



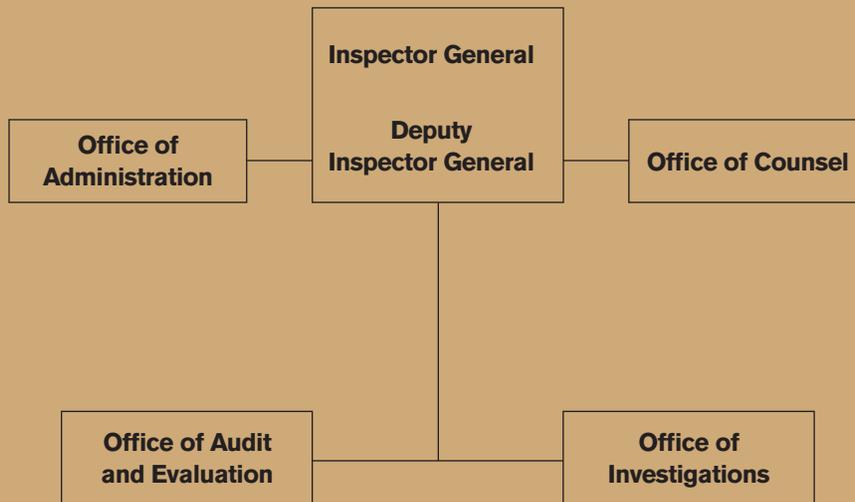
**U.S. Department of Commerce  
Office of Inspector General**

# Semiannual Report to Congress

**March 2012**



# OFFICE OF INSPECTOR GENERAL




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## Oversight Areas

Office of the Secretary  
 Bureau of Economic Analysis  
 Bureau of Industry and Security  
 U.S. Census Bureau  
 Economic Development Administration  
 Economics and Statistics Administration  
 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

Inspector General . . . . . 202.482.4661

## OIG Hotline

Telephone . . . . . 202.482.2495  
 or 800.424.5197

TDD . . . . . 202.482.5923  
 or 800.854.8407

E-mail . . . . . [hotline@oig.doc.gov](mailto:hotline@oig.doc.gov)

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# TABLE OF CONTENTS

|           |   |
|-----------|---|
| <b>01</b> | <b>FROM THE INSPECTOR GENERAL</b>                                 |
| <b>06</b> | <b>TOP MANAGEMENT CHALLENGES FACING THE DEPARTMENT</b>            |
| <b>12</b> | <b>WORK IN PROGRESS</b>   |
| <b>16</b> | <b>OVERSIGHT AREAS</b>  |
| <b>16</b> | <b>DEPARTMENT-WIDE MANAGEMENT</b>                                 |
| <b>24</b> | <b>ECONOMICS AND STATISTICS ADMINISTRATION</b>                    |
| <b>26</b> | <b>NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION</b>            |
| <b>30</b> | <b>NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION</b> |
| <b>32</b> | <b>UNITED STATES PATENT AND TRADEMARK OFFICE</b>                  |
| <b>36</b> | <b>AMERICAN RECOVERY AND REINVESTMENT ACT</b>                     |
|           | NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY                    |
|           | NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION        |
| <b>42</b> | <b>STATISTICAL DATA</b>   |
| <b>52</b> | <b>REPORTING REQUIREMENTS</b>                                     |
| <b>54</b> | <b>ACRONYMS AND ABBREVIATIONS</b>                                 |

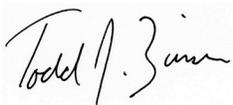
# FROM THE INSPECTOR GENERAL

I am pleased to present the Department of Commerce Office of Inspector General's *Semiannual Report to Congress* for the 6 months ending March 31, 2012.

This report summarizes work we initiated and completed during this semiannual period on a number of critical departmental activities. Over the past 6 months, our office issued 19 audit and evaluation reports addressing programs overseen by the National Institute of Standards and Technology, National Oceanic and Atmospheric Administration, National Telecommunications and Information Administration, United States Patent and Trademark Office, and the Department itself.

Looking ahead, we will continue to prioritize our work consistent with the *Top Management Challenges Facing the Department* report we issued in October 2011. For fiscal year 2012, we identified two new cross-cutting goals that focus on the President's initiatives for economic recovery and job creation: (1) promote exports, stimulate economic growth, and create jobs and (2) reduce costs and improve operations to optimize resources in a period of constrained budgets. The remaining three challenges are long-standing departmental concerns: information technology security, acquisitions and contracting, and NOAA's satellite program. We will work closely with the Department and with Congress in the months ahead to meet these and other challenges facing Commerce as it fulfills its complex mission.

We welcome Secretary Bryson to the Department and look forward to a productive and collaborative association with him. We also thank senior officials throughout the Department and members of Congress and their staffs for their support of our work during this reporting period and for their receptiveness to our recommendations for improving Commerce operations.



TODD J. ZINSER

# TOP MANAGEMENT CHALLENGES FACING THE DEPARTMENT

The Reports Consolidation Act of 2000 requires inspectors general to identify the top management challenges facing their departments. In October 2011, the Department of Commerce OIG identified five challenges that require significant departmental attention in FY 2012 and beyond. OIG will issue updates to these challenges in a separate June 2012 publication.

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## 1. EFFECTIVELY PROMOTE EXPORTS, STIMULATE ECONOMIC GROWTH, AND CREATE JOBS

The Department is at the center of the federal government's efforts to promote exports and stimulate economic development while regulating imports and exports, marine fisheries, and patents and trademarks. Effective implementation of these initiatives requires the Secretary to work closely with interagency partners and integrate Department resources in order to:

### **Implement Administration Initiatives with Effective Interagency Partnerships.**

More than 20 federal agencies perform trade-related functions. The Department plays a critical role in working with these partners to implement the administration's three government-wide initiatives: promote U.S. exports, reform the export control system, and reorganize the federal government's trade promotion responsibilities. The Department reported that, as of August 2011, the joint efforts by Export Promotion Cabinet agencies have resulted in a 17 percent increase in exports since 2009. However, ongoing management attention will be necessary to promote continued progress in these areas.

### **Enhance Commerce Unit Operations to Help Promote Trade and Job Creation.**

Various bureaus within the Department engage in trade-related functions. The Department began improving coordination among these units by launching "CommerceConnect" in 2009—a website providing a portfolio of government assistance to businesses. The Department continues facing challenges:

- repatriating manufacturing jobs in America;
- allocating resources to support the President's National Export Initiative;
- reducing patent backlog, improving processing times, and implementing patent reform;
- improving technical and financial assistance to promote domestic job growth; and
- ensuring the elimination of social and economic surveys does not adversely affect vital national indicators.

### **Correct Unfair Trade Practices and Protect Our National Security Through Enforcement Activities.**

While trade promotion is an essential part of its mission, the Department must also maintain strong trade enforcement programs, so that the United States can thrive in the global marketplace. Among the bureaus, BIS faces the greatest challenge as it helps to implement the long-term goals of the Export Control Reform initiatives.

**Improve Regulatory Reviews to Protect and Promote Public Interests.**

In addition to imports and exports, the Department is also responsible for regulating marine fisheries (to protect ocean resources) and patents and trademarks (to protect intellectual property). The Department should conduct adequate cost–benefit analyses and identify meaningful performance measures for regulatory activities to avoid overburdening affected industries. This is especially important for balancing NOAA's goals of protecting the environment and supporting the fishing industry.

**2. REDUCE COSTS AND IMPROVE OPERATIONS TO OPTIMIZE RESOURCES FOR A DECADE OF CONSTRAINED BUDGETS**

As the government prepares for an extended period of tighter budgets and decreased spending, it is most important to target waste, reduce inefficiency, and ensure that taxpayers' dollars are spent wisely. It will be difficult, but possible, to leverage savings to support investments in economic growth. Agencies should:

**Implement and Expand Initiatives to Improve Operational Efficiency and Economy.**

The Department has an initiative in place to save \$143 million in administrative costs in FYs 2011 and 2012. About 60 percent of the target savings would derive from reduction in facilities, information technology (IT), and workforce. The remaining 40 percent would derive from more strategic sourcing and reducing the use of high-risk acquisition contracts. Relentless management attention and oversight of reported savings are critical to achieving the Department's goal.

**Strengthen Oversight of Improper Payments for Additional Recoveries.**

The Department can increase efforts to implement the Improper Payments Elimination and Recovery Act of 2010—and maximize the dollars it recovers from improper payments. Adjusting payment testing practices and focusing on highest risk programs are key.

**Reduce the Risk of Misuse, Abuse, or Waste of Federal Funds Awarded to Grantees.**

In June 2011, the Department reported about \$10 billion accumulative outstanding obligations, more than half of which were for grants. The diversity and duration of the Department's grant programs further highlight the need to examine ways to standardize and streamline its management processes, such as consolidation of the Department's three separate grants management systems and better use of OIG and single audit reports to detect emerging issues.

With \$4 billion in funding, the Broadband Technology Opportunities Program (BTOP) represents a significant investment of Recovery Act funds to develop and deploy broadband services nationwide. The success of BTOP depends on the coordinated efforts of NTIA and its grant management partners, NOAA and NIST. However, the uncertain funding for BTOP oversight in FY 2013 and beyond (i.e., to oversee the closeout of projects and the completion of projects that receive extensions) raises concerns about NTIA's ability to adequately oversee the program's future.

**Apply Lessons Learned from 2010 Decennial to Planning for the 2020 Census to Avoid Cost Overruns.**

Given projections of increasing life-cycle cost estimates to \$22–30 billion, Census has to fundamentally change the design, implementation, and management of the 2020 decennial census. The decade's early years are critical for deciding on a design and implementing changes to decennial operations. With funding constraints likely, the bureau needs to prioritize its research and testing to determine the feasibility, cost, and data-quality impacts of proposed census design changes.

### **3. STRENGTHEN DEPARTMENT-WIDE INFORMATION SECURITY TO PROTECT CRITICAL INFORMATION SYSTEMS AND DATA**

In recent years, the federal government—and the Department in particular—have increasingly taken advantage of Internet-based technologies to interconnect IT systems and conduct business with the public. As this trend continues, cyberattacks on Internet commerce, vital business sectors, and government agencies have grown exponentially. To address such threats, the Department plays a leading role in developing public policies and private-sector standards and practices. But the Department's own IT systems are constantly exposed to increasingly numerous and sophisticated cyberattacks. We have recommended that the Department:

#### **Continue Working to Improve IT Security by Addressing Ongoing Security Weaknesses.**

For our FY 2010 Federal Information Security Management Act of 2002 report to the Department, we evaluated 18 Department IT systems and concluded that the Department's information security program and practices have not adequately secured Department systems. In response to our recommendations, the Department developed an action plan to address the security weaknesses we identified—and, in the past year, the Department has taken several steps toward improving IT security. However, until the Department successfully implements the items in its action plan, we can expect to find recurring security weaknesses. Our FY 2012 work continues to find significant security weaknesses in Department and contractor systems that put the systems at risk of cyberattack.

#### **Implement Security Policy Effectively Through Consistent, Proactive Management.**

Our audits reaffirm the need for increased senior management attention to ensure security policy and practices are applied consistently and effectively across the Department. For example, we reviewed a sample of FY 2010 and FY 2011 performance plans for individuals holding critical IT security roles—and found that requirements for these roles are not consistently incorporated in some of the performance plans. Additional cyberinfrastructure challenges the Department faces include securing hundreds of Internet connection points on Departmental networks and establishing enterprise monitoring capability and a cybersecurity center.

### **4. MANAGE ACQUISITION AND CONTRACT OPERATIONS MORE EFFECTIVELY TO OBTAIN QUALITY GOODS AND SERVICES IN A MANNER MOST BENEFICIAL TO TAXPAYERS**

In FY 2010, the Department obligated nearly \$4 billion through more than 26,000 contract actions to acquire a wide range of goods and services to support mission-critical programs. While the Department has made some progress in this important area, it should continue to:

#### **Develop and Retain a Qualified Acquisition Workforce.**

Recruitment, training, and retention pose risks to the Department's ability to meet its increasing acquisition workload. In FY 2010, the Department experienced a 15 percent attrition rate among contracting officers. Further, between FYs 2009 and 2019, 54 percent of the senior-level acquisition employees in the Department will be eligible to retire. The Department lacks a sufficient pipeline of entry- to mid-level professionals to sustain operations during the projected retirement wave.

