

September 2007

U.S.-CHINA
ECONOMIC AND
SECURITY REVIEW
COMMISSION

Actions Needed to
Improve Controls over
Key Management
Functions





Highlights of [GAO-07-1128](#), a report to congressional requesters

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Actions Needed to Improve Controls over Key Management Functions

Why GAO Did This Study

In October 2000, Congress established the U.S.-China Economic and Security Review Commission to assess the national security implications of the trade and economic relationship between the United States and the People's Republic of China and issue an annual report by June 1. The 12-member commission has a budget of about \$3 million. As requested, GAO assessed the extent to which the commission has (1) complied with its charter, (2) had an organizational structure and policies and procedures for managing its operations effectively, and (3) had internal control over the financial management and reporting that provides reasonable assurance that resources are not at risk. To address these objectives, GAO analyzed the commission's charter, annual reports, records, and management policies and procedures and interviewed commissioners, executive directors, and staff. GAO focused on fiscal years 2005 and 2006 financial transactions.

What GAO Recommends

To improve the timeliness of the commission's annual reports, Congress should consider aligning the commissioners' appointment dates with the annual report issuance date. GAO makes eight recommendations to improve the commission's organizational structure and management policies and procedures. The commission concurred with all of these recommendations.

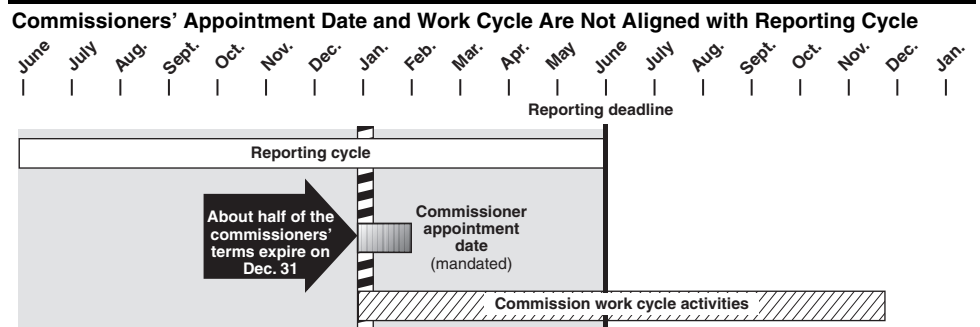
To view the full product, including the scope and methodology, click on [GAO-07-1128](#). For more information, contact Loren Yager at (202) 512-4347 or yagerl@gao.gov.

What GAO Found

Although the contents of the commission's annual reports have complied with statutory reporting requirements, the commission has not met the annual reporting deadline. It issued its 2005 and 2006 reports over 5 months late because the commissioners' appointment dates and the commission work cycle activities are not aligned with the annual reporting deadline. For example, over half the commissioners' terms will expire in December, 5 months before they are to approve and issue the 2008 report. However, the commission has taken steps to comply with applicable provisions of the Federal Advisory Committee Act.

The commission's organizational structure and management policies and procedures have weaknesses and are not in accordance with GAO's internal control standards for the federal government. The commission has not formally defined and assigned key management duties and responsibilities that are typically divided or segregated among different people. Also, policies and procedures were insufficient, incomplete, or not adequately documented. For example, GAO found that the commission had no written policies or procedures to ensure that the procurement of certain goods and services was transparent, competitive, and at the best value.

Internal control over financial management and reporting was not adequate to provide reasonable assurance that activities were properly processed and recorded and complied with federal laws and regulations. GAO noted weak or missing internal controls in three broad areas. In examining non-payroll-related financial transactions, GAO found inadequate documentation, lack of proper authorization and approval, and improper classification, including \$13,000 in questionable purchases. The purchase and travel card programs lacked written guidance, proper segregation of duties, and adequate training. Also, time and attendance records were not always approved according to the commission's policies and procedures. As a result of inadequate control in these areas, the commission's financial resources are at an increased risk of fraud, waste, abuse, and mismanagement.



Source: GAO analysis of USCESRC information.

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Abbreviations

CRS	Congressional Research Service
EEO	equal employment opportunity
ES	Executive Schedule
FACA	Federal Advisory Committee Act
FAR	Federal Acquisition Regulation
FTR	Federal Travel Regulation
GPO	Government Printing Office
GSA	General Services Administration
OMB	Office of Management and Budget
RFP	request for proposal
T&A	time and attendance
USCESRC	U.S.-China Economic and Security Review Commission
WTO	World Trade Organization

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United States Government Accountability Office
Washington, DC 20548

September 28, 2007

The Honorable Robert C. Byrd
Chairman
Committee on Appropriations
United States Senate

The Honorable J. Dennis Hastert
House of Representatives

In October 2000, Congress established the U.S.-China Economic and Security Review Commission (USCESRC). The commission is a small advisory body, one of few such commissions that report to Congress rather than the President or an executive branch agency. The charter of the commission, which does not contain a time limit on its authorization, requires it to assess the national security implications of the evolving bilateral trade and economic relationship between the United States and the People's Republic of China. The charter also requires that the commission report the results of its work by issuing an annual report by June 1 addressing specific economic and security issue areas. The charter makes the commission responsible for managing its own operations, with broad discretion and minimal oversight or support from other entities. The commission currently has a budget of about \$3 million and has requested an additional \$1 million for fiscal year 2008. The commission has not been reviewed or audited since it was created.

To help Congress oversee the commission's activities, you requested that we examine the commission's compliance with its charter and the commission's management of its operations. In this report, we assess the extent to which (1) the commission has complied with its charter, (2) the commission has an organizational structure and policies and procedures for managing its operations effectively, and (3) internal control over the commission's financial management and reporting has provided reasonable assurance that resources are not at risk.

To address these objectives, we analyzed the commission's statutory charter and related laws and regulations, such as the Federal Advisory Committee Act (FACA). According to the charter, as amended, the

commission must implement FACA, which provides a legal and institutional framework for the operation of advisory committees.¹ We reviewed the commission's annual reports and records, such as documents describing the organizational structure of the commission and its management functions, including those related to human capital, procurement, ethics and conflict of interest, and budgeting and financial management and reporting. We assessed the extent to which the commission has an organizational structure and policies and procedures for managing its operations effectively based on internal control standards for the federal government.² While these standards are not binding for legislative branch agencies, they are a statement of best practices and adherence to these standards provides reasonable assurance regarding the prevention or prompt detection of fraud, waste, abuse, and mismanagement. These standards give management of federal agencies, regardless of size, the responsibility and discretion to develop and implement the mechanisms for internal control necessary for providing reasonable assurance that the objectives of the agency are being achieved with regard to effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations. In reviewing the commission's financial management and reporting, we focused on transactions that occurred during fiscal years 2005 and 2006. We did not audit any financial reports generated by or on behalf of the commission, and we do not express an opinion on them. We interviewed current and former commissioners, current and former executive directors, and the current professional and administrative staff. In addition, we reviewed information and met with officials from the Congressional Research Service (CRS), Government Printing Office (GPO), General Services Administration (GSA), Senate Select Committee on Ethics, and Senate Office of Public Records. We performed our work from October 2006 to September 2007 in accordance with generally accepted government auditing standards. Further details on our scope and methodology are included in appendix I.

¹Advisory committees are any committee, board, council, conference, panel, task force, or other similar group established by statute, or by the President or an agency, to obtain advice or recommendations for one or more agencies and officers of the federal government. 5 U.S.C. App. §3(2).

²See GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999); for additional guidance see GAO, *Internal Control Management and Evaluation Tool*, [GAO-01-1008G](#) (Washington, D.C.: August 2001); and OMB, *Management's Responsibilities for Internal Control*, OMB Circular A-123 Revised (Washington, D.C., December 2004).

Results in Brief

Although the contents of the commission's annual reports have complied with reporting requirements, the commission has not met its statutory annual reporting deadline. The commission has broad discretion in deciding what to report about the issue areas listed in its charter and in determining what activities it should undertake to obtain the necessary information. However, the commission had issued all of its annual reports after the June 1 deadline and the commission did not issue its 2003 annual report. In 2005 and 2006, for example, the commission issued its annual reports about 5 months late. The commission has not issued its annual reports on time because the appointment dates for commissioners and the commission work cycle activities are not aligned with the annual report issuance deadline. For example, the composition of the commission can change significantly in the middle of a reporting cycle. In 2007, the 2-year terms of seven commissioners will expire on December 31, 5 months before the 2008 report is due. The commission will not have a quorum to conduct its work until at least two commissioners are appointed or reappointed. Finally, the commission has to the extent possible taken steps to comply with FACA, as required by a 2005 amendment to the commission's charter. As an independent legislative branch entity, the commission cannot apply certain FACA provisions, such as those presupposing commissions operate within a larger agency, and has implemented only those provisions which apply to its activities. However, FACA implementation has been problematic, according to the commission, because the law's open meeting requirements inhibit the discussion of economic and security issues among commissioners during the open annual report drafting sessions.

Weaknesses in the commission's current organizational structure and management policies and procedures put the commission at risk of fraud, waste, abuse, and mismanagement.

- In terms of its organizational structure, the commission has not formally defined and assigned key management duties and responsibilities, which generally should be divided or segregated among different people. Instead, it has relied heavily on one individual, its associate director, for handling management functions, such as those regarding human capital, procurement, ethics, and budgeting and financial management and reporting. Most commissioners have played a limited and passive role in the management of the commission. These organizational arrangements hinder the efficient and effective use of commission resources.
- The commission's management policies and procedures were insufficient, incomplete, or not adequately documented, and legal and management

experts had not reviewed them to ensure they are technically sound in accordance with best practices. For example, the commission's human capital policies and procedures are incomplete or were not fully implemented, while others were not in place. Specifically, the commission did not have policies and procedures that fully reflect its hiring practices. It had no policies and procedures for evaluating staff until it adopted some in mid-2006 for use in 2007, and it did not have any guidelines for training staff or addressing equal employment opportunity (EEO) matters. Its policies and procedures for research procurement were not comprehensive, and none existed for nonresearch procurement, such as hearing support services and office supplies, which accounted for over \$450,000 in nonresearch expenditures or over two-thirds of the commission's total procurement expenditures in 2005 and 2006. Its ethics guidelines for commissioners do not include guidance on speaking engagements and related payments for travel expenses, and the commission does not require commissioners and staff to review and formally acknowledge ethics guidelines periodically, in accordance with best practices.

