



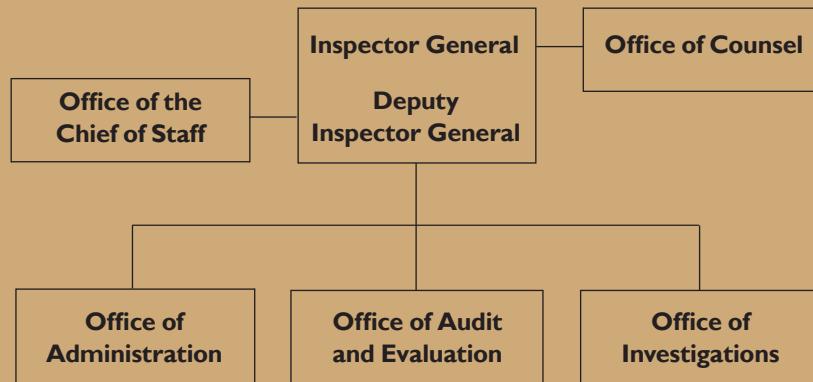
**U.S. Department of Commerce  
Office of Inspector General**

# **Semiannual Report to Congress**

**September 2021**



# OFFICE OF INSPECTOR GENERAL



## Oversight Areas

Office of the Secretary  
Bureau of Economic Analysis  
Bureau of Industry and Security  
U.S. Census Bureau  
U.S. Economic Development Administration  
First Responder Network Authority  
International Trade Administration  
Minority Business Development Agency  
National Institute of Standards and Technology  
National Oceanic and Atmospheric Administration  
National Technical Information Service  
National Telecommunications and  
Information Administration  
United States Patent and Trademark Office

## OIG Main Number

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**U.S. Department of Commerce  
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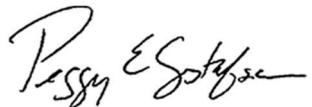
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# **FROM THE INSPECTOR GENERAL**

I am pleased to present the U.S. Department of Commerce (the Department) Office of Inspector General's (OIG's) *Semiannual Report to Congress* for the 6 months ending September 30, 2021.

This report summarizes work that we initiated and completed during this semiannual period on a number of critical Departmental activities. Over the past 6 months, our office issued 11 products related to our audit, evaluation, and inspection work. These products addressed programs and personnel associated with the U.S. Census Bureau, National Institute of Standards and Technology (NIST), National Oceanic and Atmospheric Administration (NOAA), United States Patent and Trademark Office (USPTO), and the Department itself. This report also describes our investigative activities addressing programs and personnel associated with the Census Bureau, U.S. Economic Development Administration (EDA), NOAA, and the Department itself.

We thank Secretary Raimondo, senior officials throughout the Department, and members of Congress and their staffs for their support of our work and for their receptiveness to our recommendations to improve Departmental programs and operations.

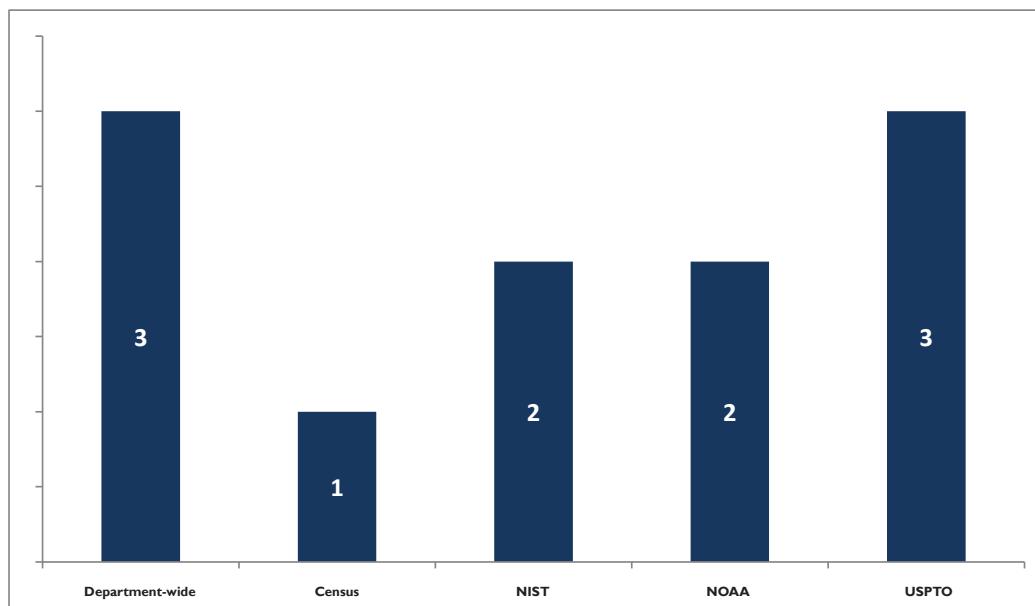


PEGGY E. GUSTAFSON

# OVERSIGHT AREAS REPORTED ON THIS PERIOD

## COMPLETED WORKS (BY OVERSIGHT AREA)

During this reporting period, our office completed 11 products related to our audit, evaluation, and inspection work.





# DEPARTMENT-WIDE MANAGEMENT



The **U.S. Department of Commerce**'s mission is to create the conditions for economic growth and opportunity.

The Department promotes job creation and economic growth by ensuring fair trade, providing the data necessary to support commerce and constitutional democracy, and fostering innovation by setting standards and conducting foundational research and development.

## MANAGEMENT ALERT: BAS PROGRAM'S FOCUS ON TECHNOLOGY MAY OVERLOOK RISKS RELATED TO BUSINESS PROCESSES (OIG-21-023-M)

On April 19, 2021, we issued a management alert to the Deputy Chief Financial Officer and Director for Financial Management of the Department regarding the Business Applications Solution (BAS) program's approach to business process reengineering.

The objective of our ongoing related audit is to assess the Department's management and implementation of the BAS program. We are conducting this audit because the BAS program is linked to a Department strategic objective and there are challenges inherent to a large modernization effort.

In our management alert, we noted that the BAS program lacks plans for business process reengineering and its ongoing process change efforts are not consistent with best practices. These conditions present risk that financial management processes may not be adequately supported by the new BAS system, which could ultimately lead to schedule delays and cost increases. This approach may also miss an opportunity to fundamentally improve how the Department conducts its financial business.

To ensure the Department's ongoing BAS program efforts are most effective, the program should develop a BAS business process reengineering plan and align process change efforts with best practices.

## FY 2020 COMPLIANCE WITH IMPROPER PAYMENT REQUIREMENTS (OIG-21-026-I)

Our review objective was to determine the Department's compliance with the Payment Integrity Information Act of 2019 (PIIA). To determine fiscal year (FY) 2020 compliance, we reviewed the "Payment Integrity" section of the Department's *FY 2020 Agency Financial Report (AFR)*, accompanying materials to the AFR, and other improper payment-related documentation. We also assessed the Department's efforts related to preventing and reducing improper payments.

Based on our review, we concluded that the Department did not comply with all criteria and therefore is not compliant under PIIA. We did not identify any actions needed to further improve prevention and reduction of improper payments. However, we made recommendations related to improving the Department's annual risk assessment process.

We recommended that the Deputy Chief Financial Officer and Director for Financial Management do the following:

- Include the Census Bureau's Geographic Support and Working Capital Fund (WCF) programs in the next risk assessment during FY 2021.
- Implement a revised risk assessment scheduling process so the Department can ensure risk assessments are completed at least once every 3 years.

## INFORMATION MEMORANDUM TO SECRETARY GINA RAIMONDO FROM THE INSPECTOR GENERAL REGARDING REVIEWS OF THE DEPARTMENT OF COMMERCE'S LAW ENFORCEMENT FUNCTIONS (OIG-21-031-M)

On July 22, 2021, the Inspector General issued a memorandum to Secretary Raimondo stating that our office was initiating reviews of the Department's law enforcement functions outside of OIG. Our objectives for these reviews are to determine (1) the mission, legal basis, and authority for such functions and whether relevant statutes and guidelines are satisfied, (2) whether the law enforcement function developed plans and policies for oversight of their jurisdictions and offices and the extent to which oversight was provided, (3) whether training for the Department's law

enforcement officers is adequate and up-to-date, and (4) the extent to which the Department provides oversight to ensure that law enforcement powers are properly exercised within jurisdictional limits.

The Inspector General informed the Secretary that we planned to start this work with a review of the Bureau of Industry and Security's (BIS') Export Enforcement. The memorandum also stated that these reviews will occur one at a time and will continue on as rotating annual reviews.

## REVIEWS OF SINGLE AUDITS

*Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)* (2 C.F.R. Part 200) requires colleges, universities, state and local governments, Tribes, and non-profit organizations that expend \$750,000 or more a year in federal awards to obtain an annual independent financial audit, referred to as a "single audit" (2 C.F.R. § 200.501). We conduct desk reviews on a judgmental sample of single audit reporting packages for which the Department is the oversight agency. The objectives of a desk review include identifying quality issues that may warrant follow-up work, revisions to the reporting package, or appropriate management official attention. During a desk review, we examine the audit reporting package, which includes financial statements, federal award expenditures, and auditors' reports, but not the underlying auditors' audit documentation, to determine whether it meets *Uniform Guidance*, *Generally Accepted Government Auditing Standards* (GAGAS), and American Institute of Certified Public Accountants audit standards.

During this period, we conducted desk reviews of six single audit reporting packages. The audits were conducted by six different independent public accounting firms and covered \$18 million in total federal expenditures, including \$12 million in Department direct expenditures. Four audit reporting packages (67 percent) fully met federal reporting requirements.

Two audit reporting packages did not meet all requirements. Deficiencies included in both audits instances where the Standard Form—Single Audit Collection did not accurately reflect a program's funding type as "Direct" as shown on the *Schedule of Expenditures of Federal Awards*.

For errors that potentially impacted the reliability of the audit reporting packages, we contacted the auditors and awardees for explanations of each of the potential errors. The auditors and awardees provided adequate explanations or additional information to demonstrate compliance with federal reporting requirements. We issued a letter to each auditor and awardee informing them of the results of our review and the actions needed to improve the quality and reliability of future audits. We also provided copies of the letters to each awardee's other federal funding agencies for their use in monitoring and oversight.

## INVESTIGATION INTO MISREPRESENTATIONS OF THE ORIGINS OF THE PROPOSED CITIZENSHIP QUESTION ON THE 2020 DECENTNIAL CENSUS

On July 6, 2021, our office issued an investigative report which addressed a joint letter from 13 U.S. Senators alleging that:

- (a) "In depositions and congressional interviews, Justice and Commerce Department officials failed to disclose the substantive public policy role of [a] political operative ... in adding [a citizenship] question to the 2020 Census; and
- (b) In concealing the contribution of [the political strategist], Justice and Commerce Department officials purposely obscured the impermissible racial and partisan motivations for adding a citizenship question—to be 'advantageous to Republicans and Non-Hispanic Whites' and to 'clearly be a disadvantage to the Democrats'—in both the Justice Department's December 2017 letter requesting the citizenship question and the Commerce Department's March 2018 memorandum adding the question."

Our investigation established that former Secretary Ross misrepresented the full rationale for the reinstatement of the citizenship question during his March 20, 2018, testimony before the House Committee on Appropriations and again in his March 22, 2018, testimony before the House Committee on Ways and Means. During Congressional testimony, former Secretary Ross stated his decision to reinstate the citizenship question was based solely on a U.S. Department of Justice (DOJ) request. That request memorandum was signed by the DOJ on December 12, 2017. However, evidence shows there were significant communications related to the citizenship question among the former Secretary, his staff, and other government officials between March 2017 and September 2017, which was well before the DOJ request memorandum. Evidence also suggests the Department requested and played a part in drafting the DOJ memorandum. Further, former Secretary Ross sent a memorandum to the Department on June 21, 2018, clarifying his deliberations regarding adding a citizenship question to the Decennial Census. In this memorandum, the former Secretary stated he began considering the content of the 2020 Census, to include reinstating the citizenship question, soon after his appointment to Secretary.

Our investigation substantiated that correspondence from the Department to the DOJ contained verbiage similar to that used in portions of the political strategist's unpublished study focusing on the use of Citizenship Voting Age Population for the purposes of redistricting; however, we were unable to establish that the political strategist had a substantive public policy role in the addition of the citizenship question to the 2020 Census.

This investigation was presented to and declined for prosecution by the Public Integrity Section of the DOJ's Criminal Division.

### **ANTITRUST CHARGES FILED AGAINST TWO MAJOR CHICKEN PRODUCERS AND FOUR FORMER EXECUTIVES IN THE INDUSTRY**

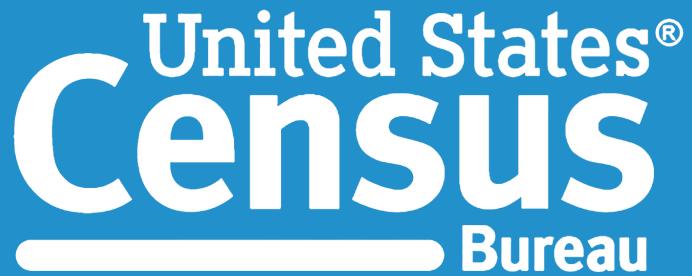
One poultry supplier was indicted on May 18, 2021, by a federal grand jury in the U.S. District Court in Denver, Colorado, for their role in a conspiracy to fix prices and rig bids for broiler chickens. A second poultry supplier and four former executives of a third supplier were indicted on July 28, 2021, for their roles in the same conspiracy.

The indictments allege that the defendants and co-conspirators plotted to suppress and eliminate competition for sales of broiler chicken products, which are chickens raised for human consumption and sold to grocers and restaurants. These indictments are in addition to the 10 individuals indicted in October 2020 for their roles in the conspiracy. The previously indicted individuals were executives or employees of several different companies that supply broiler chicken products in the United States.

### **DEPARTMENT CONTRACTOR SETTLES ALLEGATIONS OF DOCUMENT FALSIFICATION**

The United States Attorney's Office for the District of Columbia, Civil Division settled allegations that a Department contractor altered and/or fabricated employees' educational and other credentials on resumes and related documents submitted to the Department to satisfy contractual requirements. The contractor agreed to pay \$225,000 to settle the allegations and did not admit to any wrongdoing in the matter. The investigation revealed the company submitted resumes and related documents to fraudulently qualify contract employees for placement on numerous Departmental task orders awarded to multiple Department bureaus.

**U.S. CENSUS BUREAU**



The **U.S. Census Bureau**'s mission is to serve as the nation's leading provider of quality data about its people and economy.

## THE U.S. CENSUS BUREAU'S MISHANDLING OF A JANUARY 2020 CYBERSECURITY INCIDENT DEMONSTRATED OPPORTUNITIES FOR IMPROVEMENT (OIG-21-034-A)

Our audit objective was to assess the adequacy of the Census Bureau's process to respond to cybersecurity incidents according to federal and Departmental requirements.

