



***U.S. DEPARTMENT OF COMMERCE***  
***Office of Inspector General***

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**Top Ten Management Challenges**

*September 2005*



# Major Challenges for the Department

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

## Challenge 1

### STRENGTHEN DEPARTMENT-WIDE INFORMATION SECURITY

Safeguarding the numerous Commerce computer systems holding nationally significant data is one of the Department's most critical challenges. Commerce undertook a major certification and accreditation (C&A) improvement effort during this fiscal year and has made considerable progress. However, OIG's evaluations under the Federal Information Security Management Act (FISMA) have revealed significant problems in C&A of some of Commerce's national- and mission-critical systems.

As we discussed in our March 2005 *Semiannual Report*, the Department's Chief Information Officer issued a plan last February to eliminate the IT security material weakness by producing acceptable quality C&A packages for all national-critical systems and some mission-critical systems by fiscal year-end and for all systems by the end of fiscal year 2006. It included schedules that were developed in collaboration with the operating units and plans of action and milestones to track progress. It also provided for increased oversight by the Department and bureau CIOs. Given the plan, our approach to the C&A portion of our FISMA evaluation was to review all improved packages available by August 31. Using this approach, we reviewed five improved C&A packages—three from NOAA and two from Census.<sup>1</sup> (The Department's CIO subsequently reported that by September 30, C&A packages for

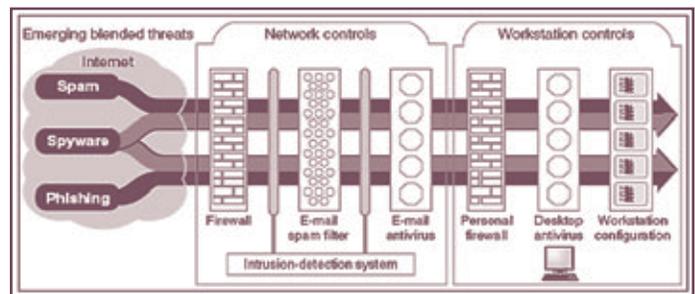
<sup>1</sup> Based on schedules provided by the Department's CIO Office in June, we expected more than 20 C&A packages to be available by August 31.

### 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.

all national-critical systems and over half of the mission-critical systems had been improved.)

Clearly, we saw noteworthy improvements in the packages we reviewed. NOAA had significantly improved risk assessments, security plans, and testing, while Census's security plans were more comprehensive. In light of the few packages available for review, however, and the testing deficiencies we still found in most



Federal agencies face numerous threats to the security of information stored in computer systems, because attack methods are increasingly sophisticated.

Source: May 2005 GAO report, *Emerging Cybersecurity Issues Threaten Federal Information Systems*. <http://www.gao.gov/new.items/d05231.pdf>.

of the packages, we concluded that the Department's C&A process has not yet improved to the point where authorizing officials throughout the Department have sufficient information about the vulnerabilities remaining in their systems when it is time to make the accreditation decision.

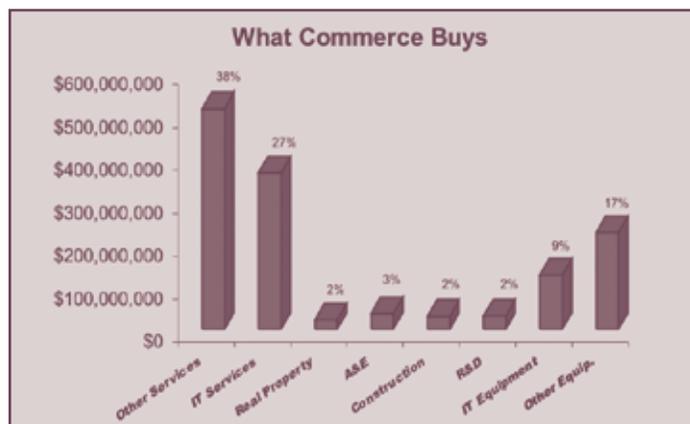
Last year we reported that USPTO had a good C&A process; as a result, this bureau was not part of the C&A improvement effort. Our review of two USPTO packages this year found shortfalls in the continuous monitoring phase of C&A. Major changes had been made to these systems since they were certified and accredited in 2004, but the potential impact on the security of the systems had not been assessed, nor had the need to reaccredit been evaluated.