GAO's *Standards for Internal Control in the Federal Government*³ give management the responsibility and discretion for developing and implementing internal control necessary for achieving organizational objectives, managing operations and staff effectively, and curtailing risks. The commission is currently developing policy and procedures manuals. However, the absence of adequately documented, consolidated, and vetted management policies and procedures puts the commission at risk, especially if staff responsible for key operations leave the commission.

The commission's internal control over financial management and reporting was not adequate to provide reasonable assurance that financial activities were properly processed and recorded and complied with federal laws and regulations. Effective internal control is the first line of defense in safeguarding assets and preventing and detecting errors and fraud. We noted weak or missing internal controls in our examination of the commission's (1) non-payroll-related transactions, (2) travel and purchase card activity, and (3) time and attendance (T&A) reporting. Our tests of the commission's non-payroll-related transactions for fiscal years 2005 and 2006 found deficiencies, such as missing or inadequate supporting documentation, lack of proper authorization and approval, and

³GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

improper classification. The commission's application of the government travel and purchase card programs lacks written guidance, proper segregation of duties, and adequate training. In addition, we identified questionable purchases of over \$13,000 made with the commission purchase card. Our review of the commission's payroll process for fiscal years 2005 and 2006 showed that the commission's T&A records were not always approved in accordance with the policies and procedures described by the commission's management. As a result of inadequate control in these areas, the commission's financial resources are at an increased risk of fraud, waste, abuse, and mismanagement.

This report contains a matter for congressional consideration and recommendations to the commission. Specifically, in discussing ways to improve the timeliness of the commission's annual reports, Congress should consider aligning the commissioners' appointment dates with the annual report issuance date so that the entire commission has enough time to plan and complete its work cycle activities and deliver a report when Members of Congress can best make use of the information. We also recommend that the commission take steps to improve its organizational structure and management policies and procedures. The commission has broad discretion to take steps to address our recommendations.

The commission provided written comments on a draft of this report, which are reprinted with our responses in appendix VIII. In its letter, the commission concurred with our recommendations and noted their potential to ensure that its operations are seen to be both legal and appropriate. The commission emphasized that its statute is very brief and, with respect to what internal control mechanisms it should employ, offers no guidance on most such matters and very little on those it addresses. The commission indicated that it will follow GAO's internal control standards, although these standards are not binding on legislative branch entities, such as the commission, and specified that it will develop a plan to address the weaknesses identified. The commission's letter and technical comments on the draft, which we received from the executive director, asked that we clarify various parts of our report, which we have done, as appropriate.

Background

Congress established the U.S.-China Economic and Security Review Commission (USCESRC)⁴ on October 30, 2000, through Public Law No. 106-398, which transferred to USCESRC the facilities, material, and staff of the U.S. Trade Deficit Review Commission. According to the commission's charter, USCESRC must monitor and assess the national security implications of the bilateral trade and economic relationship between the United States and the People's Republic of China. It must report results of its work in annual reports to Congress, addressing specific economic and security issue areas. The commission has had an annual budget of about \$3 million since fiscal year 2005 and has requested an additional \$1 million to fund its operations in fiscal year 2008. Appendix III provides additional details on the commission's appropriations and expenditures.

The commission consists of 12 commissioners, all but 3 of whom hold other positions. The leadership of the Senate and the House of Representatives appoint the commissioners to serve 2-year terms, which are staggered. In turn, the commissioners select a chairman and vice chairman from among themselves. The chairman and vice chairman rotate between Democratic and Republican appointees every year. Currently, a Democratic appointee is serving as chairman and a Republican appointee as vice chairman. The commission meets at the call of the chairman. A majority of commissioners must be present for the commission to conduct business. Appendix II depicts a timeline of commission-related events, including the election dates of all of the chairmen and vice chairmen since the inception of the commission.

Each commissioner is compensated at an hourly rate computed from the annual rate of basic pay prescribed for level IV of the Executive Schedule (ES-IV). Generally, the commissioners submit a signed statement of hours worked on commission activities for a given pay period, and they are reimbursed for that time. However, a commissioner may not be reimbursed more than the annual rate of pay for an ES-IV in a given fiscal year, which was \$143,000 for fiscal year 2006.

The commissioners are supported by an executive director, and program and administrative support staff. The current executive director is a senior executive detailed from the Department of Commerce to the commission

⁴The commission originally was called the U.S.-China Security Review Commission. A 2003 amendment to the commission's charter changed this name to U.S.-China Economic and Security Review Commission.

under a reimbursable agreement. Nine of the 11 staff are excepted service federal employees, who have 1-year appointments and serve at the discretion of the commission. Two administrative staff, including the associate director, work for the commission under 1-year personal service contracts.

To produce its report, the commission undertakes activities such as holding hearings, conducting research, and traveling on fact-finding missions to China and other countries. At the direction of the commission, a commissioner or commissioners may hold hearings. Currently, at least one Democratic appointee and one Republican appointee co-chair each hearing. For example, the commission held 14 hearings in 2005 and 8 hearings in 2006 and plans to hold 8 hearings in 2007. Also, the commission relied on internal research from its professional staff and commission-sponsored external research by subject matter experts.

The Commission Has Not Fully Complied with Its Charter

The commission has not fully complied with the statutory requirements set forth in its charter. The commission has covered the required economic and security issue areas in its reports. However, since it was established in 2000, the commission has issued all of its annual reports after the required deadline and failed to issue an annual report in 2003. According to the commission's charter, the commission is required to submit an annual report to Congress no later than June 1. The commission submitted interim reports to Congress in 2006 and 2007 in an effort to comply with this deadline. Further, the commission has implemented those FACA provisions it is capable of applying.

The Commission Has Reported on Required Economic and Security Issue Areas

The commission has complied with its statutory charter with regard to the subjects on which it reports and the scope of its activities. The commission has broad discretion to examine matters related to U.S.-China economic and security issue areas. Since the commission was established in 2000, Congress amended the statutory charter twice to modify the language related to the scope of its activities. We compared the mandated issue areas and annual report contents and found the commission's annual reports covered the statutory economic and security issue areas.

Despite statutory changes to the charter over time to narrow the number and extent of reporting topics, the commission has broad discretion on what specific matters to examine. The commission has the authority to interpret its own regulations and statute. The commission's statutory charter was amended three times, and the second and third amendments

modified the number of issue areas and revised the language related to the scope of the economic and security issue areas. The statutory charter originally mandated that the commission’s annual report “include, at a minimum, a full discussion of” the 10 issue areas. In 2003, the second amendment to the commission’s charter reduced the number of issue areas from 10 to 9 and revised the language related to the scope of reporting to instruct the commission to “focus, in lieu of any other areas of work or study” on the 9 issue areas. In 2005, the third amendment to the commission’s charter reduced the number of issue areas from 9 to 8 and revised the language related to the scope of reporting to instruct the commission to “investigate and report exclusively on each of the following” 8 issue areas. Table 1 compares the issue areas the commission is mandated to report on in the annual report.

Table 1: Modifications to the Economic and Security Issue Areas in the Commission’s Charter

Original charter, October 30, 2000: 10 issue areas	Charter amended February 20, 2003: 9 issue areas	Charter amended November 22, 2005: 8 issue areas
(1) The portion of trade in goods and services with the United States that the People’s Republic of China dedicates to military systems or systems of a dual nature that could be used for military purposes.	Proliferation practices	Proliferation practices
(2) The acquisition by the People’s Republic of China of advanced military or dual-use technologies from the United States by trade (including procurement) and other technology transfers, especially those transfers, if any, that contribute to the proliferation of weapons of mass destruction or their delivery systems, or that undermine international agreements or United States laws with respect to nonproliferation.	Proliferation practices	Proliferation practices
(3) An overall assessment of the state of the security challenges presented by the People’s Republic of China to the United States and whether the security challenges are increasing or decreasing from previous years.	Proliferation practices	Proliferation practices
(4) Any transfers, other than those identified under subparagraph (B), to the military systems of the People’s Republic of China made by United States firms and United States-based multinational corporations.	Corporate reporting	(No longer required)
(5) An analysis of the statements and writing of the People’s Republic of China officials and officially sanctioned writings that bear on the intentions, if any, of the government of the People’s Republic of China regarding the pursuit of military competition with, and leverage over, or cooperation with, the United States and the Asian allies of the United States.	(No longer required)	(No longer required)

Original charter, October 30, 2000: 10 issue areas	Charter amended February 20, 2003: 9 issue areas	Charter amended November 22, 2005: 8 issue areas
(6) The military actions taken by the government of the People's Republic of China during the preceding year that bear on the national security of the United States and the regional stability of the Asian allies of the United States.	Regional economic and security impacts	Regional economic and security impacts
(7) Patterns of trade and investment between the People's Republic of China and its major trading partners, other than the United States, that appear to be substantively different from trade and investment patterns with the United States and whether the differences have any national security implications for the United States.	Regional economic and security impacts	Regional economic and security impacts
(8) The effects, if any, on the national security interests of the United States of the use by the People's Republic of China of financial transactions and capital flow and currency manipulations.	United States capital markets	United States capital markets
(9) Any action taken by the government of the People's Republic of China in the context of the World Trade Organization that is adverse or favorable to the United States national security interests.	World Trade Organization compliance	World Trade Organization compliance
(10) The extent to which the trade surplus of the People's Republic of China with the United States enhances the military budget of the People's Republic of China.	United States-China bilateral programs	United States-China bilateral programs
	Economic reforms and United States economic transfers	Economic transfers
(No requirement)	Energy	Energy
(No requirement)	Media control	Freedom of expression

Source: GAO analysis of USCESRC charter and amendments.

Our analysis of the content covered in the commission's four public annual reports found that the economic and security issue areas were covered as required. We found the commission's 2002 annual report covered the 10 economic and security issue areas mandated at the time. Some chapters address more than one reporting requirement and are listed multiple times. Furthermore, chapter 4 of the 2002 annual report covers political and civil freedoms, which was not a specified issue area but was within the scope of reporting because the charter originally mandated the commission's annual report "include, at a minimum," the 10 issue areas. Appendix IV provides details on the issue areas covered by the commission's 2002 annual report. We found the commission's 2004 and 2005 annual reports covered the 9 economic and security issue areas mandated at the time. Appendix V provides details on the 9 issue areas covered by the commission's 2004 and 2005 annual reports. We found the commission's 2006 annual report covered the 8 economic and security issue areas currently mandated. See table 2 for the 8 issue areas covered by the commission's 2006 annual report.