We found that the Census Bureau should make improvements to its cyber incident response process. Specifically, we found that the Census Bureau

- missed opportunities to mitigate a critical vulnerability, which resulted in the exploitation of vital servers;
- did not discover and report the incident in a timely manner;
- did not maintain sufficient system logs, which hindered incident investigation;
- did not conduct a lessons-learned session; and
- continued operating servers that were no longer supported by the vendor.

We recommended that the Director of the Census Bureau ensure that the Census Bureau's Chief Information Officer does the following:

- Implement procedures to promptly notify relevant system personnel when critical vulnerabilities are publicly released.
- Frequently review and update vulnerability scanning lists to ensure all network-addressable information technology (IT) assets are identified for vulnerability scanning, and document all exceptions as part of this process.
- Ensure all network-addressable IT assets are scanned using credentials when feasible according to Census Bureau-determined frequencies, but no less than the U.S. Department of Homeland Security's *Continuous Diagnostics and Mitigation Program* guidance.
- Review the automated alert capabilities of the Census Bureau's security information and event management tool to ensure a similar attack can be identified in the future.
- Ensure Census Bureau incident responders comply with Departmental and Census Bureau requirements to report confirmed computer security incidents to the Enterprise Security Operations Center within 1 hour.

We recommended that the Deputy Secretary of the Department of Commerce ensure that the Department's Chief Information Officer does the following:

- Develop Enterprise Security Operations Center procedures for the handling of alerts from outside entities (e.g., the U.S. Department of Homeland Security Cybersecurity and Infrastructure Security Agency) to ensure information is conveyed to Department operating units in a timely manner.

We recommended that the Director of the Census Bureau ensure that the Census Bureau's Chief Information Officer does the following.

- Incorporate periodic reviews of the Census Bureau's system log aggregation configurations to ensure all network-addressable IT assets are correctly configured.
- Update Census Bureau incident response policies to include a specific timeframe prescribing when to conduct a review of lessons learned.
- Establish plans with milestones to prioritize the decommissioning of end-of-life products.

# U.S. ECONOMIC DEVELOPMENT ADMINISTRATION



The **U.S. Economic Development Administration**'s mission is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy.

## **EDA GRANTEE AGREES TO REPAY FUNDS RELATED TO A REVOLVING LOAN SCHEME**

On July 12, 2021, the United States Attorney's Office, District of South Carolina, entered into a Deferred Prosecution Agreement with a Charleston, South Carolina, business owner alleged to have provided false information in order to secure more than \$200,000 from an EDA revolving loan provided by the Berkeley-Charleston-Dorchester Council of Governments (BCD-COG). The business owner subsequently defaulted on the loan. The business owner accepted responsibility and agreed to repay the BCD-COG in the amount of \$226,589.53. The joint investigation by our office and the Federal Bureau of Investigation (FBI) determined that the business owner falsified documents and presentations in order to obtain the loan and receive the additional funding.

# NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY



The **National Institute of Standards and Technology**'s mission is to promote U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology in ways that enhance economic security and improve our quality of life.

## AUDIT OF NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY WORKING CAPITAL FUND FOR FISCAL YEAR ENDED SEPTEMBER 30, 2019 (OIG-21-024-A)

We contracted with Ollie Green & Company, CPAs, LLC (OG&C)—an independent public accounting firm—to perform this audit of the NIST WCF for the fiscal year ended September 30, 2019. The audit objective was to determine whether budgetary controls over the WCF were adequate. Specifically, the audit focused on determining whether the WCF was (1) recovering the full cost of reimbursable services; (2) appropriately accounting for advances and carryover balances; and (3) maintaining a reasonable fund balance, in accordance with applicable laws, regulations, and policies.

Our office oversaw the progress of this audit; however, OG&C was solely responsible for the report and the conclusions expressed in it. We do not express any conclusions about the adequacy of the WCF's budgetary controls, including its recovery of the full cost of reimbursable services, accounting for advances and carryover balances, and reasonableness of the fund balance in accordance with applicable laws, regulations, and policies.

In its audit of NIST's WCF, OG&C identified the following:

- Internal control procedures that ensure the timely closing of expired reimbursable agreement orders needed improvement.
- Requirements of the Economy Act of 1932, as amended, (31 U.S.C. § 1535) were not always being followed.
- The system of internal controls for monitoring advances and other funding sources needed improvement.

OG&C recommended that NIST perform the following:

- Revise and finalize the *Management Report on Expired Agreements Procedure*. The revised procedure should specify how often the *Management Report on Expired Agreements* should be created by the reimbursable group (e.g., quarterly) and submitted to the organizational unit for review, evaluation, and approval. Designate a specific period of time for the resolution of undelivered orders and unmatched costs.
- Revise the *Revenue Cycle Memo* to concisely document the current process for the close out of expired reimbursable agreement orders.
- Improve monitoring procedures, as needed, to ensure expiring agreements and orders whose transfer authority is the Economy Act are clearly identified and monitored.
- Reevaluate procedures that document the process NIST uses to timely refund unused advances transferred under the authority of the Economy Act. Consider developing a process to inform the requesting agency that the period of availability has expired on an agreement or order whose transfer authority is the Economy Act.
- Develop and document for Fund Code 98 formal policies and procedures that describe roles and responsibilities by component for the process of tracking and billing costs, recording advances, the carryover process, and tracking and monitoring the period of performance on an order when applicable.

## NIST WAS EFFECTIVE IN IMPLEMENTING THE REQUIREMENTS FOR AWARDING FUNDS UNDER THE CARES ACT (OIG-21-032-I)

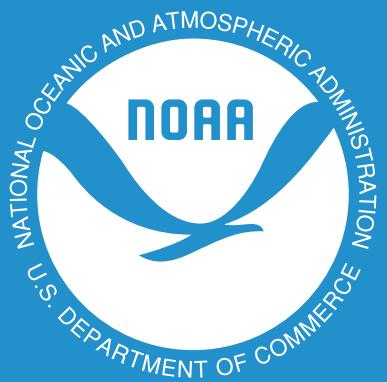
Our objective was to determine whether NIST was complying with the requirements of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Specifically, we determined (1) what steps NIST took to implement and comply with the CARES Act, (2) challenges NIST faced during implementation, and (3) NIST's status in the processing of applications and awarding funds under the CARES Act.

Overall, we found that NIST implemented and followed the requirements of the CARES Act and applicable grant award policies and procedures. In addition, NIST implemented measures to mitigate challenges resulting from an increased workload and a forced transition to a virtual work environment prompted by the coronavirus disease 2019 (COVID-19) pandemic, and was on track to fully obligate and expend all CARES Act funds before September 30, 2021. Specifically, NIST

- was proactive in implementing the requirements of the CARES Act;
- mitigated challenges faced during implementation of the CARES Act; and
- met the established Industrial Technology Services funding obligation milestones.



# NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION



The **National Oceanic and Atmospheric Administration's** mission is to understand and predict changes in climate, weather, oceans, and coasts, to share that knowledge and information with others, and to conserve and manage coastal and marine ecosystems and resources.

## OMAO MUST DEFINE AND IMPLEMENT A DISCIPLINED REQUIREMENTS MANAGEMENT PROCESS TO ENSURE FUTURE ACQUISITIONS MEET USER NEEDS (OIG-21-027-I)

We contracted with The MITRE Corporation (MITRE)—an independent firm—to perform this evaluation of NOAA Office of Marine and Aviation Operations' (OMAO's) Ship Fleet Recapitalization Program. The overall objective for this evaluation was to determine the extent to which NOAA OMAO's acquisition fleet lifecycle processes were followed throughout the development, operation, maintenance, and sustainment of the program to meet mission requirements, with a focus on OMAO's requirements management processes.

Our office oversaw the progress of this evaluation to ensure that MITRE performed the evaluation in accordance with the Council of the Inspectors General on Integrity and Efficiency's (CIGIE's) *Quality Standards for Inspection and Evaluation* (January 2012) and contract terms. However, MITRE is solely responsible for the report and conclusions expressed in it.

MITRE found the following:

- NOAA and OMAO lack current long-range strategies and well-defined standards and processes for managing ship fleet requirements.
- Requirements allocation is not well defined or organized and there is no formal process for requirements traceability.
- OMAO's current requirements validation process is not adequate for new, changing, and emerging requirements.

MITRE recommended that NOAA's Deputy Under Secretary for Operations ensure OMAO does the following:

- Develop and regularly update a long-range vessel acquisition plan that lays out the dependencies between fleet objectives, funding, inventory, technology, and sustainment costs, among others, and supports program milestone requirements.
- Establish a requirements management and change control process to ensure guidance is consistent, repeatable, regularly updated, and baselined. Ideally, this would be developed at the NOAA level and disseminated to NOAA program managers and appropriate line office representatives.
- Develop and implement a systems engineering policy that integrates systems engineering principles into program management processes across the entire acquisition lifecycle.
- Incorporate guidance on the use of interagency agreements in acquisition policies, with an emphasis on tailoring documentation to minimize duplication while meeting agency requirements.
- Develop a requirements management guide and traceability process that follows the *Scalable Acquisition Project Management Guidebook* and system engineering standards (e.g., International Council on Systems Engineering).
- Leverage mission requirements and at-sea-data collection requirements to provide OMAO with verifiable means of capturing the annual mission performance.
- Document and implement a disciplined approach to validating requirements through increased line office communication.

## **NOAA FISHERIES IMPLEMENTED THE REQUIREMENTS FOR AWARDING FUNDS UNDER THE CARES ACT BUT FACES CHALLENGES WITH THE PACE OF FUNDS DISBURSEMENT TO FISHERY PARTICIPANTS (OIG-21-028-I)**

Our objective was to determine whether NOAA complied with the requirements of the CARES Act. Specifically, we determined (1) what steps NOAA took in implementing the requirements for awarding funds, (2) challenges NOAA faced during implementation, and (3) NOAA's current status in processing applications and award funds under the CARES Act.

We found that NOAA's National Marine Fisheries Service (NOAA Fisheries) followed the requirements for implementing the CARES Act. NOAA Fisheries has put in place measures to mitigate challenges resulting from the review and approval process during COVID-19, and was on track to obligate all CARES Act funds before September 30, 2021. However, NOAA Fisheries still faces challenges with the pace at which funds are being disbursed to fishery participants.

As a follow-up to this evaluation, we plan to initiate more in-depth work related to the CARES Act and other pandemic relief funds appropriated to NOAA Fisheries to provide assistance to fishery participants affected by COVID-19.

## **FORMER NOAA CONTRACTOR EMPLOYEES DEBARRED FOR FALSIFYING AIRCRAFT MAINTENANCE RECORDS**

Two NOAA contractor employees were debarred (6 months for the first contractor employee and 3 years for the second contractor employee) by the U.S. Navy Acquisition Integrity Office for falsifying aircraft maintenance records. These individuals are debarred from federal government contracting and receiving benefits from federal assistance programs. Our office—along with the Defense Criminal Investigative Service and the Naval Criminal Investigative Service—investigated allegations against the contractor and established that two of the contractor's employees falsified records related to shot peening, which is approved for propeller blade overhaul, on various government aircraft. NOAA and other affected U.S. government agencies determined there was no flight safety, reliability, or life limiting concern for the aircraft propeller blades due to the falsifications by the contractor employees.

## **FORMER NOAA EMPLOYEE SENTENCED FOR POSSESSION AND TRANSPORTING CHILD PORNOGRAPHY**

On September 22, 2021, a former NOAA employee was sentenced by the United States District Court for the District of Oregon, to 24 months imprisonment, a 5-year term of supervised release, and restitution to four identified victims, after pleading guilty to Possession and Transporting Child Pornography. A joint investigation with our office, the FBI, and the NOAA Office of Law Enforcement established that on or before November 2016, the former NOAA employee—while employed with the federal government—possessed and uploaded child pornography to a computer server aboard a NOAA vessel.

## **TEXAS COMPANY PLEADS GUILTY TO CAUSING 2016 OIL SPILL AND PAID A \$1 MILLION FINE**

On June 15, 2021, a Texas-based company pled guilty to violating the Clean Water Act in connection with an oil spill in 2016, and paid a \$1 million fine, with additional restitution to be determined by the court. The company admitted that in its contract with NOAA, the company was responsible for locating all pipelines in the area of a dredging project in the Gulf of Mexico and complying with federal and state pipeline safety and underground utilities damage prevention laws. The company admitted it violated these laws by failing to alert pipeline companies about continuing work near the pipelines for several months leading up to the oil spill. A subcontractor working for the company operated a marsh buggy in an unapproved area and struck one of the pipelines causing the oil spill.

The employee admitted to being instructed by a company employee not to disclose to anyone about digging near the site of the spill. Ultimately, the company admitted its negligent supervision of the employee caused the oil spill.

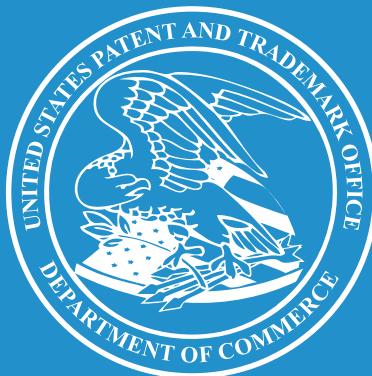
Our office, along with the U.S. Environmental Protection Agency Criminal Investigation Division and the U.S. Department of Transportation OIG, conducted this investigation.

#### **FORMER NOAA EMPLOYEES INFLUENCED THE SELECTION PROCESS FOR AN AWARD TO A FORMER NOAA CONTRACTOR**

On August 12, 2021, our office closed an investigation involving allegations that two NOAA employees influenced the selection of a specific NOAA contractor. During the investigation, additional allegations were identified, which included damage to NOAA property by the contractor. Our investigation substantiated the allegations that property damage caused by the contractor resulted in a financial loss. NOAA contracting officials coordinated a remedy to recoup \$63,254 from the contractor for that loss. No subsequent contracts were awarded to the contractor. Our office also substantiated the allegations that NOAA employees influenced the award selection process. The persons involved with influencing the contract (in 2013) are no longer employed by the federal government.

The local U.S. Attorney's Office declined criminal and civil action in the matter.

# UNITED STATES PATENT AND TRADEMARK OFFICE



The mission of the **United States Patent and Trademark Office** is to foster innovation, competitiveness, and job growth in the United States by conducting high-quality and timely patent and trademark examination and review proceedings in order to produce reliable and predictable intellectual property rights, guiding intellectual property policy and improving intellectual property rights protection, and delivering intellectual property information and education worldwide.

## THE PTAB FACES OPERATIONAL, INFORMATION TECHNOLOGY, AND DATA RISKS (OIG-21-025-I)

We contracted with MITRE—an independent firm—to perform this evaluation of USPTO's Patent Trial and Appeal Board (PTAB) operations. The objectives were to (1) assess PTAB's processes; (2) identify risk areas within PTAB; and (3) identify any internal and external challenges PTAB faces, and the significance and impacts of these challenges.

Our office oversaw the progress of this evaluation to ensure that MITRE performed the evaluation in accordance with CIGIE's *Quality Standards for Inspection and Evaluation* (December 2020) and contract terms. However, MITRE is solely responsible for the report and conclusions expressed in it.

