

U.S. DEPARTMENT OF COMMERCE
Office of Inspector General



TOP TEN MANAGEMENT CHALLENGES
March 2005



MAJOR CHALLENGES FOR THE DEPARTMENT

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

TOP 10 MANAGEMENT CHALLENGES

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

CHALLENGE 1

STRENGTHEN DEPARTMENT-WIDE INFORMATION SECURITY

In FY 2005, the Department will spend some \$1.4 billion of its \$5.7 billion budget on information technologies and related security. Systems supporting NOAA's ocean and environmental missions, the Census Bureau's statistical operations, and BIS' export control activities are just a few of Commerce's many critical information assets that provide data and operations essential to the nation's well-being. Despite improvements in cyber security over the years, Commerce continues to face significant challenges in adequately protecting its systems and data from loss or compromise.

For the past 4 years we have advised the Department to report information security as a material weakness, based on the findings of our annual review mandated by the Federal Information Security Management Act of 2002 (FISMA).¹ The Department has reported it as such in its *Performance & Accountability Report* for all 4 years.

Our most recent FISMA evaluation continued to identify problems with certification and accreditation (C&A) in many of the Department's operating units, particularly in their conduct of such critical C&A activities as assessing risk, accurately identifying system components, and testing security controls. When implemented properly, certification is a powerful tool for helping ensure that appropriate security controls are in place, functioning properly, and producing the desired outcome. Through accreditation, agency officials formally accept responsibility for the security of the systems over which they have management, operational, and budget authority and for any adverse impacts to the Department should a breach in security occur.

In February 2005, the Department's Chief Information Officer issued a plan to address the material weakness. The plan's goal is to ensure that sufficient progress is made to eliminate the basis for the IT security material weakness by the end of FY 2005. It focuses on putting in place repeatable processes that produce acceptable quality C&A packages in all operating units and completing packages for all national-critical systems and some mission-critical systems by fiscal year-end. It includes schedules that were developed in collaboration with the operating units and plans of action and milestones to track progress. It also provides for increased oversight by the Department and bureau CIOs. The Department CIO believes the plan establishes achievable schedules and an approach that will yield acceptable quality C&A packages. We have not yet had the opportunity to review the schedules.

¹ FISMA provides a comprehensive framework for ensuring that information resources supporting federal operations and assets have effective security controls. The act requires OIGs to perform independent security evaluations of their agencies annually.

Department-wide Contract Security Deficiencies Remain

Last fiscal year, to help Commerce secure information and information systems handled by contractors, we recommended that it take steps to incorporate its two new security clauses² into service contracts and provide appropriate contract oversight. (See September 2004 *Semiannual Report*, page 43.) The first clause contains requirements for protecting Commerce information resources used by contractors, as well as contractor-owned systems that interconnect with a Department network or store or process Commerce data. The second clause requires appropriate background investigations and IT security awareness training for contractor personnel who access Commerce systems.

In response to our recommendations, the Department's acquisition management and CIO offices reviewed a sample of IT service contracts and presented their results in the annual *Department of Commerce IT Contract Compliance Review Report*.³ The review looked at 80 of the Department's nearly 2,600 IT service contracts, found that only 29 percent of the sample contained both security clauses, and noted considerable confusion among contracting officials regarding their applicability. These findings point to the need for further efforts to clarify the clauses and ensure their appropriate inclusion in contracts. In addition, it is not clear whether the Department has identified all contractor operations and facilities subject to IT security safeguards (i.e., all those connected to Commerce networks or that process or store sensitive Commerce information). As part of our FISMA work this fiscal year, we are reviewing IT service contracts for this purpose as well as to determine whether such contracts incorporate and appropriately implement the security clauses.

² Issued in November 2003 by the Office of Acquisition Management.

³ *Department of Commerce IT Contract Compliance Review Report*, prepared for U.S. Department of Commerce, Office of the Chief Information Officer, Office of IT Security, Infrastructure and Technology, by GNS, Inc., Germantown, MD, September 30, 2004, ITCR-2004-004-001.

CHALLENGE 2

EFFECTIVELY MANAGE DEPARTMENTAL AND BUREAU ACQUISITION PROCESSES



The Department spends more than \$1.75 billion annually—nearly 30 percent of its budget—procuring goods and services. Yet for Commerce and most other federal agencies, effective acquisition management has been a long-term problem, and both OMB and the Government Accountability Office fault agencies for inadequate oversight of procurements.