Table 2: Economic and Security Issue Areas Covered by the 2006 Annual Report

Eight economic and security issue areas required by statute	Issue areas covered by chapter in 2006 annual report
(1) Proliferation practices	Chapter 2: China's Global and Regional Activities and Other Geostrategic Developments
(2) Economic transfers	Chapter 3: China's Military Power and Its Effects on North American Interests and Regional Security Chapter 4: A Case Study of the Automotive Industry That Illustrates Challenges to U.S. Manufacturing and the U.S. Defense Industrial Base
(3) Energy	Chapter 2: China's Global and Regional Activities and Other Geostrategic Developments
(4) United States capital markets	Chapter 1: U.S.-China Trade and Economic Relationship
(5) Regional economic and security impacts	Chapter 1: U.S.-China Trade and Economic Relationship Chapter 2: China's Global and Regional Activities and Other Geostrategic Developments Chapter 3: China's Military Power and Its Effects on North American Interests and Regional Security Chapter 5: China's Internal Problems, Beijing's Response, and Implications for the United States
(6) United States-China bilateral programs	Chapter 1: U.S.-China Trade and Economic Relationship Chapter 4: A Case Study of the Automotive Industry That Illustrates Challenges to U.S. Manufacturing and the U.S. Defense Industrial Base
(7) World Trade Organization compliance	Chapter 1: U.S.-China Trade and Economic Relationship Chapter 4: A Case Study of the Automotive Industry That Illustrates Challenges to U.S. Manufacturing and the U.S. Defense Industrial Base
(8) Freedom of expression	Chapter 6: China's Media and Information Controls

Source: GAO analysis of USCESRC charter.

According to the chairman, the commissioners discuss the mandate in relation to the scope of activities and reporting. Furthermore, the commissioners discuss the scope of the issue areas identified in the commission's statutory charter before reaching consensus on the annual work plan. While acknowledging that the mandate restricts the scope of reporting to the eight issue areas, several commissioners noted that they sometimes debate what the commission should cover under these areas because they leave room for interpretation. The chairman stated that the commissioners use the issue areas to plan commission activities, including research, hearings, and overseas trips.

The commission has broad discretion to conduct activities to fulfill its reporting requirement and can base its reports on a variety of activities. During the commission's quarterly business meetings at the conclusion of one calendar year and the beginning of the next, commissioners discuss the scope of activities identified by the commission's statutory charter and reach consensus on the annual work plan. According to its statutory charter, the commission can hold hearings, conduct internal and external research, secure relevant information from U.S. departments and agencies through classified and unclassified briefings, and carry out fact-finding missions abroad. For example, the commission used all of these methods to collect information for the 2006 annual report. Specifically, the commission held eight public hearings on the required economic and security related issue areas and delivered a letter to Congress summarizing significant findings and providing interim recommendations after each. The commission authorized external research contracts on issues, such as China's antisatellite and space warfare activities and China's oil and gas investments abroad. The commission received briefings from several U.S. agencies, such as the Department of Defense and the intelligence community. An official commission delegation conducted a fact-finding mission to China, Hong Kong, and Taiwan in June 2006.

During the 2007 reporting cycle, the commission has held five public hearings as of July 2007 and plans to hold three others through September 2007. All examine topics related to the eight mandated economic and security issue areas. The commission also plans to award external research contracts. For example, the commission recently selected a proposal submitted in response to an advertised request for proposals (RFP) and awarded a contract providing for a report tracing the parts and components supply chains for three key U.S. weapon systems. Throughout 2007, the commission plans to receive classified and unclassified briefings from U.S. departments, agencies, and the intelligence community. A commission delegation traveled to China and Hong Kong in April 2007, and another delegation of commissioners and staff traveled to Taiwan and India in August 2007.

The Commission Issued Annual Reports Late or Not at All

Since its inception, the commission has failed to submit its annual report to Congress in time to comply with the statutory reporting deadline. The commission's charter requires the commission to submit its annual report to Congress no later than June 1 each year. The commission has issued its annual reports late or, in one instance for reasons discussed below, not at all. The commission was established in October 2000 and was not required to submit its first report until March 1, 2002. The charter was amended on

November 12, 2001, to change the report issuance date to June 1, 2002. Congress modified the reporting date from March to June because, according to a former executive director, the commission “was getting organized and it would have been difficult to produce a report by March.” Even with the congressional amendment extending the reporting date 3 additional months, the commission issued its 2002 annual report on July 15, 2002.

Our analysis of the commission’s annual report issuance dates reveals inconsistent submission dates, with longer delays in 2005 and 2006. For example, the delays in the issuance dates ranged from 9 days in 2004 to 161 days in 2005. The final 2006 report was issued to Congress 151 days after the deadline. To comply with the June 1 deadline, the commission submitted interim reports in 2006 and 2007. However, the former was 20 days late; the latter was on schedule. In its budget request for fiscal year 2008, the commission has requested the issuance date for the annual report be extended to December 1. Table 3 shows the June 1 annual report issuance dates since the inception of the commission and number of days each annual report was late.

Table 3: USCESRC Annual Report Issuance Dates

	2002	2003	2004	2005	2006	2007
Mandated issuance date of annual report	June 1	June 1	June 1	June 1	June 1	June 1
Actual issuance date of annual report	July 15	No report issued	June 10	November 9	October 30 ^a	Planned for November ^b
Number of days late	44	Not applicable	9	161	151	Not applicable

Source: GAO analysis of USCESRC data.

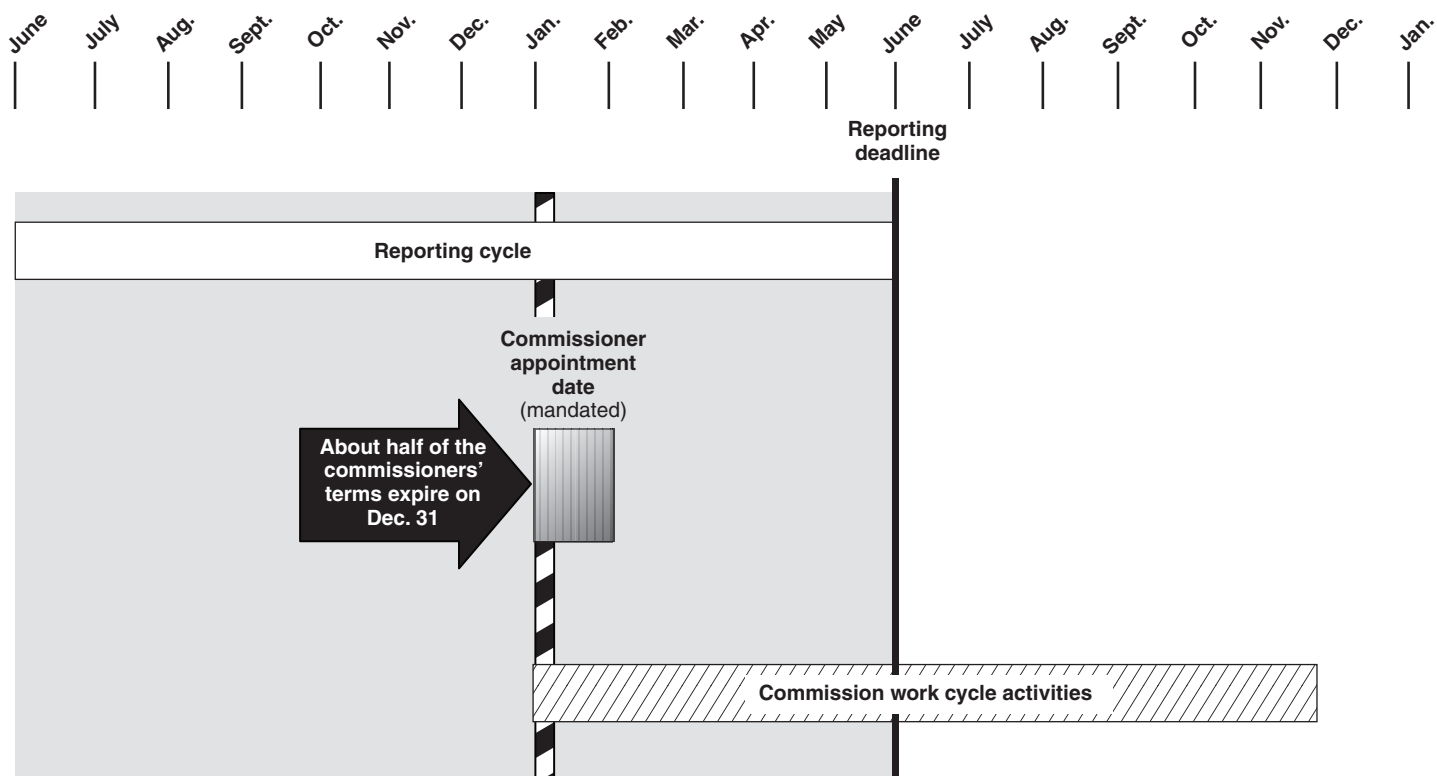
^aUSCESRC submitted an interim report to Congress on June 21, 2006 (20 days late).

^bUSCESRC submitted an interim report to Congress on June 1, 2007.