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**Ensure High Ethical Standards in the Acquisition Workforce and in Procurement Practices.**

Government contracting is risky by nature. Department employees in contract-related positions represent the front line of defense by promptly recognizing and reporting ethics violations and fraud indicators. The Department needs to take actions to prevent recurrence of OIG investigative findings—questionable sole sourcing practices against advice of counsel, steering contracts to acquaintances, splitting purchase card transactions to circumvent spending limits, and improper communications with unsuccessful contract bidders. The Department also needs to strengthen its suspension and debarment program, which would help to ensure it awards contracts and grants only to responsible parties. The Department's current suspending and debarment official has begun to develop the processes and policies that form the foundation of a successful suspension and debarment program. Despite this recent progress, creating an efficient and durable program remains a challenge.

**Strengthen Processes to Govern the Appropriate Use of High-Risk Contracts and to Maximize Competition.**

High-risk contracts—including contracts awarded noncompetitively or in which only one bid was received, cost-reimbursement contracts, and time-and-materials and labor-hour contracts—comprised almost 40 percent of the total value of new contract awards in FY 2010. The Department needs to reduce high-risk contract awards and exercise strong oversight of performance-based contracts such as cost-plus-award-fee. Although designed to motivate excellence in contractor performance, without strong oversight, performance-based contracts can represent an additional risk to the Department.

**Achieve Efficiency and Savings in Acquiring Goods and Services, and Improve Oversight and Tracking of Contract Savings.**

The Office of Management and Budget (OMB) requires agencies to focus on cutting contract costs by using smarter buying practices. The Department has taken steps to improve its monitoring and verification of the cost savings reported by the bureaus' procurement offices. While these efforts to improve reporting represent real progress, continued attention will be needed to meet the level of accountability called for by OMB.

**Deliver Cost Savings and Efficiency on Major IT Investments.**

The Department spends about 25 percent of its annual budget on IT investments—one of the highest percentages among federal agencies. Accordingly, the Department must watch for any opportunity to save money, improve efficiency, and prevent setbacks to these important investments. For instance, the Department reported serious cost and schedule problems concerning four NOAA IT investment projects, totaling \$265 million. In addition, we have identified challenges and offered recommendations to improve USPTO's Patent End-to-End acquisition initiative with an estimated cost of \$130 million.

## 5. MANAGE THE DEVELOPMENT AND ACQUISITION OF NOAA'S ENVIRONMENTAL SATELLITE SYSTEMS TO AVOID LAUNCH DELAYS AND COVERAGE GAPS

NOAA's environmental satellite operations and weather forecasting are designated primary mission-essential functions of the Department of Commerce. But NOAA's current constellation of polar and geostationary operational environmental satellites is aging, and its capabilities will degrade over time. As a result, the risk of gaps in critical satellite data is increasing. In February 2010, the White House directed NOAA, in partnership with NASA, to establish the Joint Polar Satellite System (JPSS) program—after experiencing significant cost overruns and schedule delays with an earlier joint development effort among NOAA, NASA, and the Department of Defense. Given their histories, these critical satellite programs require strong management and close oversight to:

### **Prevent a Near-Term Polar Satellite Coverage Gap Between NOAA-19 and NPP.**

Since the first JPSS satellite (JPSS-1) is not scheduled for launch until 2017, NOAA will use an interim satellite—the Suomi National Polar-orbiting Partnership (NPP), launched in October 2011, to bridge the gap between JPSS-1 and its current polar-orbiting operational environmental satellite (NOAA-19). NOAA projects NPP will reach operational readiness 18 to 24 months after launch because of delays in completing activities to provide data for operational use. This extension could lead to a coverage gap in some data if NOAA-19 (or other satellite data sources) stops functioning at the end of its design life—approximately March 2013. NOAA needs to take effective steps to reduce the risk of such a data gap.

### **Ensure Solid Program Management and Systems Engineering Principles Are Applied to Mitigate the Coverage Gap Between NPP and JPSS-1.**

Due to program and funding issues, NOAA expects a gap in weather and climate observations between NPP and JPSS-1. We project the gap could range from 9 to 21 months, or even longer, if NPP experiences a shorter-than-expected life. NOAA studies have found that its weather forecasting at 5, 4, and 3 days before an event could be significantly degraded during the coverage gap period. NOAA—in coordination with its line officers and in concert with Departmental and congressional decision-makers—must minimize the potential impact of this gap.

### **Maintain Robust Program Management and Systems Engineering Disciplines to Prevent Geostationary Coverage Gaps.**

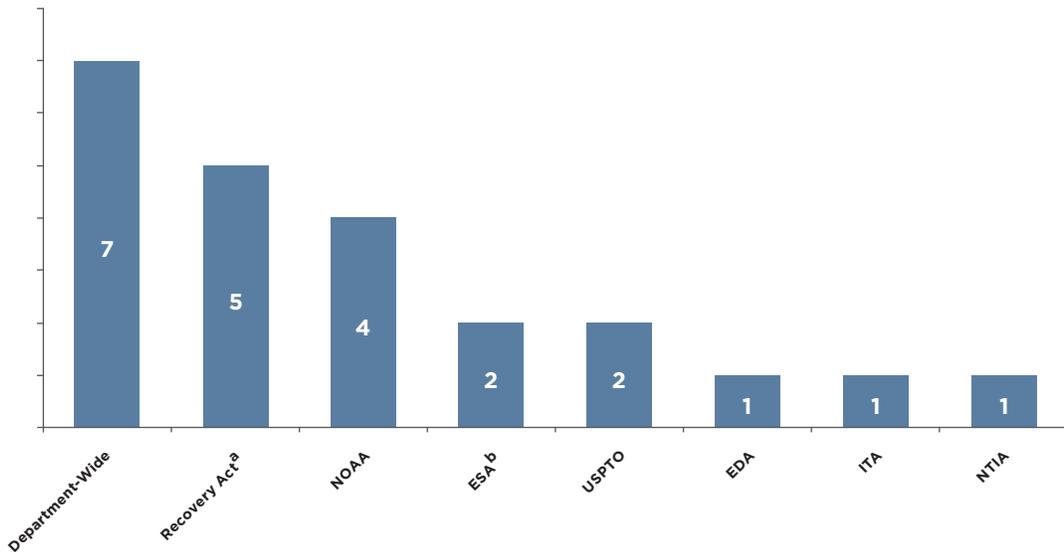
NOAA relies on another satellite system—the Geostationary Operational Environmental Satellite-R Series (GOES-R)—for uninterrupted short-range severe weather warning. This development program also experienced problems of cost changes and reduced capabilities. According to March 2012 program documentation, the GOES-R program's overall schedule and technical development remain on track; however, the ground project's development is being modified to control costs. The program is also revising the ground segment's schedule to allow more flexibility. In light of these developments, NOAA needs to control costs, keep schedules on track, and maintain required technical performance.



# WORK IN PROGRESS

## WORK IN PROGRESS (BY OVERSIGHT AREA)

During this reporting period, 23 OIG audits and evaluations were initiated or under way.



<sup>a</sup> Of these five Recovery Act–related works in progress, three concern NTIA, one concerns NIST, and one concerns lessons learned across all Department bureaus receiving Recovery Act funds.

<sup>b</sup> Both ESA works in progress concern the Census Bureau.

## DEPARTMENT-WIDE

### FY 2012 Financial Statement Audits

Determine whether the financial statements are presented fairly, in all material respects, in accordance with generally accepted accounting principles (an independent accounting firm will perform these audits, under OIG oversight, in accordance with generally accepted auditing standards, *Government Auditing Standards*, and OMB requirements).

### Preview of FY 2013 Top Management Challenges

Inform the Department, in advance, of the most significant upcoming management and performance challenges facing the Department in FY 2013.

### FY 2013 Top Management Challenges

From an oversight perspective, identify the most significant management and performance issues facing the Department in the upcoming fiscal year, as required by law.

**IT Security**

Assess the effectiveness of the Department's IT security program by determining whether key security measures adequately protect the Department's systems and its information, as required by the Federal Information Security Management Act of 2002.

**Purchase Card Controls**

Determine whether the Department has adequate transaction-level internal controls over purchase card transactions by reviewing a sample of transactions from all bureaus during FY 2011. During FY 2011, the Department had more than 4,500 purchase cards that processed approximately \$118.6 million in purchase card transactions.

**Time-and-Materials and Labor-Hour (T&M/LH) Contracts**

Assess whether the Department properly awards and administers these contracts. For FY 2011, Commerce awarded 2,893 high-risk T&M/LH contract actions for \$586 million. Both contract types provide for payment to contractors on the basis of fixed hourly billing rates, designed to recover the contractors' direct salaries, overhead, general and administrative expenses, and profit. T&M contracts also provide for reimbursement of the contractors' actual costs of supplies and materials.

**Unliquidated Obligations**

Evaluate controls over the management and closeout of unused or unneeded (unliquidated) obligations. It is essential that the Department perform timely reviews of contract, grant, and other unliquidated obligations and deobligate funds no longer needed. This could result in funding available for other purposes.

**ECONOMIC DEVELOPMENT ADMINISTRATION****Review of Trade Adjustment Assistance Center (TAAC) Administrative Costs**

Provide the House Committee on Appropriations with information on the reasonableness of administrative costs charged by the TAACs as part of the Trade Adjustment Assistance for Firms program administered by EDA—as requested in the report accompanying the FY 2012 Commerce, Justice, Science, and Related Agencies Appropriations Bill.

**ECONOMICS AND STATISTICS ADMINISTRATION****2020 Census Planning**

Evaluate the Bureau's efforts to improve the 2020 Census design, focusing on how the results of the Bureau's evaluation plans will inform the new decennial design, as well as evaluate and monitor the implementation of Census's management initiatives designed to enhance organizational change.

**Map and Address Database**

Review Census's progress toward achieving the objectives of its \$496 million 2010 geographic initiative (2010 MAF/TIGER Enhancement Program); evaluate the impact of various address-updating operations on the address file and map database and identify trends that introduced error; and review Census's procedures for updating the map and address files.

## INTERNATIONAL TRADE ADMINISTRATION

### Review of U.S. Export Assistance Centers (USEAC)

Determine the extent to which the level of coordination between the U.S. and Foreign Commercial Service's (CS) and other federal government agencies is sufficient to meet the President's priorities with respect to the National Export Initiative, evaluate whether the allocation of domestic resources meets its mission and goals, and assess CS's level of cost recovery for its products and services.

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

### Fishery Management Councils (FMCs) and Rulemaking

Review controls, processes, and operational best practices used by NOAA FMCs to develop rules for the industry. Evaluate the role of NOAA and the FMCs in the fishery rulemaking process and the transparency of the rulemaking process prescribed under the Magnuson-Stevens Fishery Conservation and Management Act.

### Geostationary Operational Environmental Satellite-R Series (GOES-R) Acquisition and Development

Assess the adequacy of contract management and administration and the effectiveness of management's direction, monitoring, and collaboration for development of select components in the GOES-R program.

### Joint Polar Satellite System (JPSS) Program Baseline Adequacy

Assess JPSS formulation activities—including development of requirements, schedule, and cost baselines—against NASA standards, government/industry best practices, and individual project-level plans. Monitor the program's efforts to maintain (1) near-term continuity of polar satellite data as Suomi National Polar-orbiting Partnership (NPP) on-orbit operations transition to NOAA and (2) continuity of data after NPP end-of-life.

### Management of Cost-Plus-Award-Fee and Award-Term Contracts

Determine whether (1) NOAA's decisions related to award-fee and award-term ratings are properly supported and (2) NOAA effectively monitors award-fee and award-term plans and contractor performance.

## NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

### Public Safety Interoperable Communications (PSIC) Grant Program Costs and Equipment

Determine whether (1) costs incurred by grantees receiving PSIC funds from the Department are allowable and in accordance with grant requirements; (2) grantees are meeting matching share requirements; (3) equipment acquired by the grantees has been tested and certified prior to deployment, operates effectively, and improves interoperability in the state; and (4) grantees are on schedule to complete interoperable communications investments by September 30, 2011, or—with an approved extension—by September 30, 2012.

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## UNITED STATES PATENT AND TRADEMARK OFFICE

### **Efforts to Reduce Board of Patent Appeals and Interferences (BPAI) Backlog and Pendency**

Determine (1) whether BPAI's staffing and resources have changed in relation to changes in its caseload and (2) to what extent implementation of the America Invests Act will affect BPAI operations and resources.

### **FY 2012 Financial Statement Audits**

Determine whether the financial statements are presented fairly, in all material respects, in accordance with generally accepted accounting principles. An independent accounting firm will perform these audits, under OIG oversight, in accordance with generally accepted auditing standards, *Government Auditing Standards*, and OMB requirements.

## AMERICAN RECOVERY AND REINVESTMENT ACT

### **NIST's Oversight of Recovery Act Construction Contracts**

Audit of \$176 million in Recovery Act contract funds awarded for the construction and renovation of research facilities on NIST locations. Determine whether NIST's (1) policies and procedures were sufficient for evaluation of cost, specifications, and performance results; (2) contract award and administrative practices complied with applicable laws and regulations, including specific Recovery Act requirements; and (3) acquisition staff communicated problems with the projects to NIST management.