Commerce has acknowledged the need for better acquisition planning and management, and has taken steps to improve. These include increasing training for contracting officer representatives and other contracting professionals, and creating an intradepartmental task force to develop guidance for standardizing the interagency agreement process Department-wide. But our reviews continue to identify weaknesses stemming from inadequate oversight of one or more aspects of the acquisition process—solicitation; development of clear, consistent contract specifications; open and rigorous

competition to secure best value; and contract management. For example, our recent audits of three task orders for \$17.6 million in IT services issued under a Census Bureau contract questioned a total of \$8.5 million in unsupported or unapproved costs.

With numerous high-cost acquisitions planned for the coming years, the Department must continue to give careful attention to its acquisition policies and procedures to protect the investment of public dollars and ensure best value. NOAA's planned acquisition of geostationary operational environmental satellites (GOES-R project) is one such procurement that will bear close watching. This project will be the largest single acquisition contract NOAA has ever awarded—with total cost expected to exceed \$4 billion.

CHALLENGE 3

ENHANCE THE U.S. PATENT AND TRADEMARK OFFICE'S ABILITY TO MANAGE AND OPERATE ITS OWN PROCESSES

USPTO continues its transformation to a performance-based organization that, like a business, has the flexibility to adapt to changing market forces and meet the needs of consumers. Controlling its budget, procurements, and personnel decisions offers the agency opportunities for operational efficiencies and strengths, but brings new management challenges as well.

Our recent work on patent examiner production goals, performance appraisal plans, and awards; USPTO's new headquarters complex; and its Office of Human Resources identified problems that could potentially undercut its efficiency as a performance-based organization. (See September 2004 *Semiannual Report*, pages 38-40.) To improve examiner production, we recommended that USPTO consider revising patent examiner



USPTO's new headquarters in Alexandria, VA.
Source: USPTO.

goals to reflect efficiencies in automated work processes and evaluate its patent examiner award system to determine whether a more effective way of increasing production exists. USPTO concurred with our recommendations and agreed to reassess the current patent examiner goals, performance, performance appraisal plans, and award system.

Our report on the agency's move to its new headquarters recommended that USPTO finalize an occupancy agreement with the General Services Administration and submit the required documentation for additional space to accommodate future staff growth. USPTO's current complement of staff will fill all available space in the new complex.

Finally, our audit of Office of Human Resources activities concluded that USPTO had ignored hiring practices, merit system principles, and sound human resource policies and procedures when recruiting a new personnel director. The agency was generally receptive to our recommendations for improving administration of human resources, but, unfortunately, our ongoing work continues to reveal serious problems in its personnel practices, which must be resolved. USPTO anticipates hiring hundreds of examiners and other staff in the coming fiscal year. It is crucial that its policies and practices for doing so comply with all applicable federal requirements.

We will continue to monitor the agency's handling of critical functions, its success at using its flexibilities as a performance-based organization, and any related impacts on the effectiveness of its operations.

CHALLENGE 4

CONTROL THE COST AND IMPROVE THE ACCURACY OF CENSUS 2010

Commerce is at the midpoint in its decade-long preparations for the 2010 decennial. With estimated costs of more than \$9 billion,⁴ this decennial census is one of the most costly operations—and among the most critical—the Department undertakes.

The Census Bureau's plans and activities for the upcoming decennial remain a major focus of our work, as we monitor its attempts to capitalize on new technologies. Our assessment of the 2004 census test found that handheld computers and related automation are



Enumerators tested the feasibility of using handheld computers to gather census data in the 2004 test. Refinements to the process will be tested in 2006.

Source: U.S. Census Bureau.

⁴ In constant 2000 dollars.

promising replacements for paper-based processes, and that the enumerator workforce was able to use the devices. This was the first of two scheduled site tests of concepts, systems, and procedures being evaluated for the 2010 census. (See September 2004 *Semiannual Report*, page 20.) But we noted problems with data transmissions, technical field support, enumerator training, testing of revised group quarters definitions, and various management and administrative activities. These must be resolved for the bureau to meet accuracy and cost-containment goals.

We have initiated work to assess the bureau's response to our recommendations regarding efforts to improve the master address file.⁵ We are also reviewing the bureau's Field Data Collection Automation (FDCA) program—a massive effort to acquire and manage field automation for the 2008 dress rehearsal and 2010 census. The Census Bureau had intended to develop FDCA in-house with contractor support. But in early 2004, Census determined that it did not have the technical resources to do so while simultaneously supporting the 2004 and 2006 field tests. Consequently, the bureau plans to hire a contractor to develop, test, and deploy technology and provide support services for 12 regional centers and more than 450 local census offices, which at their peak, support more than 500,000 temporary field staff employees.