The commission has not issued its annual reports on time because appointment dates for commissioners and the commission work cycle activities are not aligned with the annual report issuance deadline. Figure 1 shows this misalignment. The commission has scheduled its work cycle activities according to when commissioners are appointed, not by the statutory June 1 annual reporting date. Currently, the commission’s work

cycle activities for developing, producing, and submitting its annual report to Congress is from January through November. The commission approves its annual work cycle schedule after the new chairman and vice chairman and the new commissioners are in place early in the calendar year.⁵

Figure 1: Misalignment of Commissioners' Appointment Date and Commission's Work Cycle with Reporting Cycle



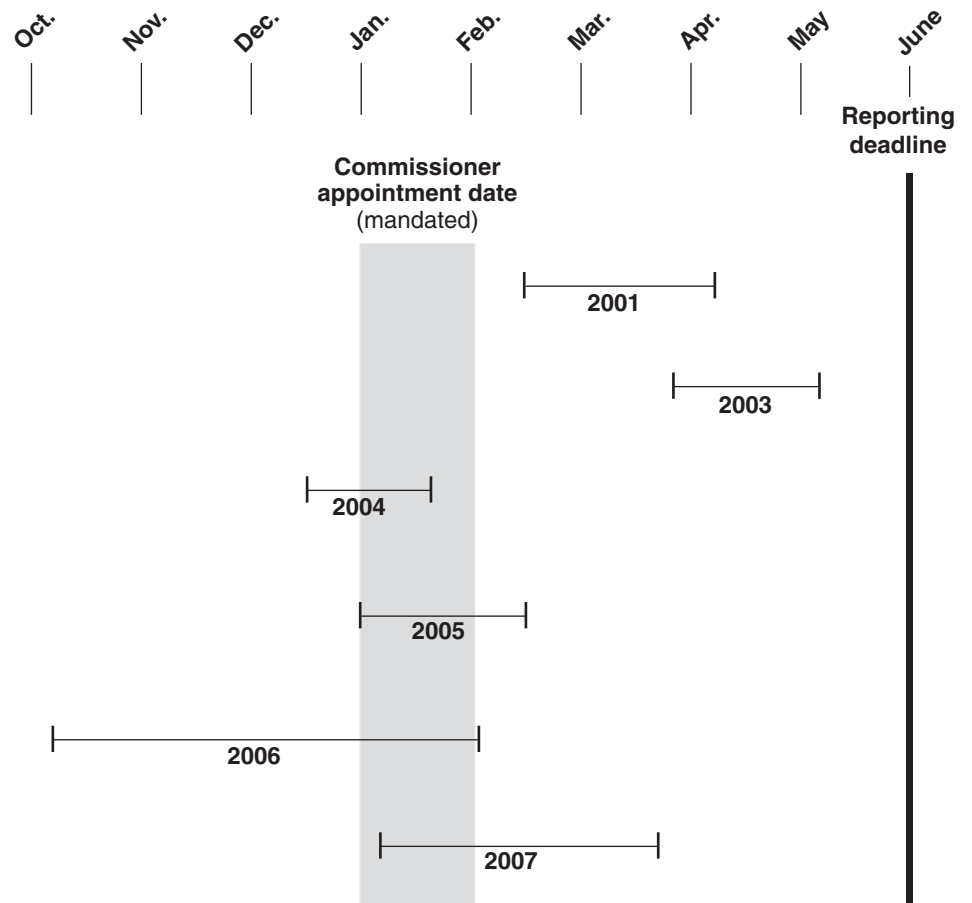
Source: GAO analysis of USCESRC information.

According to the commission's charter, the President pro tempore of the Senate, acting on the recommendation of both majority and minority leaders, appoints six commissioners, and the Speaker and the Minority Leader of the House each select three commissioners for 2-year terms that

⁵According to internal commission rules, "The chairmanship and vice chairmanship of the commission ... shall be for the period beginning six weeks after the public release of the Commission's statutorily mandated annual public report to the Congress until six weeks after the release of the following year's public annual report."

begin in January and end in December of the following year, and they can reappoint commissioners; the terms are staggered. They should appoint commissioners no later than 30 days after the date on which each new Congress convenes. Congress regularly convenes on January 3, unless Congress by law designates a different day to convene. Thus, they normally should appoint commissioners no later than February 2. In practice, they have appointed 26 of 45 commissioners after this date. For example, in 2003, the commission did not produce an annual report because the required number of commissioners to form a quorum was not appointed or reappointed until May 6, 2003, giving the commission only 26 days to issue its annual report by the June 1 deadline. Figure 2 shows the actual ranges of commissioner appointment dates.

Figure 2: Actual Ranges of Commissioner Appointment Dates



—| Range of commissioner appointment dates (actual)

Source: GAO analysis of USCESRC information.

Note: No commissioners were appointed in 2002.

The current misalignment makes it difficult for the commission to develop and produce the annual reports on schedule. The chairman, vice chairman, and executive director estimate that the commission needs about 11 months to conduct the work and research necessary to produce a robust annual report that addresses the required economic and security issue areas and that reflects bipartisan consensus. Thus, moving the annual report submission date or the timing of commissioner appointments would provide a work cycle with enough time to develop and produce a report on schedule, according to the commission. If the annual work schedule were

aligned with the June 1 deadline, without changing the commissioners' terms, newly appointed commissioners would be required to participate in determining key findings and recommendations to Congress based on activities that occurred before they were appointed, according to the three most recent chairmen. Furthermore, the composition of the commission could change significantly in the middle of the reporting cycle. For example, in 2007, the 2-year terms of seven commissioners, including the current chairman and vice chairman, will expire on December 31, 5 months before the 2008 report is due. The commission will not have a quorum to conduct its work until at least two commissioners are (re)appointed. In its budget request for fiscal year 2008, the commission has requested Congress to move the annual report issuance date to December 1.

The Commission Has Implemented Applicable FACA Provisions

The commission has, to the extent possible, taken steps to comply with FACA and adhere to those provisions it can implement. FACA was designed to provide for the accountability, management, and transparency of advisory committees located within the executive branch. FACA can apply to federal advisory committees created by the President, other executive branch entities, or an act of Congress.⁶ Initially, the legislation establishing the commission exempted it from FACA.⁷ In November 2005, Congress amended the commission's charter so as to apply FACA to its activities.⁸ While the commission is in compliance with those provisions of FACA it can implement, according to commissioners and commission officials, implementing some provisions has been problematic.

The commission is an independent legislative branch entity, and neither the legislation mandating applicability of FACA nor its underlying history provides the commission with guidance for how it should implement FACA. The commission therefore consulted with GSA—which is responsible for executive branch compliance with FACA—on how it might implement FACA. Based on these consultations and its own interpretation of FACA, the commission determined that it could implement certain FACA provisions but not others. Table 4 shows the FACA provisions and which of these the commission determined it could implement.

⁶See 5 U.S.C. app. §3(3), 5 U.S.C. §551(1).

⁷Pub. L. 106-398, sec. 1238.

⁸Pub. L. 109-108, sec. 635(b).

Table 4: Provisions of FACA That Apply to USCESRC

Section	Requirement	Implemented by USCESRC
5	Imposes responsibilities on congressional committees and on the executive branch with respect to the establishment and oversight of advisory committees.	No
6	Requires the President or his delegate to report to Congress regarding proposals for action (or reasons for inaction) with respect to recommendations made by Presidential advisory committees. Requires the President to report annually on the activities, status, and changes in composition of advisory committees in existence during the preceding fiscal year.	No
7	Requires the GSA Administrator to engage in various oversight activities with respect to advisory committees. Requires the GSA Administrator to establish pay guidelines and mandates a pay ceiling for all members and staff of any advisory committee.	No
8	Imposes administrative responsibilities on agency heads.	No
9(a)	Places limitations on the establishment of advisory committees.	No
9(b)	Forbids advisory committees from engaging in policy-making or policy-implementing actions unless directed to do so by statute or presidential order.	Yes
9(c)	Charter requirement.	Yes
10	Requires advisory committee meetings to be open to the public. Requires timely notice of advisory committee meetings to be published in the Federal Register. Requires advisory committees to permit interested persons to attend and file statements. Requires advisory committees to maintain detailed minutes of their meetings.	Yes
11	Requires advisory committees to make available transcripts of advisory committee meetings.	Yes
12	Requires agencies to maintain records that will fully disclose the disposition of funds that may be at the disposal of its advisory committees and the nature and extent of the advisory committees' activities.	Yes
13	Requires the GSA Administrator to file advisory committee reports and background papers with the Library of Congress.	Yes
14(a), (c)	Establishes procedures for the termination of advisory committees.	No
14(b)	Requires advisory committees that are renewed to file a new charter.	Yes
15	Imposes restrictions on agencies' use of advice or recommendations provided by the National Academy of Sciences or the National Academy of Public Administration.	No

Source: GAO analysis of FACA.

Note: Sections 1 (Short title), 2 (Statement of congressional findings and purposes), 3 (Definitions), and 4 (Applicability of FACA), do not impose requirements.

According to GSA officials, the commission has taken reasonable steps to comply with the spirit of FACA. For example, after consulting with GSA, the commission sent an official to a 2-day GSA training session on how to comply with FACA. Also, the commission has adhered to the provisions of FACA that require advisory committees to allow the public to attend meetings and file statements. Specifically, the commission currently advertises its meetings and holds public hearings and open annual report drafting sessions. However, the commission cannot implement the FACA

sections imposing certain administrative requirements on agency heads because those sections apply to commissions operating within larger agencies.

Opening annual report drafting sessions to the public is problematic, according to the commission, because the presence of public observers, including Chinese and other international press and foreign officials, inhibits the discussion of economic and security-related issues among commissioners. For example, the 2006 annual report drafting sessions were open to the public, and the commission's discussions and personal opinions related to findings and recommendations were reported in the national and international press prior to the commission reaching consensus. Additionally, drafts of the commission's annual report were made available to the media prior to commissioners reaching final concurrence on official findings and congressional recommendations. As a result, the commission included in its fiscal year 2007 budget a request that FACA no longer be applied to it. However, in its fiscal year 2008 budget request, the commission dropped the removal request.

Weaknesses in Current Organizational Structure and Management Policies and Procedures

Weaknesses in the current organizational structure and management policies and procedures hinder the effectiveness of the commission's operations and put the commission at risk of fraud, waste, abuse, and mismanagement. According to internal control standards for the federal government the organization structure provides the general framework for management to plan, direct, and control operations to achieve its objectives and internal control activities are designed and implemented to help ensure that management's directives are carried out.⁹ Specifically, in terms of its organizational structure, the commission has not formally defined and assigned key duties and responsibilities that are typically divided or segregated among different people in order to reduce the risk of error or fraud. The commission has heavily relied on its associate director for managing most administrative operations and staff, and commissioners have generally played a passive role in the management of the commission. In terms of management policies and procedures, the commission has not appropriately documented and communicated human

⁹See [GAO/AIMD-00-21.3.1](#). The five standards for internal control include: control environment, risk assessment, control activities, information and communications, and monitoring.

capital, procurement, ethics, and financial management policies and procedures to commissioners and staff.

Organizational Structure for Managing Operations Has Weaknesses

Weaknesses in the commission's current organizational structure for managing administrative operations and staff hinder its effectiveness and put the commission at risk of fraud, waste, abuse, and mismanagement. According to the control environment standard, management should ensure that the organizational structure, among other things, is appropriate for the organization's size and functions, clearly defines areas of responsibility, appropriately delegates authority, and establishes a suitable hierarchy for reporting. Specifically, the commission has not defined and assigned key management duties and responsibilities, which are typically divided or segregated among different people. Also, most if not all of these duties and responsibilities have fallen on a single individual, the associate director.

Commission Has Not Formally Assigned Most Management Duties and Responsibilities

The commission has not formally assigned key management duties and responsibilities in accordance with the control environment standard. Specifically, we found that the commission has not formally assigned human capital, procurement, or budgeting and financial management and reporting responsibilities to any administrative staff. The only exception is that the commission designated the associate director as the ethics officer, making her responsible for, among other things, helping commissioners and staff address ethics and conflict-of-interest matters.

