economic development assistance programs.
- Bureau of the Census: \$1 billion for periodic censuses and programs.
- National Telecommunications and Information Administration: \$4.7 billion for the Broadband Technology Opportunities Program and \$650 million for the Digital-to-Analog Converter Box Program.
- National Institute of Standards and Technology: \$220 million for scientific and technical research and services”, \$360 million for construction of research facilities, \$20 million to be transferred from the Department of Health and Human Services for continued work on advancing health care information enterprise integration, and \$10 million to be transferred from the Department of Energy to implement section 1305 of Public Law 110–140, the Energy Independence and Security Act of 2007.
- National Oceanic and Atmospheric Administration: \$230 million for operations, research, and facilities and \$600 million for procurement, acquisition, and construction.
- Office of Inspector General: \$6 million for general oversight of funds provided to Commerce bureaus under the Act and \$10 million to be transferred from NTIA for audit and oversight of funds provided for the Broadband Technology Opportunities Program.

The OIG is in the process of developing a risk-based oversight plan. In the meantime, we have put in place an interim plan to guide our work. Under this plan, we

- Established a Recovery Act Task Force and identified specific oversight priorities including fraud prevention, grants; procurements; science and research; broadband; digital TV conversion and Census.
- Are participating on the Department's Recovery Act Steering Committee and working groups as advisory members to provide technical assistance and advice on risk assessment, operational procedures, and internal controls.
- Developed and are delivering fraud awareness briefings for Departmental procurement, grants and program officials and procurement and grant recipients. The briefings focus on risk management for Commerce-specific programs and emphasize whistleblower protection and reporting to OIG.

- Developed expedited reporting processes and issued our first flash report entitled, *NTIA Should Apply Lessons Learned from the Public Safety Interoperable Communications (PSIC) Program to Ensure Sound Management and Timely Execution of the \$4.7 Billion Broadband Technology Opportunities Program*.
- Established a Recovery Act web page on the OIG web site for making OIG reports and related Recovery Act information available to the public (see <http://www.oig.doc.gov/recovery/>).

American Recovery and Reinvestment Act of 2009 Department of Commerce Funding

Agency	Amount	Purpose (From Joint Explanatory Statement)
EDA	\$150,000,000	Leverage private investment, stimulate employment and increase incomes in economically distressed communities.
	\$50,000,000	Economic Adjustment Assistance to help communities recover from sudden and severe economic dislocation and massive job losses due to corporate restructuring.
	\$50,000,000	May be transferred to federally authorized, regional economic development commissions.
Census	\$1,000,000,000	To hire additional personnel, provide required training, increase targeted media purchases, and improve management of other operational and programmatic risks.
	\$250,000,000	Up to \$250,000,000 shall be for partnership and outreach efforts to minority communities and hard-to-reach populations.
NTIA	\$4,700,000,000	Broadband Technology Opportunities Program (BTOP), to be available until September 30, 2010. For competitive grants to accelerate broadband deployment in unserved and underserved areas and to strategic institutions that are likely to create jobs or provide significant public benefits.
	Up to \$350,000,000	To establish the State Broadband Data and Development Grant program, as authorized by Public Law 110-385 and for the development and maintenance of a national broadband inventory map as authorized by division B of this Act.
	Not less than \$200,000,000	For competitive grants for expanding public computer center capacity.
	Not less than \$250,000,000	For competitive grants for innovative programs to encourage sustainable broadband adoption.
OIG	\$10,000,000	To be transferred to the Department of Commerce Inspector General for audits and oversight of funds provided under this heading.
NTIA	\$650,000,000	For additional implementation and administration of the digital-to-analog converter box coupon program, including additional coupons to meet new projected demands and consumer support, outreach and administration.
	\$90,000,000	Of the amounts provided, up to \$90,000,000 may be use for education, and outreach to vulnerable populations including one-on-one assistance for converter box installation.
NIST Scientific and Technical Research and Services	\$220,000,000	For research, competitive grants, additional research fellowships and advanced research and measurement equipment and supplies.
	\$20,000,000	Provided by transfer from the Health Information Technology (HIT) initiative within this Act. For HIT activities, NIST is directed to create and test standards related to health security and interoperability in conjunction with partners at the Department of Health and Human Services.
	\$10,000,000	Provided to implement section 1305 of Public Law 110-140 Energy Independence and Security Act of 2007. SEC. 1305. SMART GRID INTEROPERABILITY FRAMEWORK. The Director of the National Institute of Standards and Technology shall have primary responsibility to coordinate the development of a framework that includes protocols and model standards for information management to achieve interoperability of smart grid devices and systems.
Construction of Research Facilities	\$360,000,000	To address NIST's backlog of maintenance and renovation and for construction of new facilities and laboratories.
	\$180,000,000	Of the amounts provided, \$180,000,000 shall be for the competitive construction grant program for research science buildings, including fiscal year 2008 and 2009 competitions.
NOAA Operations, Research, and Facilities	\$230,000,000	To address a backlog of research, restoration, navigation, conservation and management activities.
Procurement, Acquisition and Construction	\$600,000,000	For construction and repair of NOAA facilities, ships and equipment, to improve weather forecasting and to support satellite development.
	\$170,000,000	Of the amounts provided, \$170,000,000 shall address critical gaps in climate modeling and establish climate data records for continuing research into the cause, effects and ways to mitigate climate change.
OIG	\$6,000,000	To remain available until September 30, 2013.

WORK IN PROGRESS

Office of Inspector General audits and evaluations that were initiated or underway during the reporting period:

BIS

IT Infrastructure System

Determine whether continuous monitoring of information security controls is (1) keeping the authorizing official sufficiently informed about the operational status and effectiveness of security controls; and (2) resulting in prompt mitigation of any identified security control deficiencies. Also assess whether BIS has resolved deficiencies we identified in our FY 2006 Federal Information Security Management Act evaluation.

Export Control Cyber-Infrastructure System

Determine whether (1) the C&A process produced sufficient information about remaining system vulnerabilities to enable the authorizing official to make credible risk-based accreditation decisions, (2) continuous monitoring is keeping the authorizing official sufficiently informed about the operational status and effectiveness of security controls and (3) implemented controls adequately protect the system and its information.

Census

2010 Decennial Census Communications Campaign

Evaluate the development and delivery of promotional materials produced to determine whether the materials met contract requirements for

quality and timeliness, and were appropriate for the target audiences. Also, review contract requirements, plans, deliverables, timelines, and funding, and follow up with separate audits of any problem areas identified.

Decennial Response Integration System (DRIS)

Assess DRIS contract requirements, deliverables, funding, and timelines, as well as review award fees paid to the contractor, the \$170 million contract modification executed in August 2007, and any other contract changes made to accommodate the Census's decision to conduct paper non-response follow-up. Also analyze the findings of unsupported and discrepant proposed costs reported by the Defense Contract Audit Agency in 2005.

Decision Documents and Expenditures for the 2010 Decennial Census

Identify the decision documentation and other information used to support allocations and spending for the 2010 census and determine whether they are consistent with planned activities and budget requests.

Field Data Collection Automation System

Determine whether (1) the C&A process produced sufficient information about remaining system vulnerabilities to enable the authorizing official to make credible risk-based accreditation decisions, (2) continuous monitoring is keeping the authorizing official sufficiently informed about the operational status and effectiveness of security controls and (3) the C&A process produced sufficient information about remaining system vulnerabilities to enable the

authorizing official to make a credible, risk-based accreditation decision.

NIST

Manufacturing Engineering Laboratory Managed Infrastructure and Application Servers and Databases

Determine whether (1) the C&A process produced sufficient information about remaining system vulnerabilities to enable the authorizing official to make credible risk-based accreditation decisions, (2) continuous monitoring is keeping the authorizing official sufficiently informed about the operational status and effectiveness of security controls and (3) implemented controls adequately protect the system and its information.

Policies and Procedures for Handling Radioactive Materials

Evaluate NIST's training, safety, and response policies and procedures relative to radioactive materials as well as controls over its inventory of and access to these materials. Also assess whether the agency's management structure facilitates incident preparedness and response, and the extent to which security and emergency protocols protect the health and safety of NIST employees at research labs and the surrounding communities.

NOAA

Finger Lakes Production International, Inc. for Radio Scripts on Ocean Matters

Evaluate a 2002 contract and financial assistance awards made in 2003, 2005, and 2006 in relation to a claim by Finger Lakes that NOAA owed the firm \$526,000.

Pacific States Marine Fisheries Commission

Comprehensive audit of two NOAA cooperative agreements and three contract task orders awarded to the Commission, which also includes audit of seven

years of indirect cost rates and related proposals and three cost reimbursable subcontracts.

NTIA

Audits of Arkansas, Louisiana, Nevada, and Pennsylvania Public Safety Interoperable Communications Grants

Determine the progress these states have made in acquiring and deploying interoperable communications with PSIC grant funds and whether their use of these funds is meeting all federal requirements.

USPTO

Enterprise Unix Services System and Reed Technology and Information Service Patent Data Capture System

Determine whether (1) the C&A process produced sufficient information about remaining system vulnerabilities to enable the authorizing official to make credible risk-based accreditation decisions, (2) continuous monitoring is keeping the authorizing official sufficiently informed about the operational status and effectiveness of security controls and (3) the C&A process produced sufficient information about remaining system vulnerabilities to enable the authorizing official to make a credible, risk-based accreditation decision.