In its evaluation of PTAB, MITRE identified the following:

- PTAB End-to-End IT system does not fully meet the users' needs.
- PTAB lacks effective data management.
- The *Arthrex* decision threatens retention and recruitment.
- PTAB lacks sustainable staffing projection capabilities.

MITRE recommended that the Undersecretary of Commerce and Director of the United States Patent and Trademark Office take the following actions:

- Direct the PTAB Chief Judge and the Chief Information Officer to appoint and empower a PTAB End-to-End/PTAB Center product owner who will be involved in every stage of planning, development, and testing of the system.
- Direct the PTAB Chief Judge to determine the viability of implementing a comprehensive data quality and governance program following best practices for data governance.
- Work with Congress to address the Appointments Clause defect identified in the *Arthrex* decision.
- Direct the PTAB Chief Judge and the Chief Information Officer to assess the affordability of procuring or developing a more sustainable and scalable predictive case management system to project staffing needs.

## USPTO HAS OPPORTUNITIES TO IMPROVE ITS INTERNAL CONTROLS AND OVERSIGHT RELATED TO PTA AND PTE CALCULATIONS (OIG-21-030-I)

We contracted with MITRE—an independent firm—to perform this evaluation of USPTO's Patent Term Adjustment (PTA) and Patent Term Extension (PTE) processes. The objectives were to determine whether USPTO (1) calculates and awards PTA and PTE in compliance with relevant statutes, regulations, and case law; (2) has adequate internal controls to ensure the proper calculation and award of PTA and PTE; and (3) uses valid and reliable data to calculate PTA and PTE.

Our office oversaw the progress of this evaluation to ensure that MITRE performed the evaluation in accordance with CIGIE's *Quality Standards for Inspection and Evaluation* (December 2020) and contract terms. However, MITRE is solely responsible for the report and conclusions expressed in it.

In its evaluation of PTA and PTE, MITRE identified the following:

- USPTO uses valid and reliable data to calculate PTA, but manual data entry may introduce errors.
- USPTO calculates PTA and PTE in compliance with statutes, regulations, and case law.
- USPTO has adequate internal controls to ensure proper calculation of PTA and PTE.

MITRE recommended that the Undersecretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office take the following actions:

- Direct the Commissioner for Patents to (1) mandate the use of the “safe harbor” form to claim the exception, and (2) ensure the inclusion of clear category and description definitions for applicants while keeping their focus on the task at hand (i.e., the document submission form).
- Direct Office of Petitions (OPET), Office of Patent Legal Administration (OPLA), and Office of the Chief Information Officer (OCIO) to implement, and keep up-to-date, a comprehensive set of requirements and specifications for the PTA calculator software to ensure continued compliance with current and emerging legislation and case law.
- Direct OPLA to coordinate with the U.S. Food and Drug Administration and the U.S. Department of Agriculture to determine if electronic filing of PTE applications would be acceptable as a permanent practice after the current public health emergency has passed.
- Direct the Office of Patent Examination Support Services and the OCIO to: (1) determine the feasibility of implementing a workflow process or tool (similar to the examiner “docket” system) for Legal Instruments Examiner managers; and (2) add clarifying language to the document description codes in the Patent Application Locating and Monitoring system to mitigate the risk of miscoded documents.
- Direct the Commissioner for Patents to implement a means to identify and remedy the types of events that typically require a manual review (e.g., Information Disclosure Statements) as they occur.
- Direct OPET to implement a pilot program to perform periodic, OPET-initiated, reconsideration-like audits on a random sampling of PTA calculations.

#### **USPTO SHOULD IMPROVE CONTROLS OVER EXAMINATION OF TRADEMARK FILINGS TO ENHANCE THE INTEGRITY OF THE TRADEMARK REGISTER (OIG-21-033-A)**

Our audit objective was to determine whether USPTO’s trademark registration process is effective in preventing fraudulent or inaccurate registrations.

Overall, we found that USPTO’s trademark registration process was not effective in preventing fraudulent or inaccurate registrations. Specifically, we found that USPTO

- lacks controls to effectively enforce the U.S. counsel rule;
- approved trademark filings with digitally altered or mocked-up specimens;
- did not ensure accurate identification of goods and services; and
- lacks a comprehensive fraud risk strategy.

We recommended that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Commissioner for Trademarks to do the following:

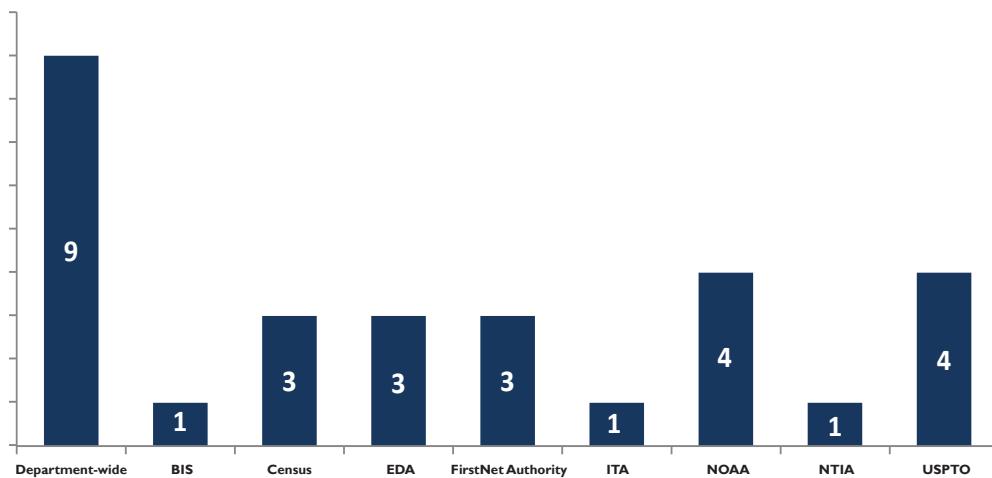
- Develop controls and/or tools to detect post office boxes, post offices, commercial mail receiving agencies, registered agents, and other unacceptable domicile addresses in trademark applications and other trademark filings.
- Develop standards and procedures to (1) identify and investigate U.S.-licensed attorneys who are properly listed as the attorney of record on high numbers of fraudulent or inaccurate trademark applications and (2) address the attorneys’ behavior by providing guidance, taking disciplinary action, or taking other actions as appropriate.

- Revise *Examination Guide 3-19*, or other procedures as appropriate, to clarify (a) expectations for the extent of examining attorneys' use of third-party information sources when examining specimens, (b) steps for assessing webpage specimens (to include an overall assessment of a website's authenticity), and (c) guidance for identifying mocked-up labels and tags in specimen photos.
- Develop controls to ensure consistency and coordination among examining attorneys for the examination of multiple trademark applications from a single applicant.
- Develop specific guidance for examining attorneys' use of *Trademark Manual of Examining Procedure* Section 904.01(a).
- Create a risk framework to address fraudulent or inaccurate trademark filings, to include a risk profile, goals, and targets; update the risk framework on a regular basis; and update the Special Task Force charter to align with the risk framework.
- Develop procedures to aggregate data from managing attorneys' reviews of examining attorneys' work, and use this data to monitor and assess the effectiveness of efforts to improve the accuracy of the trademark register.

# WORK IN PROGRESS

## WORK IN PROGRESS (BY OVERSIGHT AREA)

During this reporting period, 29 OIG audit, evaluation, and inspection projects were initiated or underway.



## DEPARTMENT-WIDE

### [Audit of Enterprise Services Performance in Managing and Overseeing Accenture Blanket Purchase Agreement No. DOCSSI30116BU0004 and Subsequent Call Orders](#)

To determine whether Enterprise Services effectively and efficiently managed contractor performance of the Accenture Federal Services, LLC, blanket purchase agreement DOCSSI30116BU0004 and subsequent call orders in accordance with federal regulations and Department policy.

### [Audit of the Department of Commerce and NIST WCFs](#)

To monitor an independent public accounting firm contracted to determine whether (1) the Department and NIST WCF billing methods used to allocate costs for internal Department support services are valid, reasonable, and consistently applied in accordance with applicable Department policies and (2) the internal Department support services costs billed through the WCFs are reasonable, allowable, and supported with documentation in accordance with applicable laws, regulations, and policies.

### [Audit of the Business Applications Solution Program](#)

To assess the Department's management and implementation of the BAS program.

### [Audit of the Department of Commerce's System Security Assessment Process](#)

To assess the effectiveness of the system security assessment and continuous monitoring program to ensure security deficiencies are identified, monitored, and adequately resolved.

**Evaluation of Calendar Years 2019–2020 Cybersecurity Information Sharing Act (CISA)**

To assess actions taken by the Department during calendar years 2019 and 2020 to carry out CISA requirements.

**Audit of FY 2021 Department of Commerce Consolidated Financial Statements (will result in 2 separate reports)**

To monitor the independent public accounting firm contracted to determine whether the financial statements are presented fairly, in all material respects, in accordance with generally accepted accounting principles; to consider the Department's internal control over financial reporting and test compliance with certain provisions of laws, regulations, contracts, and grant agreements that could have a direct and material effect on the financial statements.

**Audit of the Department's FY 2021 Digital Accountability and Transparency Act of 2014 Reporting**

To monitor the independent public accounting firm contracted to (1) assess the completeness, accuracy, timeliness, and quality of the financial and award data submitted for publication on USASpending.gov and (2) assess the Department's implementation and use of the government-wide financial data standards established by the Office of Management and Budget (OMB) and the U.S. Department of the Treasury.

**Audit of FY 2021 Federal Information Security Modernization Act Compliance**

To assess the effectiveness of the Department's information security program and practices.

**Review of the Department of Commerce's Processes for Responding to Hotline Complaints**

To evaluate the Department's processes for responding to hotline complaints where OIG requests that the Department conduct an inquiry and provide a response detailing its results.

**BUREAU OF INDUSTRY AND SECURITY****Review of the Bureau of Industry and Security's Law Enforcement Function**

To determine (1) the mission, legal basis, and authority for such functions and whether relevant statutes and guidelines are satisfied, (2) whether BIS' law enforcement function developed plans and policies for oversight of their jurisdictions and offices and the extent to which oversight was provided, (3) whether training for BIS' law enforcement officers is adequate and up-to-date, and (4) the extent to which the Department provides oversight to ensure that BIS' law enforcement powers are properly exercised within jurisdictional limits.

**U.S. CENSUS BUREAU****Evaluation of 2020 Census Peak Operations**

To conduct a series of reviews to determine whether the Census Bureau's planning and execution of 2020 Census peak operations successfully reduces risk to decennial census data quality and costs.

**Evaluation of 2020 Census Data Quality Processes**

To assess the adequacy of the Census Bureau's quality control processes to ensure the data collected during the 2020 decennial count was complete and accurate.

**Audit of the U.S. Census Bureau WCF**

To monitor the independent certified public accounting firm contracted to determine whether budgetary controls over the WCF are adequate including whether the Census Bureau (1) appropriately determines its rates (including overhead charges), (2) appropriately accounts for advances and carryover balances, and (3) equitably distributes costs to the Census Bureau's customers in accordance with applicable laws, regulations, and policy.

## U.S. ECONOMIC DEVELOPMENT ADMINISTRATION

### **Evaluation of EDA's Grant File Maintenances**

To determine whether EDA is properly maintaining grant files during the COVID-19 pandemic.

### **Evaluation of EDA's Administering of CARES Act Funding Through Its Revolving Loan Fund Program**

To determine whether EDA followed federal and Departmental guidelines to award and disburse CARES Act funding through its Revolving Loan Fund Program.

### **Audit of EDA's Monitoring of FY 2019 Disaster Relief Awards**

To determine whether grants awarded under the *FY 2019 EDA Disaster Supplemental Notice of Funding Opportunity* are effectively and adequately monitored by EDA. Specifically, we will determine whether EDA monitored grants to ensure (1) compliance with grant terms, conditions, and performance requirements and (2) costs associated with awards were allowable, allocable, and reasonable, in accordance with federal cost principles.

## FIRST RESPONDER NETWORK AUTHORITY.

### **Audit of FirstNet Authority's Reinvestment Process**

To determine whether the First Responder Network Authority's (FirstNet Authority's) process for reinvesting fee payments is effective and consistent with established practices, procedures, and regulations.

### **Evaluation of the Nationwide Public Safety Broadband Network's Security Architecture and Risk**

To assess the Nationwide Public Safety Broadband Network's security risks resulting from its security architecture.

### **Audit of FirstNet Authority's Engagement with the Public Safety Community**

To determine whether FirstNet Authority is effectively engaging with the public safety community and addressing its concerns.

## INTERNATIONAL TRADE ADMINISTRATION

### **Audit of ITA's Efforts to Resolve Foreign Trade Barriers**

To assess the progress and actions taken by the International Trade Administration (ITA) to remove and reduce foreign trade barriers.

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

### **Audit of the Western Pacific Sustainable Fisheries Fund Grants to the Western Pacific Regional Fishery Management Council**

To determine whether the Western Pacific Regional Fishery Management Council (1) claimed allowable, allocable, and reasonable costs under the grant awards, and (2) received the goods and services paid for by the grant awards; to determine whether NOAA provided adequate oversight and monitoring.

### **Audit of Geostationary Operational Environmental Satellite-R Series (GOES-R) Program Progress in Achieving Launch Readiness for the GOES-T Mission**

To assess the program's progress in achieving launch readiness for the GOES-T mission.

### **Audit of NOAA's Management of Its Active Directory**

To determine whether NOAA has adequately managed its Active Directory to protect mission critical systems and data.

**Audit of the Next-Generation Satellite System Architecture Planning and Implementation**

To assess NOAA's progress planning and implementing its next-generation satellite system architecture.

**NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION****Evaluation of NTIA's Implementation of Coronavirus Response and Relief Requirements Under the Consolidated Appropriations Act, 2021**

To determine whether the National Telecommunications and Information Administration (NTIA) is complying with the Coronavirus Response and Relief Requirements under the Consolidated Appropriations Act, 2021. Specifically, we will determine (1) what steps NTIA took to award and disburse funds, (2) the challenges faced during implementation, and (3) the status of awarding and disbursing funds under the Consolidated Appropriations Act, 2021.

**UNITED STATES PATENT AND TRADEMARK OFFICE****Audit of USPTO's Efforts to Retire Patent Legacy Systems**

To assess (1) the cost, schedule, and capabilities of select patent legacy systems and (2) ongoing activities to transition from the legacy systems to next generation systems.

**Evaluation of USPTO's Patent Examination Process**

To (1) assess whether patents are examined in compliance with applicable statutes, regulations, and case laws; (2) identify deficiencies within the examination process impacting the quality of patents granted; and (3) identify areas for improvement within the examination process to increase its effectiveness and efficiency.

**Audit of FY 2021 USPTO Financial Statements (will result in 2 separate reports)**

To monitor the independent public accounting firm contracted to determine whether the financial statements are presented fairly, in all material respects, in accordance with generally accepted accounting principles; to consider USPTO's internal control over financial reporting and test compliance with certain provisions of laws, regulations, and contracts that could have a direct and material effect on the financial statements.