As part of our FISMA work during this semiannual period, we also examined USPTO's IT service contracts to determine whether they contained required security clauses and whether related security requirements were being implemented. (See page 33.) We found most of the contracts do contain the security clauses, but since certain key requirements are not being properly implemented and enforced, background screenings for some contractor employees are conducted at too low a level and no contractor IT systems have been certified or accredited. This could place restricted information at risk.

## Challenge 2

### EFFECTIVELY MANAGE DEPARTMENTAL AND BUREAU ACQUISITION PROCESSES

Commerce spends nearly \$2 billion each year on goods and services—roughly a third of its budget. It also relies more and more on contractor support to continue its mission-critical work. Adequate oversight of the Department's acquisitions is essential



Commerce spends nearly \$2 billion per year on goods and services in a variety of categories.

Source: U.S. Department of Commerce, Systems Acquisition Division.

to ensure taxpayer dollars are spent effectively and efficiently and that procurement laws and regulations are followed.

In addition, how and when the Department and its bureaus plan and conduct acquisitions can determine whether or not projects of all sizes are successful. For example, OIG's Office of Systems Evaluation surveyed the Census Bureau's Field Data Collection Automation program, which is planned to provide field staff with handheld mobile computers to gather information for the decennial census. Census had originally intended to develop this program internally with contractor support but determined in early 2004 that it lacked the management and technical resources to develop the system in-house.

The Census Bureau's late decision to use a contractor to handle the automation project and provide support services during the decennial and the initial slow pace in planning the acquisition put the program's development at risk. We believe the delays in seeking an outside contractor and in finding vendors could affect the preparation for the dress rehearsal, although Census now reports that it has taken actions to address shortcomings we identified. (See page 13.)

**NPOESS.** We recently initiated an audit of the award fee process being used in the National Polar-orbiting Operational Environmental Satellite System (NPOESS). The NPOESS system is being funded by the Department of Defense and NOAA, with each contributing half of the estimated cost of \$8 billion. As such, this satellite system is one of the costliest activities undertaken by NOAA.

**Follow-up on Flawed NEXRAD Power Source Acquisition.** Our follow-up audit of NOAA's efforts to address the problems we cited in our September 2003 report, *Acquisition of NEXRAD Transition Power Source Marred by Management, Technical, and Contractual Problems* (OSE-15676), found that the agency has for the most part taken the corrective actions it said it would in its action plan. Although some improvements are needed to its acquisition handbook, NOAA's conscientious steps to bolster its procurement processes should help prevent problems in contract negotiation, review, and oversight that—in the NEXRAD procurement—ultimately added \$4.5 million to project costs.

**Census Bureau IT Services Contracts.** This semiannual report summarizes the findings of the second in a series of audits of Census Bureau IT services contracts. Our March 2005 semiannual report mentioned an audit of three task orders under an IT services contract in which we found \$8.5 million of the \$17.6 million charged to be questionable. In the current reporting period, we audited two task orders under another Census IT services contract. We found that the contractor had made more than \$10.7 million in questionable charges to the government out of the total of \$31.7 million billed. (See page 14.) We plan to continue our series of audits of Census Bureau contracts and will report our findings in subsequent semiannual reports.

### Challenge 3

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

Our work at USPTO continues to focus on critical aspects of its functioning as a performance-based organization as the agency implements budget, procurement, and personnel operations that provide the flexibility to adapt to changing market forces and meet the needs of customers. Our previous work at USPTO assessed patent examiner production goals, performance appraisal plans and awards, the agency's move to its new headquarters complex, and reports of improper personnel practices. (See September 2004 *Semiannual Report to Congress*, pages 38-40.)

This latter issue has been long-standing. Since 1999 we have received repeated complaints that management of USPTO's Office of Human Resources (OHR) has allowed or encouraged unfair personnel practices and activities that undermine the integrity of that office and of USPTO in general. Our work in response to the complaints confirmed numerous problems. Resolution of these issues is particularly critical: USPTO has received authority to hire hundreds of examiners. It must have an effective HR operation that adheres to federal regulations, is guided by sound policies and procedures, and affords all employees the rights and protections required by law.