Quality Assurance Process

Determine (1) the effectiveness of USPTO's patent quality assurance process in ensuring that established standard of patent examination quality are met, and (2) whether the process complies with applicable Department, bureau and federal laws, regulations, policies, procedures, and guidelines.

Department-wide

Department-wide Oversight of Grants

Identify relevant oversight activities currently in place at the Department's grants management offices and to determine (1) whether those activities are

consistent with the Department's grants manual, and (2) how they compare with best practices detailed in the Guide to Opportunities for Improving Grant Accountability, published by the Domestic Working Group--a coalition of 19 federal, state, and local audit organizations and led by the Comptroller General of the United States

Commerce IT Security Workforce Issues

Review ongoing and planned initiatives the Department and operating units are using to strengthen their workforce and identify best practices

for improving the IT security capabilities of responsible staff. Cover a sample of high-and moderate-impact systems at eight operating units, including the Office of the Secretary, and the duties and qualifications of their associated IT security personnel.

Recovery Act Oversight

As outlined on page 15, the OIG will conduct ongoing oversight of all Commerce programs that spend funds appropriated under the Recovery Act.





BUREAU OF INDUSTRY AND SECURITY

The **Bureau of Industry and Security** is primarily responsible for administering and enforcing the nations 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 has two primary operating 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.

Issues Related to the Bureau of Industry and Security's Budget and Responsibilities for International Treaty Implementation and Compliance (IPE-19463)

The Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Committee on Homeland Security and Governmental Affairs, and the Senate Committee on Foreign Relations asked the Office of Inspector General to investigate the Bureau of Industry and Security's budget management practices related to international treaty

implementation and compliance. The subcommittee and committee posed a series of questions related to BIS' use of funds designated for international treaty implementation and compliance, the curtailment of a Chemical Weapons Convention attaché posted in The Hague, and BIS management's decision to discontinue spending on a project to compile the U.S. Additional Protocol (AP) declaration using an electronic system.

We reported to the subcommittee and committee that conference report language accompanying the FY 2006 appropriations bill stated that the funding previously spent on international treaty implementation and compliance activities could now be spent on "national security related programs." Based on this language, BIS started funding other programs with the funding previously dedicated

solely to international treaty implementation and compliance. With regard to the Chemical Weapons Convention attaché being curtailed from his posting in The Hague, this action was taken by BIS management due to what it described as budget constraints. We found that funding was available, but was used instead by BIS for other national security programs. Finally, we found that the electronic system to compile the AP declaration would not have been ready in time to accept the first round of submissions from U.S. industry in late

2008 even if spending on the project had continued. The development of the system had not been well managed—it was only 35 percent complete in January 2008 when BIS stopped any further work on it. We found that reverting to a paper-based process for the AP declaration would be inefficient, but in speaking to the other federal agencies involved in AP implementation, none of them felt it would have any impact on the submission of the initial AP declaration to the International Atomic Energy Agency.



ECONOMIC DEVELOPMENT ADMINISTRATION

The **Economic Development Administration** was established by the Public Works and Economic Development Act (PWEDA) of 1965 to generate new jobs, help retain existing jobs, and stimulate private investment in economically distressed regions of the United States. EDA continues to fulfill this mission under the authority of PWEDA, as amended by the Economic Development Reauthorization Act of 2004. Based on local and regional comprehensive economic development 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 sudden and 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, planning, training and research, and economic adjustment assistance.

San Bernardino International Airport Authority and the Inland Valley Development Agency (STL-18837)

In 1994, the Economic Development Administration began a long-term collaboration with the Department of Defense Office of Economic Adjustment to redevelop Norton Air Force Base in San Bernardino, California, into a civilian airport and industrial/commercial complex. Before closing in March 1994, the 2,221-acre base had maintained and repaired aircraft and supported C-141 airlift operations.

Under a memorandum of understanding with Defense, EDA is administering a series of nine economic adjustment assistance awards with a total estimated cost of over \$45 million. Defense provides the funding. EDA makes grant awards, disburses

funds, monitors and closes out projects, and ensures recipients comply with federal law and regulations. The conversion project is complex; the work is being accomplished through multiple contracts, consulting agreements, and procurements requiring excellent organization, communications, and coordination.



Source: OIG, October 2007

Hangar 763 at the former Norton Air Force Base

During this semiannual period, we audited four grants issued between 2002 and 2005 for a variety of infrastructure and building improvements. The four have combined total project costs of \$13.4 million. Two were issued to the San Bernardino International Airport Authority, one was issued to the Inland Valley Development Authority, and one was issued jointly to both agencies. For the period of our audit, the four had claimed combined project costs of \$10,819,511. We sought to determine whether claimed costs were reasonable, allowable, and allocable to the award, and whether grantees had complied with award terms and conditions and were achieving project objectives.

In all four cases, we found the grantees had made acceptable progress toward achieving project goals and objectives. We did, however, question \$637,082 in claimed costs for failure to adhere to a variety of uniform administrative requirements and federal cost principles applicable to the awards. For example, grantees did not maintain adequate or complete documentation for a number of critical procurements and lacked a system capable of tracking such

documentation; had no written policies and procedures defining each agency's project management responsibilities and duties; lacked appropriate controls over contract change orders and modifications; and had no defined contract administration system. In addition, the grantees' financial management systems did not meet minimum federal standards for tracking labor and fringe benefits, or for accounting for income generated by the project.

We recommended that EDA disallow the questioned costs, recover the federal share of \$573,375, and ensure grantees make the necessary improvements to program administration and financial management systems to fully comply with federal requirements. EDA disallowed the costs as recommended and the grantee paid off the debt in full. EDA also sustained audit recommendations requiring the grantees to institute construction management controls, policies and procedures and to comply with uniform administrative requirements pertaining to financial management, procurement, records retention, program income and property management.



ECONOMICS AND STATISTICS ADMINISTRATION

The **Economics and Statistics Administration** analyzes economic activity, 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:

U.S. Census Bureau 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 quinquennial 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.

Census 2010: Challenges to Conducting a Successful Address Canvassing Operation Are Highlighted in Field Testing and Progress Under Realigned FDCA Contract

Address canvassing—the first major operation of the 2010 census—involves sending thousands of temporary staff (known as “canvassers” or “listers”) equipped with handheld computers to collect addresses and geographic information to update the Census’s master address file (MAF) and digital maps. The bureau describes “an accurate, comprehensive, and timely [address] list” as “one of the best predictors of a successful census.” The live address canvassing operation, scheduled for March-July

2009, is the Census’s last opportunity to significantly improve the MAF.

In reviews completed during this semiannual period we found that persistent problems with the handheld computers and related systems, the resulting need to modify the Field Data Collection Automation contract, and the compressed schedule for operational testing combined to slow Census’s progress toward fine-tuning and finalizing certain aspects of the address canvassing operation before the live operation began this past spring. The findings of our individual reviews are summarized below.

United States™
**Census
2010**

Dress Rehearsal of Address Canvassing Revealed Persistent Deficiencies in Approach to Updating the Master Address File (OSE-18599)

During dress rehearsal for Census 2010, Census tested decennial systems and operations under real-time conditions. The test of address canvassing was conducted from May through June 2007 in San Joaquin County, California, and a nine-county area surrounding Fayetteville, North Carolina. We reviewed dress rehearsal activity for the North Carolina site, and the impact of that activity on the quality of the master address file.

The MAF is intended to be a current, comprehensive list of every address in the nation representing a living quarter—whether occupied or vacant—compiled from, among other things, Census’s 2000 address list, U.S. Postal Service data, and local government address information provided primarily through an operation known as LUCA—Local Update of Census Addresses.

The Census’s mechanism for collecting and tabulating decennial census data is to link (geocode) MAF addresses to the Census’s digital map known as TIGER (Topologically Integrated Geographic Encoding and Referencing). Only geocoded addresses are included in the address canvassing operation, and only geocoded addresses receive census questionnaires.

We had evaluated activities to update the MAF and related maps during the 2006 census test and identified missing, duplicate, and erroneous addresses in the list—problems that would hinder Census’s ability to get a complete and accurate count during an actual census. Our review of the 2008 dress rehearsal for a sample of assignment areas before and after address canvassing found that many of the issues we noted in 2006 remain.

Our Findings

Ungeocoded Addresses and Incorrect Zip Codes in the MAF Set the Stage for Problems in Address Canvassing. According to Census officials, the MAF contains some 6 million ungeocoded addresses. Because ungeocoded addresses are not on the list given to address canvassers, the burden is on listers to find the associated locations and correctly record the address information. Census will not mail questionnaires to ungeocoded addresses that remain in the MAF and nonresponse follow-up enumerators only contact households that received but did not return a questionnaire. Therefore, residents at addresses that remain ungeocoded after address canvassing are unlikely to be counted.

In addition, several hundred addresses in our sample were duplicates except for the ZIP code. Up-to-date addresses were added by a LUCA operation but the updates were not recognized as the same housing unit in the MAF because the ZIP codes were different. Therefore, the LUCA addresses did not override the outdated entries.

Address Canvassing Remains an Unreliable Approach for Improving the MAF. As in our earlier reviews, we found that address canvassing cannot be counted on to reliably record the information needed to geocode ungeocoded addresses, identify and add missing units, or eliminate certain address errors. The operation is especially challenged when dealing with (1) nontraditional mailing addresses—for example, multiunit residences whose individual household addresses do not conform to the typical street number and name format; (2) “hidden” dwellings, such as sheds and makeshift garage apartments; and (3) trailer parks that display both lot numbers corresponding to a unit’s physical space within the park and unit numbers that are part of the mailing address. Examples of missed or misidentified residences we noted include the following:

1. A 352-unit apartment complex in our sample was in the MAF but not geocoded and therefore was not on an address canvassing list. The lister missed several addresses when adding the complex. The missing addresses remained ungeocoded and will not receive a

questionnaire unless they are added during the live canvassing operation.