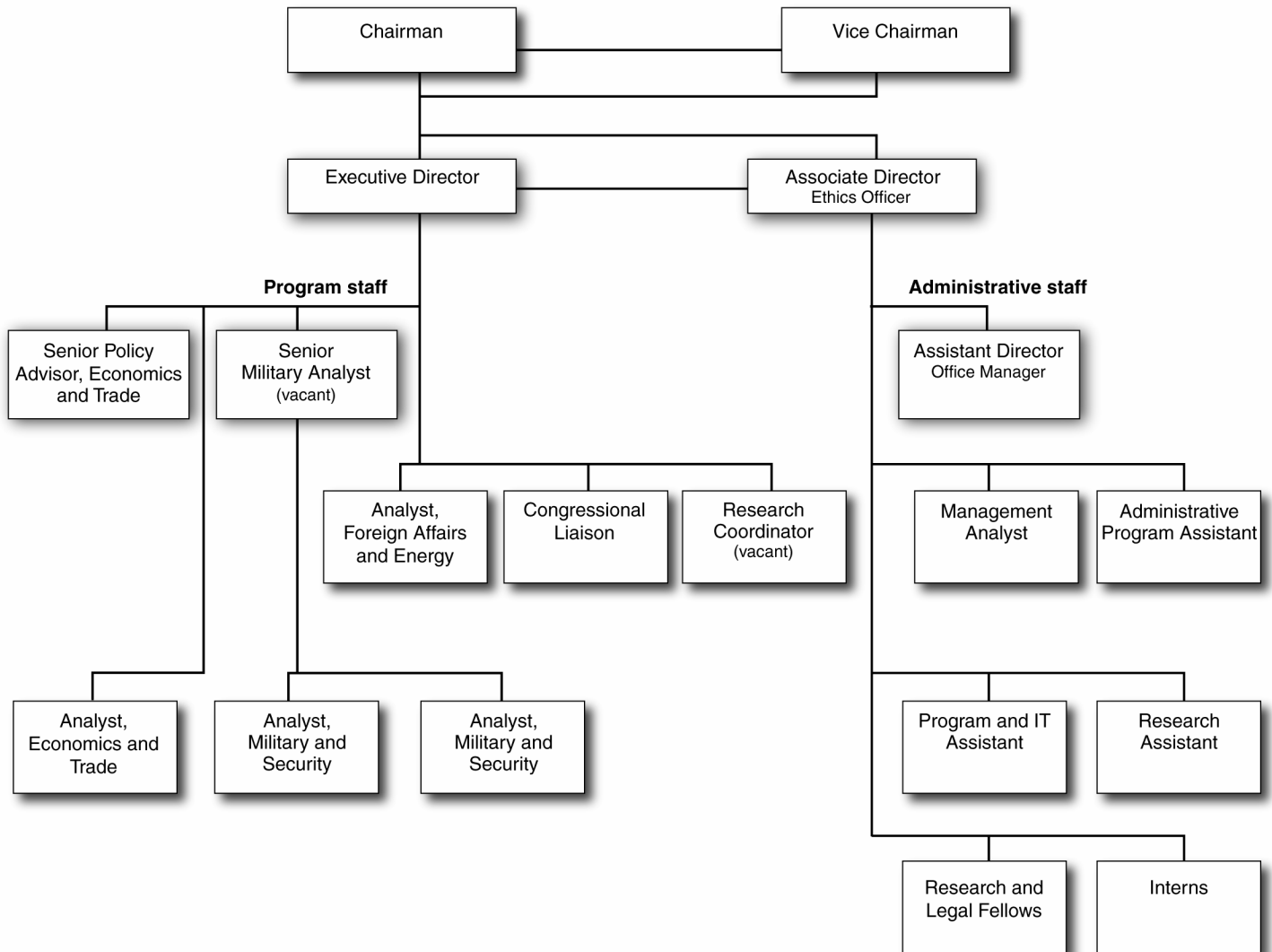
Regardless of its size, under both the control environment standard and human capital principles, an organization should have individuals with specialized knowledge, skills, and abilities necessary to perform one or more of these complex and technical administrative responsibilities effectively.¹⁰ Commission officials told us during our review that they recognize the commission has to clarify administrative roles and responsibilities, identify individuals who will be responsible for them, and segregate duties among staff. Figure 3 shows the organizational structure of the commission and, illustrates, among other things, that the commission formally has an ethics officer but no human capital,

¹⁰Workforce planning to assure the availability of these competencies may include consideration of permanent, part-time, or contract employees. See GAO, *Human Capital: Key Principles for Effective Strategic Workforce Planning*, GAO-04-39 (Washington, D.C.: Dec. 11, 2003).

procurement, financial, or other administrative officers and no legal counsel.¹¹

¹¹The research and legal fellows and interns do not perform any administrative functions. They report through the administrative structure, but they get their assignments from and deliver their products to program staff.

Figure 3: USCESRC Organizational Chart



Source: GAO analysis of USCERSC information.

This failure to formally assign administrative responsibilities across the organization hinders checks and balances and monitoring, undermines segregation of responsibilities, compromises the accountability for and effectiveness of administrative procedures, and puts the commission at risk. For example, the commission has not formally assigned responsibility for procurement to a qualified official. The chairman, executive director, and associate director have played de facto roles as procurement officers by signing contracts, and currently the executive director is acting as

procurement officer for most research contracts. In the absence of a formally designated procurement officer, it is not clear who has the authority to negotiate and sign contracts, who should receive goods and services and maintain records, and who should monitor procurement decisions and activities, compromising the integrity of procurement activities. Also, it is not clear whether individuals carrying out these activities have the necessary background, expertise, experience, and training to do so.

Commission Has Relied on Its Associate Director for Carrying Out Most Management Duties and Responsibilities

Since its inception, the commission has delegated to its associate director the responsibility for running most management functions and supervising all administrative staff, thereby creating risks. This concentration of duties and responsibilities is not in accordance with a good internal control environment. Most commissioners have played a limited and passive role in the management of the organization. Most commissioners work part time, and they told us that they focus on producing the annual report rather than on management matters. Under the direction of the chairman and vice chairman, the executive director is responsible for the overall management of the commission, including program as well as administrative operations and staff. However, the executive director has mainly focused on managing the commission's program operations and staff, which also concentrate on producing the annual report. As a result, the commission has greatly relied on its associate director, who reports to the executive director, chairman, and vice chairman, for leading administrative operations and staff (see fig. 3).

Almost all administrative duties and responsibilities have fallen to the associate director. According to the position description, the associate director must have expert knowledge of federal rules and regulations on human capital, procurement, and budgeting and financial management and reporting, which involve highly legal and technical problems and sensitive issues. Also, the associate director must have knowledge of the commission's program objectives and policies to carry out a full range of work activities related to operations and administration. In addition, the incumbent must have the ability to work on a bipartisan basis with commission members and to handle administratively confidential and personal information. The associate director told us that her position description accurately reflects her responsibilities.

Moreover, she is responsible for managing nine administrative issue areas. These are broad and varied and include managing

- government ethics;
- personnel management;
- security clearances;
- procurement;
- budget and financial management;
- facilities and administrative services;
- public and media affairs;
- hearings, briefings, and meetings; and
- other duties, such as representing the commission in interagency meetings, planning and carrying out administrative projects and studies, and training and supervising subordinate staff.

For example, as the ethics officer, she is responsible for providing ethics training, collecting and reviewing financial disclosure forms, and providing advice on conflict-of-interest matters. Also, she serves as the principal adviser to the executive director and the commission on personnel-related matters; interprets and applies personnel and pay authorities provided to the commission; interprets and applies legislative branch guidance, authorities, and legal requirements and federal personnel regulations and directives affecting the commission; and seeks opinions and guidance from the U.S. Senate Legal Counsel, GSA, and the Office of Personnel Management on personnel matters for which no clear guidance exists.

In addition, in terms of budgeting and financial management and in coordination with the chairman and executive director, she is responsible for

- developing budget plans, goals, and objectives for overall projects and spending levels;
- working with the GSA budget office;

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- developing and reviewing other budget data for automated input into the Office of Management and Budget (OMB) MAX system;
 - responding to OMB requests for supplemental information;
 - developing budget material in support of the commission's budget requests and congressional budget justifications;
 - supporting the chairman and other commissioners at hearings and meetings;
 - generating documents that provide spending authority, OMB apportionment of carryover, and appropriated funds;
 - assuring the accuracy of the monthly and year-end Report of Budget Execution of OMB and the Treasury Department; and
 - monitoring OMB directives for commission application and appropriate action.

To fulfill her duties and responsibilities, the associate director has limited administrative support. Commission officials told us that because the commission is small and has a small budget, it cannot afford to secure the services of management specialists with the expertise that it needs in different areas, including legal expertise on administrative matters. During our review, the commission hired an assistant director/office manager to improve its administrative capabilities. However, this individual has limited responsibilities and does not supervise any administrative staff. We observed that the four other administrative staff worked under the close supervision of the associate director because they were also new hires or because sometimes they could not resolve problems without assistance. It was not clear that some of the administrative staff had the background, experience, and training to carry out responsibilities if the associate director delegates them. For example, a staff member who performs budget and financial management duties has recently required extensive assistance to solve problems related to a financial spreadsheet used in day-to-day operations. Furthermore, she said that she would benefit from training on accounting and related software. We found that commission staff had received little internal or external training.

Concentration of duties and responsibilities creates risks. By concentrating so many responsibilities in one individual, this organizational arrangement, among other things, curtails checks and

balances and monitoring, hampers segregation of responsibilities, and requires that this individual have a high level of legal and technical expertise in administrative functions, such as human capital, procurement, and budgeting and financial management and reporting. For example, as the sole purchase cardholder, the associate director has broad authority in procuring supplies and services for the commission. However, as the designated funds' manager of the commission, the associate director may also approve the payments of these purchases omitting any supervisory review of the purchase card transactions made with commission appropriations.

Concentration of duties and responsibilities also creates risks because key staff may leave the organization. The associate director has been with the commission since its inception. Thus, she has worked with all of the chairmen, vice chairmen, and executive directors of the commission. The associate director is a retired federal official working under a personal services contract for the commission. According to the chairman and executive director, the commission does not have qualified back-up staff or a plan for transitioning staff to take on the associate director's multiple responsibilities should the associate director leave the commission.