### **NTIA's Processes for Broadband Technology Opportunities Program (BTOP) Grantees' Matching Share**

Determine whether NTIA has adequate processes in place to ensure that BTOP grantees' matching shares of approximately \$1.4 billion (1) come from nonfederal funds and (2) meet both administrative requirements and the terms and conditions of the individual awards (a sample of 25 NTIA BTOP grantees was selected to determine reasonableness, allowability, and allocability of grantee match).

### **BTOP Subrecipient Monitoring**

Assess whether all subrecipients have been identified and properly classified and determine whether adequate controls are in place to ensure effective subrecipient monitoring and compliance with award terms and conditions.

### **Management and Oversight of the Booz Allen Hamilton BTOP Contract**

Determine (1) how NTIA ensures the receipt and quality of the goods and services it pays for; (2) what specific controls exist to verify invoices and payment processes; and (3) how NTIA mitigates risks associated with time-and-materials contracts and task orders.

### **Recovery Act Lessons Learned**

As part of a federal government-wide Recovery Accountability and Transparency Board initiative, identify actions, mechanisms, and processes federal agencies used that were effective for implementing and administering Recovery Act programs—as well as those that were obstacles to successful Recovery Act programs (particularly relating to the overarching goals of transparency and accountability).



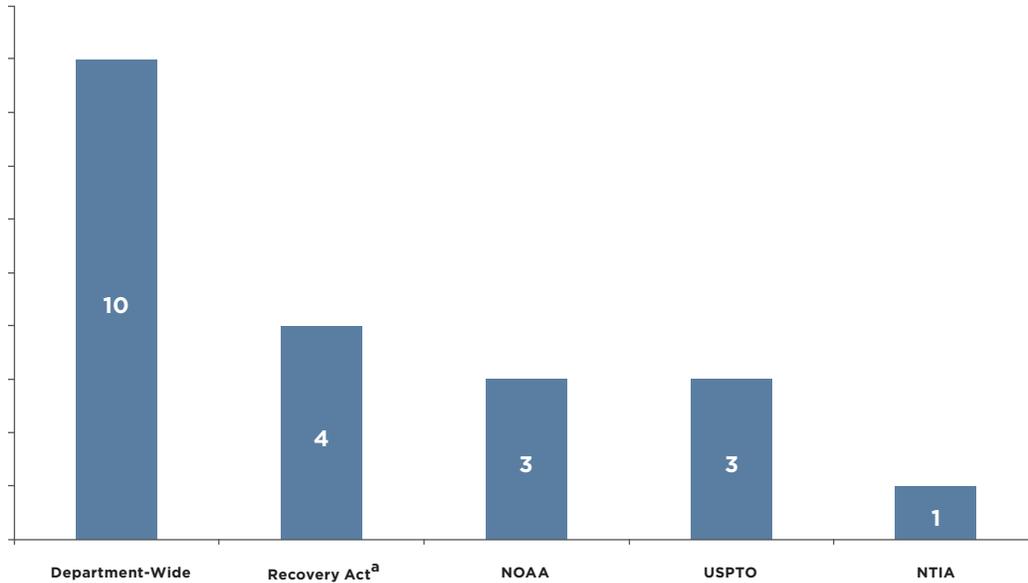
# DEPARTMENT-WIDE MANAGEMENT

The **U.S. Department of Commerce** works to help American companies become more innovative and successful at home and more competitive abroad. It creates the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship.

The Department accomplishes its mission by providing national and local weather services; developing key economic and demographic data (including the decennial census); advancing technological and scientific innovation; protecting and restoring environmental resources; promoting international trade; and supporting local, regional, and national economic development. These activities affect U.S. business and industry daily and play a critical role in the nation's economic well-being.

**COMPLETED WORKS (BY OVERSIGHT AREA)**

During this reporting period, OIG completed 19 audits and evaluations and 2 congressional testimonies.



<sup>a</sup> Of these four Recovery Act-related works in progress, two concerned NTIA; one concerned NIST; and one was IG testimony to the House Committee on Science, Space, and Technology.

**COMMERCE’S OFFICE OF ACQUISITION MANAGEMENT MUST CONTINUE TO IMPROVE ITS ONGOING OVERSIGHT OF ACQUISITION SAVINGS INITIATIVES (OIG-12-001-A)**

In March 2009, the President directed federal agencies to take immediate steps to achieve real, sustainable improvements in contract processes. In November 2009, the Department submitted an acquisition savings improvement plan to the Office of Management and Budget (OMB). The Department’s Office of Acquisition Management (OAM) assumed oversight of the plan’s implementation—which entailed reducing contract spending costs by about \$39.5 million per year in FYs 2010 and 2011 and decreasing the use of new high-risk contracts.

While the Department has achieved some savings in its plan to improve contracts and acquisition practices, implementation problems and oversight challenges have limited the Department’s ability to produce desired results. Specifically, we found that (1) baseline costs were unsupported and inaccurate, (2) the amount of cost savings was uncertain, and (3) while the percentage of high-risk contracts decreased in FY 2010, the dollar value of high-risk contracts increased from 2008 to 2010. Since June 2010, the Department has improved its acquisition savings oversight, documentation requirements, and validation processes. A new director of acquisition management—hired in February 2011—has further overhauled the review, validation, and reporting processes to ensure that savings are properly measured, verified, and documented.

We recommended that the director of acquisition management (1) implement adequate controls to ensure that future acquisition savings baselines and targets are established, as required by OMB; (2) prescribe minimum documentation standards required from the bureaus' procurement offices to support claimed savings resulting from implementing initiatives for reducing contract spending and high-risk contracts; and (3) establish a process to verify the accuracy and reliability of data collected by the procurement offices and track ongoing and future initiatives with a primary objective of determining whether savings are actually realized.

### **IMPROVEMENTS ARE NEEDED FOR EFFECTIVE WEB SECURITY MANAGEMENT (OIG-12-002-A)**

Our assessment of the Department's web applications identified significant vulnerabilities resulting from inadequate software development practices, improper software configuration, and failure to install system updates in a timely manner. We found critical vulnerabilities in 12 of 15 (or 80 percent of) web applications we reviewed. The majority of web applications have well-known website vulnerabilities, misconfigured back-end databases, and outdated software that support them. Combined, these security weaknesses put both web applications and users' computers at greater risk of compromise, resulting in the potential disruption of services or unauthorized disclosure of sensitive information.

We recommended that the Department's Chief Information Officer work with bureau senior management to (1) ensure that bureaus take corrective action to mitigate vulnerabilities we found during our vulnerability scan assessments; (2) expand the Department's vulnerability scanning practice to include application-level assessments, such as database and website scans; and (3) utilize security best practices for publicly accessible web applications, such as users' input validation, to ensure that only legitimate information is accepted, as contained in NIST's published guidelines.

### **FY 2011 FISMA AUDIT: MORE WORK NEEDED TO STRENGTHEN IT SECURITY DEPARTMENT-WIDE (OIG-12-007-A)**

The Department's 280 information technology systems process, store, and transmit census, economic, trade, satellite, and weather data, among others, in support of its varied missions. Our FY 2011 audit assessed the security of 10 information systems selected from three Department bureaus: 5 from NOAA, 3 from USPTO, and 2 from the Census Bureau.

## **Federal Information Security Management Act of 2002 (Title III, P.L. 107-347)**

Information security program, evaluation, and reporting requirements for federal agencies were established by the Federal Information Security Management Act of 2002 (FISMA). FISMA requires agencies to secure their information systems through the use of cost-effective management, operational, and technical controls. FISMA also requires inspectors general to evaluate agencies' information security programs and practices by assessing a representative subset of agency systems and to report the results to OMB and Congress annually.

We identified deficiencies in fundamental aspects of security planning and significant security control weaknesses. Overall, the entire Department needs to manage information security with greater rigor and consistency.

To make the Department's information security program and practices more effective, the Department should (1) complete actions planned in response to our FY 2010 FISMA audit recommendations, as quickly as possible; (2) develop a security planning checklist, or other planning tool, to help system owners and authorizing officials complete and maintain comprehensive security plans; and (3) determine the feasibility of independent reviews at key steps in the risk management framework to ensure greater rigor and consistency in the security authorization process within the Department's various bureaus. Consideration should be

given to creating independent review teams with representatives from different bureaus to share best practices and promote consistent application of Department policy and NIST guidance.

### **FY 2011 CONSOLIDATED FINANCIAL STATEMENT AUDITS (OIG-12-004-A, OIG-12-009-A, OIG-12-010-A)**

Independent auditor KPMG LLP found that the Department's consolidated financial statements were fairly presented in all material respects and in conformity with U.S. generally accepted accounting principles. KPMG found no instances of reportable noncompliance with applicable laws, regulations, contracts, and grant agreements and no instances in which the Department's financial management systems did not substantially comply with the requirements of the Federal Financial Management Improvement Act of 1996.

KPMG identified one significant deficiency in internal control over financial reporting related to NOAA's accounting for satellite construction costs. (A *significant deficiency* in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis, and merits attention by those charged with governance.) It found that NOAA needs to make improvements in the effective accounting for satellite construction costs and in monitoring of significant events and transactions related to its satellite programs, to ensure that only capitalizable costs are included in construction work in progress (CWIP) and that the balances of satellites, including related CWIP, are fairly stated. The Department concurred that improvements and enhancements can be made in its accounting for satellite costs. The Department has developed corrective action plans to address KPMG's recommendations.

During the audit, KPMG also assessed the information technology controls supporting financial management systems. While KPMG noted significant positive steps taken to implement and maintain effective information security practices, the Department needs to make improvements in the areas of security management, access controls, configuration management, and contingency planning. However, these matters were not considered a significant deficiency. The Department agreed with these findings and has developed corrective actions plans to address KPMG's recommendations.

KPMG also audited the Department's special-purpose financial statements and determined its compliance with financial reporting requirements in the *Treasury Financial Manual*. These statements are used to assist in preparing the *Financial Report of the U.S. Government*. In its unqualified opinion on these statements, KPMG reported no material weaknesses in internal control and no instances of noncompliance. (A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.)

### **FURTHER ACTIONS NEEDED TO ENHANCE COMMERCE'S ACQUISITION HUMAN CAPITAL PLAN (OIG-12-015-A)**

The Department's 5-year Acquisition Human Capital Plan (AHCP) for FYs 2010–2014, submitted to OMB in March 2010, discusses its challenges and the steps it has taken and plans to take to strengthen its workforce. While acknowledging the Office of Acquisition Management's (OAM's) challenges in developing this plan while experiencing turnover in its leadership, we found the plan lacks three critical program elements: (1) reconciled baseline staffing data identifying the agency's entire acquisition workforce; (2) sufficient methodologies

## Duncan Hunter National Defense Authorization Act for FY 2009 (P.L. 110-417)

Congress included provisions in the Duncan Hunter National Defense Authorization Act for FY 2009 (the Act) to help agencies develop plans to increase the size of their acquisition workforce. Enacted in 2008, the Act directed federal agencies other than the Department of Defense to develop a specific and actionable 5-year plan—an Acquisition Workforce Development Strategic Plan—to increase the acquisition workforce size and operate a government-wide acquisition intern program. It also outlined a number of other plan requirements, such as the development of a sustainable funding model to support efforts to hire, retain, and train an appropriately sized and skilled acquisition workforce

for determining the size and composition of the future acquisition workforce; and (3) time frames and milestones for action strategies. We also found that the requests for additional full-time equivalent staff identified in the plan did not match individual bureaus' FY 2012 budget submissions.

We recommended that the director of OAM: (1) establish formal guidance and procedures for determining baseline staffing levels; (2) prescribe minimum documentation standards required by the bureaus' procurement offices and OAM to support facts and figures contained in subsequent AHCPs; (3) work with each bureau to establish acquisition human capital goals and measure progress toward meeting those goals; and (4) work with the Office of Budget to access Departmental acquisition workforce budget data during the budget formulation process.

### SINGLE AUDIT RESULTS FOR CALENDAR YEAR 2011 (OIG-12-021-M)

Nonfederal entities (states, local governments, tribes, colleges and universities, and nonprofit organizations) that expend \$500,000 or more in a year of federal awards are required by the Single Audit Act of 1984, and Amendments of 1996, to have an annual audit of their federal awards. The purpose of the Act is to set forth standards for obtaining consistency and uniformity among federal agencies with the audit of nonfederal entities expending federal awards. OIG is responsible for thoroughly reviewing the issued audit report and auditee responses, considering carefully each finding and recommendation, and determining whether the recommendations can and should be implemented. We conduct this review on an ongoing basis—and we intend to present summary analyses on a semiannual basis.