During this semiannual period, we reemphasized this point to senior Department and USPTO officials, noting several issues identified at USPTO that remain unresolved. These include the

need to uphold merit system principles, establish human resource policies and procedures to guide decision-making, and ensure those policies and procedures are followed. In addition, the agency's HR staff needs appropriate training in the Standards of Ethical Conduct for Employees of the Executive Branch. (See page 35.) It is imperative that USPTO bring stability to its human resources operation and ensure that its employees have the appropriate skills and experience to perform the jobs to which they are assigned.

To its credit, the bureau has taken action to address the problems OIG found in the past. In early 2005, the Office of General Counsel conducted an ethics training course for USPTO's human resources department. Subsequently, USPTO split the position of chief financial officer and chief administrative officer into two positions, each with its own organization, and hired experienced human resources professionals to be OHR director and deputy director, rather than continuing to rely on detailing other staff to those positions. USPTO also created a Comprehensive Human Capital Improvement Plan intended to address long-standing problems in human resources.

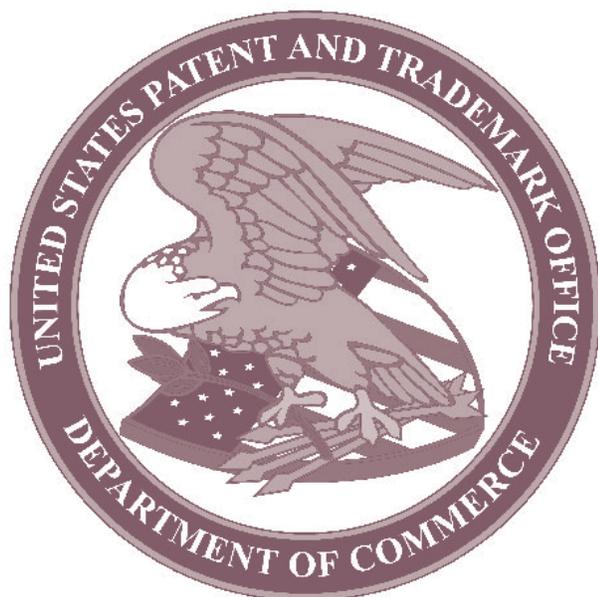
While we are pleased that USPTO has been receptive to our recommendations and has implemented numerous changes, the problems we identified are serious and long-standing. The actions PTO has taken to date are strong steps in the right direction, but the ultimate resolution of these issues will require the sustained commitment of senior management.

### Challenge 4

#### **CONTROL THE COST AND IMPROVE THE ACCURACY OF CENSUS 2010**

At an estimated cost of more than \$11 billion, the decennial census will be one of the most costly and critical operations the Department has ever undertaken. There are two field tests and a dress rehearsal to be managed in addition to the actual census, so the Census Bureau and the Department face some formidable challenges in both controlling costs and improving the accuracy of the data collected.

During this reporting period, we concluded a review of the bureau's progress in planning and managing the automation of formerly paper-based field data collection activities, scheduled for roll-out in the 2008 dress rehearsal. (See page 13.) Census expects the automated process to improve data quality and operational efficiency and reduce overall decennial costs by as much as \$900 million. The plan is to have a contractor handle the automation project and provide support services for more than 450 local census offices and 500,000 temporary field staff at the peak of the decennial. But we are concerned that the contractor may not have enough time to adequately prepare for the 2008 decennial dress rehearsal, as





A census worker with a handheld computer shows official identification card during a practice for the 2006 census test.

Source: U.S. Census Bureau.

mentioned previously. We note that Census has taken measures to steer the project back on track, but have recommended Census develop a sound project plan that includes objective measures of progress and intensive management oversight

We have initiated our review of the 2006 field test beginning with the address listing operation. Among other things, we are assessing the bureau's progress in improving the accuracy of address lists and maps and its partnership program, which is designed to improve the response of historically undercounted populations, and its resource management and planning. Our objectives in this assessment also include follow-up on our review of the 2004 test and the problems we identified with data transmissions, technical field support, lister training, and various other issues.

## Challenge 5

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

As the lead agency for marine resource protection, the National Oceanic and Atmospheric Administration (NOAA) is charged with not only monitoring the health of our nation's ocean and coastal resources but also administering a large number of civilian ocean programs, and these responsibilities are likely to expand. NOAA already is assessing a broad range of the recent hurricanes' effects on habitat and fisheries in the Gulf—from testing for toxins in seafood and Gulf waters to recording the diminished numbers and redistribution of native species and the damage to coastal wetlands.