Management Policies and Procedures Have Weaknesses or Are Not Present

The commission's policies and procedures for managing administrative operations and staff are insufficient, incomplete, or not adequately documented, thereby impairing their effectiveness and putting the commission at risk of fraud, waste, abuse, and mismanagement. Effective internal control activities help ensure that management's directives are carried out and are an integral part of an entity's stewardship of government resources. Control activities are the policies, procedures, techniques, and mechanisms that enforce management's directives, such as the process for approving new hires and authorizing rates of pay. Specifically, despite the commission's adopting 17 rules and other efforts to put management policies and procedures in place since October 2002, human capital, procurement, ethics, and financial management and reporting policies and procedures are insufficient or incomplete, and many basic operational practices are not documented.¹² We found no evidence that legal and management experts have vetted policies and procedures to ensure they are technically sound, which is a best practice. Furthermore,

¹²We discuss the commission's financial management and reporting policies and procedures in the next section of this report.

Human Capital Policies and Procedures Are Incomplete or Are Missing

existing policies and procedures are not fully documented and consolidated in policy and procedures manuals.

The commission's human capital policies and procedures are insufficient or incomplete. Because of these internal control weaknesses, human capital procedures do not provide reasonable assurance that these activities, such as hiring, evaluating, training, and EEO practices, are performed effectively. Under effective internal control, management should have appropriate, comprehensive, documented, and fair procedures for hiring, training, evaluating, compensating, and terminating staff. Specifically, the commission has only partially implemented formal performance evaluation procedures. Also, it has incomplete formal procedures for hiring and does not have formal procedures regarding training and EEO. Legal and management experts have not vetted human capital policies and procedures to ensure they are technically sound.

The commission did not evaluate any of its staff prior to 2005.¹³ Nevertheless, it provided bonuses to staff without having formal ratings in 2004 and 2006. The commission is in the process of implementing staff performance evaluation policy and procedures adopted in May 2006. The commission did not develop and implement these staff evaluation procedures before because, according to commission officials, it did not have the resources to do so. According to the executive director, the commission informally evaluated staff in 2005 and 2006 and will formally evaluate its staff in 2007. The commission's new employee performance management policy and procedures aim to motivate staff to perform at their highest levels and give supervisors instruments to evaluate employees' performance. These policies and procedures rely on four tools: a position description for each employee's position, an employee performance plan, an annual performance evaluation for each employee and, if needed, a performance improvement plan to enhance the performance of an employee whose work is unsatisfactory. The employee performance management calendar starts with the preparation of the employee performance plans in December of the previous year, continues with the staff evaluation period from January to December, and ends with

¹³The commission currently has an executive director and 11 program and administrative staff. The executive director is a senior executive detailed to the commission from the Department of Commerce. Most of the staff are excepted service employees, have 1-year appointments, and serve at the discretion of the commission. Two administrative staff, including the associate director, are working for the commission under personal service contracts.

the finalization of individual performance evaluations in February of the following year. Based on these performance evaluations, supervisors recommend salary increases and cash awards in late February. Following these recommendations, the commission may give salary increases and cash awards in March. The commission started implementation of these procedures for calendar year 2007 in December 2006 with the development of individual performance plans and intends to finish implementing the procedures in early 2008. According to the executive director, the implementation is on schedule, and staff have their individual performance plans on file. Because the commission is still implementing the procedures for 2007, we did not evaluate the new policy and procedures.

The commission has incomplete written procedures for hiring staff. Under the charter of the commission, the chairman may appoint, fix the compensation, and terminate the employment of the executive director and any other staff. Under rules 4 and 5 of the commission, as amended in November 2005, the commission must approve the hiring and firing of the executive director, and the chairman and vice chairman must approve the hiring and firing of other staff after consultation with other commissioners. However, beyond these rules, the commission has not formalized its hiring practices through further written procedures that would help ensure that hiring new program and administrative staff is fair, transparent, and competitive. For instance, no procedure in place captures that, since 2006, the commission has developed vacancy announcements, based on its position descriptions, and publicly advertised them through its Web site and various media, such as USAJOBS and the OPM Web site. Furthermore, the roles played by the executive director and the associate director in managing human capital are not formally defined, and the records that the commission and these officials have to keep during hiring are not formalized in written procedures.

The commission does not have written training guidelines for its program and administrative staff. Training allows an organization to invest in its human capital and focus this investment on organizational goals and objectives. It helps ensure that staff have the knowledge, skills, and abilities to fulfill their responsibilities. Internal and external training of administrative staff help them comply with policies and procedures, safeguard resources, and prevent errors. Some of the commission's program and administrative staff told us that training would help them improve their professional and technical skills. For example, staff mentioned that systematic support for training would help them improve language or technical skills. Staff stated that the commission should have

training guidelines in place so that they have a fair opportunity to develop their skills. Staff told us that they had individually requested training support. Without training guidelines, the commission cannot ensure that training supports organizational objectives and that staff has fair access to it.

The commission does not have written equal employment opportunity (EEO) procedures. Although the commission is not subject to EEO legislation, commission officials told us that the commission has followed EEO principles, but it has no written procedures. According to these officials, the commission is aware of the importance of these procedures when, for example, hiring or terminating staff. A lawsuit that the commission settled with a former staff member was partially based on an EEO complaint. In the absence of these EEO procedures, the commission cannot ensure that human capital procedures (such as recruitment, hiring, evaluation, promotion, compensation, awards, and training procedures) are fairly implemented. Also, it cannot monitor EEO-related results.

Procurement Policies and Procedures Show Weaknesses

The commission has some written procedures for research-related procurement, but it does not have written procedures for non-research-related procurement. Because of this internal control weakness, procurement procedures do not provide reasonable assurance that procurement activity is performed effectively and is not subject to fraud, waste, and abuse. Also, procurement procedures need to ensure as much transparency, competition, and accountability as possible.¹⁴ However, legal and procurement experts have not vetted the commission's procurement rule to ensure that it is technically sound or in accordance with best practices.

Specifically, regarding research-related procurement, rule 12 of the commission states that the chairman and vice chairman must support research contracts after receiving recommendations from the co-chairs of the commission's research working group. The research working group is

¹⁴The Federal Acquisition Regulation generally does not apply to the commission because it is a legislative branch entity. However, see 41 U.S.C. § 5, which requires advertising of purchases and contracts for supplies or services except (1) when the amount involved in any one case does not exceed \$25,000, (2) when public exigency requires immediate delivery, (3) when only one source of supply is available and the government purchasing or contracting officer so certifies, or (4) when the services are of a technical and professional nature or under government supervision and paid for on a time basis. The law applies to legislative branch agencies other than the House, Senate, and Architect of the Capitol and the officers and employees thereof. 41 U.S.C. § 5a.

responsible for defining research needs and preparing research proposals. It has four members—two co-chairs and two other commissioners. The chairman and the vice chairman select the co-chairs of the group from among the commissioners from different political parties. Rule 12 also says that the full commission must approve research contracts in excess of \$25,000.

This research-related procurement procedure does not include practices the commission has used since 2005 to ensure the transparency and competitiveness of its research-related procurement. Under these undocumented practices, for example, if the research working group determines that funding outside research would contribute to the commission's mission, it prepares a request for proposal (RFP) with support from the commission's staff. After approving the RFP, the commission puts the RFP on its Web site and disseminates it to selected academic institutions and policy institutes. However, the commission does not use other means to widely circulate the RFP. After examining all of the responses to the RFP, the research working group selects one and recommends it to the chair and vice chair, or to the commission.

In fiscal year 2005, the commission competitively awarded seven research contracts for a total of \$105,475 (see app. VI). Only one of these was above \$25,000. In fiscal year 2006, the commission competitively awarded five research contracts for a total of \$77,926. None of these was above \$25,000. During 2007, the commission plans to continue awarding research contracts using these practices.

In contrast, the commission does not have any written procedures in place for nonresearch procurement. This procurement involves a variety of items, such as the costs of hearings, consulting services, and office supplies and equipment. In fiscal years 2005 and 2006, the commission spent about 65 percent and 77 percent, respectively, of its total procurement budget in nonresearch procurement (see apps. VI and VII). In the absence of nonresearch-related procurement procedures, the commission has limited assurance that the procurement is as transparent, competitive, or best value for price as possible, or that responsibilities for it are segregated among qualified staff. For example, as discussed in the following section on financial management and reporting, the commission made significant purchases of office equipment, however, the staff did not document these pricing and purchasing decisions and it is difficult to verify that the best value was obtained. Earlier, we noted the absence of a formally designated procurement officer can compromise the integrity of

procurement activities and together with the lack of procedures put the commission at risk of fraud, waste, abuse, and mismanagement.

During our review, we identified a transaction that fell outside the scope of our individual transaction testing. The transaction involved computer consulting work conducted by a relative of the associate director that initially did not appear to be approved by the commission. We learned that the associate director's son, who is not an employee of the commission and not under formal contract with the commission, had access to the commission's computer system and the sensitive information it contains. The associate director confirmed that her son had had access to and worked on the system. She explained that her son had set up the computer system for the Trade Deficit Review Commission and was paid for those services by that entity. Subsequently, at its inception, USCESRC inherited this computer system. The associate director told us that 4 years later, in 2004, when the system experienced a major failure due to an external power surge, she obtained expert and consulting services from her son to assist with the recovery of the data and redesign and upgrade of the system, for which the commission paid him \$6,600. The associate director acting as contracting/ordering officer approved the invoice authorizing the payment to her son. In addition to the invoice, she also gave us a copy of the statement of work relating to the invoice. We have seen no other documentation relating to this work other than the statement of work and the invoice.

The chairman, vice chairman, and executive director of the commission at that time informed us that they knew the associate director planned to obtain the services of her son, but, because of lack of formal procedures for approving nonresearch procurement, they were unaware of the details. After 2004, when problems arose with the system, he continued to provide assistance and other services without receiving additional reimbursement from the commission. As a part of providing assistance and other services, he had access to the system both at the commission and off site via the Internet. We brought this matter to the attention of the current chairman and executive director, and they told us they were aware that the associate director's son had worked on the system after 2004 to troubleshoot the system he had developed. In the absence of formal approvals or documentation of his work for the commission after 2004, they were unaware of his providing other services to the commission and about the terms and conditions he was operating under. The current chairman and

Ethics Guidelines Have Some Shortcomings

executive director were confident that he had received no compensation for these services.¹⁵ They also indicated that as a result of our inquiry, they intended to take steps to stop this person from having further access to the computer system and providing further support and services to the commission without the approval of the chairman and vice chairman.