For calendar year 2011, OIG reviewed 332 reports by recipients of grants from EDA, ITA, MBDA, NIST, NOAA, NTIA, and multiple bureaus. On February 13, 2012, we provided these bureaus with a detailed summary of our findings, which included \$9.9 million in questioned costs for EDA, NOAA, and NTIA programs. The February 13 memo contained an analysis of findings identified in single audit reports, noted trends in the types of findings reported, and summarized findings by Departmental program.

### FY 2011 COMPLIANCE WITH IMPROPER PAYMENT REQUIREMENTS (OIG-12-022-I)

Our review focused on determining whether the Department's improper payment reporting in appendix F of its *FY 2011 Performance and Accountability Report* complied with the Improper Payments Information Act of 2002 (IPIA), as amended by IPERA. We also evaluated the accuracy and completeness of the Department's reporting, as well as its performance in reducing and recapturing improper payments. Overall, we found that the Department was in compliance with IPIA requirements for FY 2011.

However, we determined that the Department could improve its improper payment implementation strategy related to payments without sufficient documentation and payment recapture audits. We recommended that the Department (1) expand the scope of its review of grants and contracts to include those for which the period of performance ended and last payment was made, but

for which the closeout process has not been completed and (2) research items identified in payment recapture audits as lacking sufficient documentation, and report amounts in its annual *Performance and Accountability Report* when unable to discern propriety of payment.

**AUDITS OF COMMERCE FUND RECIPIENTS BY INDEPENDENT AUDITORS**

In addition to undergoing OIG-performed audits, certain recipients of Department of Commerce financial assistance are periodically examined by state and local government auditors and by independent public accountants. OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, sets forth audit requirements for most of these audits. For-profit organizations, including those that receive Technology Innovation Program funds, are audited in accordance with *Government Auditing Standards*. In addition, organizations that received Advanced Technology Program (ATP) funds are audited in accordance with *NIST Program-Specific Audit Guidelines for ATP Cooperative Agreements*, and organizations that received Broadband Technology Opportunities Program funds are audited in accordance with the *Program-Specific Audit Guidelines for the Broadband Technology Opportunities Program*, issued by the Department.

**Improper Payments Elimination and Recovery Act of 2010 (IPERA) (P.L. 111-204)**

IPERA amended the Improper Payments Information Act of 2002 (P.L. 107-300), by expanding on the previous requirements for identifying, estimating, and reporting on programs and activities that were vulnerable to significant improper payments and broadening recovery requirements for overpayments. (*Improper payments* are those made by the federal government in the wrong amount, to the wrong entity, or for the wrong reason.)

We examined 186 audit reports during this semiannual period to determine whether they contained audit findings related to Departmental programs. For 136 of these reports, the Department acts as an oversight agency and monitors the audited entity’s compliance with OMB Circular A-133, *Government Auditing Standards*, or program-specific reporting requirements. The other 50 reports cover entities for which other federal agencies have oversight responsibility. We identified 11 reports with material findings related to the Department of Commerce.

| <b>Report Category</b>    | <b>OMB A-133 Audits</b> | <b>Program-Specific Audits</b> | <b>Total</b> |
|---------------------------|-------------------------|--------------------------------|--------------|
| Pending (October 1, 2011) | 19                      | 67                             | <b>86</b>    |
| Received                  | 107                     | 46                             | <b>153</b>   |
| Examined                  | 110                     | 76                             | <b>186</b>   |
| Pending (March 31, 2012)  | 16                      | 37                             | <b>53</b>    |

The following table shows a breakdown by bureau of approximately \$392 million in Commerce funds audited.

| <b>Agency</b>   | <b>Funds</b>         |
|---|----------------------|
| Economic Development Administration                                     | \$ 49,326,727        |
| International Trade Administration                                      | 541,335              |
| National Institute of Standards and Technology <sup>a</sup>             | \$71,333,776         |
| National Oceanic and Atmospheric Administration                         | 56,797,030           |
| National Telecommunications and Information Administration <sup>b</sup> | 127,163,963          |
| Multi-bureau  | 86,587,638           |
| <b>Total</b>  | <b>\$391,750,469</b> |

<sup>a</sup> Includes \$45,272,865 in program-specific audits. A-133 audits account for the remaining amount of \$26,060,911.

<sup>b</sup> Includes \$100,808,138 in program-specific audits. A-133 audits account for the remaining amount of \$26,355,825.

We identified a total of \$609,669 in the federal share of questioned costs and \$15,337 in funds to be put to better use. In most reports, the subject programs were not considered major programs; thus, the audits involved limited transaction and compliance testing against laws, regulations, and grant terms and conditions. The 11 reports with Commerce findings are listed in table 7-a on page 49.

### **BODY ARMOR MANUFACTURER REACHES SETTLEMENT WITH UNITED STATES IN DEFECTIVE MERCHANDISE CASE**

In October 2011, Point Blank Solutions, Inc. (formerly DHB Industries, Inc.), Point Blank Body Armor, Inc., and Protective Apparel Corporation of America, Inc. (collectively, "Point Blank") settled a civil false claims case for \$1 million as the result of an investigation into the manufacture and sale of bulletproof vests containing Zylon®. This settlement was part of a larger U.S. Department of Justice (DOJ) investigation of the body armor industry's use of Zylon® ballistic material in body armor. The companies manufactured and sold body armor comprised of Zylon® despite possessing information showing that the Zylon® materials degraded quickly over time and were not suitable for ballistic use. The Point Blank vests were purchased by the federal government and by various state, local, and tribal law enforcement agencies that were partially reimbursed by the United States under DOJ's Bulletproof Vest Partnership Grant Program. This settlement was the result of a joint investigation involving DOJ and investigative units from nine federal departments and agencies, including our office.

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## **ADDITIONAL MULTI-MILLION-DOLLAR GUILTY PLEAS IN PRICE-FIXING CASE**

In the September 2011 *Semiannual Report to Congress* (page 9), we reported that six companies agreed to plead guilty to numerous counts of violating the Sherman Antitrust Act by conspiring to fix certain fees in the provision of freight forwarding services for air cargo shipments from Europe to the United States between 2002 and 2007. In November 2011, four companies—EGL Inc., Geologistics, Kuhne Nagel, and Panalpina—had their plea agreements accepted by a federal judge. The four agreed to pay criminal fines totaling \$26,986,969 and special assessments totaling \$4,400. In December 2011, two additional companies—BAX Global and Schenker AG, Inc.—had their plea agreements accepted by a federal judge and agreed to pay criminal fines totaling \$23,281,441 and special assessments totaling \$2,400. All of these plea agreements were the result of an ongoing joint investigation into the freight forwarding industry by DOJ's Antitrust Division—National Criminal Enforcement Section, the FBI's Washington Field Office, and our office. These agreements have now been accepted by the court and are finalized. Several other companies are in ongoing negotiations with the Antitrust Division.



# ECONOMICS AND STATISTICS ADMINISTRATION

The **Economics and Statistics Administration** analyzes economic activity, formulates policy options, and produces a major share of the U.S. government's economic and demographic statistics. The chief economist monitors and analyzes economic developments and directs studies that have a bearing on the formulation of economic policy. ESA has two principal organizational units:

**Census Bureau**—Publishes a wide variety of statistical data about the nation's people and economy, conducting approximately 200 annual surveys in addition to the decennial census of the U.S. population and the quinquennial census of industry.

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

## **FORMER BEA EMPLOYEE AND ACCOMPLICE SENTENCED**

In October 2010, a BEA employee and two other individuals were indicted on 20 criminal counts, including tax fraud, bank fraud, wire fraud, aggravated identity theft, and obstruction of justice. In October 2011, the BEA employee was sentenced by a federal judge to a 44-month prison term and 8 months of probation and ordered to pay \$253,978 in restitution and a \$600 special assessment fee. In November 2011, an accomplice was also ordered to pay \$253,978 in restitution. These sentences were the result of our investigation into allegations that the BEA employee was committing fraud in the commission of his outside occupation as a private accountant. The BEA employee retired from federal service, effective November 2010.

## **CENSUS EMPLOYEE CONVICTED OF ATTEMPTED MURDER AND ASSAULT**

A Census employee was arrested by Montgomery County (Maryland) police in August 2011 for the attempted murder of the husband of another Census employee. In October 2011, the employee was indicted by a Montgomery County grand jury on charges that included attempted first-degree murder and assault and placed on indefinite unpaid suspension the next month. OIG provided assistance, primarily in the form of computer forensics, at the request of the Montgomery County Police Department. The employee's trial began in March 2012, and a guilty verdict was handed down on April 2. Sentencing is set for June.

## **GEORGIA MAN INDICTED FOR ASSAULT OF CENSUS ENUMERATOR**

In January 2012, a Cook County (Georgia) grand jury indicted a Georgia man on misdemeanor charges of battery and criminal trespass related to an alleged altercation between him and a Census enumerator conducting a site visit during the 2010 decennial census. OIG assisted the Cook County District Attorney's Office in conducting an investigation of the incident after local police investigators recused themselves from the matter. Our investigation substantiated allegations that the man assaulted the enumerator with a knife, resulting in injury to the enumerator, as well as damage to the enumerator's vehicle. In January 2012, the man was arrested for failing to appear in court to answer the indictment.

## **JOINT OIG-CENSUS LETTER ENLISTS LAW ENFORCEMENT PROFESSIONALS IN PROSECUTION OF CENSUS EMPLOYEE ASSAULTS**

During the 2010 decennial census, over 700 acts of violence against Census Bureau employees were reported throughout the United States. Prompted by these statistics and our findings that many of these incidents were not reported promptly or handled consistently by different jurisdictions, the Inspector General and Census Bureau Director Robert M. Groves authored a letter asking for "assistance in keeping our Census Bureau workers safe by aggressively pursuing prosecution of violent crimes against them and their property." The letter will be distributed to police and sheriff's departments across the country. A similar educational campaign is planned for the Census Bureau itself to encourage better and more consistent reporting of acts of violence.



# NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The **National Oceanic and Atmospheric Administration** mission is to understand and predict changes in Earth's environment, as well as conserve and manage coastal and marine resources to meet our nation's economic, social, and environmental needs. NOAA does this through six line offices.

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

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

***National Ocean Service***—Provides products, services, and information to promote safe navigation, support coastal communities, sustain marine ecosystems, and mitigate coastal hazards.

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

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

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

## FOLLOW-UP REVIEW OF NOAA FISHERIES ENFORCEMENT PROGRAMS AND OPERATIONS (OIG-12-017-I)

In response to our January 2010 *Review of NOAA Fisheries Enforcement Programs and Operations* (OIG-19887), NOAA identified activities planned or already taken to improve its Office of Law Enforcement (OLE), along with its Office of the General Counsel Enforcement Section (GCES), formerly known as General Counsel for Enforcement and Litigation. In a February 2010 memo, a March 2010 response, and several public announcements, NOAA identified 47 immediate and long-term activities to address OIG findings and recommendations.

OIG conducted this follow-up review, the scope of which was targeted to NOAA's action plan, to (1) provide an interim assessment of NOAA's corrective actions, (2) determine the effectiveness of actions already taken, and (3) identify constructive measures NOAA should consider going forward. We found that

- NOAA made progress in completing many key action plan items.
- Regional and national priorities for OLE have not been finalized.
- NOAA's placement of the compliance liaison within OLE raises independence concerns.
- NOAA's workforce analysis is one year behind schedule.
- GCES case management system data integrity issues have not been resolved.
- OLE and GCES policies and procedures manuals need to include a consistent method for handling prior violation information.
- GCES participation in Fishery Management Council meetings has been limited and inconsistent.
- E-hotline and "Complaints and Compliments" web page effectiveness is uncertain.

OIG reviewed NOAA's response and considered it in preparing the final report. We also modified the draft report based on information provided by NOAA in subsequent communications. NOAA's response indicated general concurrence with our findings. The response provided additional updated information summarizing the steps NOAA had taken and plans to take to address the challenges we identified. The response also contained a clarification of NOAA's position on the placement of a compliance liaison under the direct supervision of the OLE special agent in charge of the Northeast field office. OIG had no recommendations in this report; therefore, no action plan was necessary. However, we expect to continue a dialogue with NOAA on its progress in achieving the remaining action items.

## MORE ACTION NEEDED TO IMPROVE CONTROLS IN ASSET FORFEITURE FUND (OIG-12-019-I)

In our January 2010 and July 2010 reports, OIG addressed concerns over NOAA's Asset Forfeiture Fund (AFF), which contains proceeds from marine resource violations that are expendable under the guidelines of the Magnuson-Stevens Act section 311 (e)(1). Those reports revealed several weaknesses in NOAA's management and internal controls over the AFF. The July 2010 report recommended 13 ways for NOAA to improve administration and oversight of the AFF. In response, NOAA developed specific corrective action plans and provided us with quarterly updates on progress to implement them.