The agency may have to deal with the storms' impacts on Gulf Coast aquatic ecosystems for many years to come.

In addition to monitoring NOAA's response to hurricane damage as a steward of marine resources, OIG plans to focus on a number of other NOAA activities in the future, which may include the Integrated Ocean Observing System and marine debris responsibilities.

During this reporting period, in response to a request from 19 members of Congress, we audited the National Marine Fisheries Service's (NMFS) preparation of a biological opinion for California's Central Valley Project, one of the largest water projects in the nation. (See page 21.) We sought to determine if NMFS' southwest regional office, which issued the biological opinion, adhered to policies, procedures, and standard practices. We concluded that NMFS deviated from its established process for initiating the consultation and ensuring the quality of the biological opinion. We recommended that NOAA objectively evaluate whether the regional office's questionable handling of the opinion impaired the opinion's scientific integrity. We also made several recommendations to NOAA to ensure that future opinions are sound and have maximum scientific and procedural integrity.

We also continued our series of reviews of salmon recovery programs during this semiannual period, auditing three more programs funded by NOAA's Pacific Coastal Salmon Recovery Fund. As with the audits we detailed in our March 2005 semiannual report (pages 31-32), we questioned costs and noted some administrative weaknesses.



Erstwhile inhabitants of the Florida Keys National Marine Sanctuary.

Source: [www.photolib.noaa.gov/sanctuary/sanc0201.htm](http://www.photolib.noaa.gov/sanctuary/sanc0201.htm).

## Challenge 6

### PROMOTE FAIR COMPETITION IN INTERNATIONAL TRADE

The Department of Commerce 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. It is also specifically tasked to address market access issues and barriers, unfair trade practices, trade disputes with foreign firms, noncompliance with or violations of trade agreements, inadequate intellectual property protection, and other impediments to trade. Commerce accomplishes these goals through the work of the International Trade Administration. During this semiannual period, we focused our efforts on the security status of Commercial Service's overseas offices, which are responsible for assisting U.S. exporters. Commercial Service maintains more than 150 overseas offices. We also began a full-scale review of Commerce's trade-related activities in China.



The International Trade Administration provides constant information on nearly every aspect of international trade through easily accessible web site pages.

Source: <http://tse.export.gov>.

We reviewed the Commercial Service's overseas security program to determine if the 30 CS offices located outside of an embassy or consulate compound are in compliance with security standards and whether sufficient financial controls were in place over funds for security upgrades. The agency has made progress since a 2000 OIG review revealed a number of troubling weaknesses, but we found that CS needs to do more work to ensure those overseas offices meet security standards and to confirm exactly how much funding remains for upgrades.

We also are continuing with our focus on the Department's efforts to increase U.S. market opportunities and overcome trade barriers in difficult foreign markets. An inspection of CS' post in China

### COORDINATOR FOR INTERNATIONAL INTELLECTUAL PROPERTY ENFORCEMENT

To combat intellectual property violations and better coordinate government efforts, a senior position was created within the Department of Commerce in July 2005. This official will serve as the head of the National Intellectual Property Law Enforcement Coordination Council, coordinate with relevant federal agencies, including the Justice Department, the U.S. Trade Representative's Office, U.S. Customs and Border Protection, State, Agriculture, and within the Department of Commerce, the Patent and Trademark Office and the International Trade Administration. In addition, the coordinator will develop policies to help protect intellectual property rights, and enforce intellectual property laws, and implement strategies for promoting American intellectual property rights overseas.

is in progress now, and we will detail our findings in our March 2006 *Semiannual Report*. As part of this inspection, we expect to address issues of coordination and cooperation among several Commerce bureaus with operations in China and management of the post's five offices in Beijing, Shanghai, Guangzhou, Chengdu, and Shenyang. We will also address export successes, efforts in the area of intellectual property rights and market access, the new American Trading Center initiative, and other issues.