2. A 391-unit retirement community was listed in the MAF in two different ways—by the complex’s “location” address—actual street name and unit numbers—and by the “vanity” address (complex name and numbers), which is used by the Postal Service and not geocoded in the MAF. Listers added the vanity addresses for some units, allowing them to geocode, but not for others. Subsequent changes to canvassing procedures and the handheld software will prevent listers from making this correction, which means that entire complexes such as this one may not receive mailed questionnaires.
3. Almost 600 “hidden” units in our sample were identified by listers but not added to the MAF because listers did not sufficiently differentiate the hidden dwelling from the primary residence.
4. Numerous trailer park residences were listed twice in the dress rehearsal lists—once by street address and once by lot number. During dress rehearsal, canvassers often eliminated the correct street listing and kept the erroneous lot number listing.

Finally, we identified problems with Census’s revised quality control procedures.

- We found instances in which quality control staff reinstated addresses that had been correctly deleted by the canvasser and otherwise incorrectly added addresses to canvassers’ lists.
- We noted that the 2010 procedure of having the same individual do both the quality control check of canvassed assignment areas and the recanvassing of areas that fail the check may compromise the results by prompting quality control staff to shortcut the recanvassing process—a situation we observed in the field.

To improve the master address file for 2010, we recommended several short-term actions. These included

1. mailing questionnaires to ungeocoded postal addresses, and geocoding as many addresses as possible for forms returned from valid housing units;
2. exploring ways to identify ungeocoded vanity and other unique mailing addresses in the MAF, and linking them to corresponding location addresses;
3. enhancing instructions and training for listing nontraditional mailing addresses; and
4. closely monitoring quality control pass/fail rates nationwide for indications of improper recanvassing practices.

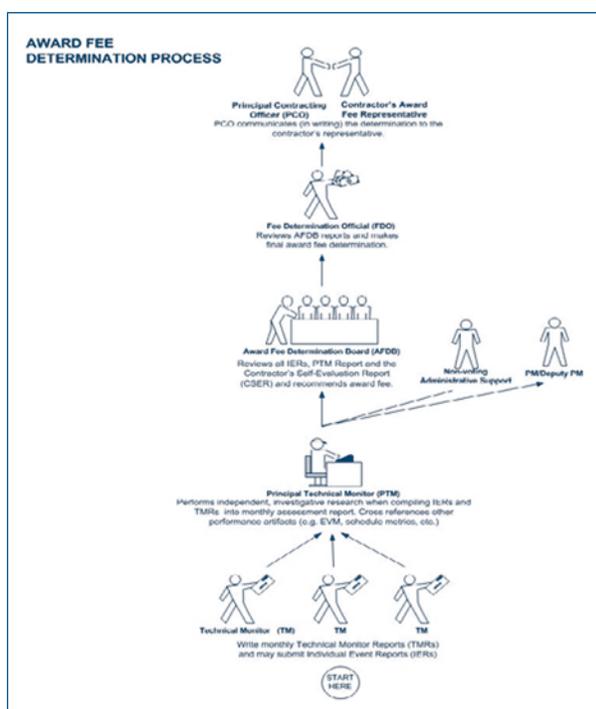
To eliminate the recurring problems our work has identified and improve the MAF for 2020, we further recommend that Census regularly update the file throughout the decade in lieu of canvassing the entire nation only once, in proximity to Census Day.

Revised Field Data Collection Automation Contract Incorporated OIG Recommendations, But Concerns Remain Over Fee Awarded During Negotiations (CAR-18702)

The mounting problems with the Census Bureau’s original Field Data Collection Automation (FDCA) contract prompted the decision in April 2008 to modify the contract and reduce Harris Corporation’s role in providing 2010 decennial systems and services. The renegotiations allowed Census to revisit the contract type and fee structure and modify them as appropriate.

To aid the Census's contract restructuring and negotiations, we audited FDCA's original contract terms to determine whether (1) award fees paid to Harris for the first two performance periods were appropriate, (2) the incentive fee structure was the most effective for motivating excellent performance, and (3) the cost plus award fee contract arrangement was the most suitable for acquiring the needed systems and services.

The FDCA contract was for a mix of relatively high-risk deliverables and standard IT products and services. Complete requirements for both types of deliverables were unknown at the time of contract award in 2006 and their costs were therefore difficult to predict. Under the Federal Acquisition Regulation, a cost plus award fee contract is appropriate when high-risk deliverables are involved because they represent new, untested concepts for which the government should bear the greater risk.



Source: Census Bureau, FDCA Contract Award Determination Plan

Award Fee Determination Process

Our Findings

We found that although the cost plus award fee contract was appropriate for FDCA, the award fee structure was not tied to measurable performance criteria or milestones, and Census did not establish fixed pricing for applicable items. As a result:

- *Award fees were excessive and not supported by technical assessments of Harris Corporation's performance.* Harris received 93 percent (\$3.2 million) and 91 percent (\$11 million) of available fees for the first two performance periods, respectively, despite serious performance problems noted by Census's technical reviewers. Harris received no award fee for the third period. And the fee determination process lacked key features—such as qualitative measures and mid-point assessments—for ensuring awards were appropriate.
- *The award fee structure did not effectively promote excellent performance.* Lacking defined performance criteria, the fee structure contained no quantitative goals for dictating potential fee amounts as an incentive for achievement. Contract provisions further allowed unearned award fees to be rolled over to subsequent periods, giving Harris the opportunity to earn any withheld amounts and minimizing the motivational impact that a fee reduction is intended to have.
- *Census missed opportunities to control costs and manage risk.* The FDCA Acquisition Plan identified several elements that would be fixed price, such as mobile computing devices and office furniture. The bureau ultimately awarded the contract for full cost-reimbursement but did not document why.

We briefed Census on our audit findings in August 2008. We made recommendations for improving the FDCA contract by, among other things, establishing measurable criteria for assessing performance and determining fees; modifying the fee structure to promote excellent performance and limit the practice

of rolling over fees; and incorporating fixed pricing for deliverables, whenever possible.

Census signed the contract modification on November 20, 2008, and incorporated a number of our recommendations, including those pertaining to fixed pricing, performance incentives, and fee rollover. However, Census agreed to a fixed fee amount of 9.5 percent for work conducted during the contract renegotiation period May 1 – September 30, 2008, which would be invoiced at the time the modification was signed. Although the fixed fee is less than the 13 percent maximum allowed under the original award fee plan, 9.5 percent is a highly questionable amount to guarantee to a contractor the bureau felt was performing poorly.

Delays in Address Canvassing Software Development and Testing, Help Desk Planning, and Field Office Deployment Have Increased Operational Risk (OIG-19171)

The renegotiated FDCA contract significantly reduced Harris Corporation's responsibilities and requirements for the 2010 census. Among the contract changes, the bureau required far fewer handheld computers—the result of the decision to abandon their use for nonresponse follow-up. Census also took back responsibility for several major tasks that had been assigned to Harris, such as collecting data for large blocks (those containing 1,000 or more addresses) and providing help desk support.

Under the Census's revised decennial schedule, Harris was to deliver improved handheld computers to early local census offices by February 3, 2009, so that listers could begin training for the April 6 start of address canvassing.

We assessed the Census's progress in developing and implementing planned activities for the address canvassing operation and identified a number of concerns:



Source: Photograph by the U.S. Census Bureau, Public Information Office (PIO).

The mounting problems with the FDCA contract prompted the decision to abandon use of the handhelds during nonresponse follow-up while keeping them for address canvassing--the first major operation of the 2010 census.

- *Potential for unexpected handheld problems.* Census missed scheduled dates for testing handheld components and the integrated system, and was left with only 8 days for field testing the entire system prior to the live canvassing operation. This short test period increases the risk that unexpected problems may surface during address canvassing, possibly affecting the productivity of listers and the accuracy of the results. In addition:
 - Census eliminated some hydrographic information from map files so that each region's maps could fit on a single digital card in the handhelds. But the move leaves listers with fewer reference points to guide them through assignment areas, which might make canvassing more difficult.
 - Census chose the Automated Listing Mapping Instrument (ALMI) to list large blocks, because these have been a problem for the

handhelds. AMLI handles large data-collection tasks in certain nondecennial surveys. But it defines collection areas differently from the handhelds, increasing the potential for duplicates in a decennial environment, and does not use GPS technology. In decennial field tests, canvassers had difficulty completing certain tasks using ALMI. Census needed to finalize its large block approach based on field test results to ensure the information collected is accurate and reliable.

- *Short time frame for establishing help desk services.* The Census's decision in July 2008 to manage help desk support beginning in January 2009 left little time to plan for and establish these services by the start of address canvassing. Given the limited handheld testing and the uncertainty of their performance, solid help desk services must be in place to field potentially high call volumes and ensure a successful operation.

- *Slow deployment of early local census offices.* As of late November 2008, Census had opened only 87 of the 151 early local census offices needed to conduct address canvassing. Despite having deployed 144 offices as of early February 2009, Census continued to encounter delays with its rollout schedule. As a backup, Census planned to have nearby operational offices handle the canvassing preparations and workload of those offices not yet open. Census needed to ensure the operational offices had the space and resources to handle the added work.