**Audit of USPTO's Oversight of Patent Data Capture Contracts**

To determine whether USPTO awarded and administered Patent Data Capture contracts in compliance with applicable laws and federal and Departmental policies and procedures.

# STATISTICAL DATA

The Inspector General Act of 1978, as amended, (IG Act) requires us to present the statistical data contained in the following:

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**TABLE I. OFFICE OF INVESTIGATIONS STATISTICAL HIGHLIGHTS FOR THIS PERIOD**

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

**Allegations processed** presents the number of complaints from employees, stakeholders, and the general public that were handled by our Compliance and Ethics unit. Of these, some resulted in the opening of investigations; others were referred to bureaus for internal administrative follow-up. Others were unrelated to Departmental activities or did not provide sufficient information for any investigative follow-up and so were not accepted for investigation or referral.

<b>Allegations Received</b>	
Total hotline contacts	559
Contacts related to Departmental programs	335
Number of hotline referrals to Departmental management	176
<b>Investigative Caseload</b>	
Investigations opened this period	24
Investigations closed/completed this period	38
Investigations in progress as of September 30, 2021	74 <sup>a</sup>
<b>Reports</b>	
Total number of investigative reports issued during the reporting period	14
<b>Prosecutive Actions and Monetary Results</b>	
Total number of individuals or entities referred to the DOJ for criminal prosecution	18
Total number of entities referred to state/local prosecuting authorities	1
Indictments/Informations	7
Convictions	3
Monetary recoveries (Fines, Restitution, Settlements, Judgments, and Administrative Remedies)	\$445,689.53 <sup>b</sup>
<b>Administrative Actions</b>	
Suspension/Debarment actions	1
Disciplinary actions	0

<sup>a</sup> This figure excludes 72 investigations consisting of 26 pending prosecution or completion of judicial proceedings, 8 pending agency action, 7 preliminary investigations, and 31 requests for assistance.

<sup>b</sup> This figure includes fines, restitutions, and recoveries in cases worked independently by our office as well as our office's participation in multiagency investigations.

**TABLE 2. RESOLUTION AND FOLLOW-UP**

The IG Act requires us to present in this report information concerning reports issued before the beginning of the reporting period (April 1, 2021) for which no management decision had been made by the end of the period (September 30, 2021). No reports remain unresolved for more than 6 months for this reporting period.

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

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

Report Category	Modifications	Appeals
Actions pending (April 1, 2021)	5	0
Submissions	7	0
Decisions	10	0
Actions pending (September 30, 2021)	2	0

### TABLE 3. AUDIT AND INSPECTION STATISTICAL HIGHLIGHTS FOR THIS PERIOD

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

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

Questioned costs <sup>a</sup>	\$0
Value of audit recommendations that funds be put to better use <sup>b</sup>	\$0
<b>Total potential monetary benefits</b>	<b>\$0</b>
Value of audit recommendations agreed to by management <sup>c</sup>	\$0

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

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

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

#### TABLE 4. REPORTS WITH QUESTIONED COSTS

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

Report Category	Number	Questioned Costs (\$)	Unsupported Costs (\$)
A. Reports for which no management decision had been made by the beginning of the reporting period	0	0	0
B. Reports issued during the reporting period	0	0	0
Total reports (A+B) requiring a management decision during the period	0	0	0
C. Reports for which a management decision was made during the reporting period <sup>a</sup>	0	0	0
i. Value of disallowed costs	0	0	0
ii. Value of costs not disallowed	0	0	0
D. Reports for which no management decision had been made by the end of the reporting period	0	0	0

<sup>a</sup> In category C, lines i and ii do not always equal the total in line C because resolution may result in values greater than the original recommendations.

#### TABLE 5. REPORTS WITH RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE

See table 3 for a definition of “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	0	0
B. Reports issued during the reporting period	0	0
Total reports (A+B) requiring a management decision during the period	0	0
C. Reports for which a management decision was made during the reporting period <sup>a</sup>	0	0
i. Value of recommendations agreed to by management	0	0
ii. Value of recommendations not agreed to by management	0	0
D. Reports for which no management decision had been made by the end of the reporting period	0	0

<sup>a</sup> In category C, lines i and ii do not always equal the total in line C because resolution may result in values greater than the original recommendations.

## TABLES 6-A, 6-B, AND 6-C. REPORT TYPES FOR THIS PERIOD

**Performance audits** provide findings or conclusions based on an evaluation of sufficient, appropriate evidence against criteria. Performance audits provide objective analysis to assist management and those charged with governance and oversight in using the information to improve program performance and operations, reduce costs, facilitate decision making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability.

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

**Financial statement audits** are primarily to provide an opinion about whether an entity's financial statements are presented fairly in all material respects in conformity with an applicable financial reporting framework. Reporting on financial statement audits performed in accordance with GAGAS also includes reports on internal control over financial reporting and on compliance with provisions of laws, regulations, contracts, and grant agreements that have a material effect on the financial statements.

**Other public reports** from this period are comprised of correspondence—including one management alert and one information memorandum to the Secretary. Management alerts are memorandums that our office issues as an interim mechanism for alerting the Secretary, Department heads, Congress, and other officials of significant preliminary findings or matters requiring urgent attention.

## TABLE 6. SUMMARY OF REPORT TYPES FOR THIS PERIOD

Type	Number of Reports	Table Number
Performance Audits	3	Table 6-a
Inspections/Evaluations	7	Table 6-b
Other Public Reports	2	Table 6-c
<b>Total</b>	<b>12</b>	

**TABLE 6-A. PERFORMANCE AUDITS**

<b>Report Title</b>	<b>Report Number</b>	<b>Date Issued</b>	<b>Funds to Be Put to Better Use (\$)</b>	<b>Amount Questioned (\$)</b>	<b>Amount Unsupported (\$)</b>
<b>U.S. Census Bureau</b>					
<i>The U.S. Census Bureau's Mishandling of a January 2020 Cybersecurity Incident Demonstrated Opportunities for Improvement</i>	OIG-21-034-A	08.16.2021	0	0	0
<b>National Institute of Standards and Technology</b>					
<i>Audit of National Institute of Standards and Technology Working Capital Fund For Fiscal Year Ended September 30, 2019</i>	OIG-21-024-A	05.03.2021	0	0	0
<b>United States Patent and Trademark Office</b>					
<i>USPTO Should Improve Controls over Examination of Trademark Filings to Enhance the Integrity of the Trademark Register</i>	OIG-21-033-A	08.11.2021	0	0	0

**TABLE 6-B. INSPECTIONS/EVALUATIONS**

<b>Report Title</b>	<b>Report Number</b>	<b>Date Issued</b>	<b>Funds to Be Put to Better Use (\$)</b>	<b>Amount Questioned (\$)</b>	<b>Amount Unsupported (\$)</b>
<b>National Institute of Standards and Technology</b>					
<i>NIST Was Effective in Implementing the Requirements for Awarding Funds Under the CARES Act</i>	OIG-21-032-I	08.05.2021	0	0	0
<b>National Oceanic and Atmospheric Administration</b>					
<i>OMAO Must Define and Implement a Disciplined Requirements Management Process to Ensure Future Acquisitions Meet User Needs</i>	OIG-21-027-I	05.25.2021	0	0	0
<i>NOAA Fisheries Implemented the Requirements for Awarding Funds Under the CARES Act but Faces Challenges with the Pace of Funds Disbursement to Fishery Participants</i>	OIG-21-028-I	06.09.2021	0	0	0
<b>Office of the Secretary</b>					
<i>Fiscal Year 2020 Compliance with Improper Payment Requirements</i>	OIG-21-026-I	05.13.2021	0	0	0
<i>Fiscal Year 2021 Cybersecurity Information Sharing Act (CISA) Evaluation</i>	OIG-21-029-I	06.22.2021	0	0	0
<b>United States Patent and Trademark Office</b>					
<i>The PTAB Faces Operational, Information Technology, and Data Risks</i>	OIG-21-025-I	05.10.2021	0	0	0
<i>USPTO Has Opportunities to Improve its Internal Controls and Oversight Related to PTA and PTE Calculations</i>	OIG-21-030-I	07.06.2021	0	0	0

**TABLE 6-C. OTHER PUBLIC REPORTS**

<b>Report Title</b>	<b>Report Number</b>	<b>Date Issued</b>
<i>Management Alert: BAS Program's Focus on Technology May Overlook Risks Related to Business Processes</i>	OIG-21-023-M	04.19.2021
<i>Information Memorandum to Secretary Gina Raimondo from the Inspector General re: Reviews of the Department of Commerce's Law Enforcement Functions</i>	OIG-21-031-M	07.22.2021

## TABLES 7, 7-A, 7-B, AND 7-C. UNIMPLEMENTED AND UNRESOLVED RECOMMENDATIONS BY OPERATING UNIT

All tables concerning unimplemented or unresolved recommendations do not include recommendations from (a) classified or sensitive nonpublic reports, (b) recurring, annual audits (such as financial statement audits), or (c) single audits.

Recommendations from all performance audit, evaluation, and inspection reports issued prior to FY 2016 have been implemented.

**Resolved but unimplemented recommendations** are those for which (a) the operating unit(s) agreed to OIG recommendations and (b) OIG approved the action plan. Columns 2 through 5 of table 7 provide details on resolved but unimplemented recommendations.

**Unresolved recommendations** include those with no approved action plan as of September 30, 2021, or those for which the action plans are not due until after September 30, 2021. Columns 6 through 7 of table 7 provide details on “unresolved” recommendations.

Table 7-a provides details on FY 2016–2021 performance audit, evaluation, or inspection reports that have resolved but unimplemented recommendations. During this period, we issued 105 audits and evaluations (excluding financial statement audits). As of September 30, 2021,

- 25 of the 105 reports (24 percent) had resolved but unimplemented recommendations;
- 74 of 514 total recommendations (14 percent) were resolved but unimplemented; and
- 2 of these resolved but unimplemented recommendations had potential monetary benefits of \$296,335,847.

Table 7-b provides details on two performance audits with 16 unresolved recommendations.

Table 7-c provides details on performance audit, evaluation, or inspection reports for which management took longer than 60 days to respond.

**TABLE 7. SUMMARY OF UNIMPLEMENTED AND UNRESOLVED RECOMMENDATIONS BY OPERATING UNIT**

Operating Unit	FY 2016–2018 Unimplemented Recs (Resolved)	Potential Monetary Benefits of FY 2016–2018 Unimplemented Recs	FY 2019–2021 Unimplemented Recs (Resolved)	Potential Monetary Benefits of FY 2019–2021 Unimplemented Recs	Unresolved FY 2021 Recs	Potential Monetary Benefits of Unresolved FY 2021 Recs
Bureau of Economic Analysis	0	0	0	0	0	0
Bureau of Industry and Security	0	0	1	0	0	0
U.S. Census Bureau	1	0	8	0	8	0
U.S. Economic Development Administration	0	0	4	0	0	0
First Responder Network Authority	0	0	0	0	0	0
International Trade Administration	0	0	2	0	0	0
Minority Business Development Agency	0	0	0	0	0	0
National Institute of Standards and Technology	0	0	5	0	0	0
National Oceanic and Atmospheric Administration	2	0	11	11,895,000	0	0
National Technical Information Service	0	0	0	0	0	0
National Telecommunications and Information Administration	0	0	0	0	0	0
Office of the Secretary	3	0	23	284,440,847	1	0
United States Patent and Trademark Office	0	0	14	0	7	0
<b>TOTAL</b>	<b>6</b>	<b>\$0</b>	<b>68</b>	<b>\$296,335,847</b>	<b>16</b>	<b>\$0</b>

## TABLE 7-A. UNIMPLEMENTED RECOMMENDATIONS FROM AUDIT, EVALUATION, AND INSPECTION REPORTS

Table 7-a does not include recommendations from (a) classified or sensitive nonpublic reports, (b) recurring, annual audits (such as financial statement audits), or (c) those addressed to specific non-federal entities in connection with audits of financial assistance awards.

Recommendations from all performance audit, evaluation, and inspection reports issued prior to FY 2016 have been implemented.

- **FY 2016:** OIG issued 26 reports with a total of 109 recommendations. As of September 30, 2021, 4 recommendations (4 percent of FY 2016 recommendations) were resolved but unimplemented. There are no unimplemented recommendations with potential monetary benefits.
- **FY 2018:** OIG issued 15 reports with a total of 87 recommendations. As of September 30, 2021, 2 recommendations (2 percent of FY 2018 recommendations) were resolved but unimplemented. There are no unimplemented recommendations with potential monetary benefits.
- **FY 2019:** OIG issued 12 reports with a total of 79 recommendations. As of September 30, 2021, 11 recommendations (14 percent of FY 2019 recommendations) were resolved but unimplemented. There are no unimplemented recommendations with potential monetary benefits.
- **FY 2020:** OIG issued 16 reports with a total of 76 recommendations. As of September 30, 2021, 25 recommendations (33 percent of FY 2020 recommendations) were resolved but unimplemented. There are two unimplemented recommendations, one with \$284,440,847 in questioned costs and one with \$11,895,000 in funds put to better use for \$296,335,847 potential monetary benefits.
- **FY 2021:** OIG issued 13 reports with a total of 70 recommendations. As of September 30, 2021, 32 recommendations (44 percent of FY 2021 recommendations) were resolved but unimplemented. There are no unimplemented recommendations with potential monetary benefits.

The remaining 2 unresolved reports and their 16 recommendations are listed under table 7-b.

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Unimplemented Recommendations	Potential Monetary Benefits of Unimplemented Recommendations
04.18.2016	OIG-16-025, The Census Working Capital Fund Lacks Transparency	6	1	0

### Objective(s)

The objective of this audit was to evaluate the budgetary controls over the Census Bureau's WCF.

### Finding(s)

We found that the Census Bureau (1) could not provide support for its overhead rates, (2) lacks monitoring procedures to ensure WCF transparency and compliance with statutes, (3) may have used FY 2010 funds to improperly augment a survey sponsor's FY 2009 appropriation, (4) has not prepared the required financial reports for the WCF, and (5) lacks controls necessary to ensure that excess funds are returned to reimbursable survey sponsors promptly.

### Unimplemented Recommendation(s)

**Recommendation 2:** We recommend that the Director of the Census Bureau obtain an opinion from the Department of Commerce Office of the General Counsel to determine whether funds from the Improving Operational Efficiency program, carried over in FY 2010 and FY 2011, are considered earned income and were carried over in compliance with appropriations laws (and, in addition, notify the Department's Chief Financial Officer and Assistant Secretary for Administration of the results—and, if noncompliance is noted, develop controls to track the original period of availability of Improving Operational Efficiency program funds).

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Unimplemented Recommendations	Potential Monetary Benefits of Unimplemented Recommendations
08.04.2016	<b>OIG-16-040, Review of IT Security Policies, Procedures, Practices, and Capabilities in Accordance with the Cybersecurity Act of 2015</b>	5	3	0

**Objective(s)**

The objective of this audit was to examine the IT security policies, procedures, practices, and capabilities—as defined in the Cybersecurity Act of 2015—for national security and personally identifiable information systems.