We will soon begin work on the 2006 census test, which will include follow-up on issues identified in our report on the 2004 test (*Improving Our Measure of America: What the 2004 Census Test Can Teach Us in Planning for the 2010 Decennial Census*, OIG-16949/September 2004).

CHALLENGE 5

MONITOR THE EFFECTIVENESS OF NOAA'S STEWARDSHIP OF OCEAN AND LIVING MARINE RESOURCES

The U.S. Commission on Ocean Policy, in its final report—*An Ocean Blueprint for the 21st Century*—pointed to NOAA's critical role in protecting our nation's ocean and coastal resources. As the lead agency for marine resource protection, NOAA encompasses the single largest number of civilian ocean programs, and the commission report envisioned these responsibilities expanding.

We plan to give close attention to a number of NOAA's broader environmental stewardship responsibilities in the coming years, targeting such high-profile activities as, Coastal Zone Management, the National Estuarine Research Reserve System, National Marine Sanctuary programs, and the Pribilof Islands restoration project. We may also

⁵ U.S. Department of Commerce Office of Inspector General, *A Better Strategy Is Needed for Managing the Nation's Master Address File*, Report Number OSE-12065/September 2000.

focus on NOAA's coral reef, aquaculture, and marine debris responsibilities; expansion of the tsunami detection and warning system; and the proposed Integrated Ocean Observing System.

Our series of reviews of salmon recovery programs continued during this semiannual period with audits of three more programs funded by NOAA's Pacific Coastal Salmon Recovery Fund. As with the audits we detailed in our September 2004 semiannual report (pages 31-32), we questioned significant costs and noted administrative weaknesses in two of the programs we reviewed. We are working with NOAA to resolve any common problems we identify with administration of these grants as our series progresses.

Other key areas we hope to focus on include the effectiveness of specific areas of scientific research and research management at NOAA, including the agency's process for maintaining scientific integrity and quality.



NOAA has been removing thousands of tons of debris, contaminated soil, and inactive landfills from the Pribilof Islands Environmental Restoration Project. The U.S. Fish and Wildlife Service Vessel PENQUIN II, seen here off a cobblestone beach in the Pribilof Islands, supplies everything needed by the Aleuts who live there.

Source: NOAA photo library.

CHALLENGE 6

PROMOTE FAIR COMPETITION IN INTERNATIONAL TRADE

The Department of Commerce, through ITA, is charged with promoting trade, opening overseas markets to American firms, and ensuring compliance with U.S. laws designed to protect U.S. industry from unfair competition from imports. As foreign exporters continue to spawn aggressive strategies targeting lucrative American markets, ITA's mission becomes ever more difficult and the need for a strong response, imperative.

During this semiannual period, we assessed ITA's management of the administrative review program for antidumping⁶ duty orders, a function of the agency's Import Administration (IA). Administrative reviews determine the final duty rates on imports from a specific country that have been found previously to be dumped in U.S. markets. We found, among other things, that the agency needs to strengthen its policies, procedures, and standards for conducting these reviews and improve several administrative practices.

In upcoming reporting periods, we plan to assess the Department's efforts to expand U.S. market opportunities and overcome trade barriers in some of the most difficult and potentially rewarding foreign markets—China, Russia, and perhaps some South American countries. We will continue to monitor the effectiveness of overseas posts and domestic U.S. export assistance centers in helping U.S. companies compete for market share abroad, assess customer satisfaction with ITA products and services, and evaluate ITA's export success reporting—one of its key performance measures. Our inspections of post activities in Turkey, Greece, and India and our reviews of export assistance centers in Chicago, the Pacific Northwest, and Philadelphia identified problems with export success reporting, including inaccurate and overstated U.S. value and unverifiable success stories (see March and September 2004 *Semiannual Reports*, pages 24 and 25, respectively). In response, ITA has taken a number of steps to improve quality controls, oversight, and management accountability for the accuracy and integrity of export success reports. We will continue to monitor these areas, including ITA's financial controls and resource management, and will report on the Department's efforts to resolve issues we identify.

We also intend to build on our survey work at the Import Administration by looking at the verification process for antidumping cases, and to assess ITA's new Manufacturing

⁶ The U.S. antidumping statute is designed to prevent foreign firms from selling a good in the United States at prices below those at which the good is sold in their home market, or, in some limited instances, below the cost of production.

and Services Unit and its efforts to enhance competitiveness of U.S. manufacturers and industry.