We made no recommendations in this report because of the little time Census had to complete its address canvassing preparations. But we continued to monitor how it (1) finalized its approach to large block canvassing, (2) developed and conducted training for help desk staff, and (3) deployed local census offices while preparing to implement its contingency plans as necessary.



NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

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 provides products, services, and information that promote safe navigation, support coastal communities, sustain marine ecosystems, and mitigate coastal hazards.

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

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

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

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

Review of the Quality of Science Used by the National Marine Fisheries Service's Northeast Fisheries Science Center

During this semiannual period, we investigated a series of issues regarding the work and scientific methods of the NOAA's National Marine Fisheries Service's (NMFS') Northeast Fisheries Science Center at the request of Senators Snowe, Collins, Kennedy, and Kerry. Specifically, we investigated nine allegations concerning either the quality of the

science used to determine catch limits for New England commercial fisheries or related issues raised by the fishing industry and non-NOAA scientists. These allegations were centered on the two fisheries that generated the most concerns—northeast groundfish (specifically, Atlantic cod, haddock, pollock, and yellowtail flounder) and Atlantic sea scallops. We also reviewed NMFS' implementation of National Standard 2 of the Magnuson-Stevens Fishery Conservation and Management Act. National Standard 2 requires that conservation and management measures in fishery management plans be based on the best scientific information available. Finally, we addressed concerns that NMFS has

denied the fishing industry access to underlying scientific data by examining one particular data access issue that arose from a request under the Freedom of Information Act (FOIA).

Overall we found that the Science Center meets the “best available science” requirements of National Standard 2. However, we also found an underlying lack of confidence in NOAA among industry members in the Northeast Region. There is a history of contention between the groundfish industry and NOAA in the northeast, where industry views NOAA as biased towards conservation goals. The challenges inherent to balancing a sustainable fishery with industry’s interests, coupled with ineffective efforts to rebuild stocks, have contributed to this unproductive relationship. In our view, the lack of trust and confidence in NOAA by the groundfish industry manifests itself as doubt in the science. Of the nine allegations we examined, we concluded that six are the result of ineffective communications and ongoing tension between the groundfish industry and NOAA. Without an improved relationship, we believe the science will continue to be questioned. To address this concern, we made several recommendations to NOAA to improve its relationship with the groundfish industry.

Additionally, we found that NOAA’s poor handling of a 2008 FOIA request also contributed to its reputation in the Northeast Region as an agency that is unconcerned with transparency. In reviewing the FOIA request, we found that the FOIA process was loosely managed, with both internal NOAA and statutory deadlines not being met. We recommended that NMFS examine why deadlines were not met for this particular FOIA request, and take steps to ensure that it meets statutory FOIA requirements and NOAA’s internal guidelines for future FOIA requests by holding responsible staff accountable for process deadlines.

Finally, several issues arose during the course of our review that reinforced the need for NOAA to more aggressively pursue ecosystem approaches to fisheries

management. Presently, three tiers of stock assessments exist. The first and most basic assessment is the single-stock assessment. The next level is a multispecies assessment that examines how species



Source: *Environmental Assessment Regulatory Impact Review, Initial Regulatory Flexibility Analysis for Northeast Multispecies Fishery Management Plan*, National Marine Fisheries Service, Gloucester, Massachusetts, January 16, 2009

Northeast U.S. Shelf Ecosystem

interaction affects growth and mortality. Finally, the top tier is an ecosystem assessment that would include single and multispecies effects as well as environmental factors—the physical, chemical and biological processes in a marine ecosystem, and the interrelationships with human activity. We found that NOAA scientists have been and are currently working within the first tier of single stock assessments, but are working toward multispecies and ecosystem approaches. We recommended that NOAA more aggressively pursue ecosystem approaches to fisheries management, which will require additional data, new models, and analysis.

Personnel Inaction and Process Breakdowns Delayed NOAA's Release of Fact Sheet, But Policies Have Been Clarified (BSD-18407)

In 2006, several journal and online articles alleged that the Department and NOAA had delayed release of a research report on climate change and hurricane intensity. At about the same time, NOAA and NASA scientists were complaining that their climate studies were being suppressed. A September 2006 letter from 14 senators to the Commerce and NASA inspectors general expressed concerns about possible suppression, and asked specifically whether Commerce had blocked release of a hurricane/global warming report. In response, we assessed Commerce policies regarding public release of research data and the events surrounding the purported report.

Our review documented the following chain of events: in November 2005, NOAA published an article in its online *NOAA Magazine* contending that its research indicated natural cycles in tropical climate were the cause of increased Atlantic hurricane activity since 1995, not the greenhouse effect of global warming. The statement drew criticism from some NOAA scientists, who believed it failed to reflect the full spectrum of the agency's research on hurricanes and global warming. In response, NOAA decided in January 2006 to prepare a fact sheet that would present a balanced view of the agency's hurricane/climate change research. The fact sheet was approved in May 2006, but was not released until the following September.

We determined the document was not a report containing new research but the fact sheet approved in May 2006. The fact sheet did not contain new science but was an overview of various scientific opinions within NOAA. We attributed the delay in publishing the document to three principal factors:

1. Changes in senior-level personnel at NOAA overseeing the fact sheet's development and distribution, which

resulted in a lack of senior-level attention at NOAA.

2. Submission of the document through informal review channels.
3. Inaction by a senior policy advisor who provided limited assistance to NOAA in obtaining departmental clearance for the fact sheet despite receiving at least six drafts over a 4-month period.

We also found that at the time NOAA had prepared the fact sheet and initiated the approval process, it was operating under Commerce and NOAA communications policies that were out of date, confusing, and burdensome, and contained conflicting guidance. These policy deficiencies resulted in delays in disseminating press releases and scientific research.

The Department updated its communications policy in May 2007. NOAA issued a formal policy for preparing fact sheets that is consistent with the Department's new policy. Both give specific guidance for sharing findings from fundamental research. However, at the time of our review, NOAA had not incorporated the fact sheet policy into the agency's directives system or publicized it agencywide.

We recommended that

- procedures developed for preparing fact sheets be incorporated into NOAA's directives system and posted to the NOAA web site, and
- state of the science fact sheets requiring Department approval be routed through the Office of the Secretary Executive Secretariat.



F O M M E R



NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

The National Institute of Standards and Technology promotes U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology in ways that enhance economic security and improve quality of life. NIST manages four programs: the Technology Innovation Program, the Manufacturing Extension Partnership program, the Baldrige National Quality Program, and NIST Research Laboratories.

Hollings Manufacturing Extension Partnership (MEP) Program: Audits Question \$20 Million in Costs Claimed by Three MEPs

Congress established the MEP program in 1988 to offer technical and business management assistance to manufacturers, with the goal of improving their profitability, productivity, and global competitiveness. The program, operated by NIST, provides partial federal funding to nonprofit organizations to operate MEP centers that offer an array of services to business and industry clients. The funding is made available through “cooperative agreements” that require nonfederal matching funds from state or regional partners to support center operations. Today there is at least one center in every state and a total of 59 MEP centers located across the country.

During this semiannual period, we audited the operations of three MEP centers, located in South Carolina, Florida, and Massachusetts, to determine whether their claimed costs were allowable under the

terms of their MEP agreements and whether they had complied with all other MEP operating guidelines, award terms, and conditions. We also examined (1) the costs submitted by certain entities that received cooperative agreement funding (“subrecipients”) from the MEP centers to provide services to clients, and (2) in the case of Florida, third-party in-kind contributions.

South Carolina MEP Award No. 70NANB5H1187 (ATL-18567)

The South Carolina Manufacturing Extension Partnership (SCMEP) received a NIST cooperative agreement in 2005 that, as amended, funded operations of its MEP center for 2 years (July 2005-June 2007). Total estimated costs of the project were \$13.6 million. The federal share was capped at \$4.5 million.

The Partnership claimed costs totaling \$11.4 million for the period July 2005 through March 2007, and received federal reimbursements of \$3.8 million. Our audit found that the recipient could not properly support approximately \$3.4 million in costs claimed

by four of its subrecipients, largely for contract, matching share, and in-kind expenses incurred while providing MEP services. Three subrecipients—Greenville Technical College, South Carolina Export Consortium, and University of South Carolina—did not provide complete, verifiable documentation to support their claims or program income (generated by fees, etc., from firms that use MEP services). The fourth—Clemson University—claimed costs that were largely outside the scope of the MEP project. We questioned the \$3.4 million in claimed costs.

In addition, the subrecipients' MEP agreements did not contain the required budget information, and none had written procedures in place to determine whether amounts reported to SCMEP were allowable under federal cost principles.

Finally, two of three subrecipients that qualified for single audits⁴ did not separately identify the NIST MEP program. Therefore these grants were not subjected to the proper audit techniques required under the Single Audit Act.

We recommended that NIST take the following actions:

1. Disallow \$3,409,409 in questioned costs and recover excess federal funds of \$1,136,736.
2. Require the recipient to ensure its subrecipients have appropriate budgets and written policies and procedures that meet financial system requirements prior to granting any future subawards. The written procedures should direct subrecipients to comply with the Single Audit Act.

⁴ The Single Audit Act requires nonfederal entities that expend federal awards from more than one agency totaling \$500,000 or more in a year to undergo a “single” audit, conducted by an independent auditor.

Florida MEP Award No. 70NANB3H2002 (ATL-18568)

The Florida MEP received a NIST cooperative agreement in 2003 that, as amended, funded the operations of its MEP center for approximately 4 years (August 2003-June 2007). Total budgeted costs for the project were \$17.1 million. The federal share was capped at \$5.8 million.