**Finding(s)**

The findings of this report are For Official Use Only, and not included in this publicly released *Semiannual Report to Congress*.

**Unimplemented Recommendation(s)**

The recommendations of this report are For Official Use Only, and are not included in this publicly released *Semiannual Report to Congress*.

07.09.2018	<b>OIG-18-021, Polar Follow-On: NOAA Must Maintain Cost Efficiencies and Refine Launch Strategy for JPSS-3 and JPSS-4 Missions</b>	7	2	0
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**Objective(s)**

Our primary objective was to assess the Polar Follow-On program baselines established in December 2016.

**Finding(s)**

We found that (1) Polar Follow-On missions' system design depends on maturing the Joint Polar Satellite System (JPSS)-2 technical baseline and completing plans for a flexible launch strategy; (2) NOAA has not provided detailed polar satellite system development costs to Congress; and (3) NOAA has identified potential future satellite systems and continues to plan its next-generation space architecture, but goals and timelines for technology insertion are uncertain.

**Unimplemented Recommendation(s)**

**Recommendation 2:** In order to retain flexibility in the launch strategies for JPSS-3 and JPSS-4, we recommend that the Assistant Administrator for Satellite and Information Services ensures that the JPSS program completes storage plans and cost analyses for instruments and integrated satellites.

**Recommendation 6:** We recommend that the Under Secretary of Commerce for Oceans and Atmosphere ensures that NOAA provides Congress with satellite system estimated costs in accordance with requirements for its major satellite programs specified in annual appropriations laws.

10.30.2018	<b>OIG-19-002, The Census Bureau Must Improve Its Implementation of the Risk Management Framework</b>	7	3	0
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**Objective(s)**

Our objective was to determine whether the risk management framework methodology adopted by the Census Bureau presents an accurate picture of cybersecurity risks, including risks associated with common controls, to Census Bureau management.

**Finding(s)**

We found that the Census Bureau did not follow its risk management framework process. Specifically, we found that (1) the Census Bureau had not continuously monitored critical security controls and failed to document the resulting risks, (2) authorizing officials lacked information about significant cybersecurity risks, and (3) the Census Bureau did not effectively manage common controls.

**Unimplemented Recommendation(s)**

**Recommendation 1:** We recommend that the Census Bureau's Chief Information Officer update the Census Bureau's Risk Management Framework Methodology to include additional procedures that leverage automated reporting, to ensure that deviations from continuous monitoring plans are reported more timely to senior management designated as the authorizing official and to IT security management.

**Recommendation 3:** We recommend that the Census Bureau's Chief Information Officer develop both manual and automated procedures to help ensure that complete descriptions of system security controls are entered into the Risk Management Program System, reviewed, and approved as part of the system authorization process.

**Recommendation 4:** We recommend that the Census Bureau's Chief Information Officer ensure that assessment procedures include provisions (both manual and automated) for quality control associated with the validation of security control assessments.

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Unimplemented Recommendations	Potential Monetary Benefits of Unimplemented Recommendations
02.06.2019	<b>OIG-I9-008, 2020 Census: Issues Observed During the 2018 End-to-End Census Test's Address Canvassing Operation Indicate Risk to Address List Quality</b>	6	1	0

#### Objective(s)

Our audit objectives were to (1) assess the performance of in-field address canvassing operations and (2) determine whether in-office address canvassing correctly identified blocks for the in-field address canvassing operation.

#### Finding(s)

We found (1) in-office address canvassing did not correctly identify blocks for in-field address canvassing at the Providence test site; (2) resolution of alerts indicating potential instances of low quality and fraud/abuse was sometimes untimely or non-existent; (3) the Census Bureau's ability to inform the 2020 Census address canvassing operation using the 2018 End-to-End Census Test faces some limitations; and (4) the Census Bureau is unsure of whether 26 Listers who updated addresses were qualified. In addition—and as part of our fieldwork—we conducted on-site observations of Listers during the test and observed instances of some Listers' noncompliance with procedures.

#### Unimplemented Recommendation(s)

**Recommendation I:** We recommend the Director of the U.S. Census Bureau evaluate how the number of incorrectly categorized passive blocks will affect census quality and how those errors may affect demographic groups.

06.13.2019	<b>OIG-I9-014, Inadequate Management of Active Directory Puts USPTO's Mission at Significant Cyber Risk</b>	8	1	0
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#### Objective(s)

Our objective was to determine whether USPTO has adequately managed its Active Directory to protect mission critical systems and data.

#### Finding(s)

We found that USPTO (1) inadequately managed its Active Directory, and (2) poorly protected its critical IT assets hosting Active Directory.

#### Unimplemented Recommendation(s)

**Recommendation 4:** We recommend that the Under Secretary of Commerce for Intellectual Property and Director of USPTO direct the Chief Information Officer to ensure personal identity verification (PIV) card technology compatibility with on-going and future system development for USPTO next-generation applications, and switch PIV enforcement to a per-user basis, when technically feasible.

08.12.2019	<b>OIG-I9-022, Geostationary Operational Environmental Satellite-R Series: Program Success Requires Added Attention to Oversight, Risk Management, Requirements, and the Life-Cycle Cost Estimate</b>	11	3	0
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#### Objective(s)

Our primary objective was to assess the adequacy of the GOES-R program's satellite development and testing, and the transition of launched satellites into operations. Our second objective was to monitor the program's progress on contracting actions and changes to minimize cost increases.

#### Finding(s)

We identified inadequacies in the development, testing, and operations of the satellites, specifically: (1) Advanced Baseline Imager issues highlight the need for increased oversight in technical, programmatic, and contractual areas; (2) GOES-R series magnetometers are less accurate than the previous series, revealing opportunity for NOAA to refine its threshold requirement; (3) the GOES-R program did not identify and manage risk to the availability of GOES-East and GOES-West orbital positions; and (4) ground system server replacement will increase the program's life-cycle cost and presents risk management challenges.

#### Unimplemented Recommendation(s)

**Recommendation 5:** We recommend that the Deputy Under Secretary for Operations ensure that NOAA conducts analysis to determine distinct geomagnetic field measurement accuracy threshold and objective requirement specifications and ensure appropriately supported requirements are reflected in GOES-R program documents.

**Recommendation 6:** We recommend that the Deputy Under Secretary for Operations ensure the NOAA Space Weather Prediction Center updates its geomagnetic field observation accuracy requirement validation documentation.

**Recommendation 7:** We recommend that the Deputy Under Secretary for Operations ensure NOAA assesses whether GOES are the optimal satellites to achieve geomagnetic field observation requirements, using an analysis of alternatives or similar cost-benefit approach.

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Unimplemented Recommendations	Potential Monetary Benefits of Unimplemented Recommendations
09.30.2019	<b>OIG-19-026, The Department Needs to Improve Its Capability to Effectively Share Cyber Threat Information</b>	4	3	0

**Objective(s)**

Our objective was to determine the capabilities and practices of the Department to carry out cybersecurity information sharing.

**Finding(s)**

We found (1) the Department lacked an internal automated sharing capability; (2) the Commerce Threat Intelligence Portal (CTIP) application was not accessible by all bureaus; and (3) the Department lacked adequate information sharing policies, procedures, and training.

**Unimplemented Recommendation(s)**

**Recommendation 1:** We recommend that the Chief Information Officer finalize CTIP licensing and interconnection agreements and utilize the CTIP Application Programming Interface to automate Department bureaus' ingestion of cyber threat information.

**Recommendation 2:** We recommend that the Chief Information Officer ensure that all Department bureaus have access to CTIP.

**Recommendation 3:** We recommend that the Chief Information Officer ensure information sharing policies and procedures are compliant with the applicable documents that were created by the U.S. Department of Homeland Security, DOJ, U.S. Department of Defense, and the Office of the Director of National Intelligence.

11.12.2019	<b>OIG-20-006, NOAA's Office of Marine and Aviation Operations Needs to Improve the Planning and Governing of Its Ship Fleet Recapitalization Effort</b>	7	I	\$11,895,000 Funds to Be Put to Better Use
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**Objective(s)**

Our audit objective was to determine whether NOAA OMAO performed effective acquisition planning for its construction of new ships.

**Finding(s)**

We found that (1) schedule slippages have delayed ship construction and increased costs; (2) NOAA's ship fleet acquisition planning was not effectively governed; and (3) OMAO did not provide adequate oversight of fleet recapitalization funds.

**Unimplemented Recommendation(s) (potential monetary benefits for unimplemented recommendation 1)**

**Recommendation 1:** We recommend that the Director of NOAA Corps and OMAO develop a detailed contingency plan to reduce the risks associated with delays. The plan should address (a) capability and capacity gaps and (b) the cost of maintaining aging ships and utilizing alternatives. Potential monetary benefits: \$11,895,000 funds to be put to better use.

01.27.2020	<b>OIG-20-014, EDA Should Develop a Workforce Plan and Improve its Hiring Accountability to Successfully Award and Administer the Disaster Supplemental Funds Appropriated by the Bipartisan Budget Act of 2018</b>	2	2	0
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**Objective(s)**

Our audit objective was to determine whether EDA's workforce planning process for awarding and administering the Disaster Supplemental funds was adequate and effective.

**Finding(s)**

We found that (1) EDA has not developed and implemented a comprehensive workforce plan to meet the current and future needs of the organization and (2) EDA's recruitment efforts are significantly behind its established milestones to ensure that EDA has adequate staff available to handle the increased workload.

**Unimplemented Recommendation(s)**

**Recommendation 1:** We recommend that EDA's Assistant Secretary of Commerce for Economic Development direct appropriate EDA staff to develop and implement a comprehensive workforce plan to (a) determine optimal staffing levels needed (both at headquarters and in the affected regions), and (b) identify any potential staffing shortfalls or gaps.

**Recommendation 2:** We recommend that EDA's Assistant Secretary of Commerce for Economic Development direct appropriate EDA staff to develop and implement specific accountability metrics, in conjunction with Human Capital Client Services as applicable, including (a) transparent milestones, which can be used to measure the actual progress of the job opportunity announcements throughout the hiring process, and (b) performance metrics and training guidelines to ensure EDA staff are fully trained on the job opportunity announcement processing requirements.

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Unimplemented Recommendations	Potential Monetary Benefits of Unimplemented Recommendations
01.30.2020	<b>OIG-20-016, 2020 Census: Some Decennial Census Data Quality Assurance Methods Were Not Tested or Did Not Work as Intended During the 2018 End-to-End Census Test</b>	5	2	0

#### Objective(s)

Our objectives were to determine whether (1) the test included data quality components identified as success criteria in the test plan, (2) the Census Bureau designed the test to inform the 2020 Census, (3) nonresponse followup (NRFU) systems are included in the test and function as designed, and (4) the Census Bureau performed non-ID processing and unduplicated responses in a timely manner to reduce the NRFU operation's workload.

#### Finding(s)

We found that (1) the Census Bureau has not fully tested some activities designed to ensure the quality of 2020 Census respondent data; (2) the Census Bureau's reengineered approach to NRFU closeout has not been adequately tested; (3) potentially unqualified field staff completed cases during NRFU; and (4) unresolved NRFU alerts may not help the Census Bureau maintain or improve the quality of decennial census data.

#### Unimplemented Recommendation(s)

**Recommendation 4:** We recommend that the Director of the U.S. Census Bureau monitor the resolution of alerts at a national level to identify whether alerts are (a) resolved timely and (b) functioning correctly during the operation.

**Recommendation 5:** We recommend that the Director of the U.S. Census Bureau develop a strategy to remedy alert issues and communicate appropriate procedures and instructions to field staff if monitoring efforts identify issues.

02.11.2020	<b>OIG-20-018, Failures in the Department's Security Program Resulted in Exposure of Sensitive Trade Information to Unvetted Foreign Nationals</b>	12	11	0
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#### Objective(s)

Our audit objectives were to determine whether the (1) processes used to vet contract staff given administrative access to the Enterprise Web Solutions (EWS) system are adequate; (2) Department followed a sufficient process to identify the impact level of the EWS system; (3) OCIO took appropriate actions to protect the information on the EWS system after it was granted an authorization to operate in 2018; and (4) contract used to procure EWS services and systems complied with Department acquisition regulations. Because of the serious nature of the cybersecurity issues identified, we determined that this audit report would address the first three objectives, while a separate, follow-on audit may address the fourth.

#### Finding(s)

We found that (1) the Department exposed sensitive data to unvetted foreign nationals working outside the United States; (2) unauthorized foreign nationals accessed and modified the EWS system after their contract had been terminated; (3) the Department mishandled the response to unauthorized access by foreign nationals; and (4) the Department failed to account for sensitive data on its systems.

#### Unimplemented Recommendation(s)

**Recommendation 1:** We recommend that the Deputy Secretary of Commerce ensure that OCIO implements additional checks into contract policies and procedures to ensure all access to Department systems and data is properly vetted by the Department's Office of Security.

**Recommendation 2:** We recommend that the Deputy Secretary of Commerce ensure that OCIO conducts a thorough review of the contractor and subcontractor access granted to all Department systems and ensures this access is limited and appropriate based upon the purpose of the system, data contained on the system, and the contractor's level of required duties.

**Recommendation 3:** We recommend that the Deputy Secretary of Commerce ensure that OCIO establishes and implements a process that ensures the information system security officer(s) or other assigned system staff regularly validate that user access to Department systems is appropriate.

**Recommendation 4:** We recommend that the Deputy Secretary of Commerce ensure that OCIO fully documents its rationale, based upon the outcome of the Department's investigation, for not reporting the exposure of sensitive data from the former Secretary's briefing book as a major incident, as defined by OMB guidance.

**Recommendation 6:** We recommend that the Deputy Secretary of Commerce ensure that OCIO establishes and follows clear procedures when revoking access to Department systems, a process that should include the system owner, information system security officer, and contracting officer's representative, when appropriate.

**Recommendation 7:** We recommend that the Deputy Secretary of Commerce ensure that OCIO reviews and revises incident response procedures so that appropriate communication protocols are established and enforced to ensure timely and accurate information sharing.

**Recommendation 8:** We recommend that the Deputy Secretary of Commerce ensure that OCIO identifies staff with incident response and system recovery roles and ensure that they have regular training regarding their responsibilities, the role of the Enterprise Security Operations Center, and the use of system backups.

**Recommendation 9:** We recommend that the Deputy Secretary of Commerce ensure that OCIO includes an additional step to review the completed task when revoking system access, with a requirement for assignment of an individual responsible for ensuring all access has been removed.

**Recommendation 10:** We recommend that the Deputy Secretary of Commerce ensure that OCIO reviews and revises the process used for system impact analysis to ensure that it is sufficiently rigorous and has adequate checks to ensure the process produces accurate results.

**Recommendation 11:** We recommend that the Deputy Secretary of Commerce ensure that OCIO reassess all Office of the Secretary systems to ensure that the designated impact level analyses are accurate and appropriate to protect Department systems.

**Recommendation 12:** We recommend that the Deputy Secretary of Commerce ensure that OCIO determines if any systems outside of the Office of the Secretary produce data for the Secretary's briefing book and, if systems are identified, determines if these systems have accurate and appropriate system impact levels.