## OIG Reviews of NOAA Fisheries Enforcement Programs and Operations

In 2009, at the request of the NOAA Administrator and with the interest of numerous members of Congress, OIG began a major assessment of the policies, practices, and operations of NOAA's Office of Law Enforcement and Office of the General Counsel Enforcement Section. This investigation yielded the three 2010 reports listed below as well as two follow-up reports issued during this semiannual period and summarized here.

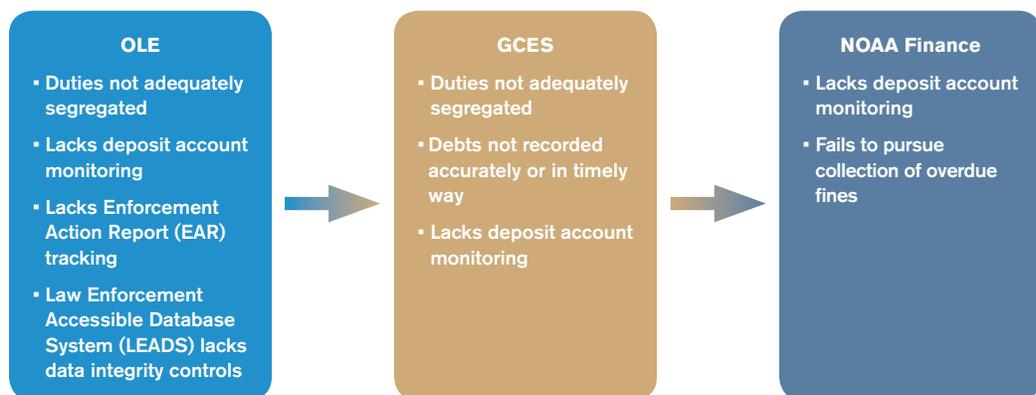
- *Review of NOAA Fisheries Enforcement Programs and Operations* (OIG-19887), January 2010
- *Review of NOAA Fisheries Enforcement Asset Forfeiture Fund* (OIG-19887-1), July 2010
- *Final Report—Review of NOAA Fisheries Enforcement Programs and Operations* (OIG-19887-2), September 2010

In this follow-up review, we reviewed NOAA's approach to defining and reporting on the AFF and also examined controls over AFF collections and disbursements. We found that NOAA lacks controls to assure that all proceeds are received and accurately recorded. Also, NOAA has not accurately recorded or adequately pursued the total amount owed for fines and penalties. We recommended that the Under Secretary of Commerce for Oceans and Atmosphere require the following:

- OLE and GCES develop policies and procedures that ensure that payments due to the government are recorded accurately and in a timely manner, and implement a segregation-of-duties matrix identifying compatible and incompatible functions associated with the collection, recording, deposit, and reconciliation of fines, penalties, and forfeitures.
- OLE train agents and enforcement technicians on collection procedures and policies.
- GCES headquarters work with the Enforcement Section Northeast division to improve the timeliness of the division's lockbox submissions.
- OLE, GCES, and NOAA Finance implement a process to ensure that deposit account cases are periodically reviewed and that legally resolved cases are transferred from the deposit account or returned to a respondent in a timely manner.
- OLE implement procedures to track and reconcile how Enforcement Action Reports are used and issued, including those issued to joint enforcement partners and the U.S. Coast Guard.
- OLE evaluate the Law Enforcement Accessible Database System (LEADS) internal control weaknesses, develop specific protocol for recording information, and restrict LEADS user access to cases.
- GCES develop policies and procedures to ensure that debts are recorded in the Commerce Business Systems (CBS) as soon as legally enforceable, which will include independent monitoring for amounts not yet recorded in CBS.
- GCES standardize its case monitoring process and reinforce use of the JustWare system.
- GCES and NOAA Finance develop policies and procedures to consistently pursue collection of fines and penalties in a manner that treats all respondents uniformly and in compliance with the Debt Collection Improvement Act of 1996.

As required by House Report 112-169, we provided an interim status report of NOAA's implementation of our recommendations (OIG-12-012-M) to the leadership of relevant House and Senate appropriations committees and subcommittees in December 2011.

### Breakdown of Issues by Office



## CONGRESSIONAL TESTIMONY (OIG-11-011-T)

On November 16, 2011, the Inspector General testified about the challenges NOAA faces in its efforts to develop and launch its new environmental satellites while minimizing expected data gaps. His testimony included a brief history of the development and operation of polar and geostationary environmental satellite systems operated by NOAA, NASA, and the Department of Defense. He also described the new NOAA-NASA Joint Polar Satellite System (JPSS) partnership, and cost, scheduling, performance, and coverage issues associated with JPSS and a predecessor satellite, the Suomi National Polar-orbiting Partnership (NPP).

Both NOAA and OIG, he said, have identified risks that, if not properly mitigated, could cause further delays in NPP operational readiness and degradation of NOAA's weather and climate forecasting capability. Longer-term, OIG recommends that NOAA senior management prioritize all JPSS requirements, develop reliable cost estimates to support future funding requests, systematically communicate planned actions and progress with decision makers, and coordinate NOAA efforts, in case NPP does not live through its 5-year design life. The Inspector General conveyed his interest in NOAA's action plan to address recommendations contained in OIG's September 30, 2011, JPSS audit report, and his hope that NOAA finds innovative solutions to closing the looming satellite coverage gaps.

*“NOAA’s current constellation of polar and geostationary operational environmental satellites is aging, and its capabilities will degrade over time. As a result, the risk increases for gaps in critical satellite data.”*

IG testimony before a U.S. Senate Commerce, Science, and Transportation Subcommittee, November 16, 2011

## NOAA EMPLOYEE COUNSELED AND NEW PROCEDURES INSTITUTED

In October 2011, a NOAA employee was counseled and removed from serving as a source selection official/evaluator pending the completion of additional training. NOAA also advised that it intended to provide appropriate training in order to strengthen the contracting capabilities of the employee's office. These actions were the result of our investigation into alleged violations of the Procurement Integrity Act involving the award of a National Weather Service contract. Our investigation established that a senior NOAA official made inappropriate disclosures to the losing bidder before that company was notified by the proper authorities. We determined this behavior fostered an appearance of violating the Procurement Integrity Act and also violated the *Standards of Ethical Conduct for Employees of the Executive Branch*.



# NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

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

### THIRD ANNUAL ASSESSMENT OF THE PSIC GRANT PROGRAM: NTIA AND FEMA NEED TO IMPROVE OVERSIGHT OF PSIC GRANTS (OIG-12-008-A)

Our assessment found that neither NTIA nor the Federal Emergency Management Agency (FEMA) adequately monitored and addressed (1) PSIC equipment purchases and operating capability, (2) matching share issues, and (3) progress toward meeting program goals. We also found that certain grantees with low drawdowns may be at risk of not completing their projects by September 30, 2012. Although NTIA and FEMA intended to evaluate the success of the PSIC program by having grantees provide evidence of improvements in interoperability at the completion of (rather than during) each grant period, issues discovered after grant funds have been expended will be difficult to correct, decreasing the likelihood of the program's success.

We recommended that the Assistant Secretary for Communications and Information, in coordination with the Assistant Administrator, FEMA Grants Program Directorate (1) implement a plan that provides for the active monitoring of equipment and its operational capability; (2) develop a formal document for grantees that reconciles all existing guidance on proportionality and emphasize close monitoring to ensure that matching share requirements will be met; (3) actively monitor and document grantee progress toward achieving program goals, including the achievement of updated milestones for grantees that requested an extension until September 2012; and (4) provide quarterly evidence to OIG that grantees with less than 50 percent drawdowns as of September 30, 2011, are being actively monitored through closeout.

## Public Safety Interoperable Communications Program

The Digital Television Transition and Public Safety Act of 2005 authorized NTIA, in consultation with the Department of Homeland Security (DHS), to implement the Public Safety Interoperable Communications (PSIC) program—a \$1 billion one-time, formula-based matching grant program intended to enable public safety agencies to establish interoperable emergency communications systems using reallocated radio spectrum.

DHS, in cooperation with NTIA, provides grants management services for the PSIC program; the Federal Emergency

Management Agency (FEMA) handles the DHS responsibilities. PSIC program funding has been extended until expended—but not beyond September 30, 2012.

The Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) requires OIG to conduct financial audits, over 4 years, of a representative sample of at least 25 states or territories receiving PSIC grants. The statute also requires OIG to annually assess the management of the program and report any findings and recommendations from that annual assessment to the relevant congressional committees.



# UNITED STATES PATENT AND TRADEMARK OFFICE

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

## **FY 2011 FINANCIAL STATEMENT AUDITS (OIG-12-005-A, OIG-12-006-A)**

Independent auditor KPMG LLP found that USPTO's financial statements were fairly presented in all material respects and in conformity with U.S. generally accepted accounting principles. KPMG found no instances of reportable noncompliance with applicable laws, regulations, contracts, or grant agreements and no deficiencies in internal control over financial reporting that were considered to be a material weakness. (A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.)

During the audit, KPMG also assessed the IT controls supporting financial management systems. While KPMG noted significant positive steps taken to implement and maintain effective information security practices, USPTO needs to make improvements in the areas of configuration management and contingency planning. However, these matters were not considered a significant deficiency. USPTO agreed with these findings and has developed corrective action plans to address KPMG's recommendations.

## **THE PATENT HOTELING PROGRAM IS SUCCEEDING AS A BUSINESS STRATEGY (OIG-12-018-A)**

USPTO offers a variety of telework options for its employees—from 1 to 5 days a week. The largest of these is the Patent Hoteling Program (PHP), where employees work from home at least 4 days a week and reserve office space for when they need to be present at USPTO. Goals of PHP include reducing space and cost requirements while improving employee retention and job satisfaction. Although considered one of the leading government telework programs, no comprehensive and independent review of PHP's costs and benefits had ever been completed. Because, by law, participation in telework programs should not result in diminished federal employee performance, we specifically looked at the productivity of PHP participants. Also, because USPTO's management challenges include addressing the backlog of about 700,000 patent applications, we sought to determine if PHP can help reduce this backlog in a cost-effective way.

We found that the average PHP participant spends 66.3 more hours a year examining patents than does the average in-house examiner; this translates to reviewing about 3.5 more patent applications a year than examiners not in the program. Although PHP incurs additional costs, mainly for IT infrastructure and hoteling support services, these costs are significantly offset by avoided real estate costs—\$16.84 million by our estimation—as well as revenue generated from the additional patent applications reviewed.

We recommended that the Under Secretary of Commerce for Intellectual Property and Director, USPTO:

- Conduct a more comprehensive calculation for costs and cost avoidance related to PHP in order to obtain more accurate estimates of the cost and benefits affiliated with this program.
- Work with the Department to compare best practices from PHP, which could aid telework programs within the rest of the Department.
- Ensure that internal controls are in place so that only eligible patent examiners participate in PHP and appropriate documentation is maintained.

### Comparison of FY 2010 Costs per Patent Examiner for PHP and Non-PHP Participants

| Cost Category                             | PHP             | Non-PHP<br>(at USPTO) | First-Year<br>Difference<br>(using PHP<br>as base) | Subsequent-<br>Year Difference<br>(using PHP<br>as base) |
|---|-----------------|-----------------------|--|--|
| Real estate, taxes,<br>utilities          | \$1,075         | \$9,835               | -\$8,760   | -\$8,760   |
| IT setup                                  | 1,050           |                       | +1,050   | n/a  |
| Equipment <sup>a</sup>                    | 4,880           | 4,255                 | +625   | n/a  |
| Virtual<br>infrastructure <sup>b</sup>    | 4,450           |                       | +4,500 <sup>c</sup>                                | +4,500   |
| Hoteling support<br>services <sup>c</sup> | 1,675           |                       | +1,675   | +1,675   |
| Transit benefits                          | 230             | 1,100                 | -870   | -870   |
| ISP reimbursement                         | 70              |                       | +70  | +70  |
| <b>Total</b>                              | <b>\$13,480</b> | <b>\$15,225</b>       | <b>-\$1,710</b>                                    | <b>-\$3,385</b>  |

Source: OIG analysis of USPTO data

<sup>a</sup> Equipment includes computer, dual monitors, printer, webcam, keyboard, speakers, and miscellaneous equipment.

<sup>b</sup> Virtual infrastructure costs are dynamic and reported on as incurred in 2010; however, USPTO is currently transitioning to a universal laptop program that will decrease these costs in the future.

<sup>c</sup> Hoteling support services include telework depot, engineer, VPN, storage, and backup.