The MEP claimed costs totaling \$19.1 million for the period July 2005 through March 2007, and received federal reimbursements of \$5 million. We questioned \$12.6 million of the claimed costs. The bulk of this amount—\$11.4 million—were costs submitted by eight subrecipients who did not document that the expenditures were directly incurred as part of their MEP-funded work.

We questioned an additional \$742,782 for, among other things, unsubstantiated consultant fees, duplicative services, unallowable lobbying activities, unreasonable travel expenses, and unreasonable rent and supply costs, as well as \$386,133 in indirect costs related to these expenditures.

We also questioned \$99,738 in improperly valued and inadequately documented donated services and personnel time. The bulk of this amount—\$85,738—represented expenses incurred by two third-party contributors for their own day-to-day business operations rather than for services directly supporting the MEP.

Finally, we found that the financial status reports the MEP filed during the period of our audit were erroneous: the MEP reported having excess program income, which was not the case, and incorrectly characterized these funds as “unrestricted net assets,” meaning they could be used without federal restrictions or oversight.

We recommended that NIST take the following actions:

- Disallow \$12,623,477 in questioned costs.
- Recover \$2,868,393 of excess federal funds.

- Require the Florida MEP to correct and refile financial status reports to show that all earned program income was used to meet the MEP's cost-share requirement.

Massachusetts MEP Award No. 70NANB5H1144 (DEN-18135)

The Massachusetts Partnership received a NIST cooperative agreement in September 2005 to continue operating an MEP center it had established in 1998. The September 2005 award, as amended, provided funding for 1 year (July 2005-June 2006). Total estimated costs of the project were \$7.1 million. The federal share was capped at \$2.4 million (33 percent) of allowable costs.

The Partnership claimed costs totaling \$9.4 million for the period July 2005 through June 2006, and received federal reimbursements of \$2.4 million. We questioned \$5.1 million of its claimed costs, as follows:

- \$4,167,430 claimed by two subrecipients who could not document that their costs were incurred as part of their MEP-funded work.
- \$908,823 for contract services that did not accomplish NIST cooperative agreement objectives.
- \$10,745 in consultant fees and associated costs for services provided prior to the award's start date.

In addition, we found that the MEP's reported earned program income for the year ended June 30, 2006, exceeded its nonfederal matching share expenditures by \$1.1 million. But the MEP did not seek required NIST approval to apply the additional income to nonfederal expenditures incurred in subsequent award periods. It should therefore have used this amount to reduce the federal share of its expenditures, in accordance with cooperative agreement terms and conditions and federal regulations.

Because of the questioned costs and excess program income, Massachusetts MEP ultimately received \$1.3 million in excess federal funding.

We recommended that NIST disallow \$5.1 million in questioned costs, and recover \$1.3 million in excess federal funds.

ADVANCED TECHNOLOGY PROGRAM

The ReJen Company NIST Cooperative Agreement No. 70NANB4H3011 (CAR-18706)

In April 2004, a Nevada company and a California firm received a \$1.5 million Advanced Technology Program (ATP) cooperative agreement to develop a prototype diesel engine built on thermal technology that promised huge gains in fuel efficiency along with significant reductions in emissions. The project, as amended, operated for 3 years (2004-2007) and capped federal contributions at \$600,000 (39.3 percent). The recipients were responsible for the remaining costs, the bulk of which came from Caterpillar, Inc., the primary investor in the venture.

The Nevada company served as administrator for the cooperative agreement. The California firm provided the materials, subcontractors, and a test site.

In 2006, we conducted interim audits of costs claimed by both firms during the first 20 months of the project and questioned considerable amounts (see September 2006 *Semiannual Report to Congress*, page 41). Interim audits are required for non-federal entities expending more than \$500,000 in federal awards in a fiscal year under OMB Circular No. A-133.

During this semiannual period, we conducted a final audit, in which we assessed whether costs claimed during the balance of the project period (January 2006 through April 2007) were reasonable,

allowable, and allocable, and whether—for the entire performance period—the recipients complied with ATP award criteria. The firms' combined claimed costs for this period were roughly \$450,000.

Overall, we found that costs charged to the ATP award were reasonable, allowable, and allocable. We

did, however, identify minor compliance issues related to meeting matching share requirements, tracking project-related material and equipment, categorizing budget items, and obtaining indirect cost rate approvals, and we made recommendations for addressing them in future awards.



NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

The **National Telecommunications and Information Administration** serves 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, phone, and other telecommunications services; and educates state and local governments and other entities on ways to use information technology and telecommunications more effectively.

NTIA Should Further Improve Digital-to-Analog Converter Box Coupon Program Internal Controls to Prevent Waste, Fraud, and Abuse (CAR-19004)

NTIA's management of the \$1.5 billion converter box coupon program has been an important watch item for OIG because maintaining strict accountability for funds in a program of this type and size can be difficult. We have been closely monitoring the program, and during this semiannual period we assessed the adequacy of NTIA's controls to prevent waste, fraud, and abuse and the effectiveness of its oversight of the IBM contract for retailer coupon redemption.

Our review found that NTIA is providing effective oversight but needed to further improve its internal controls to prevent waste, fraud, and abuse.

Specifically, the agency needed to take steps to receive more timely and informative data on contractor procedures, revise its own audit plan, and clearly document the results of its oversight.

Contractor Reports Lacked The Most Useful Data

Reports of contractor activities have not always provided sufficient useful information. For example, May 2008 reports contained voluminous data tables but little analysis and limited information on any actions to be taken as a result of audit tests. One of IBM's subcontractors showed us tests and analyses it had performed outside of IBM's plan, which we believed would provide valuable information for NTIA. We noted that June, July, and August reports from IBM provided more meaningful data, such as retailer surveillance logs that more clearly identified the status of potential program violation reviews and the results of onsite visits to certified retailers.

IBM Was Slow to Submit Program Audit Data

We found that NTIA had not been receiving audit results from the contractor until well after the applicable month, though it had asked IBM to provide reports approximately 2 weeks after the month-end. For example, NTIA received the June 2008 results on August 5. Timely audit reports are necessary so that NTIA can take prompt actions to strengthen its controls to prevent waste, fraud, and abuse. After we discussed this concern with agency officials, IBM improved the timeliness of subsequent reporting: it submitted the August 2008 audit test results on September 17 and the September 2008 audit results on October 17.

NTIA's Waste, Fraud, and Abuse Plan Needed Revision

We also found that NTIA's own plan for reducing and preventing waste, fraud, and abuse needed improvement. The following were among the weaknesses we identified:

- The plan did not include a complete listing of the bureau's activities, did not define the project management office's role in decertifying retailers who violate program rules, and did not designate specific staff members responsible for activities. It also did not identify how often activities are performed or the resources necessary to complete them. As a result, it was difficult to track NTIA's progress against the plan.

We showed NTIA a spreadsheet tool we had developed for our own analysis that identified each activity; owner or contact person who performed the work; date/frequency of the review; test conducted; audit process or audit steps taken;

documentation of findings and results; and recommendations or corrective actions taken, if any. NTIA officials subsequently told us they had begun using the spreadsheet to track their results and had revised the plan to address our concerns.

- Some activities called for in the plan had not been fully executed. For example:
 - The plan states NTIA staff will make site visits to monitor contractor efforts. Although NTIA made some site visits earlier in the program, staff had not made specific visits focusing on waste, fraud, and abuse. Such visits are important because they allow real-time observation of internal controls at work.
 - The plan calls for regular feedback from NTIA on IBM's audit plans and reports. We found only one set of formal comments on IBM's reports, dated June 24, 2008. NTIA subsequently informed us it has begun holding regular meetings with IBM and its subcontractors on the waste, fraud, and abuse prevention program and commenting on IBM's monthly reports.

We recommended that NTIA revise its *TV Converter Box Coupon Program: Program Management Office Waste, Fraud, and Abuse Plan*, to include a complete list of its activities and the individuals responsible for accomplishing them. The revised plan should stipulate the frequency for performing procedures and the resources needed. In addition, NTIA should track its efforts against the plan and take prompt action to address any shortfalls in resources available for supporting its efforts to prevent program waste, fraud, and abuse.

Public Safety Interoperable Communications Grant Program: Grantees Appear Unlikely to Finish Projects Within Short Funding Time Frame (DEN-19003)

The Implementing Recommendations of the 9/11 Commission Act of 2007 requires the Commerce Office of Inspector General to annually assess NTIA's management of the Public Safety Interoperable Communications Grant program—a \$1 billion one-time, formula-based matching grant program to enable public safety agencies to establish interoperable emergency communications systems. PSIC was authorized by the Digital Television Transition and Public Safety (DTV) Act of 2005. NTIA was charged under this act with implementing the program, in consultation with the Department of Homeland Security (DHS) and set a deadline of September 30, 2010, for grant funds to be expended. The Call Home Act of 2006 directed NTIA to award grants by September 30, 2007.

We completed our first annual review during this reporting period, in fulfillment of the Implementing Recommendations Act requirement. For the year ended September 30, 2008, we assessed whether NTIA efficiently managed and met statutory requirements for the following grant administration activities: formula allocations, grant awards, statewide communications interoperability plans, and grantees' applications and investment justifications.