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Unimplemented Recommendations	Potential Monetary Benefits of Unimplemented Recommendations
06.02.2020	<b>OIG-20-028, The Department Needs to Improve Oversight Practices to Close Out Contract Files by Complying with Federal Regulations and Departmental Requirements</b>	9	3	\$284,440,847 Questioned Costs

**Objective(s)**

Our objective was to determine whether NIST, NOAA, and Census Bureau contracting personnel administered contract closeout procedures in accordance with federal and Departmental regulations.

**Finding(s)**

We found that (1) contracts were not closed within required time frames; (2) contract files lacked evidence that key contract closeout steps were completed, resulting in approximately \$288.5 million that could not be verified; (3) NOAA and Census Bureau contract files were not always properly retained; (4) NIST improperly paid a contractor; and (5) NIST technical points of contact were not trained, certified, and appointed.

**Unimplemented Recommendation(s) (potential monetary benefits for unimplemented recommendation 5)**

**Recommendation 2:** We recommend that the NIST Director of Office of Acquisition and Agreements Management establish a periodic control to ensure that contracts are being closed timely and that closeout procedures are in compliance with federal and Departmental regulations.

**Recommendation 4:** We recommend that the Census Bureau Chief of Acquisition Division establish a periodic control to ensure that contracts are being closed timely and that closeout procedures are in compliance with federal and Departmental regulations.

**Recommendation 5:** We recommend that the NIST Director of Office of Acquisition and Agreements Management, NOAA Director of Acquisition and Grants Office, and Census Bureau Chief of Acquisition Division issue additional guidance and training on the contract closeout process to include clearly defining the requirements for adequate contract closeout file documentation.

Potential monetary benefits: \$284,440,847 questioned costs.

07.20.2020	<b>OIG-20-037, Fleet Program Is Not Managed in Accordance with Fleet Management Requirements</b>	7	3	0
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**Objective(s)**

Our audit objective was to determine whether the Department's fleet program operates in accordance with applicable federal fleet requirements for vehicle operations, acquisitions, and utilization.

**Finding(s)**

We found that the Department is not operating its fleet program in accordance with federal fleet requirements.

**Unimplemented Recommendation(s)**

**Recommendation 2:** We recommend that the Chief Financial Officer and Assistant Secretary for Administration update the *Personal Property Management Manual* to include guidance for Office of the Secretary commercial leasing. The Department should ensure other *Personal Property Management Manual* requirements do not similarly exclude Office of the Secretary.

**Recommendation 4:** We recommend that the Chief Financial Officer and Assistant Secretary for Administration update policies and procedures to include requirements for bureaus to maintain adequate documentation of vehicle usage.

**Recommendation 7:** We recommend that the Chief Financial Officer and Assistant Secretary for Administration perform a vehicle allocation methodology study at least every 5 years, to produce a profile of its optimal fleet inventory, and periodically monitor results between vehicle allocation methodology studies.

09.01.2020	<b>OIG-20-045, USPTO Needs to Improve Its Small Business Contracting Practices</b>	4	3	0
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**Objective(s)**

The objectives were to determine whether USPTO (1) achieved its small business utilization goals, (2) contracting officials provided small businesses with adequate contract award opportunities, and (3) took appropriate actions to ensure contracting officials met small business contracting goals.

**Finding(s)**

Booth Management Consulting, LLC (BMC)—an independent firm—concluded that USPTO did not (1) meet its small business utilization goals, (2) provide small businesses with adequate contract award opportunities, and (3) take appropriate actions to meet small business contracting goals.

**Unimplemented Recommendation(s)**

**Recommendation 1:** BMC recommends that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Director of the Office of Procurement to ensure contract specialists verify small business eligibility prior to awarding small business contracts.

**Recommendation 2:** BMC recommends that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Director of the Office of Procurement to ensure contract specialists perform and appropriately document small business set-aside reviews.

**Recommendation 3:** BMC recommends that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Director of the Office of Procurement to ensure Historically Underutilized Business Zones small business consideration is included in its annual acquisition forecasting activities and marketing efforts to maximize contracting opportunities.

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Unimplemented Recommendations	Potential Monetary Benefits of Unimplemented Recommendations
10.01.2020	<b>OIG-21-001, The Department Has Made Progress Meeting Its Responsibilities Under the Geospatial Data Act But Must Improve Controls to Ensure Full Compliance</b>	6	3	0

#### Objective(s)

Our original objectives—in accordance with the Geospatial Data Act of 2018—were to review the Department's (1) compliance with the standards for geospatial data, including metadata for geospatial data established under section 757; (2) compliance with the requirements under subsection 759(a); and (3) compliance on the limitation on the use of federal funds under section 759A. We revised our audit objective to assess the Department's progress toward compliance with the requirements of subsection 759(a). Because the Department's National Geospatial Data Assets and management thereof reside within NOAA and the Census Bureau, we limited our scope to those two operating units and the activities of the Department's Senior Agency Official for Geospatial Information, Chief Data Officer, data governance board, and geospatial working group.

#### Finding(s)

We found the Department has made progress towards complying with the 13 requirements under section 759(a). In addition, we noted the need for improvements in the following areas: (1) the Department should ensure its new geospatial data strategic plan aligns with the mission and design controls for adequate implementation; (2) the Department should develop procedures to ensure compliance with its *Policy on Planned Geospatial Acquisitions*; (3) data harvesting issues are causing inconsistencies in Department metadata; and (4) Census Bureau should document compliance with metadata standards as part of its system of internal control for geospatial data.

#### Unimplemented Recommendation(s)

**Recommendation 2:** We recommend that the Deputy Secretary of Commerce and the Senior Agency Official for Geospatial Information define a system of internal control to ensure the geospatial data strategic plan is effectively implemented and that progress against it is appropriately tracked.

**Recommendation 3:** We recommend that the Deputy Secretary of Commerce and the Senior Agency Official for Geospatial Information develop Department-wide procedures to ensure operating units consistently implement the Department's *Policy on Planned Geospatial Acquisitions*.

**Recommendation 6:** We recommend that the Census Bureau's Chief of the Geography Division assess geospatial data standards licensing needs and ensure the Census Bureau adequately documents compliance with data and metadata standards.

11.19.2020	<b>OIG-21-010, USPTO Should Improve Acquisition Planning and Vendor Performance Management to Prevent Schedule Delays and Unnecessary Costs Related to the SDI-NG Contract</b>	9	1	0
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#### Objective(s)

Our audit objective was to determine whether USPTO provided adequate oversight of Software Development and Integration—Next Generation (SDI-NG) contracts. To address this objective, we specifically assessed whether USPTO provided adequate oversight of (1) the acquisition planning process and (2) vendor performance.

#### Finding(s)

Overall, we found that USPTO did not provide adequate oversight of the SDI-NG Bridge. Specifically, we found that (1) USPTO did not timely plan and compete a follow-on SDI-NG contract, and (2) USPTO did not adequately document and use vendor performance information.

#### Unimplemented Recommendation(s)

**Recommendation 5:** We recommend that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Director of the Office of Procurement to revise the Acquisition File Documentation form to document consideration of vendor performance prior to exercise of option periods.

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Unimplemented Recommendations	Potential Monetary Benefits of Unimplemented Recommendations
12.21.2020	OIG-21-014, EDA Is Not Fully Complying with All Its Disaster Relief Award Policies	3	2	0

#### Objective(s)

Our audit objective was to determine whether EDA's process for awarding disaster relief grants to applicants is adequate. Specifically, we focused on whether (1) EDA awarded grants on a competitive and merit basis and (2) the extent of EDA's compliance with the requirements outlined in the Bipartisan Budget Act of 2018 as well as its own policies and procedures for determining which applicants should receive disaster relief funds.

#### Finding(s)

We found that EDA is awarding grants on a competitive and merit basis. However, EDA does not always comply with its own policies and procedures for determining which applicants should receive disaster relief funds. Specifically, we found that EDA did not (1) ensure all applications documented a clear nexus and resilience principles; (2) always use priority order of funding recommendations; and (3) always meet its own internal review goals.

#### Unresolved Recommendation(s)

**Recommendation 2:** We recommend that the Assistant Secretary of Commerce for Economic Development direct regional directors at the Austin and Philadelphia regional offices to comply with the FY 2018 EDA Disaster Supplemental Notice of Funding Opportunity requirements of awarding grants based on a priority order of funding recommendations and implement controls to ensure that the established processes and procedures for preparing the priority order of funding recommendations are monitored and consistently followed.

**Recommendation 3:** We recommend that the Assistant Secretary of Commerce for Economic Development direct the regional directors at the Atlanta, Austin, and Philadelphia regional offices to (a) monitor application review time goals and (b) document and maintain written notifications and communications in grant files.

01.07.2021	OIG-21-018, Fundamental Security Safeguards Were Not In Place to Adequately Protect the IT Systems Supporting the 2020 Census	5	2	0
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#### Objective(s)

Our audit objective was to determine the effectiveness of security measures for select IT systems that support the 2020 Census.

#### Finding(s)

We found that (1) the Census Bureau's inadequate risk management program left significant risks present in decennial IT systems; (2) the Census Bureau's Decennial security operations center lacked fundamental capabilities during periods of decennial census data collection; (3) the Census Bureau inadequately managed its Active Directory that supports decennial census operations; and (4) the Census Bureau had not fully enforced personal identity verification in accordance with federal and Department requirements.

#### Unimplemented Recommendation(s)

**Recommendation 2:** We recommend that the Director of the U.S. Census Bureau ensure that the Census Bureau's Chief Information Officer reassess all instances of security risks on the decennial IT infrastructure that were accepted without mitigation and ensure correct actions are taken to minimize existing security risks.

**Recommendation 5:** We recommend that the Director of the U.S. Census Bureau ensure that the Census Bureau's Chief Information Officer prioritize the enforcement of PIV and other forms of multi-factor authentication by (a) establishing a process to validate the enforcement of federal PIV requirements for all users accessing Census Bureau resources via government-owned computers and (b) regularly verifying that all privileged access to the Census Bureau network or its resources for contractors working on-site at the Bowie Computer Center or Census Bureau headquarters in Suitland, Maryland, is protected with multi-factor authentication in accordance with federal and Department requirements.

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Unimplemented Recommendations	Potential Monetary Benefits of Unimplemented Recommendations
01.25.2021	OIG-21-020, Decisions on Exclusions from Section 232 Tariffs Were Not Transparent and Based on Incomplete and Inaccurate Information	2	2	0

#### Objective(s)

Our audit objectives were to determine whether (1) BIS and ITA adhere to the processes and procedures in place to review Section 232 product exclusion requests (ERs) and (2) ER decisions are reached in a consistent and transparent manner.

#### Finding(s)

We found that (1) U.S. companies were denied ERs based on incomplete and contradictory information, and (2) the Section 232 ER review process lacked transparency.

#### Unimplemented Recommendation(s)

**Recommendation 1:** We recommend that the Under Secretary of Commerce for Industry and Security reexamine the Section 232 ER review process to ensure decisions are based on complete and accurate information and are transparent. At a minimum: (a) require an objector that indicates it has confidential business information to provide a public summary of it in its objection form; (b) require personnel involved in the decision making process on whether ERs are granted or denied to document the reason for changes made to decision memoranda; and (c) protect spreadsheets that are used to track decision memoranda from unauthorized changes.

**Recommendation 2:** We recommend that the Under Secretary of Commerce for International Trade reexamine the Section 232 ER review process to ensure recommendations are based on complete and accurate information and are transparent. At a minimum: (a) ensure evaluators properly consider an objector's capacity and current plant percentage utilization when determining whether there is a sufficient U.S. supply of a product; (b) ensure subject matter experts are able to obtain the appropriate information needed to make an informed decision regarding the U.S. availability of a product; (c) comply with the requirement that the objecting firm must be able to manufacture the product within 8 weeks to meet the demand identified in the ER; and (d) prepare and maintain complete documentation to support the rationale for determining the U.S. availability of a product.

01.28.2021	OIG-21-021, The U.S. & Foreign Commercial Service 2018 Officer Promotion Process Did Not Comply With Applicable Criteria	6	1	0
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#### Objective(s)

Our evaluation objective was to determine whether ITA's U.S. & Foreign Commercial Service (US&FCS) adhered to applicable laws, regulations, and policies when conducting the 2018 officer promotion process.

#### Finding(s)

We found ITA's 2018 US&FCS officer promotion process did not adhere to certain applicable laws, regulations, and policies. Specifically, we found that (1) ITA did not determine the number of available promotion opportunities before selection boards convened, (2) board rankings and other sensitive information were improperly stored on an unsecured shared network drive, (3) US&FCS incorrectly determined promotion eligibility, and (4) discrepancies were identified in the rankings of one selection board.

#### Unimplemented Recommendation(s)

**Recommendation 1:** We recommend that the Under Secretary for International Trade review the 2018 US&FCS officer promotion process and determine whether any selection boards should reconvene, in order to ensure the process was conducted fairly, with integrity and transparency.

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Unimplemented Recommendations	Potential Monetary Benefits of Unimplemented Recommendations
05.03.2021	<b>OIG-21-024, Audit of National Institute of Standards and Technology Working Capital Fund For Fiscal Year Ended September 30, 2019</b>	5	5	0

**Objective(s)**

OG&C—an independent public accounting firm—performed this audit to determine whether budgetary controls over the WCF were adequate. Specifically, the audit focused on determining whether the WCF was (1) recovering the full cost of reimbursable services; (2) appropriately accounting for advances and carryover balances; and (3) maintaining a reasonable WCF balance, in accordance with applicable laws, regulations, and policies.

**Finding(s)**

OG&C found that (1) internal control procedures that ensure the timely closing of expired reimbursable agreement orders needed improvement, (2) requirements of the Economy Act of 1932, as amended, (31 U.S.C. § 1535) were not always being followed, and (3) the system of internal controls for monitoring advances and other funding sources needed improvement.

**Unimplemented Recommendation(s)**

**Recommendation 1:** OG&C recommends that NIST revise and finalize the Management Report on Expired Agreements Procedure. The revised procedure should specify how often the Management Report on Expired Agreements should be created by the Reimbursable Group (e.g., quarterly) and submitted to the Organizational Unit for review, evaluation and approval. Designate a specific period of time for the resolution of undelivered orders and unmatched costs.

**Recommendation 2:** OG&C recommends that NIST revise the Revenue Cycle Memo to concisely document the current process for the close out of Expired Reimbursable Agreement Orders.

**Recommendation 3:** OG&C recommends that NIST improve monitoring procedures, as needed, to ensure expiring Agreements and Orders whose transfer authority is the Economy Act are clearly identified and monitored.

**Recommendation 4:** OG&C recommends that NIST reevaluate procedures that document the process NIST uses to timely refund unused advances transferred under the authority of the Economy Act. Consider developing a process to inform the requesting agency that the period of availability has expired on an agreement or order whose transfer authority is the Economy Act.