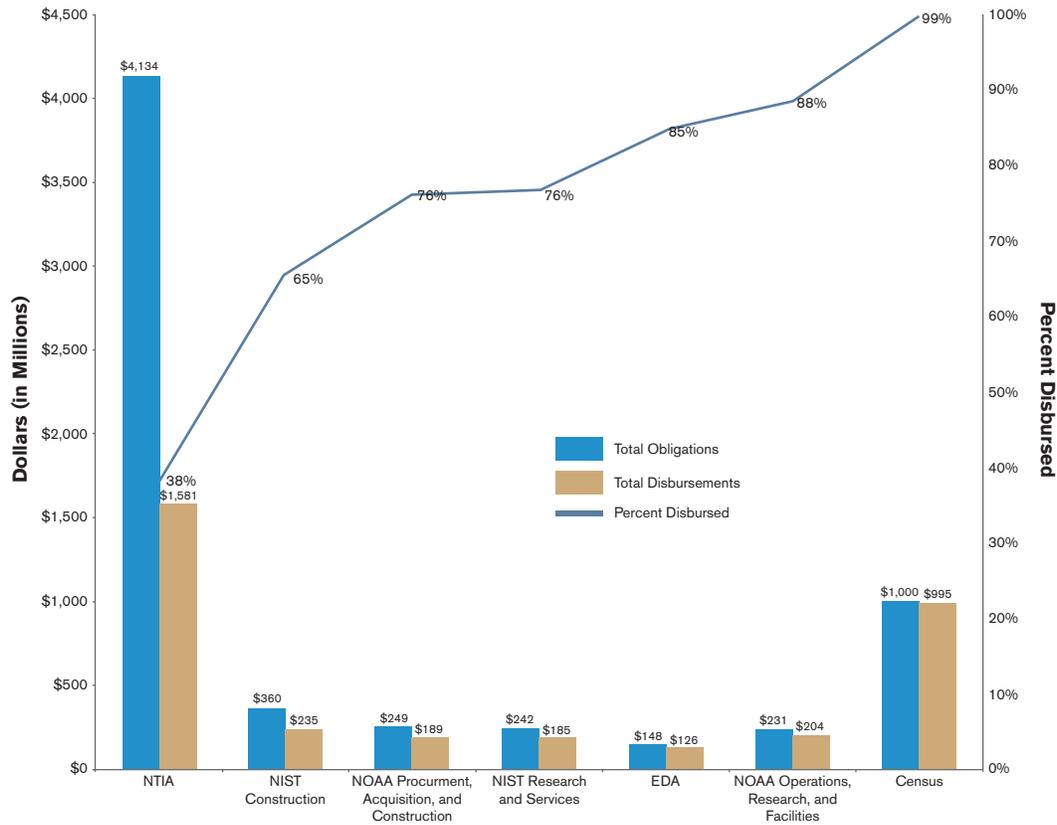


## AMERICAN RECOVERY AND REINVESTMENT ACT

The Recovery Act—signed into law by President Barack Obama on February 17, 2009—has three immediate goals: (1) create new jobs and save existing ones, (2) spur economic activity and invest in long-term growth, and (3) foster unprecedented levels of transparency and accountability.

Five Department of Commerce bureaus—the Census Bureau, EDA, NIST, NOAA, and NTIA—and OIG received \$7.9 billion under the Act, with \$1.2 billion ultimately rescinded or transferred to other agencies. As of March 31, 2012, the Department had obligated almost all of the approximately \$6.7 billion remaining and had disbursed approximately \$3.8 billion. (The disbursement amount includes funding for the now-completed NTIA Digital Television Converter Box Coupon Program.)

### COMMERCE BUREAUS' RECOVERY ACT OBLIGATIONS AND DISBURSEMENTS AS OF MARCH 31, 2012



### OIG RECOVERY ACT OVERSIGHT, FEBRUARY 2009–MARCH 2012

Funded by \$16 million for proactive oversight of the Department's Recovery Act programs and activities, OIG has been evaluating whether agencies are using Recovery Act funds efficiently and effectively and following up on complaints including whistleblower reprisal allegations.

| Key Activities   | Cumulative Results |
|--|--------------------|
| Published audit and evaluation reports   | 17                 |
| Unpublished work products  | 4                  |
| Audits/evaluations in progress   | 5                  |
| OIG recommendations for action, correction, or improvement   | 63                 |
| Recommendations implemented to take corrective action by making improvements, reducing risk, or preventing waste | 29                 |
| Investigations completed   | 3                  |
| Investigations in progress   | 6                  |
| Whistleblower reprisal allegations received  | 2                  |
| Whistleblower reprisal allegations accepted  | 2                  |
| Debarments and corporate compliance agreements implemented   | 0                  |
| Proactive training and outreach sessions held  | 128                |
| Individuals trained  | 6,474              |
| Hours of training provided   | 8,109              |

## The Recovery Act and Broadband

The Recovery Act gave \$4.7 billion to NTIA to establish BTOP, a competitive grant program intended to provide funds for deploying broadband infrastructure in the United States in order to enhance broadband capacity at public computer centers, improve access to broadband services for public safety agencies, promote sustainable broadband adoption projects, and develop an interactive map showing broadband capabilities and availability.

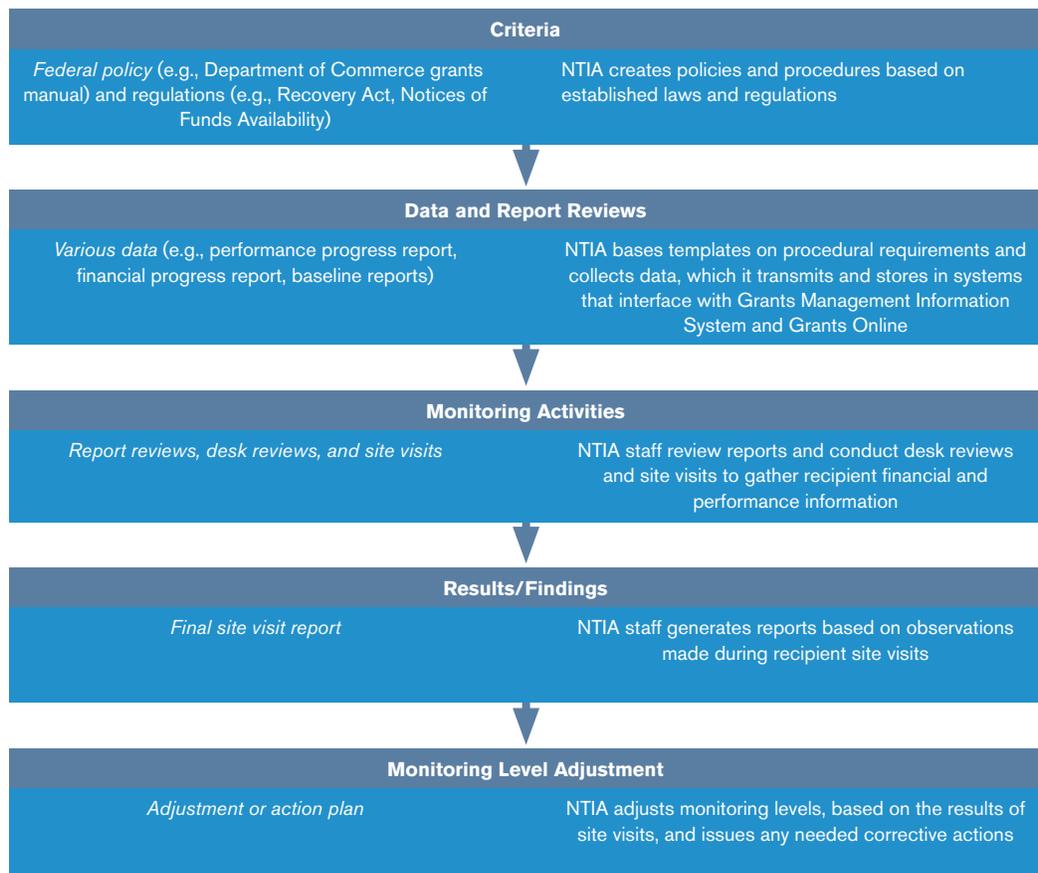
### NTIA HAS AN ESTABLISHED FOUNDATION TO OVERSEE BTOP AWARDS, BUT BETTER EXECUTION OF MONITORING IS NEEDED (OIG-12-013-A)

NTIA's FY 2011 BTOP Monitoring and Assessment Plan established guiding principles for monitoring and assessing BTOP awards. The plan explains the processes for establishing and revising monitoring levels—as well as for ensuring improved project performance and compliance with grant terms and conditions—and the tools used to monitor the award. Our review identified improvements to strengthen (1) monitoring tools and the effectiveness of monitoring-level adjustments, (2) the recipient match review process, (3) tracking projects at risk of meeting the 3-year completion deadline and initiating a formal trend analysis, and (4) maximizing monitoring resources.

We recommended that NTIA

- strengthen the federal program officers' monitoring efforts,
- verify source documentation into its current monitoring efforts,
- strengthen its monitoring tools' internal control capabilities,
- prepare recipient match documentation guidance for federal program officer use during site visits,
- work with recipients at risk of not meeting award progress and completion requirements and develop an action plan and alternative strategies for those awards that will not satisfy award terms,
- incorporate continuous trend analysis activities into its award monitoring process, and
- identify oversight strategies for different funding levels.

#### Overview of BTOP Monitoring Model



## **MISREPRESENTATIONS REGARDING PROJECT READINESS, GOVERNANCE STRUCTURE PUT AT RISK THE SUCCESS OF THE BAYWEB PROJECT (OIG-12-016-M)**

In November 2010, a San Francisco Bay–area county executive requested an investigation of the nearly \$50.6 million BTOP grant awarded to Motorola Solutions, Inc. (formerly Motorola, Inc.) for the project known as the San Francisco Bay Area Wireless Enhanced Broadband (BayWEB). The letter claimed that the application contained misrepresentations and misinformation—and that the selection of Motorola as a grant applicant represented a conflict of interest. Allegations regarding the award had been previously sent to NTIA in September 2010, before the award was accepted by Motorola. In December 2010, OIG initiated a review of NTIA's response to concerns expressed on the project.

Our May 2011 review (OIG-11-024-I) contained recommendations for improving NTIA's procedures for handling complaints. Our report also noted that we would undertake further review of the complaint to examine issues that were outside the scope of our initial review—and that NTIA declined to investigate further, because it viewed these issues as exceeding the scope of its program responsibilities.

Our follow-on review (OIG-12-016-M) identified several areas of concern regarding the award to Motorola that revealed misrepresentations in the application and deficiencies in the due diligence—and also highlighted ongoing challenges facing the administration of BTOP. Specifically, the application, not attributable directly to the grantee in this case, misrepresented information regarding the status of a regional governance structure, the readiness of sites for broadband infrastructure, and the region's authority to use the dedicated broadband spectrum. Although these concerns may not mandate termination of the grant, they have contributed to delays in the project that put at risk the successful completion of the project and the fulfillment of the grant's purpose. The project, which no longer includes a public access component, continues to face challenges. As of March 31, 2012, progress has been limited, and several key issues must be addressed if the project is to be completed on schedule. For example, under recently enacted legislation, an independent authority established within NTIA will oversee the development of a nationwide public safety broadband network. The technical requirements and standards adopted under that program may affect BayWEB's development. In addition, the project still needs to acquire access to existing network infrastructure and equipment.

## **OVERSIGHT ACTIVITIES OF NIST'S RECOVERY ACT CONSTRUCTION GRANT AWARDS ARE GENERALLY EFFECTIVE BUT NEED IMPROVEMENTS (OIG-12-020-A)**

The Recovery Act appropriated \$360 million to NIST to construct research facilities, including \$180 million in competitive grants for the construction of research science buildings. By January 2010, NIST had awarded more than \$179 million in Recovery Act funds to support the construction of new research science facilities at 15 universities and 1 nonprofit research organization. With grant recipients' matching shares, the 16 projects were intended to launch more than \$400 million in new laboratory construction projects in 2009 and 2010.

Although NIST has established a generally effective construction grants program, program processes are still under development, and NIST risks not having appropriate and adequate monitoring processes in place. We found that inadequate internal controls led to award administration and oversight concerns, such as releasing funds without securing the government's interest first. We also found violations of Recovery Act provisions, such as granting reprieves to use non-U.S.-made devices without official waivers. Finally, most of the 16 Recovery Act-funded construction projects are in jeopardy of not being completed on time. Further, five of these projects require immediate management attention because they are either scheduled for completion after,

or at risk of being extended beyond, September 30, 2013—the new OMB deadline for using Recovery Act funds. Our audit of postaward administration includes recommendations to the Under Secretary of Commerce for Standards and Technology that he direct

- The NIST grants office to address federal fund drawdown issues, as well as the review and reconciliation of all required reports in official grant files.
- The NIST program office to (a) develop plans to address projects at risk of missing the September 30, 2013, deadline; (b) require other grantees to meet grant-specified deadlines and/or submit proper extension requests to NIST; and (c) require grantees to submit all extension request elements before finalizing its decisions.
- The program office to strengthen its construction grants procedures manual and develop a recipient handbook—as well as direct the grants office to instruct staff on the official role of the paper file used with their grants management system as it transitions to a new grants system (and strengthen internal controls on official file access).
- The program office to ensure Buy American compliance—and direct the grants office to establish a firewall to prevent the use of Recovery Act funds (should they become available) on non-Recovery Act activities.