Overall, we found that NTIA's management of the PSIC program has complied with the statutory requirements of the DTV and Call Home acts. However, we identified an issue regarding the program's effectiveness that we believe warrants immediate attention: most grantees have made little progress in actually implementing their projects, and may not be able to meet the September 30, 2010, statutory deadline for completing them.



OIG, December 2008.

Radios purchased under a PSIC grant.

Unique Award Process Shortened Time for Implementing Projects

To meet the September 30, 2007, deadline for awarding grants, NTIA made awards before grantees had submitted their required interoperability plans and spending justifications. This process differed from many other Commerce grants programs, which award grants competitively based on the merit of an applicant's proposal. As a result, many PSIC recipients spent the first year of the grant period developing required plans and justifications, and awaiting approvals and subsequent release of funds. They therefore did not have the full 3-year award period for acquiring and deploying interoperable communications equipment.

As of February 28, 2009—17 months into the 36-month grant period—less than 7 percent (\$66.3 million) of the PSIC grant funds had been drawn down. We surveyed grantees in the fall of 2008 regarding the status of their projects. Only 1 of the 22 grantees responding stated that it planned to acquire most of its interoperable communications equipment within the next 6 months. Eight others stated they are in the early stages of planning their acquisitions. The remaining 13 stated they will begin acquiring equipment in FY 2009 or early FY 2010.

Given all that must follow the purchase of equipment—installation, operational testing, and

training, at a minimum—grantees who are still in the planning or acquisition stage as late as FY 2010 face the very real possibility of arriving at the program’s September 30, 2010, deadline with partially completed projects but without funding to finish them.

To assure that the benefits of the Public Safety Interoperable Communications Grant Program are achieved, we recommended that the Assistant Secretary for Communications and Information

- promptly identify those grantees at high risk of not meeting the statutory deadline for completing their projects, provide the technical assistance they need to accelerate the process, and carefully monitor their progress; and
- keep Congress informed of the PSIC program’s status, and if necessary, work with Congress to allow NTIA to extend the deadline for grantees to expend grant proceeds.

NTIA Should Apply Lessons Learned from PSIC Program to Ensure Sound Management and Timely Execution of \$4.7 Billion Broadband Technology Opportunities Program (ARR-19583)

The American Recovery and Reinvestment Act of 2009 authorized NTIA to implement the Broadband Technology Opportunities Program (BTOP)—a \$4.7 billion one-time competitive matching grants program to expand broadband services to unserved and underserved areas, improve broadband access for public safety agencies, stimulate the economy, and create jobs.

NTIA will implement the program alongside the Department of Agriculture’s Rural Utilities Service—which received \$2.5 billion for broadband loans, loan guarantees, and grants under the Recovery Act—and

in consultation with the Federal Communications Commission (FCC).

BTOP will make competitive grants to states, nonprofit organizations, and broadband service providers, and require a 20 percent matching investment from nonfederal funding sources. Funding for the program office—which is responsible for managing and closing out the grants—expires September 30, 2010.

NTIA is taking on this program midway through its administration of the Public Safety Interoperable Communications program, which, like BTOP, requires a 20 percent nonfederal match. It also has a September 30, 2010, expiration date for federal funding, but in this case, the deadline applies to availability of grantee funds (See page 41 for the PSIC report summary).

Our audit work on PSIC to date provides important lessons learned for the NTIA broadband opportunities program to ensure BTOP funds are used effectively and grants meet program objectives. As NTIA prepares to implement the broadband program, it should consider the following three lessons learned from its administration of PSIC.

Lesson 1: Seek to Extend Funding for the Program Office Beyond FY 2010 to Ensure Proper Oversight

The September 30, 2010, funding time constraint could impact the quality and success of BTOP projects and effective use of funds, though differently from PSIC: the Recovery Act stipulates that any grant money not awarded by this deadline will be returned and does not authorize funding for managing the program beyond September 30, 2010. While there is no indication at this time that grant awards cannot be made by the deadline, the loss of Recovery Act funding for the BTOP program office could mean that grant projects still under way at September 30, 2010, will no longer be actively managed, monitored, and closed out. To address this, NTIA could seek a revision to the broadband program requirements that extends the operational time frame for the program

office to a minimum of 1 year beyond the award period of the last grant issued. This change would enable the agency to continue to manage and properly close out all active grants, and ensure grantees meet financial and program reporting requirements.

Lesson 2: Evaluate and Approve Detailed Project Proposals and Spending Plans with Joint Peer Reviews before Making Grant Awards

PSIC's enabling legislation required that grant awards be made by September 30, 2007—before grantees had submitted their spending plans and project proposals. Funds were not disbursed until the plans and proposals were rigorously reviewed and approved. This “after award” approach ultimately delayed the release of funding—and project initiation—by 6 to 12 months.

For the broadband program, NTIA needs to establish a similarly rigorous review process to ensure that proposals target areas of greatest need. And it needs to ensure that proposals are evaluated in a timely manner and in advance of grant award.

Lesson 3: Complete an Environmental Assessment of the Broadband Technology Opportunities Program Promptly

Grantee progress under PSIC was further slowed by the wait for an environmental assessment of projects required by the National Environmental Policy Act (NEPA). This assessment was issued more than 16 months into the 36-month grant period. The Recovery Act provides that adequate resources must be devoted to ensuring that applicable NEPA reviews are completed expeditiously. A March 11, 2009, memorandum from the Office of Management and Budget articulated procedures for executive agencies to report their progress to the Council on Environmental Quality beginning as soon as possible, but no later than April 7, 2009, with weekly updates through April 28, 2009. The OMB memo alerts agencies to ensure they address compliance issues as quickly as possible for any projects or activities for which necessary environmental activities and permits have not been completed. NTIA must ensure an environmental assessment for broadband projects is completed expeditiously so as not to hinder grantees from completing their projects within mandated time frames.

COMMERCE
DEFIES EVERY WIND
OUTRIDES EVERY
TEMPEST AND INVADES
EVERY ZONE — BANCROFT



ENTRANCE NO. 10



UNITED STATES PATENT AND TRADEMARK OFFICE

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

FY 2008 Financial Statements Audit (FSD-19049-1 and 2)

Independent auditor KPMG rendered a clean opinion on USPTO's FY 2008 financial statements, finding that the statements were fairly presented, in all material respects and in conformity with U.S. generally accepted accounting principles. The audit found no instances in which the agency's financial management systems did not substantially comply

with the requirements of the Federal Financial Management Improvement Act of 1996. However, the audit identified two significant deficiencies. One was related to USPTO's lack of segregation of duties—KPMG noted that responsibilities in the receipts accounting and customer deposit accounts area were not segregated between individuals in order to maintain an effective control environment. The second deficiency was in access controls for the IT systems and supporting infrastructure involved in processing and maintaining key financial data.





DEPARTMENT-WIDE MANAGEMENT

The United States Department of Commerce creates the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship. The Department has three stated strategic goals:

Goal 1: Provide the information and tools to maximize U.S. competitiveness.

Goal 2: Foster science and technological leadership by protecting intellectual property, enhancing technical standards, and advancing measurement science.

Goal 3: Observe, protect, and manage the Earth's resources to promote environmental stewardship.

The Department has also established a Management Integration Goal that is equally important to all bureaus: Achieve organizational and management excellence.

Department of Commerce FY 2008 Consolidated Financial Statements Audit (FSD-19048-9-0002)

Independent auditor KPMG rendered an unqualified opinion on the Department's FY 2008 consolidated statements, and found its financial management systems in full compliance with the Federal Financial Management and Improvement Act of 1996. However, the audit found two significant deficiencies.

The first was the result of continuing weaknesses in all six IT control areas outlined in GAO's *Federal Information System Controls Audit Manual (FISCAM)*: entity-wide security, security access controls, application software development and change control, system software, segregation of duties, and service continuity. FISCAM weaknesses have been reported at the Department since 1998,

though Commerce has made some progress in addressing them.

The second deficiency relates to NOAA's accounting for personal property. KPMG noted weaknesses in NOAA methods of conducting its fiscal year 2008 annual personal property physical inventory, recording capital assets and completed personal property construction projects, and reviewing personal property data in the Sunflower system.

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 104 audit reports during this semiannual period to determine whether they contained any audit findings related to Department

programs. For 77 of these reports, the Department acts as oversight agency and monitors the audited entity's compliance with the OMB Circular A-133 or NIST's program-specific reporting requirements. The other 24 reports are from entities for which other federal agencies have oversight responsibility. We identified 10 reports with findings related to the Department of Commerce.

Nonfederal Audit Activities

Report Category	OMB A-133 Audits	ATP Program- Specifics Audits	Total
Pending (October 1, 2008)	42	18	60
Received	57	44	101
Examined	63	41	104
Pending (March 31, 2009)	36	21	57

The following table shows a breakdown by bureau of approximately \$199 million in Commerce funds audited.

Bureau	Funds
Census	111,527
EDA	44,264,265
NIST*	45,043,457
NOAA	63,834,508
NTIA	569,695
PTO	2,464,042
Unknown	1,061,180
Multi-Agency	41,621,574
Total	\$198,970,248

* Includes \$45,043,457 in ATP program-specific audits.

We identified a total of \$1,348,912 in federal questioned costs and \$659,567 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 10 reports with Commerce findings are listed in Appendix B-1. (*Regional Offices of Audits*)



OFFICE OF INSPECTOR GENERAL

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.