**Recommendation 5:** OG&C recommends that NIST develop and document for Fund Code 98 formal policies and procedures that describe roles and responsibilities by component for the process of tracking and billing costs, recording advances, the carryover process and tracking and monitoring the period of performance on an order when applicable.

05.10.2021	<b>OIG-21-025, The PTAB Faces Operational, Information Technology, and Data Risks</b>	4	3	0
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**Objective(s)**

MITRE—an independent firm—performed this evaluation to (1) assess PTAB's processes; (2) identify risk areas within PTAB; and (3) identify any internal and external challenges PTAB faces, and the significance and impacts of these challenges.

**Finding(s)**

MITRE found that (1) PTAB End-to-End IT system does not fully meet the users' needs; (2) PTAB lacks effective data management; (3) the Arthrex decision threatens retention and recruitment; and (4) PTAB lacks sustainable staffing projection capabilities.

**Unimplemented Recommendation(s)**

**Recommendation 1:** MITRE recommends that the Undersecretary of Commerce and Director of the United States Patent and Trademark Office direct the PTAB Chief Judge and the Chief Information Officer to appoint and empower a PTAB End-to-End/PTAB Center product owner who will be involved in every stage of planning, development, and testing of the system.

**Recommendation 2:** MITRE recommends that the Undersecretary of Commerce and Director of the United States Patent and Trademark Office direct the PTAB Chief Judge to determine the viability of implementing a comprehensive data quality and governance program following best practices for data governance.

**Recommendation 4:** MITRE recommends that the Undersecretary of Commerce and Director of the United States Patent and Trademark Office direct the PTAB Chief Judge and the Chief Information Officer to assess the affordability of procuring or developing a more sustainable and scalable predictive case management system to project staffing needs.

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Unimplemented Recommendations	Potential Monetary Benefits of Unimplemented Recommendations
05.25.2021	OIG-21-027, OMAO Must Define and Implement a Disciplined Requirements Management Process to Ensure Future Acquisitions Meet User Needs	7	7	0

#### Objective(s)

MITRE—an independent firm—performed this evaluation to determine the extent to which NOAA OMAO's acquisition fleet lifecycle processes were followed throughout the development, operation, maintenance, and sustainment of the program to meet mission requirements, with a focus on OMAO's requirements management processes.

#### Finding(s)

MITRE found that (1) NOAA and OMAO lack current long-range strategies and well-defined standards and processes for managing ship fleet requirements, (2) requirements allocation is not well defined or organized and there is no formal process for requirements traceability, and (3) OMAO's current requirements validation process is not adequate for new, changing, and emerging requirements.

#### Unimplemented Recommendation(s)

**Recommendation 1:** MITRE recommends that NOAA's Deputy Under Secretary for Operations ensure OMAO develops and regularly updates a long-range vessel acquisition plan that lays out the dependencies between fleet objectives, funding, inventory, technology, and sustainment costs, among others, and supports program milestone requirements.

**Recommendation 2:** MITRE recommends that NOAA's Deputy Under Secretary for Operations ensure OMAO establishes a requirements management and change control process to ensure guidance is consistent, repeatable, regularly updated, and baselined. Ideally, this would be developed at the NOAA level and disseminated to NOAA program managers and appropriate line office representatives.

**Recommendation 3:** MITRE recommends that NOAA's Deputy Under Secretary for Operations ensure OMAO develops and implements a systems engineering policy that integrates systems engineering principles into program management processes across the entire acquisition lifecycle.

**Recommendation 4:** MITRE recommends that NOAA's Deputy Under Secretary for Operations ensure OMAO incorporates guidance on the use of interagency agreements in acquisition policies, with an emphasis on tailoring documentation to minimize duplication while meeting agency requirements.

**Recommendation 5:** MITRE recommends that NOAA's Deputy Under Secretary for Operations ensure OMAO develops a requirements management guide and traceability process that follows the *Scalable Acquisition Project Management Guidebook* and system engineering standards (e.g., International Council on Systems Engineering).

**Recommendation 6:** MITRE recommends that NOAA's Deputy Under Secretary for Operations ensure OMAO leverages mission requirements and at-sea-data collection requirements to provide OMAO with verifiable means of capturing the annual mission performance.

**Recommendation 7:** MITRE recommends that NOAA's Deputy Under Secretary for Operations ensure OMAO documents and implements a disciplined approach to validating requirements through increased line office communication.

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Unimplemented Recommendations	Potential Monetary Benefits of Unimplemented Recommendations
07.06.2021	<b>OIG-21-030, USPTO Has Opportunities to Improve Its Internal Controls and Oversight Related to PTA and PTE Calculations</b>	6	6	0

#### Objective(s)

MITRE—an independent firm—performed this evaluation to determine whether USPTO (1) calculates and awards PTA and PTE in compliance with relevant statutes, regulations, and case law; (2) has adequate internal controls to ensure the proper calculation and award of PTA and PTE; and (3) uses valid and reliable data to calculate PTA and PTE.

#### Finding(s)

MITRE found that (1) USPTO uses valid and reliable data to calculate PTA, but manual data entry may introduce errors; (2) USPTO calculates PTA and PTE in compliance with statutes, regulations, and case law; and (3) USPTO has adequate internal controls to ensure proper calculation of PTA and PTE.

#### Unimplemented Recommendation(s)

**Recommendation 1:** MITRE recommends that the Undersecretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Commissioner for Patents to (1) mandate the use of the “safe harbor” form to claim the exception, and (2) ensure the inclusion of clear category and description definitions for applicants while keeping their focus on the task at hand (i.e., the document submission form).

**Recommendation 2:** MITRE recommends that the Undersecretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct OPET, OPLA, and OCIO to implement, and keep up-to-date, a comprehensive set of requirements and specifications for the PTA calculator software to ensure continued compliance with current and emerging legislation and case law.

**Recommendation 3:** MITRE recommends that the Undersecretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct OPLA to coordinate with the U.S. Food and Drug Administration and the U.S. Department of Agriculture to determine if electronic filing of PTE applications would be acceptable as a permanent practice after the current public health emergency has passed.

**Recommendation 4:** MITRE recommends that the Undersecretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Office of Patent Examination Support Services and the OCIO to: (1) determine the feasibility of implementing a workflow process or tool (similar to the examiner “docket” system) for Legal Instruments Examiner managers; and (2) add clarifying language to the document description codes in the Patent Application Locating and Monitoring system to mitigate the risk of miscoded documents.

**Recommendation 5:** MITRE recommends that the Undersecretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Commissioner for Patents to implement a means to identify and remedy the types of events that typically require a manual review (e.g., Information Disclosure Statements) as they occur.

**Recommendation 6:** MITRE recommends that the Undersecretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct OPET to implement a pilot program to perform periodic, OPET-initiated, reconsideration-like audits on a random sampling of PTA calculations.

## TABLE 7-B. UNRESOLVED FY 2021 RECOMMENDATIONS FROM AUDIT, EVALUATION, AND INSPECTION REPORTS

Table 7-b includes audit, evaluation, and inspection reports with unresolved recommendations (i.e., OIG has not yet approved auditees' action plans). Either OIG is reviewing an action plan submitted or the action plan is not due until after September 30, 2021.

The two reports listed have a total of 16 unresolved recommendations.

Summaries of these reports appear in pages 9 and 22–23.

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Reason	Potential Monetary Benefits of Unresolved Recommendations
08.11.2021	<b>OIG-21-033, USPTO Should Improve Controls over Examination of Trademark Filings to Enhance the Integrity of the Trademark Register</b>	7	<b>Action Plan Due 10.12.2021</b>	0

### Unresolved Recommendation(s)

**Recommendation 1:** We recommend that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Commissioner for Trademarks to develop controls and/or tools to detect post office boxes, post offices, commercial mail receiving agencies, registered agents, and other unacceptable domicile addresses in trademark applications and other trademark filings.

**Recommendation 2:** We recommend that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Commissioner for Trademarks to develop standards and procedures to (1) identify and investigate U.S.-licensed attorneys who are properly listed as the attorney of record on high numbers of fraudulent or inaccurate trademark applications and (2) address the attorneys' behavior by providing guidance, taking disciplinary action, or taking other actions as appropriate.

**Recommendation 3:** We recommend that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Commissioner for Trademarks to revise *Examination Guide 3-19*, or other procedures as appropriate, to clarify (a) expectations for the extent of examining attorneys' use of third-party information sources when examining specimens, (b) steps for assessing webpage specimens (to include an overall assessment of a website's authenticity), and (c) guidance for identifying mocked-up labels and tags in specimen photos.

**Recommendation 4:** We recommend that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Commissioner for Trademarks to develop controls to ensure consistency and coordination among examining attorneys for the examination of multiple trademark applications from a single applicant.

**Recommendation 5:** We recommend that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Commissioner for Trademarks to develop specific guidance for examining attorneys' use of Trademark Manual of Examining Procedure Section 904.01(a).

**Recommendation 6:** We recommend that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Commissioner for Trademarks to create a risk framework to address fraudulent or inaccurate trademark filings, to include a risk profile, goals, and targets; update the risk framework on a regular basis; and update the Special Task Force charter to align with the risk framework.

**Recommendation 7:** We recommend that the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office direct the Commissioner for Trademarks to develop procedures to aggregate data from managing attorneys' reviews of examining attorneys' work, and use this data to monitor and assess the effectiveness of efforts to improve the accuracy of the trademark register.

Date Report Issued	OIG Report No. and Title	Total Recommendations Made	Reason	Potential Monetary Benefits of Unresolved Recommendations
08.16.2021	<b>OIG-21-034, The U.S. Census Bureau's Mishandling of a January 2020 Cybersecurity Incident Demonstrated Opportunities for Improvement</b>	9	Action Plan Due 10.22.2021	0

#### Unresolved Recommendation(s)

**Recommendation 1:** We recommend that the Director of the U.S. Census Bureau ensure that the Census Bureau's Chief Information Officer implements procedures to promptly notify relevant system personnel when critical vulnerabilities are publicly released.

**Recommendation 2:** We recommend that the Director of the U.S. Census Bureau ensure that the Census Bureau's Chief Information Officer frequently reviews and updates vulnerability scanning lists to ensure all network-addressable IT assets are identified for vulnerability scanning, and documents all exceptions as part of this process.

**Recommendation 3:** We recommend that the Director of the U.S. Census Bureau ensure that the Census Bureau's Chief Information Officer ensures all network-addressable IT assets are scanned using credentials when feasible according to Census Bureau-determined frequencies, but no less than U.S. Department of Homeland Security's *Continuous Diagnostics and Mitigation Program* guidance.

**Recommendation 4:** We recommend that the Director of the U.S. Census Bureau ensure that the Census Bureau's Chief Information Officer reviews the automated alert capabilities of the Census Bureau's security information and event management tool to ensure a similar attack can be identified in the future.

**Recommendation 5:** We recommend that the Director of the U.S. Census Bureau ensure that the Census Bureau's Chief Information Officer ensures Census Bureau incident responders comply with Departmental and Census Bureau requirements to report confirmed computer security incidents to the Enterprise Security Operations Center within 1 hour.

**Recommendation 6:** We recommend that the Deputy Secretary of the Department of Commerce ensure that the Department's Chief Information Officer develops Enterprise Security Operations Center procedures for the handling of alerts from outside entities (e.g., U.S. Department of Homeland Security Cybersecurity and Infrastructure Security Agency) to ensure information is conveyed to Department operating units in a timely manner.

**Recommendation 7:** We recommend that the Director of the U.S. Census Bureau ensure that the Census Bureau's Chief Information Officer incorporates periodic reviews of the Census Bureau's system log aggregation configurations to ensure all network-addressable IT assets are correctly configured.

**Recommendation 8:** We recommend that the Director of the U.S. Census Bureau ensure that the Census Bureau's Chief Information Officer updates Census Bureau incident response policies to include a specific timeframe prescribing when to conduct a review of lessons learned.

**Recommendation 9:** We recommend that the Director of the U.S. Census Bureau ensure that the Census Bureau's Chief Information Officer establishes plans with milestones to prioritize the decommissioning of end-of-life products.

**TABLE 7-C. REPORTS FOR WHICH MANAGEMENT TOOK LONGER THAN  
60 DAYS TO RESPOND**

There were 0 instances before and during this semiannual period of an operating unit within the Department taking longer than 60 days to provide an establishment comment that addressed the recommendations of a report.

**TABLE 8. REPORTS ON INVESTIGATIONS CONCERNING SENIOR GOVERNMENT EMPLOYEES**

OIG Case No.	Narrative Description of Investigations Involving Senior Government Employees Where Allegations of Misconduct Were Substantiated <sup>a</sup>
19-0728 <sup>b</sup>	<p>On July 6, 2021, our office closed an investigation into alleged false statements by the former Secretary of Commerce, Wilbur Ross. We found that former Secretary Ross misrepresented the full rationale for the Department's attempted reinstatement of the citizenship question on the 2020 Decennial Census during his March 20, 2018, testimony before the House Committee on Appropriations and again in his March 22, 2018, testimony before the House Committee on Ways and Means. During Congressional testimony, former Secretary Ross stated his decision to reinstate the citizenship question was based "solely" on a DOJ request, which evidence showed was false. Additionally, our office was asked by Congress to explore the role of a political strategist in attempts to reinstate the citizenship question. We unsubstantiated the allegation of a substantive role played by this individual. The case was closed without further action.</p> <p>This investigation was briefed to the Public Integrity Section of the DOJ's Criminal Division in October 2019 and again in January 2020, at which time the DOJ declined to pursue this case for prosecution.</p>

<sup>a</sup> In keeping with section 5(e)(1)(C) of the IG Act, this chart reports only closed cases.

<sup>b</sup> Though this report was not a public report, it was subsequently made public, with redactions, through the Freedom of Information Act process and is posted in OIG's FOIA Electronic Reading Room. Accordingly, this summary is included in table 8 and not table 10-b of this *Semiannual Report to Congress*.

**TABLE 9. DESCRIPTIONS OF INSTANCES OF WHISTLEBLOWER RETALIATION**

There were no instances of confirmed whistleblower retaliation during this semiannual period.

**TABLE 10. DESCRIPTION OF CLOSED AND NON-PUBLIC INSPECTIONS,  
EVALUATIONS, AUDITS, AND CERTAIN INVESTIGATIONS**

OIG is required to describe both (a) any inspection, evaluation, and audit conducted that is closed and not disclosed to the public and (b) any investigation conducted involving a senior government employee that is closed and not disclosed to the public (see tables 10-a and 10-b, respectively).

**TABLE 10-A. DESCRIPTION OF CLOSED AND NON-PUBLIC INSPECTIONS, EVALUATIONS, AND AUDITS**

During this semiannual period, we issued two products that were not disclosed to the public.