## National Institute of Standards and Technology

The National Institute of Standards and Technology promotes U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology in ways that enhance economic security and improve our quality of life. NIST carries out its mission via four cooperative programs.

**NIST Laboratories**—Conduct research that advances the nation's technology infrastructure and is needed by U.S. industry to continually improve products and services.

**Hollings Manufacturing Extension Partnership**—Works with small- and mid-sized U.S. manufacturers through a nationwide network of 350 field offices to help them create and retain jobs, expand into new markets and new products, increase profits, and save time and money.

**Baldrige Performance Excellence Program**—Promotes performance excellence among U.S. manufacturers, service companies, educational institutions, health care providers, and nonprofit organizations through outreach programs and the annual Malcolm Baldrige National Quality Award.

**Technology Innovation Program**—Provides cost-shared awards to industry, universities, and consortia for research on potentially revolutionary technologies that address critical national and societal needs.

## CONGRESSIONAL TESTIMONY (OIG-12-012-T)

On November 30, 2011, the Inspector General testified about OIG's oversight of the Department's implementation of science, technology, and other programs funded through the \$7.9 billion in Recovery Act funding that the Department initially received. (Later, \$1.2 billion was rescinded or transferred to other agencies.)

He noted that among the issues the Department encountered in spending these funds were (1) slower spending that challenged agencies' science, technology, and business development initiatives aimed at job creation; (2) newer programs that experienced slower disbursements than existing ones; and (3) the risk of not completing Recovery Act projects on time. OIG's oversight activities identified the value of up-front planning and timely data analysis by agencies as important "lessons learned." The Inspector General's statement included an appendix listing nearly 30 completed, in-progress, and planned Recovery Act-related audits and reviews, as well as congressional testimony undertaken since March 2009.

*"More than two and a half years after passage of the Recovery Act, the twin challenges of setting up new programs and the long lead time to complete construction projects have resulted in much of the Department's spending being incomplete."*

IG testimony before a U.S. House of Representatives Science, Space, and Technology Subcommittee, November 30, 2011

## STATISTICAL DATA

The Inspector General Act Amendments of 1988 require us to present the statistical data contained in Tables 1–8.

| TABLES   | Page |
|--|------|
| 1. Office of Investigations Statistical Highlights for This Period | 42   |
| 2. Audit Resolution and Follow-up                                  | 43   |
| 3. Audit and Evaluation Statistical Highlights for This Period     | 44   |
| 4. Audits with Questioned Costs                                    | 45   |
| 5. Audits with Recommendations That Funds Be Put to Better Use     | 45   |
| 6. Report Types for This Period                                    | 46   |
| 6-a. Performance Audits  | 47   |
| 6-b. Financial Statement Audits                                    | 48   |
| 6-c. Evaluations and Inspections                                   | 48   |
| 7. Single Audit and Program-Specific Audits                        | 49   |
| 7-a. Processed Reports with Audit Findings                         | 49   |
| 8. Audits Unresolved for More Than 6 Months                        | 50   |

### TABLE 1. 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.

**Allegations processed** presents the number of complaints from employees, stakeholders, and the general public that were handled by our Complaint Intake Unit. Of these, some resulted in the opening of investigations; others were referred to Commerce bureaus for internal administrative follow-up. Others were unrelated to Commerce activities or did not provide sufficient information for any investigative follow-up and so were not accepted for investigation or referral. Fines and other financial recoveries refer only to agreements that a judge accepted.

### Investigative Activities

|                                      |                           |
|--------------------------------------|---------------------------|
| Investigations opened                | 21                        |
| Investigations closed                | 26                        |
| Arrests                              | 0                         |
| Indictments/Informations             | 4                         |
| Convictions                          | 6                         |
| Fines and other financial recoveries | \$50,783,766 <sup>a</sup> |

### Allegations Processed

|  |     |
|--|-----|
| Hotline complaints                                       | 625 |
| Total complaints, all sources                            | 625 |
| Referrals to bureaus or non-Commerce agencies            | 310 |
| Evaluated but not accepted for investigation or referral | 294 |

<sup>a</sup> This total is derived solely from federal multi-agency investigations in which OIG secondarily participated (e.g., antitrust cases). It does not reflect actual monetary recoveries for the Department of Commerce.

## TABLE 2. AUDIT RESOLUTION AND FOLLOW-UP

The Inspector General Act Amendments of 1988 require us to present (in this report) audits issued before the beginning of the reporting period (October 1, 2011) for which no management decision had been made by the end of the period (March 31, 2012). Six audit reports remain unresolved for this reporting period (see page 50).

**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 audit report and the issuance of a final decision by management concerning its response.

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

| Report Category                   | Modifications | Appeals |
|-----------------------------------|---------------|---------|
| Actions pending (October 1, 2011) | 0             | 1       |
| Submissions                       | 0             | 1       |
| Decisions                         | 0             | 1       |
| Actions pending (March 31, 2012)  | 0             | 1       |

### TABLE 3. AUDIT AND EVALUATION 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>   | \$ 4,509,669 |
| Value of audit recommendations that funds be put to better use <sup>b</sup> | 886,337      |
| Value of audit recommendations agreed to by management <sup>c</sup>         | 17,477,647   |

These amounts include costs questioned by state and local government auditors or independent public accountants.

<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 Commerce 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 Commerce, a contractor, or a grantee; (5) avoidance of unnecessary expenditures identified in preaward reviews of contracts or grant agreements; or (6) any other savings specifically identified.

<sup>c</sup> **Value of audit recommendations agreed to by management:** This is the sum of (1) disallowed costs and (2) funds 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 during negotiations by a contracting officer—not to be charged to the government.

**TABLE 4. AUDITS 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 audit. 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 | 12     | \$38,241,279     | \$17,364,511      |
| B.   | Reports issued during the reporting period  | 7      | 4,509,669        | 3,900,000         |
| Total reports (A+B) requiring a management decision during the period <sup>a</sup> |   | 19     | 42,750,948       | 21,264,511        |
| C.   | Reports for which a management decision was made during the reporting period <sup>b</sup>       | 7      | 18,049,019       | 16,445,451        |
|  | i. Value of disallowed costs  |        | 17,386,692       | 16,427,853        |
|  | ii. Value of costs not disallowed   |        | 893,827          | 17,598            |
| D.   | Reports for which no management decision had been made by the end of the reporting period       | 12     | 24,701,929       | 4,819,060         |

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

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

**TABLE 5. AUDITS WITH RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE**

See Table 3 for a definition of “recommendation 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 | 3      | \$1,262,853 |
| B.   | Reports issued during the reporting period  | 2      | 886,337     |
| Total reports (A+B) requiring a management decision during the period <sup>a</sup> |   | 5      | 2,149,190   |
| C.   | Reports for which a management decision was made during the reporting period                    | 2      | 169,358     |
|  | i. Value of recommendations agreed to by management   |        | 90,955      |
|  | ii. Value of recommendations not agreed to by management  |        | 78,403      |
| D.   | Reports for which no management decision had been made by the end of the reporting period       | 3      | 1,979,832   |

<sup>a</sup> Two audit reports included in this table are also included among reports with questioned costs (see Table 4). However, the dollar amounts do not overlap.

## TABLE 6. REPORT TYPES FOR THIS PERIOD

**Performance audits** are engagements that provide assurance or conclusions based on an evaluation of sufficient, appropriate evidence against stated criteria, such as specific requirements, measures, or defined business practices. Performance audits provide objective analysis so that management, and those charged with governance and oversight can use 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.

**Financial statement audits** provide reasonable assurance through an opinion (or disclaimer of an opinion) about whether an entity's financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles, or with a comprehensive basis of accounting other than these principles.

**Evaluations and inspections** include evaluations, inquiries, and similar types of reviews that do not constitute an audit or a criminal 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; make recommendations for improvements to programs, policies, or procedures; and identify where administrative action may be necessary.

| Type                        | Number of Reports | Table Number |
|-----------------------------|-------------------|--------------|
| Performance audits          | 8                 | Table 6-a    |
| Financial statement audits  | 5                 | Table 6-b    |
| Evaluations and inspections | 6                 | Table 6-c    |
| Total                       | 19                |              |

**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>National Oceanic and Atmospheric Administration</b>  |                      |                    |                                      |
| Oversight Activities of NIST's Recovery Act Construction Grant Awards Are Generally Effective but Need Improvements           | OIG-12-020-A         | 02.14.2012         | 0                                    |
| <b>National Telecommunications and Information Administration</b>   |                      |                    |                                      |
| Third Annual Assessment of the Public Safety Interoperable Communications Grant Program                                       | OIG-12-008-A         | 11.10.2011         | 0                                    |
| NTIA Has an Established Foundation to Oversee BTOP Awards, But Better Execution of Monitoring is Needed                       | OIG-12-013-A         | 11.17.2011         | 0                                    |
| <b>Office of the Secretary</b>  |                      |                    |                                      |
| Commerce's Office of Acquisition Management Must Continue to Improve Its Ongoing Oversight of Acquisition Savings Initiatives | OIG-12-001-A         | 10.06.2011         | 0                                    |
| Improvements Are Needed For Effective Web Security Management   | OIG-12-002-A         | 10.21.2011         | 0                                    |
| FY 2011 Federal Information Security Management Act Audit: More Work Needed to Strengthen IT Security Department-Wide         | OIG-12-007-A         | 11.10.2011         | 0                                    |
| Further Actions Needed to Enhance Commerce's Acquisition Human Capital Plan   | OIG-12-015-A         | 12.21.2011         | 0                                    |
| <b>U.S. Patent and Trademark Office</b>   |                      |                    |                                      |
| The Patent Hoteling Program Is Succeeding as a Business Strategy  | OIG-12-018-A         | 02.01.2012         | 0                                    |

**TABLE 6-B. FINANCIAL STATEMENT AUDITS**

| Report Title   | Report Number | Date Issued | Funds to Be Put to Better Use |
|--|---------------|-------------|-------------------------------|
| <b>Office of the Secretary</b>   |               |             |                               |
| FY 2011 Financial Statement Audit: Assessment of Information Technology Controls Supporting Financial Management Systems | OIG-12-004-A  | 11.01.2011  | 0                             |
| FY 2011 Consolidated Financial Statement Audit   | OIG-12-009-A  | 11.14.2011  | 0                             |
| FY 2011 Special-Purpose Financial Statements   | OIG-12-010-A  | 11.15.2011  | 0                             |
| <b>U.S. Patent and Trademark Office</b>  |               |             |                               |
| FY 2011 Financial Statement Audit: Assessment of Information Technology Controls Supporting Financial Management Systems | OIG-12-005-A  | 11.01.2011  | 0                             |
| FY 2011 Financial Statement Audit  | OIG-12-006-A  | 11.09.2011  | 0                             |

**TABLE 6-C. EVALUATIONS AND INSPECTIONS**

| Report Title   | Report Number | Date Issued | Funds to Be Put to Better Use | Amount Questioned | Amount Unsupported |
|--|---------------|-------------|-------------------------------|-------------------|--------------------|
| <b>National Oceanic and Atmospheric Administration</b>   |               |             |                               |                   |                    |
| Follow-up Review of NOAA Fisheries Enforcement Programs and Operations                                   | OIG-12-017-I  | 01.31.2012  | 0                             | 0                 | 0                  |
| More Action Needed to Improve Controls in Asset Forfeiture Fund  | OIG-12-019-I  | 02.08.2012  | \$871,000                     | \$3,900,000       | \$3,900,000        |
| <b>National Telecommunications and Information Administration</b>  |               |             |                               |                   |                    |
| Misrepresentations Regarding Project Readiness, Governance Put at Risk the Success of the BayWEB Project | OIG-12-016-M  | 01.10.2012  | 0                             | 0                 | 0                  |
| <b>Office of the Secretary</b>   |               |             |                               |                   |                    |
| Top Management Challenges Facing the Department of Commerce  | OIG-12-003-I  | 10.24.2011  | 0                             | 0                 | 0                  |
| Single Audit Results for Calendar Year 2011  | OIG-12-021-M  | 02.13.2012  | 0                             | 0                 | 0                  |
| FY 2011 Compliance with Improper Payment Requirements  | OIG-12-022-M  | 03.15.2012  | 0                             | 0                 | 0                  |

## TABLE 7. SINGLE AUDIT AND PROGRAM-SPECIFIC AUDITS

OIG reviewed and accepted 186 audit reports prepared by independent public accountants and local, state, and other federal auditors. The reports processed with questioned costs, recommendations that funds be put to better use, and/or nonfinancial recommendations are listed in Table 7-a.

| Agency  | Audits     |
|---|------------|
| Economic Development Administration                         | 51         |
| International Trade Administration                          | 2          |
| National Institute of Standards and Technology*             | 44         |
| National Oceanic and Atmospheric Administration             | 18         |
| National Telecommunications and Information Administration* | 48         |
| Multi-bureau  | 20         |
| No Commerce expenditures                                    | 3          |
| <b>Total</b>  | <b>186</b> |

\*Includes 37 program-specific audits for NIST and 39 program-specific audits for NTIA.