INVESTIGATIONS

Convictions, Restitution and Jail Terms Continue to Mount in Telemarketing Fraud Case

Judicial actions continue to flow from our joint, international investigation, previously reported in multiple *Semiannual Reports*, of a major international telemarketing fraud scheme perpetrated by callers falsely identifying themselves as employees of the Department of Commerce and other federal agencies. Callers told victims they had won huge sweepstakes prizes in a national lottery sanctioned by the U. S. government. The victims were instructed to use commercial wire transfer services to send payments of \$1,500 to \$4,500 to Costa Rica, purportedly for insurance and customs fees that were required to retrieve their winnings. Many of those defrauded made multiple transfers to the telemarketers, resulting in more than \$30 million in identified losses to U. S. residents.

This reporting period, 11 defendants were sentenced to prison terms ranging from 3 to 15 years, along with restitution orders exceeding \$70 million. In the case thus far, 26 defendants have been remanded to

federal prison as a result of their involvement in this scheme, and over \$200 million in fines and restitution have been ordered. Also during this reporting period, one additional defendant pled guilty and was convicted on conspiracy, wire fraud and other charges relating to the scheme. He is the 34th participant in the scheme to be convicted during the course of this investigation. One additional defendant was also indicted in March 2009 on charges relating to this case. (*Atlanta Field Office*)

Commerce Employee Entered into Pretrial Diversion Program for Metrochek Fraud, Removed From Federal Service

As reported in our September 2008 *Semiannual Report*, page 43, an Office of the Secretary employee was arrested on charges of first degree theft by OIG special agents and the Washington, DC Metropolitan Police. The employee had fraudulently obtained and given away \$1,950 in transit subsidy benefits that she had received while also maintaining an assigned parking permit at the Commerce headquarters building. In October 2008, the employee pleaded guilty, agreed to a deferred prosecution, and was

admitted into the First Time Offender Diversion Program with the Superior Court of the District of Columbia. She was also ordered to pay full restitution in the amount of \$1,950. In January 2009, she was removed from her position for misrepresentation in the receipt of transit subsidy benefits and for transferring transit subsidy benefits to a third party. (*Washington Field Office*)

Former CEN Contractor Sentenced for Money Laundering

In our March 2008 *Semiannual Report*, page 26, we noted that assistance was provided to Immigration and Customs Enforcement (ICE) with the investigation of a Census Bureau contractor, resulting in his conviction in the US District Court for the District of Columbia on one count of conspiracy to launder monetary instruments. On February 13, 2009, the defendant was sentenced to 9 years incarceration and ordered to serve 2 years supervised probation upon his release. Debarment proceedings are pending against the individual and his affiliated CPA firm to prevent them from obtaining future government contracts. (*Washington Field Office*)

NIST Grant Recipient Sentenced for Grant Fraud; Civil Suit Filed

In our September 2008 *Semiannual Report*, page 41, we reported that a jury found a research scientist guilty of intentionally misusing approximately \$500,000 in NIST Advanced Technology Program (ATP) grant funds to pay for numerous personal expenses including rent, home renovations, cleaning services for his condominium and miscellaneous household items. This was the first conviction at trial achieved by the DOC OIG in a fraud case involving the ATP. The grantee had received a \$2 million grant for research into computerized medical imaging. A criminal investigation was launched, based on questioned costs first identified by the OIG Office of Audits, which continued to provide active assistance throughout the case.

On October 20, 2008, the former grantee was sentenced to 15 months imprisonment and 3 years probation for violating 18 USC § 666, which covers

theft or bribery concerning federally funded programs. The recipient was also ordered to pay \$120,000 in restitution and a \$100 special assessment pursuant to his conviction. In addition, \$390,000 worth of computers, power tools and other items seized from his residence on orders of the court were ordered forfeited to the government.

Additionally, the government is now seeking a civil recovery and damages in excess of \$4 million, as available under the False Claims Act, for the scientist's role in applying for and receiving a grant for the purpose of defrauding the United States government. On December 3, 2008, the defendant was served a civil summons in this new proceeding. (*Atlanta Field Office*)

Former NIST Employee Sentenced in Steel Theft Scheme

In our September 2008 *Semiannual Report*, page 42, we reported that a former NIST employee had pled guilty to charges of theft of government property related to his conversion of large quantities of industrial steel samples while in charge of the NIST program dedicated to testing its strength and structural integrity. On December 12, 2008, the individual was sentenced to five years of probation and ordered to pay a \$25,000 criminal fine. In addition, the court concurrently imposed asset forfeiture, pursuant to the plea agreement and sentencing statement. This asset forfeiture includes the steel and computers that were seized during the execution of the search warrant at the defendant's residence in March 2006. The value of the forfeited assets is over \$900,000. A motion to finalize the forfeiture is expected to be filed with the Court in April 2009, after a public notice has run and no claims are filed for the forfeited property, and will result in the completion of the forfeiture and the recovery of the assets. (*Denver Field Office*)

NOAA Grantee Sentenced for Misusing Funds

In our September 2008 *Semiannual Report*, page 42, we reported a guilty plea by a NOAA grantee on charges of violating 18 USC § 666, prohibiting theft

concerning federal programs. The employee misappropriated NOAA funds on multiple occasions in May 2006, when he withdrew a total of \$60,000 from a \$109,886 grant to buy, among other things, methamphetamines and a Rolex watch. The one-year grant had been awarded for the purpose of developing a small boat tuna pole and line training program to train 40 native Hawaiian people in fishing techniques. On January 20, 2009, the individual was sentenced to a year plus one day of incarceration in federal prison, followed by three years' supervised release. The defendant was also ordered to pay restitution for the full amount of \$60,000.00 and pay a special assessment of \$100.00. (*Atlanta Field Office*)

NOAA Employee Fired for Misuse of Purchase Card

A NOAA Corps shipboard employee misused his government purchase credit card for personal purchases. On November 11, 2008, a search warrant was served at a motorcycle specialty shop in Birmingham, Alabama. The employee's personal racing motorcycle was seized and found to contain \$18,174 in aftermarket parts, paid for using the government purchase card. On January 27, 2009, the employee was removed for misuse of the purchase card. A criminal theft prosecution is pending with the United States Attorney's Office, Northern District of Alabama. (*Atlanta Field Office*)

Other OIG Activities

The Inspector General Testifies on American Recovery and Reinvestment Act Oversight

On March 19, 2009, the Inspector General testified before the House Subcommittee on Investigations and Oversight regarding OIG's oversight of the science programs and initiatives at the Department of Commerce that will be funded through the American Recovery and Reinvestment Act.

The Inspector General discussed the risks the Department faces in spending its stimulus funds,

based on prior audit and investigative work; and the OIG's planned approach for oversight. The Inspector General also summarized the funding the Department had received under the Act.

The Inspector General's testimony outlined the six areas of risk facing the Department in spending stimulus funds effectively and in a manner meeting the economic objectives of the Recovery Act:

1. Spending these funds expeditiously, with little time to staff up and gear operations to accommodate the additional activities, significantly increases the risks for fraud and waste in stimulus-funded initiatives as well as in the Department's traditionally funded operations.
2. The executive branch, including the Department of Commerce, is still in transition. This puts at risk the leadership vision and decision-making important in executing a cohesive Recovery Act plan.
3. The act's emphasis on grant and contract spending puts additional pressure on already overburdened management and administrative operations.
4. Construction grants and contracts—which NOAA and NIST are expressly required to fund—are inherently risky and difficult to manage effectively.
5. Specific requirements related to competitive contracts, such as maximizing the use of fixed-price contracts, and the Act's Buy American requirements, will require extra vigilance.
6. The act's strict oversight requirements and reporting deadlines will require a greater level of centralized management of the bureaus than the Department has historically exercised.

Of these six areas, the Inspector General focused his testimony on the Department's weakness in grants and acquisition management and, NOAA and

NIST's management of construction procurements and grants.

In addition, the Inspector General detailed Recovery Act staffing, which includes the creation of a Recovery Act Task Force to coordinate oversight. He also spoke of targeted risk-based audit and investigative planning and expedited reporting. Another key element of oversight is OIG's participation in Department steering committee and

working groups. Finally, OIG is providing fraud awareness training and timely responses to citizen complaints. OIG developed a Recovery Act fraud awareness briefing for the Department's grant and procurement specialists, program officials, financial management staffs, grantees, and state and local oversight entities.

(View the complete testimony at www.oig.doc.gov.)

TABLES AND STATISTICS

Statistical Overview

TABLES	PAGE
1. Investigative Statistical Highlights for this Period	53
2. Audit Resolution Follow Up	54
3. Audit and Inspections Statistical Highlights for this Period	54
4. Audits with Questioned Costs	54
5. Audits with Recommendations that Funds be Put to Better Use	55
APPENDIXES	
A. Report Types this Period	55
A.1. Performance Audits	56
A.2. Financial Assistance Audits	56
A-3. Financial Statements Audits	57
A-4. Inspections and System Evaluations	57
B. Processed Audit Reports	58
B.1. Process Reports with Audit Findings	59

Table 1. Investigative Statistical Highlights for this Period

Criminal Investigative Activities	
Arrests	0
Indictments and informations	1
Convictions	2
Personnel Actions	3
Fines, restitutions, judgments, and other civil and administrative recoveries	\$75,967,583
Sentencing	95.6 years
Allegations Processed	
Accepted for investigation	27
Referred to operating units	28
Evaluated but not accepted for investigation or referral	62
Total	117

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 (October 1, 2008) for which no management decision had been made by the end of the period (March 31, 2009). Six audit reports remain unresolved for this reporting period (see page 62).