When the commission accepts services without remuneration, as authorized by law, it has to document such action in order to protect the government's financial interest should the provider of the services submit a payment claim for such services. Further, since this situation involved access to the commission's computer system, the commission has to document the scope of the access authority granted, which if intentionally exceeded would, among other things, constitute a possible violation of legislation dealing with fraud and related activities in connection with computers.¹⁶

The commission's ethics procedures for both commissioners and staff have shortcomings. According to guidance for a good internal control environment, management should have appropriate, comprehensive, and documented written ethics policies and procedures and require that all members of an organization periodically acknowledge ethics policy and procedures by signature. Specifically, two rules of the commission provide ethics guidelines for commissioners and staff. According to commission rule 16, commissioners must exercise impartial judgment in performing their duties; may never solicit or accept a gift as part of their official duties, other than a gift of incidental value; may not use their position in the commission or the information they receive as part of their duties for personal gain; and may not receive a present of any kind, other than of incidental value, from China and Taiwan. This existing rule does not include ethics guidelines regarding speaking engagements and payment of related travel expenses. The commission has discussed establishing guidelines on speaking engagements but has not done so, according to commission officials. The commission has not vetted its ethics procedures for commissioners with legal and management experts to ensure these procedures are technically sound, in accordance with best practices.

¹⁵Commission rule 10 provides that "no outside consultants or other personnel, either by contract, detail, volunteer or through remunerative agreement, may be hired without the approval of the Chairperson and Vice Chairperson."

¹⁶18 U.S.C. § 1030.

Commission rule 17 requires staff to comply with Senate ethics rules. In March 2007, the executive director conducted the commission's first training on the Senate ethics rules for all program and administrative staff. He also gave each staff member a copy of the ethics rules. Previously, he and the associate director, who is the formally designated ethics officer, had discussed these ethics rules with staff individually.

We found no evidence that the commission requires commissioners and staff to periodically acknowledge ethics policy and procedures by signature. In addition, the commission has no rule about entering into contracts with relatives of commissioners and staff, in accordance with best practices.

In terms of financial disclosure, we found that commission officials who should have filed financial disclosure reports had done so, and the reports did not show conflict of interest. Commissioners and staff who are required by the Ethics in Government Act of 1978¹⁷ to file financial disclosure reports must file the reports with the Secretary of the Senate in its Office of Public Records. Commission officials who earned a rate of pay equal to or in excess of \$109,808 for a period equal to or in excess of 60 days must file financial disclosure reports. Senate ethics rules note that public disclosure of an official's personal financial interests is a key component of an effective code of conduct. After collecting and processing the forms, the Office of Public Records sends the forms to the Senate Select Committee on Ethics and, within 30 days, makes them available to the public electronically. If the committee needs additional information or finds errors in the forms, commissioners and staff may need to file amendments.

According to our review of commission and Senate records, commission officials who should have filed financial disclosure forms had done so since the inception of the commission. The reports covering 2006 were due on May 15, 2007. According to the commission's ethics officer, six commissioners, including one former commissioner, should have filed these reports. Three of them did so, and the other three requested and received a filing extension until August 15, 2007. The three commissioners who requested extensions filed their reports by the August deadline, according to the associate director.

¹⁷Pub. L. 95-521, as amended (codified as an appendix to title 5 of the United States Code).

Commission Has Not Appropriately Documented Its Administrative Procedures

The commission has not sufficiently documented its ethics, human capital, procurement, and budgeting and financial management and reporting policies and procedures to ensure their effectiveness and to inform and guide commissioners and staff.¹⁸ Effective internal control activities would include a comprehensive collection of management policies and procedures, which are properly managed and maintained, so that management and staff can apply these activities properly.

Without a complete collection of comprehensive management policies and procedures, commissioners and staff do not have access to documents in paper or electronic form containing all of the information needed for effectively implementing these policies and procedures, and the commission is at risk, especially if staff responsible for key operations leave the commission. More important, without a systematic effort to consolidate management policies and procedures, some remain incomplete, unwritten, or not vetted by legal and administrative experts. The commission is currently working to consolidate its management policies and procedures by developing office manuals. For example, the commission has in draft a policy manual and a procedures manual. Commission officials acknowledged the need for policy and procedures manuals but told us the manuals have not been completed because of a lack of resources.

Ineffective Internal Control over Financial Management and Reporting

The commission's internal control over financial management and reporting was not adequate to provide reasonable assurance that financial activities were properly processed and recorded and complied with federal laws and regulations. Effective internal control is the first line of defense in safeguarding assets and preventing and detecting errors and fraud. We noted weak or missing internal control in our examination of the commission's (1) non-payroll-related transactions, (2) travel and purchase card activity, and (3) time and attendance (T&A) reporting. Our tests of the commission's non-payroll-related transactions for fiscal years 2005 and 2006 found deficiencies, such as missing or inadequate supporting

¹⁸ 44 U.S.C. § 3101 provides that the head of each federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the government and of persons directly affected by the agency's activities. The law applies to legislative branch establishments other than the House, Senate, and the Architect of the Capitol. 44 U.S.C. § 2901 (14).

documentation, lack of proper authorization and approval, and improper classification. The commission's application of the government travel and purchase card programs lacks written guidance, proper segregation of duties, and adequate training. In addition, we identified questionable purchases of over \$13,000 made with the commission purchase card. Our review of the commission's payroll process for fiscal years 2005 and 2006 showed that the commission's T&A records were not always validated by the employee or approved in accordance with the policy described by the commission's management. As a result, the commission's financial resources are at an increased risk of fraud, waste, abuse, or mismanagement.

Key Controls over Non-Payroll-Related Transactions Are Ineffective

Our tests of the commission's non-payroll-related transactions for fiscal years 2005 and 2006 found deficiencies such as missing or inadequate supporting documentation, lack of proper authorization or approval, and improper classification. We statistically sampled 59 commission non-payroll-related debit transactions totaling approximately \$1.1 million from fiscal years 2005 and 2006.¹⁹ Ten of the 59 transactions had one or more internal control failures, leading us to conclude that the controls commission staff said were in place were not operating effectively. Based on the results of our work, we estimate that the total dollar value of non-payroll-related debit transactions with ineffective controls during the 2-year period we examined is not more than \$1.2 million.²⁰ The following are examples of the type of internal control weaknesses identified in our sample transactions:

- Four transactions lacked proper documentation to support travel-related expenditures centrally billed to the commission travel credit card. The invoices submitted to GSA for payment processing included only the credit card statement without supporting documentation, such as copies of approved travel authorizations or vouchers and lodging invoices. Although we found annotations on certain credit card statements indicating that amounts were internally cross-referenced by the

¹⁹The sample population consisted of 1,991 non-payroll-related debit transactions totaling approximately \$4.5 million for fiscal years 2005 and 2006. See appendix I for additional details related to the population.

²⁰We are 95 percent confident that the total dollar value of non-payroll-related debit transactions with ineffective controls is not more than \$1.2 million. This \$1.2 million estimate exceeds the tolerable amount in error of \$224,715, which is 5 percent of the debit population total of \$4.5 million.

commission to individuals' travel vouchers, copies of approved vouchers or support for the lodging expenses incurred were not attached for GSA verification. In other sample items tested, reimbursements for business expenses were processed for commission staff or commissioners with only an e-mail or a handwritten note as supporting documentation. Typically, the invoice or bill from the supplier or vendor represents the claim against the government for the items sent or delivered, and is also used to verify that quantities, prices, and calculations are accurate.²¹

- Two transactions were not properly authorized and approved: both were payments under what the commission called a personal services contract for hours worked and miscellaneous business expenses claimed for reimbursement by the associate director.²² The first transaction, in the amount of \$3,823.60, was approved by the office manager, who was subordinate to the contract payee. In the second transaction, for \$5,315.69, the contract payee signed the commission chairman's name approving the payment that the contract payee claimed, and therefore independent verification that the services had been received and conformed to the specifications of the contract was not documented. Although the commission is relatively small, the separation of key duties and responsibilities is a key control to reduce the risk of error or fraud. According to GAO's Standards for Internal Control in the Federal Government,²³ no one individual should control all key aspects of a transaction.
- Our sample included two large transactions totaling \$90,075 that were improperly reported as expenses for fiscal year 2006 by the commission at the end of fiscal year 2006. The items, for \$70,000 and \$20,075, were obligations for renovations to the commission's office space that were finalized in fiscal year 2007. Because the goods and services had not been received by the end of fiscal year 2006, these two items should not have been reported as expenses in fiscal year 2006. These errors were not detected by commission staff until we questioned the transactions as part of our testing. According to the commission staff, the errors occurred when the commission notified GSA that the funds should be obligated based on the purchase order but mistakenly placed the obligated balances on the pending accruals worksheet submitted to GSA at year end. In

²¹GAO, *Streamlining the Payment Process While Maintaining Effective Internal Control*, GAO/AIMD-21.3.2 (Washington, D.C.: May 2000).

²²The commission's associate director was the contract payee in both transactions.

²³GAO/AIMD-21.3.1

following up, we found that the related goods and services were received and paid for in fiscal year 2007.

During our review, we also noted that the commission did not develop or document criteria for official representation expenses or a means to properly track appropriated funds for this purpose. Appropriations for the commission for fiscal years 2005²⁴ and 2006²⁵ included a provision that no more than \$5,000 of the amount appropriated each year was available for official representation expenses, which include entertainment. Representation appropriations permit officials of agencies whose activities involve substantial contact with foreign officials to reciprocate for courtesies extended to them.²⁶ According to the associate director, this is how the commission has defined its use of representation expense, based upon the commissioners' discussions. However, neither the decision to limit representation expense to the entertainment of foreign nationals on trips to Asia nor the criteria for classifying transactions as representation expenses has been documented. Also, the commission did not have a formal means to track such transactions for fiscal years 2005 and 2006, as indicated by the manual schedules of representation expenses that were prepared at our request and were adjusted based on our inquiries. The final schedules provided to us for representation expenses for fiscal years 2005 and 2006 totaled \$2,687 and \$4,996, respectively. However, without definitional guidance and a formal means of accumulating these transactions, it is difficult to determine the completeness and accuracy of the amounts provided. As a result, it is difficult for commission management to know whether the commission kept within its \$5,000 statutory limit on representation, and we could not ascertain if it had done so.