## TABLE 7-A. PROCESSED REPORTS WITH MATERIAL AUDIT FINDINGS

| Report Title  | Report Number     | Date Issued | Funds to Be Put to Better Use | Amount Questioned | Amount Unsupported |
|---|-------------------|-------------|-------------------------------|-------------------|--------------------|
| <b>Economic Development Administration</b>                        |                   |             |                               |                   |                    |
| South Central Tennessee Development District                      | ATL-09999-12-4398 | 03.02.12    | 0                             | \$283,567         | 0                  |
| <b>National Institute of Standards and Technology</b>             |                   |             |                               |                   |                    |
| South Carolina Manufacturing Extension Partnership                | ATL-09999-12-3959 | 12.12.11    | 0                             | 0                 | 0                  |
| South Carolina Manufacturing Extension Partnership                | ATL-09999-12-3962 | 12.12.11    | 0                             | 0                 | 0                  |
| Anasys Instruments Corporation                                    | ATL-09999-12-4110 | 02.22.12    | 0                             | 118,809           | 0                  |
| SimQuest LLC  | ATL-09999-12-4263 | 02.22.12    | 15,337                        | 0                 | 0                  |
| A 123 Systems Inc.  | ATL-09999-12-4213 | 03.29.12    | 0                             | 27,213            | 0                  |
| Ebert Composites Corporation                                      | ATL-09999-12-4269 | 03.29.12    | 0                             | 109,190           | 0                  |
| Pixelligent Technologies LLC                                      | ATL-09999-12-4196 | 03.29.12    | 0                             | 38,387            | 0                  |
| <b>National Oceanic and Atmospheric Administration</b>            |                   |             |                               |                   |                    |
| Virgin Islands Resource Conservation & Development Council, Inc.  | ATL-09999-12-4355 | 02.22.12    | 0                             | 0                 | 0                  |
| <b>National Telecommunications and Information Administration</b> |                   |             |                               |                   |                    |
| One Economy Corporation, DC                                       | ATL-09999-12-4328 | 11.23.11    | 0                             | 0                 | 0                  |
| Vermont Telephone Company, Inc.                                   | ATL-09999-12-4312 | 02.28.12    | 0                             | 32,503            | 0                  |

**TABLE 8. AUDITS UNRESOLVED FOR MORE THAN 6 MONTHS****Census Bureau****Computer & High Tech Management, Inc.**

In our September 2005 *Semiannual Report*, we reported the results of audits of 2 of the 21 task orders for IT services that Computer & High Tech Management, Inc., was providing to Census. We sought to determine whether the firm had complied with contract terms and conditions and federal regulations and had billed Census for work performed in accordance with specifications of the task order. We found that the firm failed to comply with numerous contract and federal requirements, which caused us to question more than \$10.7 million in direct labor and other reimbursable costs. We have suspended audit resolution on this contract audit pursuant to an agreement with Census.

**National Institute of Standards and Technology****Manufacturing Extension Partnership Program**

NIST has not reached resolution on findings and questioned costs identified in OIG audit reports of the Hollings Manufacturing Extension Partnership (MEP) program in three states. We issued our audit reports covering the Massachusetts and Florida MEPs in March 2009 and our audit report covering California Manufacturing Technology Consulting in July 2010. We have reported the findings and questioned costs contained in these reports as unresolved in previous *Semiannual Reports*. NIST has been unable to review the associated resolution proposals due to insufficient staff in its Grants and Agreements Management Division and intends to resolve the three OIG MEP audits by May 31, 2012 (ATL-18568, DEN-18135, DEN-18572).

**National Oceanic and Atmospheric Administration****Alaska Eskimo Whaling Commission**

As reported in our March 2009 *Semiannual Report*, a single audit review of this NOAA grant questioned costs totaling \$66,353 in expenditures that were not adequately documented. We have suspended audit resolution on this grant audit pursuant to an agreement with NOAA (ATL-09999-8-3238).



# REPORTING REQUIREMENTS

The Inspector General Act of 1978, as amended, specifies reporting requirements for semiannual reports. The requirements are listed below and indexed to the applicable pages of this report.

| Section             | Topic   | Page  |
|---------------------|---|-------|
| 4(a)(2)             | Review of Legislation and Regulations                     | 52    |
| 5(a)(1)             | Significant Problems, Abuses, and Deficiencies            | 16-41 |
| 5(a)(2)             | Significant Recommendations for Corrective Action         | 16-41 |
| 5(a)(3)             | Prior Significant Recommendations Unimplemented           | 52    |
| 5(a)(4)             | Matters Referred to Prosecutorial Authorities             | 43    |
| 5(a)(5) and 6(b)(2) | Information or Assistance Refused                         | 53    |
| 5(a)(6)             | Listing of Audit Reports                                  | 46-48 |
| 5(a)(7)             | Summary of Significant Reports                            | 16-41 |
| 5(a)(8)             | Audit Reports—Questioned Costs                            | 45    |
| 5(a)(9)             | Audit Reports—Funds to Be Put to Better Use               | 45    |
| 5(a)(10)            | Prior Audit Reports Unresolved                            | 53    |
| 5(a)(11)            | Significant Revised Management Decisions                  | 53    |
| 5(a)(12)            | Significant Management Decisions with Which OIG Disagreed | 53    |
| 5(a)(13)            | Results of Peer Review                                    | 53    |

## SECTION 4(a)(2): REVIEW OF LEGISLATION AND REGULATIONS

This section requires the inspector general of each agency to review existing and proposed legislation and regulations relating to that agency's programs and operations. Based on this review, the inspector general is required to make recommendations in the semiannual report concerning the impact of such legislation or regulations on (1) the economy and efficiency of the management 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. Comments concerning legislative and regulatory initiatives affecting Commerce programs are discussed, as appropriate, in relevant sections of the report.

## SECTION 5(a)(3): PRIOR SIGNIFICANT RECOMMENDATIONS UNIMPLEMENTED

This section requires identification of each significant recommendation described in previous semiannual reports for which corrective action has not been completed. Section 5(b) requires that the Secretary transmit to Congress statistical tables showing the number and value of audit reports for which no final action has been taken, plus an explanation of why recommended action has not occurred, except when the management decision was made within the preceding year. However, information on the status of any audit recommendations can be obtained through OIG upon request.

## **SECTIONS 5(a)(5) AND 6(b)(2): INFORMATION OR ASSISTANCE REFUSED**

These sections require a summary of each report to the Secretary when access, information, or assistance has been unreasonably refused or not provided. There were no reports to the Secretary during this semiannual period.

## **SECTION 5(a)(10): PRIOR AUDIT REPORTS UNRESOLVED**

This section requires (1) a summary of each audit report issued before the beginning of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report); (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 one NOAA, three NIST, and two Census reports more than 6 months old for which no management decision has been made.

## **SECTION 5(a)(11): SIGNIFICANT REVISED MANAGEMENT DECISIONS**

This section requires an explanation of the reasons for any significant revision to a management decision made during the reporting period. Department Administrative Order 213-5, *Audit Resolution and Follow-up*, provides procedures for revising a management decision. For financial assistance audits, OIG must concur with any decision that would change the audit resolution proposal in response to an appeal by the recipient. There was one appeal this period.

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

This section requires information concerning any significant management decision with which the inspector general disagrees. Department Administrative Order 213-5 provides procedures for elevating unresolved audit recommendations to higher levels of Department and OIG management, including their consideration by an Audit Resolution Council. During this period, no audit issues were referred.

## **SECTION 5(a)(13): RESULTS OF PEER REVIEW**

The most recent peer review of the Office of Audit and Evaluation was conducted in 2009 by the Federal Deposit Insurance Corporation's (FDIC) Office of Inspector General. FDIC OIG's *System Review Report* of our audit operations is available on our website. We received a pass rating, the highest available rating. We have implemented all of FDIC OIG's recommendations for process and policy improvements.

In 2009, we conducted our latest peer review, which examined the Small Business Administration (SBA) OIG's audit operations. SBA's OIG has informed us that it implemented the recommendation we made in our review.

The most recent peer review of the Office of Investigations was conducted in October 2011 by the Office of Personnel Management's OIG. The final report on the peer review is expected during the next semiannual period.

# ACRONYMS AND ABBREVIATIONS

|               |  |                   |  |
|---------------|--|-------------------|--|
| <b>AHCP</b>   | Acquisition Human Capital Plan                           | <b>IT</b>         | information technology   |
| <b>AFF</b>    | Asset Forfeiture Fund                                    | <b>ITA</b>        | International Trade Administration   |
| <b>ATP</b>    | Advanced Technology Program                              | <b>JPSS</b>       | Joint Polar Satellite System   |
| <b>BayWEB</b> | San Francisco Bay Area Wireless Enhanced Broadband       | <b>LEADS</b>      | Law Enforcement Accessible Database System                                       |
| <b>BEA</b>    | Bureau of Economic Analysis                              | <b>MAF/TIGER</b>  | Master Address File/Topologically Integrated Geographic Encoding and Referencing |
| <b>BIS</b>    | Bureau of Industry and Security                          | <b>MEP</b>        | Manufacturing Extension Partnership  |
| <b>BPAI</b>   | Board of Patent Appeals and Interferences (USPTO)        | <b>NIST</b>       | National Institute of Standards and Technology                                   |
| <b>BTOP</b>   | Broadband Technology Opportunities Program               | <b>NOAA</b>       | National Oceanic and Atmospheric Administration                                  |
| <b>CBS</b>    | Commerce Business Systems                                | <b>NOFA</b>       | Notice of Funds Availability   |
| <b>CS</b>     | Commercial Service (ITA)                                 | <b>NPP</b>        | National Polar-orbiting Partnership  |
| <b>CWIP</b>   | construction work in progress                            | <b>NTIA</b>       | National Telecommunications and Information Administration                       |
| <b>DHS</b>    | Department of Homeland Security                          | <b>OAM</b>        | Office of Acquisition Management (Commerce)                                      |
| <b>DOJ</b>    | Department of Justice                                    | <b>OIG</b>        | Office of Inspector General  |
| <b>EDA</b>    | Economic Development Administration                      | <b>OLE</b>        | Office of Law Enforcement (NOAA)   |
| <b>ESA</b>    | Economics and Statistics Administration                  | <b>OMB</b>        | Office of Management and Budget  |
| <b>FDIC</b>   | Federal Deposit Insurance Corporation                    | <b>OPM</b>        | Office of Personnel Management   |
| <b>FEMA</b>   | Federal Emergency Management Agency                      | <b>PHP</b>        | Patent Hoteling Program  |
| <b>FISMA</b>  | Federal Information Security Management Act of 2002      | <b>PSIC</b>       | Public Safety Interoperable Communications                                       |
| <b>FMC</b>    | Fishery Management Council (NOAA)                        | <b>SBA</b>        | Small Business Administration  |
| <b>FY</b>     | fiscal year  | <b>T&amp;M/LH</b> | Time-and-Materials and Labor-Hour  |
| <b>GCES</b>   | Office of the General Counsel Enforcement Section (NOAA) | <b>TAAC</b>       | Trade Adjustment Assistance Center   |
| <b>GOES</b>   | Geostationary Operational Environmental Satellite        | <b>USEAC</b>      | U.S. Export Assistance Centers   |
| <b>IPERA</b>  | Improper Payments Elimination and Recovery Act of 2020   | <b>USPTO</b>      | U.S. Patent and Trademark Office   |
| <b>IPIA</b>   | Improper Payments Information Act of 2012                |                   |  |



U.S. Department of Commerce  
Office of Inspector General  
1401 Constitution Avenue, NW  
Washington, DC 20230

[www.oig.doc.gov](http://www.oig.doc.gov)



#### **OUR MISSION**

To improve the programs and operations of the Department of Commerce through independent and objective oversight.