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 (October 1, 2008)	1	3
Submissions	0	0
Decisions	1	2
Actions pending (March 31, 2009)	0	1

Table 3. Audit and Inspection Statistical Highlights for this Period

Questioned Costs	\$8,961,544 ¹
Value of audit recommendations that funds be put to better use	1,753,062
Value of audit recommendations agreed to by management	1,495,300

¹ This number includes costs questioned by state and local government auditors or independent public accountants.

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	15	\$23,027,932	\$4,023,938
B. Reports issued during the reporting period	10	8,961,544	1,953,574
Total reports (A+B) requiring a management decision was made during the reporting period ¹	25	31,989,476	5,977,512
C. Reports for which a management decision was made during the reporting period	11	4,373,450	501,599
i. Value of disallowed costs		978,388	501,559
ii. Value of costs not disallowed		3,395,062	0
D. Reports for which no management decision had been made by the end of the reporting period.	14	27,616,026	5,475,953

¹ Three audit reports included in this table are also included among reports with recommendations that funds be put to better use (see Table 5). However, the dollar amounts do not overlap.

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

Report Category		Number	Value
A.	Reports for which no management decision had been made by the beginning of the reporting period	2	\$152,528
B.	Reports issued during the reporting period	3	1,753,062
Total Reports (A+B) requiring a management decision during this period ¹		5	1,905,590
C.	Reports for which a management decision was made during the reporting period ²	3	724,808
	i. Value of recommendations agreed to by management		516,912
	ii. Value of recommendations not agreed to by management		212,528
D.	Reports for which no management decision had been made by the end of the reporting period.	2	1,180,782

¹ Three audit reports included in this table are also included among reports with questioned costs (see Table 3). However, the dollar amounts do not overlap (see Table 4).

² In Category C, lines i and ii do not always equal the total line in 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	3	A-1
Financial assistance audits	5	A-2
Financial statement audits	5	A-3
Inspection and system evaluations	5	A-4
Total	18	

Appendix A-1. Performance Audits

Report Title	Report Number	Date Issued	Funds to Be Put to Better Use
Census Bureau			
Census 2010: Revised Field Data Collection Automation Contract Incorporated OIG Recommendations, But Concerns Remain Over Fee Awarded During Negotiations	CAR-18702-9-0001	03/03/09	—
National Telecommunications and Information Administration			
NTIA Should Further Improve Digital-to-Analog Converter Box Coupon Program Internal Controls to Prevent Waste, Fraud and Abuse	CAR-19004-9-0001	11/25/08	—
Public Safety Interoperable Communications Grant Program: Grantees Appear Unlikely to Finish Projects Within Short Funding Time Frame	DEN-19003-9-0001	03/31/09	—

Appendix A-2. Financial Assistance Audits

Report Title	Report Number	Date Issued	Funds to be Put for Better Use	Amount Questioned	Amount Unsupported
Economic Development Administration					
San Bernardino International Airport Authority and/or Inland Valley Development Agency, CA	STL-18837-9-0001	10/17/08	0	\$573,375	\$461,886
National Institute of Standards and Technology					
South Carolina Manufacturing Extension Partnership	ATL-18567-9-0001	03/06/09	0	1,136,356	868,564
The ReJen Company Joint Venture, NV	CAR-18706-9-0001	03/11/09	0	0	0
Florida Manufacturing Extension Partnership	ATL-18568-9-0001	03/31/09	0	4,207,405	157,818
Massachusetts Manufacturing Extension Partnership	DEN-18135-9-0001	03/31/09	\$1,093,495	1,695,496	0

Appendix A-3. Financial Statements Audits

Report Title	Report Number	Date Issued
Office of the Secretary		
Assessment of Information Technology Controls Supporting Financial Management Systems	FSD-19048-9-0001	11/12/08
FY 2008 Consolidated Financial Statements	FSD-19048-9-0002	11/12/08
FY 2008 Special-Purpose Financial Statements	FSD-19048-9-0003	11/17/08
U.S. Patent and Trademark Office		
Assessment of Information Technology Controls Supporting Financial Management Systems	FSD-19049-9-0001	11/12/08
FY 2008 Financial Statements	FSD-19049-9-0002	11/10/08

Appendix A-4. Inspection and System Evaluations

Report Title	Report Number	Date Issued	Funds to Be Put to Better Use
Bureau of Industry and Security			
Issues Related to the Bureau of Industry and Security’s Budget and Responsibilities for International Treaty Implementation and Compliance	IPE-19463	10/07/08	—
Census Bureau			
Census 2010: Dress Rehearsal of Address Canvassing Revealed Persistent Deficiencies in Approach to Updating Master Address File	OSE-18599	10/17/08	—
Census 2010: Delays in Address Canvassing Software Development and Testing, Help Desk Planning, and Field Office Deployment Have Increased Operational Risk	OIG-19171	2/12/09	—
National Oceanic and Atmospheric Administration			
NMFS Northeast Fishery Management Decisions	IPE-19476	2/26/09	—
National Telecommunications and Information Administration			
NTIA Should Apply Lessons Learned from Public Safety Interoperable Communications Program to Ensure Sound Management and Timely Execution of \$4.7B Broadband Technology Opportunities Program	ARR-19583	3/31/09	—

Appendix B. Processed Audit Reports

The Office of Inspector General reviewed and accepted 104 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
Census	1
Economic Development Administration	31
National Institute of Standards and Technology*	41
National Oceanic and Atmospheric Administration	15
National Telecommunication Information Administration	2
PTO	3
Multi-Agency	7
No DOC	3
Unknown	1
Total	104

*Includes 41 ATP program-specific audits.

Appendix B-1. Processed Reports with Audit Findings

Report Title	Report Number	Date Issued	Funds to Be Put to Better Use	Federal Amount Questioned	Federal Amount Unsupported
Economic Development Administration					
Central Arkansas Planning and Development District	ATL-09999-9-3308	12/15/08	\$572,280	0	0
Los Angeles County Fair Association	ATL-09999-9-3073	03/04/09	0	0	0
National Institute of Standards and Technology					
Thomson, Inc., NJ	ATL-09999-9-2836	11/19/08	0	75,666	0
National Oceanic and Atmospheric Administration					
Michigan Department of Environmental Quality	ATL-09999-9-3293	12/15/08	0	118,757	3,509
State of Mississippi Institutions of Higher Learning	ATL-09999-9-3226	12/31/08	0	0	0
Howard University, DC	ATL-09999-9-3220	01/09/09	0	461,797	461,797
American Rivers, DC	ATL-09999-9-3149	03/04/09	0	627,600	0
Western Research Alliance Foundation, SD	ATL-09999-9-3410	03/25/09	0	36,250	0
National Telecommunications and Information Administration					
Kanza Society, Inc., KS	ATL-09999-9-3201	01/07/09	87,287	0	0
U.S. Patent and Trademark Office					
International Intellectual Property Institute, DC	ATL-09999-9-3418	03/17/09	0	28,842	0

Audits Unresolved for More Than 6 Months

Census Bureau

ITS Services, Inc. In March 2005, we reported that 3 of the 32 task orders awarded under an IT services contract were audited to determine whether the costs billed by the firm were reasonable, allowable, and allocable under contract terms and conditions and federal regulations. We found that the firm had failed to comply with numerous contract and federal requirements, and questioned more than \$8.5 million in direct labor and reimbursable costs.

Computer & High Tech Management, Inc. We reported in our September 2005 *Semiannual Report* (page 14) the results of audits of 2 of the 21 task orders for another firm providing IT services to Census. We sought to determine whether the firm

had complied with contract terms and conditions and federal regulations and had billed Census for work performed in accordance with specifications of the task order. We found that the firm failed to comply with numerous contract and federal requirements, which caused us to question more than \$10.7 million in direct labor and other reimbursable costs.

We have suspended audit resolution on both of these contract audits pursuant to an agreement with Census.

NOAA

Alaska Eskimo Whaling Commission: A single audit review of this NOAA grant questioned costs totaling \$66,353 in expenditures that were not adequately documented. This audit remains unresolved because we requested that NOAA postpone its submission of an audit resolution proposal. (ATL-09999-8-3238).

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	61-62
5(a)(1)	Significant Problems, Abuses, and Deficiencies	21-51
5(a)(2)	Significant Recommendations for Corrective Action	21-51
5(a)(3)	Prior Significant Recommendations Unimplemented	61
5(a)4	Matters Referred to Prosecutive Authorities	53
5(a)(5) and 6(b)(2)	Information or Assistance Refused	61
5(a)(6)	Listing of Audit Reports	56-59
5(a)(7)	Summary of Significant Reports	21-47
5(a)(8)	Audit Reports—Questioned Costs	54
5(a)(9)	Audit Reports—Funds to Be Put to Better Use	55
5(a)(10)	Prior Audit Reports Unresolved	62
5(a)(11)	Significant Revised Management Decisions	62
5(a)(12)	Significant Management Decisions with which OIG Disagreed	62

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

This section requires the inspector general of each agency to review existing and proposed legislation and regulations relating to that agency's programs and operations. Based on this review, the inspector general is required to make recommendations in the semiannual report concerning the impact of such legislation or regulations on 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. Information on the status of any audit recommendations can be obtained through OIG's Office of Audit and Evaluation.

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 semiannual 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 one NOAA and five Census 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. One modification to an action plan was decided this period. 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 two 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.

U.S. Department of Commerce Office of Inspector General

Room 7099 C HCHB
1401 CONSTITUTION AVENUE, N.W.
WASHINGTON, D.C. 20230
WWW.OIG.DOC.GOV