CHALLENGE 7

ENHANCE EXPORT CONTROLS FOR DUAL-USE COMMODITIES

Commerce must balance the nation's economic interests in increasing trade with the realities of national security by controlling the export of technology and materials that have both civilian and military applications. The Bureau of Industry and Security (BIS) oversees the federal government's export licensing and enforcement system for these dual-use commodities, and we devote considerable, ongoing attention to its efforts. Rogue countries and terrorist groups pose great threats to U.S. national security and foreign policy goals. A strong, effective export control system is essential to keeping sensitive items and technology from those seeking weapons of mass destruction.

NDAAs Reviews

The National Defense Authorization Act (NDAA) for Fiscal Year 2000, as amended, directed the inspectors general of Commerce, Defense, Energy, and State, in consultation with the directors of Central Intelligence and the Federal Bureau of Investigation, to report to Congress annually (through 2007) on the adequacy of export controls and counterintelligence measures in preventing the acquisition of sensitive U.S. technology and information by countries and entities of concern.

To meet NDAA's FY 2005 requirement, we assessed BIS' licensing process for chemical and biological commodities to determine whether the process is timely, complies with statutory and regulatory requirements, and considers the cumulative effect of prior technology transfers to end users. We also assessed information sharing among the various agencies involved in reviewing licenses, their process for resolving disputes, and BIS' procedures for revising the Commerce Control List.

March 2005 Top 10 Management Challenges

Examples of Dual-Use Technologies

Technologies	Civilian Use	Military Use
Remote sensing (Optical Radar)	Earth Observation satellites for weather forecasting, mapping, etc.	'Spy' satellites for combat intelligence, arms control verification, etc.
Advanced ballistics and missiles	Space transportation systems (launchers); sounding rockets (for microgravity experiments)	ICBMs (Intercontinental Ballistic Missiles); short range surface-to-surface missiles
Biotechnologies	Aerospace medicine; medical research	Biological weapons
Satellite communications	Telephony, Internet, broadcasting	Military communications

Source: http://www.futuraspace.com/Dual_Use_fact_sheet.htm.

NDAAs for FY 2001 requires the IGs to also report on the status of recommendations made in prior-year reviews. This year’s follow-up covered reviews conducted from 2001 through 2004 (no recommendations remain outstanding from our FY 2000 report). We were pleased to find that Commerce made progress on a number of outstanding issues, but some key recommendations remain unresolved.

With regard to our 2004 NDAAs review, which looked at whether deemed export controls⁷ are effective in preventing the inappropriate transfer of sensitive technologies to foreign nationals in the U.S., we are encouraged by BIS’ bolstered commitment to enhancing its administration and enforcement of these controls. We believe the bureau’s increased attention to the problems we identified—along with greater awareness among industry, academia, and federal research laboratories—will result in greater compliance and reduce opportunities for inappropriate transfer of protected technology and information. (See March 2004 *Semiannual Report*, page 14.)

BIS must remain vigilant in targeting federal licensing and enforcement efforts on those exports that present the greatest proliferation and national security risks and in streamlining or eliminating controls that unnecessarily hamper trade. Legislation to replace the expired Export Administration Act is essential to these efforts and to bolstering BIS’ regulatory authority, stiffening penalties, and demonstrating America’s commitment to a strong, effective system of export controls.

⁷ According to the Export Administration Regulations, any release to a foreign national of technology or software subject to the regulations is “deemed to be an export to the foreign national’s home country.”

CHALLENGE 8

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

Tense international conditions have increased America's need to prepare for physical threats to U.S. government facilities and personnel. For Commerce—with more than 35,000 employees in hundreds of facilities worldwide—the task of safeguarding departmental personnel and property is daunting. After our April 2002 report on the status of Commerce's emergency preparedness and security programs identified significant vulnerabilities, we added this issue to our list of top management challenges.

During this reporting period, we began reviewing the Department's progress in addressing the concerns raised in our 2002 report and examined several key initiatives it has undertaken. Current policy assigns Commerce's Office of Security (OSY) responsibility for overseeing and coordinating emergency preparedness, but leaves primary responsibility for implementing site-specific measures with the bureaus and facility managers. We found that OSY more than tripled the number of risk assessments it conducted in fiscal year 2004.