Date Product Issued	Title	Narrative Description
<b>06.22.2021</b>	<i>Fiscal Year 2021 Cybersecurity Information Sharing Act Evaluation</i>	<p>As required by CISA, we initiated an evaluation of the sharing capabilities used by the Department. We provided responses to the inspectors' general jointly-developed questions on actions taken by the Department to carry out the guidance contained in CISA. These responses will assist in creating an interagency report on the actions of the executive branch of the federal government to carry out this law.</p> <p>Our objective of this evaluation was to provide input to a joint report on actions taken during calendar years 2019 and 2020 to carry out CISA's requirements. Although the majority of the requirements written in the law are not binding on the Department, sections 103 and 105 require the Department to follow the procedures and guidance authored by the U.S. Department of Homeland Security, DOJ, U.S. Department of Defense, and the Office of the Director of National Intelligence. Two of the guidance documents (i.e., (1) <i>Privacy and Civil Liberties Final Guidelines: Cybersecurity Information Sharing Act of 2015 and Guidance to Assist Non-Federal Entities to Share Cyber Threat Indicators</i> and (2) <i>Defensive Measures with Federal Entities under the Cybersecurity Information Sharing Act of 2015</i>) have been updated since their initial publication.</p> <p>We observed and identified several barriers related to information sharing and noted that these barriers cannot be alleviated by the Department. For this reason, we proposed suggested changes for the joint report.</p>
<b>07.26.2021</b>	<i>Audit of FirstNet Authority's Engagement with the Public Safety Community</i>	<p>On July 26, 2021, we issued a suspension memorandum (dated July 21, 2021) to FirstNet Authority regarding our audit of FirstNet Authority's engagement with the public safety community. Our objective for this audit—initiated February 4, 2021—was to determine whether FirstNet Authority was effectively engaging with the public safety community and addressing its concerns.</p> <p>In this memorandum, we explained that our office had decided to suspend the related audit work as we refocused our resources on other priorities that had developed since this audit was initiated.</p>

**TABLE 10-B. DESCRIPTION OF CERTAIN CLOSED AND NON-PUBLIC INVESTIGATIONS**

During this semiannual period, we issued six products that were closed and not disclosed to the public.

OIG Case No.	<b>Narrative Description for Closed Cases of Investigations Involving Senior Government Employees Not Disclosed to Public</b>
<b>21-0346</b>	On July 22, 2021, our office closed an investigation into allegations provided by a confidential complainant regarding possible threats made to Minority Business Development Agency (MBDA) employees by a senior MBDA employee. Our investigation did not disclose any evidence indicating such threats were made, nor any other evidence of activity violating Department policy.
<b>19-0546</b>	On July 9, 2021, our office closed an investigation into allegations of whistleblower retaliation against an individual for reporting issues of potential fraud and scientific misconduct. The allegations of whistleblower retaliation were not substantiated. While the complainant's reports of potential fraud constituted protected disclosures and it is undisputed the NIST supervisor had knowledge of the disclosures, the agency demonstrated clear and convincing evidence they would have taken the same personnel actions against the complainant absent their protected disclosure.
<b>20-0722</b>	On July 2, 2021, our office closed an investigation into alleged whistleblower reprisal related to reporting of potential overspending of government funds associated with a USPTO contract. The allegations were not substantiated and the investigation was closed without further action.
<b>20-0300</b>	On June 11, 2021, our office closed an investigation regarding multiple allegations from an anonymous complainant that a NOAA senior government employee inappropriately used NOAA funding for personal gain. Additionally, the complainant alleged the NOAA senior government employee transferred approximately \$100,000 to a third party to pay for travel and a meeting in a foreign country that was only attended by three NOAA employees. The allegations were not substantiated and the investigation was closed without further action.
<b>20-0096</b>	On June 10, 2021, our office closed an investigation regarding multiple allegations of misconduct by two ITA employees working at an overseas U.S. embassy and consulate. The allegations included (1) abuse of official position or authority, (2) misuse of a government-owned vehicle, and (3) waste of government resources. The allegations were not substantiated and the investigation was closed without further action.
<b>19-0729</b>	On May 13, 2021, our office closed an investigation into possible conflict of interest of a Census Bureau employee who was allegedly communicating with a political strategist about the inclusion of a citizenship question on the 2020 Decennial Census. The investigation did not substantiate the allegation, but substantiated that the employee used their personal email account for official Census Bureau business. The matter was referred to Census Bureau and closed without any further action.

# REPORTING REQUIREMENTS

The IG Act specifies reporting requirements for semiannual reports. The requirements are listed below and indexed to the applicable pages of this report.

<b>SECTION</b>	<b>TOPIC</b>	<b>PAGE(S)</b>
4(a)(2)	Review of Legislation and Regulations	59
5(a)(1)	Significant Problems, Abuses, and Deficiencies	2–23
5(a)(2)	Significant Recommendations for Corrective Action	2–23
5(a)(3)	Prior Significant Recommendations Unimplemented	59
5(a)(4)	Matters Referred to Prosecutorial Authorities	29
5(a)(5) and 6(c)(2)	Information or Assistance Refused	59
5(a)(6)	Listing of Audit, Inspection, and Evaluation Reports	33–35
5(a)(7)	Summary of Significant Reports	2–23
5(a)(8)	Reports with Questioned Costs	32
5(a)(9)	Reports with Funds to Be Put to Better Use	32
5(a)(10)	Prior Reports with Unimplemented and/or Unresolved Recommendations	36–51, 59
5(a)(11)	Significant Revised Management Decisions	60
5(a)(12)	Significant Management Decisions with Which OIG Disagreed	60
5(a)(13)	Department Compliance with the Federal Financial Management Improvement Act	60
5(a)(14) and 5(a)(15)	Results of Peer Review	60
5(a)(16)	Peer Reviews Conducted by OIG	60
5(a)(17)	Investigative Reports Issued and Referrals for Criminal Prosecution and Indictments	29
5(a)(18)	Description of Metrics Used for Determining the Data in 5(a)(17)	61
5(a)(19)	Reports on Investigations Concerning Senior Government Employees	53
5(a)(20)	Description of Whistleblower Retaliation Instances	54
5(a)(21)	Description of Establishment Interference Attempts	N/A
5(a)(22)	Description of Closed and Non-Public Inspections, Evaluations, Audits, and Certain Investigations	55–57

The following section includes information required under the IG Act that is not otherwise addressed in this report, along with supplemental information on select reporting topics:

## 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 concerning the impact of such legislation or regulations on (1) the economy and efficiency in the administration of programs and operations administered or financed by the agency or (2) the prevention and detection of fraud and abuse in those programs and operations. Some of OIG's audits examine compliance with existing laws, regulations, and other legal requirements. OIG's reports of such audits describe findings and include recommendations on any action necessary to address such findings. OIG is also a participant in CIGIE and its regular review of legislative and regulatory items that affect the inspector general community at large and individual departments. Further, during this reporting period, our office reviewed the following—including, but not limited to—H.R. 2662, IG Independence and Empowerment Act, H.R. 2681, Integrity Committee Transparency Act of 2021, and S. 1260, The United States Innovation and Competition Act of 2021.

## 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. Refer to table 7-a, *Unimplemented Recommendations from Audit, Evaluation, and Inspection Reports*, which includes significant recommendations for reports OIG-20-006 and OIG-20-028 for which corrective action had not been completed. In addition, section 5(b) requires that the Secretary transmit to Congress statistical tables showing the number and value of audit reports for which no final action has been taken, plus an explanation of why recommended action has not occurred, except when the management decision was made within the preceding year.

## SECTIONS 5(a)(5) AND 6(c)(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 reports to the Secretary during this semiannual period.

## SECTION 5(a)(10): PRIOR REPORTS WITH UNIMPLEMENTED AND/OR UNRESOLVED RECOMMENDATIONS

This section requires (1) a summary of each audit, inspection, and evaluation report issued before the beginning of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report); (2) an explanation of why a decision has not been made; and (3) a statement concerning the desired timetable for delivering a decision on each such report. There are no audit, inspection, and/or evaluation reports that were issued before this reporting period for which no management decision has been made.

This section also requires a summary of each audit, inspection, and evaluation report issued before the beginning of the reporting period (1) for which there was no comment returned within 60 days of providing the report to the establishment and (2) for which there are any outstanding unimplemented OIG recommendations, including the aggregate potential cost savings of such recommendations. For criteria (1), see table 7-c, *Reports for Which Management Took Longer Than 60 Days to Respond*, for summaries of any applicable instances before and during this semiannual period of an operating unit within the Department taking longer than 60 days to provide an establishment comment that addressed the recommendations of a report (as required by DAO 213-5). For criteria (2), see table 7-a, *Unimplemented Recommendations from Audit, Evaluation, and Inspection Reports*, for summaries of unimplemented OIG recommendations, which include aggregate potential cost savings of such recommendations.

## **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. DAO 213-5, *Audit and Evaluation Resolution and Follow-up*, provides procedures for revising a management decision. During this semiannual period, there were no significant revised management decisions.

## **SECTION 5(a)(12): SIGNIFICANT MANAGEMENT DECISIONS WITH WHICH OIG DISAGREED**

This section requires information concerning any significant management decision with which the IG disagrees. DAO 213-5 provides procedures for elevating unresolved audit recommendations to higher levels of Department and OIG management, including their consideration by an agency resolution council. During this period, no audit issues were referred.

## **SECTION 5(a)(13): DEPARTMENT COMPLIANCE WITH THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT**

The Department is in compliance with the Federal Financial Management Improvement Act.

## **SECTION 5(a)(14) AND 5(a)(15): RESULTS OF PEER REVIEW**

On March 23, 2021, our Office of Audit and Evaluation (OAE) received official notification of its peer review of its audit operations by the OIG for the U.S. Small Business Administration (SBA). SBA OIG's System Review Report of our audit operations is available on our website. We received a *pass* rating, the highest available rating.

On May 30, 2019, our OAE received official notification of its peer review of its inspection and evaluation operations by the OIGs of the General Services Administration (GSA) and the Federal Deposit Insurance Corporation (FDIC), conducted in accordance with CIGIE Inspection and Evaluation Committee guidance. GSA-FDIC OIG assessed the extent to which our office met seven required CIGIE *Quality Standards for Inspection and Evaluation* standards. GSA-FDIC OIG determined that our policies and procedures generally met the seven standards. We received one recommendation for when we review and revise our *Audit Directives 2014*: the revision should include policies and procedures for safeguarding confidential information and ensuring that inspection and evaluation work is CIGIE *Blue Book* compliant prior to the reporting stage. We have completed our updates to the OAE policies, including the implementation of GSA-FDIC OIG's recommendation for process and policy improvements.

On September 20, 2017, our Office of Investigations received official notification that the system of internal safeguards and management procedures for OIG's investigative function was in compliance with the quality standards established by CIGIE and the applicable Attorney General Guidelines. The Peace Corps OIG, with assistance by the computer forensic staff from National Aeronautics and Space Administration OIG, conducted the peer review. There are no outstanding recommendations as a result of this peer review.

## **SECTION 5(a)(16): PEER REVIEWS CONDUCTED BY OIG**

On September 20, 2021, we issued our System Review Report of the U.S. Railroad Retirement Board (RRB) OIG audit organization. In our opinion, the system of quality control for the audit organization of RRB OIG in effect for the year ended March 31, 2021, has been suitably designed and complied with to provide reasonable assurance of performing and reporting in conformity with applicable professional standards and applicable legal and regulatory requirements in all material respects. RRB OIG received a *pass* rating, the highest available rating. There are no outstanding recommendations as a result of our peer review of RRB OIG.

**SECTION 5(a)(18): DESCRIPTION OF METRICS USED FOR DETERMINING THE DATA IN 5(a)(17)**

The metrics used for the statistical data referenced in table I, *Office of Investigations Statistical Highlights for This Period*, include the following: ensure data input is completed accurately; obtain data extraction via reports generated in our case management system; and complete quality assurance with supporting documentation in the case files and discussions with individual investigative personnel.

# ACRONYMS AND ABBREVIATIONS

<b>AFR</b>	<i>Agency Financial Report</i>	<b>EWS</b>	Enterprise Web Solutions
<b>BAS</b>	Business Applications Solution	<b>FBI</b>	Federal Bureau of Investigation
<b>BCD-COG</b>	Berkeley-Charleston-Dorchester Council of Governments	<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>BIS</b>	Bureau of Industry and Security	<b>FirstNet Authority</b>	First Responder Network Authority
<b>BMC</b>	Booth Management Consulting, LLC	<b>FY</b>	fiscal year
<b>C.F.R.</b>	Code of Federal Regulations	<b>GAGAS</b>	<i>Generally Accepted Government Auditing Standards</i>
<b>CARES Act</b>	Coronavirus Aid, Relief, and Economic Security Act	<b>GOES</b>	Geostationary Operational Environmental Satellite
<b>CIGIE</b>	Council of the Inspectors General on Integrity and Efficiency	<b>GSA</b>	U.S. General Services Administration
<b>CISA</b>	Cybersecurity Information Sharing Act	<b>IG Act</b>	Inspector General Act of 1978, as amended
<b>COVID-19</b>	coronavirus disease 2019	<b>IT</b>	information technology
<b>CTIP</b>	Commerce Threat Intelligence Portal	<b>ITA</b>	International Trade Administration
<b>DAO</b>	Department Administrative Order	<b>JPSS</b>	Joint Polar Satellite System
<b>Department</b>	U.S. Department of Commerce	<b>MBDA</b>	Minority Business Development Agency
<b>DOJ</b>	U.S. Department of Justice	<b>MITRE</b>	The MITRE Corporation
<b>EDA</b>	U.S. Economic Development Administration	<b>NIST</b>	National Institute of Standards and Technology
<b>ER</b>	exclusion request	<b>NOAA</b>	National Oceanic and Atmospheric Administration
		<b>NOAA Fisheries</b>	NOAA's National Marine Fisheries Service
		<b>NPSBN</b>	Nationwide Public Safety Broadband Network

<b>NRFU</b>	nonresponse followup	<b>USPTO</b>	United States Patent and Trademark Office
<b>NTIA</b>	National Telecommunications and Information Administration	<b>WCF</b>	working capital fund
<b>OAE</b>	Office of Audit and Evaluation		
<b>OCIO</b>	Office of the Chief Information Officer		
<b>OG&amp;C</b>	Ollie Greene & Company, CPAs, LLC		
<b>OIG</b>	Office of Inspector General		
<b>OMAO</b>	Office of Marine and Aviation Operations		
<b>OMB</b>	Office of Management and Budget		
<b>OPET</b>	Office of Petitions		
<b>OPLA</b>	Office of Patent Legal Administration		
<b>PIIA</b>	Payment Integrity Information Act of 2019		
<b>PIV</b>	personal identity verification		
<b>PTA</b>	Patent Term Adjustment		
<b>PTAB</b>	Patent Trial and Appeal Board		
<b>PTE</b>	Patent Term Extension		
<b>RRB</b>	U.S. Railroad Retirement Board		
<b>SBA</b>	U.S. Small Business Administration		
<b>SDI-NG</b>	Software Development and Integration—Next Generation		
<b>U.S.</b>	United States		
<b>U.S.C.</b>	United States Code		
<b>Uniform Guidance</b>	<i>Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards</i>		
<b>US&amp;FCS</b>	U.S. & Foreign Commercial Service		

# REPORT

# FRAUD & WASTE

# ABUSE



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To improve the efficiency and effectiveness of programs and operations of the U.S. Department of Commerce through independent and objective oversight.