Additionally, ITA has informed us that it is addressing issues identified in our previous reviews of posts. Our past reports highlighted problems with overstated or unverifiable export successes—a key measure of performance. Since that time, CS took several steps to improve reporting, such as the adoption of new reporting requirements including the requirement to directly confirm or verify the details of each export success, and appointing a quality control officer, among others. We will continue to monitor this area and report on the Department's efforts to resolve issues we identify.

## Challenge 7

### ENHANCE EXPORT CONTROLS FOR DUAL-USE COMMODITIES

The Department's Bureau of Industry and Security oversees the federal government's export licensing system for dual-use commodities and technology and is charged with advancing U.S. national and economic security interests by enforcing those export controls. The primary goal of the licensing and enforcement system is to prevent hostile nations and terrorist groups who might threaten global security from acquiring technologies and materials that have both civilian and military applications by controlling their export.

The National Defense Authorization Act (NDAA) for FY 2000 directs the inspectors general of Commerce, Defense, Energy, and State, in consultation with the directors of the Central Intelligence Agency and Federal Bureau of Investigation, to report to Congress each year through 2007 on the adequacy of these export controls and whether they are effectively preventing entities of concern from acquiring sensitive U.S. technologies. The OIGs have completed six reviews of export controls. Earlier this year to meet NDAA's FY 2005 requirement, Commerce OIG assessed BIS' licensing process for chemical and biological commodities to determine whether the process was timely and in compliance with statutory and regulatory requirements. We also examined the status of recommendations from prior reviews and concluded that, while action on some recommendations has not been completed, BIS has made progress on a number of them since our last semi-annual report. We are still doing the follow-up work and have not verified any of BIS' claims of recent progress.

To meet the NDAA's FY 2006 requirement, Commerce OIG is examining whether current licensing and enforcement practices are consistent with relevant laws, regulations, and national security and foreign policy objectives with respect to exports to China. In addition, we are evaluating the effectiveness of coordination between the various federal agencies for China-related export license applications that have been escalated in the dispute resolution process.

There is no doubt that BIS must remain vigilant in enforcing the nation's dual-use export control laws to protect U.S. national security, while at the same time, ensuring our economic competi-

tiveness. Legislation to replace the expired Export Administration Act is essential to those efforts, because BIS' regulatory authority should be strengthened in order to achieve these goals. We will continue to monitor BIS' efforts to address our previous NDAA recommendations.

## Challenge 8

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

OIG first identified the Department's emergency preparedness weaknesses in a 2002 review that revealed serious security vulnerabilities. Since then, we have reported on the Department's efforts to address the concerns raised in that report. We have continued to spotlight areas where Commerce should apply resources to protect its 35,000+ employees and hundreds of facilities worldwide.



The members of the Department's emergency response team are easily recognizable in brightly colored vests.

Source: OIG.

#### EXCERPT: EXPORT ADMINISTRATION REGULATIONS

730.6 CONTROL PURPOSES. The export control provisions of the EAR are intended to serve the national security, foreign policy, nonproliferation, and short supply interests of the United States and, in some cases, to carry out its international obligations. Some controls are designed to restrict access to dual use items by countries or persons that might apply such items to uses inimical to U.S. interests. These include controls designed to stem the proliferation of weapons of mass destruction and controls designed to limit the military and terrorism support capability of certain countries. The effectiveness of many of the controls under the EAR is enhanced by their being maintained as part of multilateral control arrangements. Multilateral export control cooperation is sought through arrangements such as the Nuclear Suppliers Group, the Australia Group, and the Missile Technology Control Regime. The EAR also include some export controls to protect the United States from the adverse impact of the unrestricted export of commodities in short supply.

Source: [www.access.gpo.gov/bis/ear/ear\\_data.html](http://www.access.gpo.gov/bis/ear/ear_data.html).

During this reporting period, we completed a follow-up assessment of Commerce's emergency preparedness status. Although the Department has dedicated significant resources and attention to emergency preparedness, our review noted the need for improvements in several areas, including Commerce-wide guidance and oversight for emergency preparedness, the risk assessment process, development and oversight of occupant emergency plans, security for critical assets, and oversight of security guard forces.