Our preliminary findings also indicate that the Department has improved building security, access controls, and the response capabilities of its security guard forces. But we have noted inadequate departmental guidance on implementing effective preparedness programs and insufficient oversight of bureau compliance with established policies and procedures, which may undercut its efforts. We will report the final results of this review in our next semiannual.



The Department has assembled and equipped teams of volunteer employees at its facilities to implement evacuation procedures in case of an emergency.
Source: OIG.

CHALLENGE 9

CONTINUE TO STRENGTHEN MANAGEMENT CONTROLS AND SYSTEMS

Commerce has significantly improved its financial management over the past decade: it has received unqualified opinions on its consolidated financial statements for 6 consecutive years, implemented the Commerce Administrative Management System (now called Commerce Business Systems), and substantially complied with the Federal Financial Management Improvement Act. These successes reflect management's commitment to and success at addressing the findings of deficient internal controls and financial management systems identified in our audits and other reviews.

EXCERPT: Dec. 21, 2004, Transmittal Letter for Circular No. A-123, Revised, from the Office of Management and Budget

Actions Required. Agencies and individual federal managers must take systematic and proactive measures to (i) develop and implement appropriate, cost-effective internal control for results-oriented management; (ii) assess the adequacy of internal control in federal programs and operations; (iii) separately assess and document internal control over financial reporting consistent with the process defined in Appendix A; (iv) identify needed improvements; (v) take corresponding corrective action; and (vi) report annually on internal control through management assurance statements.

Federal law requires agencies to prepare and disseminate financial information, including audit reports on their financial statements, to enable Congress, agency executives, and the public to assess an agency's operational and program management and to determine whether its financial management systems comply with legislative mandates. But reliable financial reporting and effective, efficient program operations depend on strong internal controls. And beginning in FY 2006 under the revised OMB Circular A-123, agencies must assess internal controls over financial reporting; document those controls and the assessment process; and provide an assurance statement on the effectiveness of internal control over financial reporting in their annual *Performance & Accountability Report*.

We will continue to monitor a range of financial management issues, including the Department's efforts to implement the new A-123 requirements, improve internal controls, and achieve other operating efficiencies identified in the annual audit management letter. We will also continue to monitor the International Trade Administration's progress toward complying with OMB Circular A-25 requirements for fully recovering the costs of products and services it provides, and the use of Commerce Business Systems to conduct financial and budgeting operations.

CHALLENGE 10**CONTINUE TO IMPROVE THE DEPARTMENT'S STRATEGIC PLANNING AND PERFORMANCE MEASUREMENT IN ACCORDANCE WITH THE GOVERNMENT PERFORMANCE AND RESULTS ACT**

The basic tenet of GPRA is that measuring performance will inform funding decision-making and ultimately improve government programming and spending. Performance budgeting—as implemented by OMB—is based on a similar assumption: that by putting performance information alongside budget amounts, funding choices focus on program results and budget decision-making improves. The success of either approach relies on the quality of reported data.

Though the Department has strengthened its performance reporting under GPRA, our audits of six Commerce operating units continue to identify the need for enhanced internal controls to ensure that performance measures are appropriate and understandable, and reported data is accurate and reliable for making funding decisions.

The Department is reviewing its performance and data validation processes in response to our findings and recommendations. It has developed a new quarterly monitoring process that examines performance data and the measures themselves. The process requires bureau under secretaries to attest to the validity of data and verify that the measures and reported information accurately reflect a bureau's accomplishments.

We are now conducting our ninth audit specifically aimed at performance measurement and reporting—this time at the Minority Business Development Agency (MBDA). Our earlier reviews of MBDA grant recipients found varying degrees of noncompliance with performance guidance and inadequate management controls for ensuring that claimed performance is accurate, properly documented, and occurs within specified time frames. We have initiated a follow-up review of our prior audits to (1) assess bureau and departmental efforts to address identified deficiencies and strengthen performance

EXCERPT: Government Performance Results Act of 1993**SECTION 2. FINDINGS AND PURPOSES.**

- (a) Findings. The Congress finds that-
- (1) waste and inefficiency in federal programs undermine the confidence of the American people in the government and reduce the federal government's ability to adequately address vital public needs;
 - (2) federal managers are seriously disadvantaged in their efforts to improve program efficiency and effectiveness, because of insufficient articulation of program goals and inadequate information on program performance; and
 - (3) congressional policymaking, spending decisions and program oversight are seriously handicapped by insufficient attention to program performance and results.

measurement, and (2) determine whether additional efforts are needed to ensure that reported performance results are reliable and meaningful.