As a complement to our domestic review, we also surveyed the Commercial Service's 30 overseas offices that are located outside of U.S. embassies or consulates to determine, among other things, whether (1) any security vulnerabilities exist, (2) upgrades are timely, and (3) management tools and administrative controls for the overseas security program and assessment process are adequate. We found that some security vulnerabilities exist and that security upgrades are not always handled in a timely manner. In addition, we found that emergency preparedness issues at overseas offices have not always been addressed and that there is insufficient oversight by headquarters managers and staff and senior commercial officers at posts to ensure that emergency preparedness issues are adequately handled by the embassy or consulate regional security officer.

## Challenge 9

### CONTINUE TO STRENGTHEN FINANCIAL MANAGEMENT CONTROLS AND SYSTEMS

In recent years, the Department has improved its financial management, as evidenced by achieving and maintaining unqualified opinions on its consolidated financial statements for the past 6 consecutive years, implementing Commerce Business Systems (CBS), and substantially complying with the Federal Financial Management Improvement Act. Still, there is more to be done.

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 beginning in FY 2006. Reliable financial reporting and effective, efficient program operations depend on strong internal controls. OIG will continue to monitor a range of financial management issues, including Commerce's efforts to implement the new A-123 requirements, improve internal financial controls, and achieve other operating efficiencies.

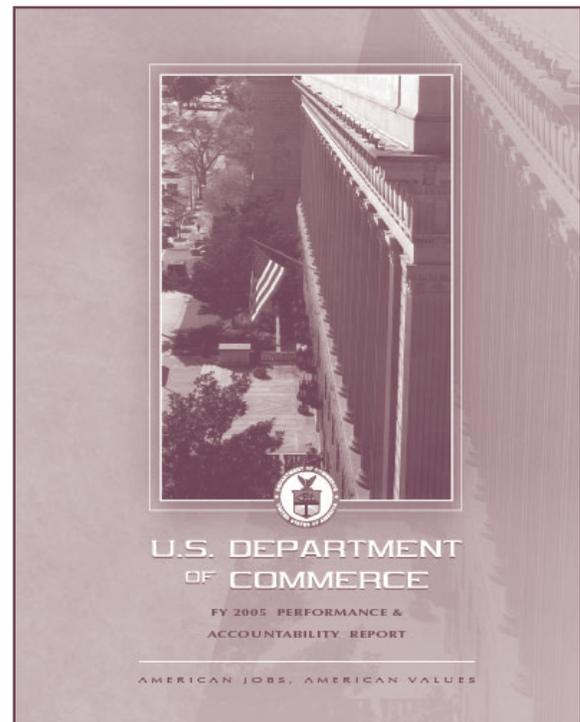
The Department also is in the process of working on a detailed implementation plan consolidating several IT servers that process financial information at six locations into a centralized consoli-

dated location supporting the Department's financial management system. The Department has decided to consolidate CBS and its associated feeders at the Office of Computer Services in Springfield, Virginia. This will occur in a phased-in approach. The consolidation will achieve hardware standardization, reduce redundant responsibilities and data center costs, and position the Department for the next-generation financial system. Further, the Department will be in the best possible position to maximize long-term benefits and support future upgrades with the least technological impact. This major system development will provide an additional challenge to the Department in maintaining its green score in financial management on the President's Management Agenda Scorecard.

## Challenge 10

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

Collecting and reporting accurate performance data required by the Government Performance and Results Act (GPRA) is a challenge for most federal agencies, and the Department of Commerce is no exception. It is imperative for the Department to have accurate



Source: Department of Commerce.

program measures and reliable data supporting these measures in order to determine whether programs are accomplishing their intended purpose.

OIG audits of performance measure reporting by some Commerce bureaus have repeatedly identified the need to ensure that individuals who collect and use performance data understand what is being measured. Prior audits also have consistently shown a need for improved management controls over performance data, particularly where verification and validation of information is required. The bureaus we have audited have generally made improvements in response to issues raised, and the Department has established a process by which it will review each of the 115 performance measures over a 5-year cycle.

Although the Department has substantially strengthened its performance reporting in the past few years, as evidenced in our ongoing review of performance measurement at the Department, OIG reviews continue to identify the need for enhanced management controls. For example, a recent review of performance results reported by the Minority Business Development Agency for FY 2004 showed a number of instances in which success rates were overstated. The basic tenet of GPRA is that measuring performance will inform funding decision-making and ultimately improve government programming and spending. Every Commerce bureau should be reporting performance measures that are appropriate and understandable, and reported data should be accurate and reliable.