Travel and Purchase Card Programs Lack Key Controls

The commission's travel card and purchase card programs lack written guidance, proper segregation of duties, and adequate training. In addition, we identified questionable purchases of over \$13,000 made with the commission purchase card. According to internal control standards,²⁷

²⁴Pub. L. No. 108-447, 118 Stat.2912 (2004)

²⁵Pub. L. No. 109-108, 119 Stat.2334 (2005).

²⁶GAO, *Principles of Federal Appropriation Law*, 3rd ed., vol. I, [GAO-04-261SP](#) (Washington, D.C.: January 2004)

²⁷[GAO/AIMD-00-21.3.1](#).

management is responsible for developing policies and procedures that fit the agency's operation and are an integral part of operations. As discussed earlier, internal control standards also state that key duties need to be divided or segregated among different people to reduce the risk of error and fraud. This should include separating the responsibilities for authorizing, processing, recording, and reviewing transactions, and handling any related assets. Internal control standards also require that all personnel possess and maintain a level of competence that allows them to accomplish their assigned duties, as well as understand the importance of developing and implementing good internal control. This includes identifying appropriate knowledge and skills as well as providing needed training.

Travel Card

We noted a lack of written policies and procedures for authorizing and approving temporary duty travel for commissioners, staff, and invited guests in the 23 travel card transactions we examined for fiscal years 2005 and 2006. The Federal Travel Regulation²⁸ (FTR) states that internal policies and procedures must be established for processing travel authorizations and travel reimbursements as well as establishing policies and procedures relating to payment of per diem expenses and miscellaneous expenses. The associate director confirmed that the commission applies the guidance in the FTR. The lack of written guidance puts the commission at risk of not processing all travel-related expenses consistently and in accordance with the FTR. In reviewing the travel card transactions, we noted that one cardholder's purchases totaling approximately \$4,000 were for personal use. Although we did not find any indication that the individual sought reimbursement from the commission for these transactions, the FTR states that government-issued travel cards may be used only for official travel-related expenses.²⁹

We also found instances where an individual both authorized travel and approved/certified travel expenses for reimbursement. According to our discussion with commission officials and staff, all travel is to be authorized by the commission chairman. In instances where the chairman

²⁸41 C.F.R. Parts 300-304. Travel expenses, including per diem in lieu of subsistence, of the commission are authorized and allowed at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business. 22 U.S.C. § 7002(e)(2). The rates are established by the Federal Travel Regulation.

²⁹41 C.F.R. Part 301-70.706

is the traveler, he or she authorizes his or her own travel. However, the associate director sometimes signs for the chairman authorizing travel. The associate director also prepares travel vouchers claiming reimbursement for travel expenses for the commissioners and staff or designates an administrative assistant to do so. Then, as the designated approving official, the associate director approves the travel voucher claim for reimbursement. We also observed some instances where the associate director signed the traveler's name and also approved the claim for reimbursement. In order to have proper segregation of duties, no one individual should control all aspects of a transaction.³⁰ Also, the FTR states that the traveler must ensure all travel expenses are prudent and necessary and submit the expenses in the form of a proper claim.³¹ This is documented with the traveler signing the travel voucher in block 13 of Standard Form 1012, whereby the traveler asserts that, "I certify that this voucher is true and correct to the best of my knowledge and belief, and that the payment of credit has not been received by me." This certification was lacking on several commission travel claims we reviewed because the traveler did not sign the voucher. By not following proper procedures for claiming and reimbursing travel expenses, the commission is subject to an increased risk of fraud or error.

The commission's associate director, who has responsibility for travel card use and is the approving official, has received no formal training in administering the travel card program. According to GAO's internal control standards, all personnel need to possess and maintain a level of competence that allows them to accomplish their assigned duties, as well as understand the importance of developing and implementing good internal control. This includes identifying appropriate knowledge and skills as well as providing needed training. Based on the travel vouchers we reviewed, the associate director appeared to be knowledgeable about some travel regulations, such as the disallowance of certain unauthorized expenses on travel claims — including alcoholic beverages or individual entertainment charges³² on hotel invoices. However, formal training on the FTR could have increased compliance with the FTR, such as submitting claims for payment within 5 days after completing a trip³³ or authorizing

³⁰ [GAO/AIMD-00-21.3.1](#).

³¹ 41 C.F.R. Part 301-71.203

³² 41 C.F.R. Part 300-3.1 *Glossary of Terms*, under *Per diem allowance*, (b) *Meals*.

³³ 41 C.F.R. Part 301-52.7

first³⁴ or business³⁵ class travel as required by the FTR. Of the 22 travel voucher claims³⁶ we reviewed, only 1 was submitted within the 5-day time period. Also, documentation of FTR-required authorization for first or business class travel was not provided in seven instances.

Purchase Card

The commission did not have written policies and procedures concerning use of the purchase card. The purchase card is used to buy products or obtain services for everyday operations. Although the commission is generally not covered by the Federal Acquisition Regulation (FAR), the commission, as a participant in GSA's SmartPay Program, is subject to the FAR for purchases of supplies and services made with the government purchase card. The associate director told us she was not aware of the laws, regulations, and procurement policies and procedures under the FAR as it related to the use of the purchase card. Further, she was not aware of any restrictions on the use of the card other than using it for meeting commission objectives. For example, the associate director was not aware of the micro-purchase threshold, currently at \$3,000.³⁷ While we noted over \$13,000 of computer hardware and software purchases that appeared on the commission's June 2006 purchase card statement, each individual item did not exceed the micro-purchase threshold. The commission purchased this computer equipment via the Internet because, according to the associate director, they were the best value. Commission staff did not document these pricing and purchasing decisions and the FAR does not require documentation of competitive quotations solicited under the micro-purchase threshold amount if the contracting officer or other individual appointed for purchases under the purchase card program considers the price to be reasonable.³⁸ While we noted over \$13,000 of computer hardware and software purchases that appeared on the commission's June 2006 purchase card statement, each individual item did not exceed the micro-purchase threshold. Nevertheless, it is difficult to

³⁴41 C.F.R. Part 301-10.123

³⁵41 C.F.R. Part 301-10.124

³⁶Although we examined 23 travel card transactions, one transaction did not involve a travel voucher. According to the associate director, the transaction authorized the travel expenses for an invited guest to appear at a hearing, paid for by the commission.

³⁷The \$3,000 micro-purchase threshold generally applies; however, exceptions exist. For example, the micro-purchase threshold is \$2,000 for acquisitions of construction subject to the Davis-Bacon Act.

³⁸48 C.F.R. Part 13.202 (a) (2).

verify that the best value was obtained without documentation of the pricing decisions.

Although the associate director is officially the sole authorized purchase cardholder for the commission, we identified cases in which the associate director asked other staff to use the purchase card to buy products or obtain services. For those transactions, the staff signed the purchase card receipts even though they were not the authorized cardholder. Sometimes it was not clear who was involved in particular transactions. For example, we reviewed one receipt signed by someone other than the associate director in the amount of \$408 for toner cartridges, and the associate director could not tell us whose signature was on the receipt. Effective internal control requires that transactions are authorized and executed only by persons acting within the scope of their authority.³⁹ This is the principal means of assuring that only valid transactions to commit resources are initiated or entered into.⁴⁰

The commission's associate director has not received formal training in administering the purchase card program. The associate director purchased bottled water monthly with the purchase card, which is an example of an improper transaction. Improper transactions occur when appropriated funds are used for which appropriations are generally not available.⁴¹ Bottled water is typically considered a personal expense, and appropriated funds may be used for it only with documentation that available drinking water poses a health risk.⁴² Training of the purchase cardholder and all staff in the laws and regulations applying to purchase card transactions is an important step in ensuring that the purchase card is not misused.

As shown in table 5, we identified questionable purchases totaling over \$13,000 made with the commission purchase card. We considered questionable transactions as those where items were purchased at an excessive cost or for a questionable government need, or the support was

³⁹GAO/AIMD-00-21-3.1.

⁴⁰GAO/AIMD-00-21-3.1.

⁴¹31 U.S.C. § 1301. Also, see [GAO-04-261SP](#)

⁴²B-303920, March 21, 2006, Clarence Maddox — Relief of liability for improper payments of bottled water.

insufficient for a determination. They included transactions at Macy's, Sam Goody, and Corner Bakery.

Table 5: Questionable Purchase Card Transactions, July 1, 2005-June 30, 2006

Type	Number of transactions	Amount
Food purchases	31	\$9,385.74
Senate gift shop	7	2,405.50
Other items	12	1,362.20
Total	50	\$13,153.44

Source: GAO analysis of Citibank data.

The associate director told us that all of the questionable purchases we identified were for official commission business. According to the commission, all of the purchases from the Senate gift shop were small items such as pens or business card cases that were presented as gifts during commission fact-finding trips to China and Taiwan. Over three-fourths of the purchases in table 5 were for food, which included catering for commission hearings or quarterly business meetings. According to the associate director, the food was primarily for commissioners, commission staff, and witnesses working exclusively on a particular hearing where it may have been inconvenient or counterproductive to break for lunch. We did observe instances where nongovernmental personnel participated in various panel sessions at certain hearings, and it may have been beneficial for scheduling purposes to provide lunch or other refreshments. However, as a general rule, the government may not furnish free food to employees at their official duty station even when they are working under unusual circumstances.⁴³

Time and Attendance Reporting Lacks Proper Approvals

Our review of the commission's payroll process for fiscal years 2005 and 2006 showed that the commission's T&A records were not always completed and approved in accordance with the policies and procedures described by the commission. We reviewed all applicable T&A records for four commissioners in fiscal years 2005 and 2006 and found that 37 percent were not reviewed and approved by the executive director in accordance with the described policies and procedures. We also reviewed selected T&A records for three commission staff for fiscal years 2005 and

⁴³B-272985, Meal Expenses for CIA Security Detail, December 30, 1996, B-169235, April 6, 1970.

2006 and found that over one-half were not approved by the executive director, and 10 of the 25 staff T&A records we reviewed were not approved by a certifying officer in accordance with commission policy. According to the commission staff responsible for payroll, the certifying officer is responsible for (1) reviewing T&A records to ensure that each one is properly approved by the executive director and (2) affirming that the hours are accurately entered into the online payroll data entry system that the commission uses to communicate with GSA. Failure to adhere to this policy increases the risk that inaccurate or inappropriate time charges will be entered into the system, resulting in potential errors in wages paid and recorded by the commission. Supervisory authorization and approval is a key part of ensuring the propriety of T&A information. According to GAO's time and attendance guidance,⁴⁴ the supervisor or other authorized official should review and authorize employees' planned work schedules and applications for leave, and review and approve employee submissions of actual time worked and leave taken, as well as information in T&A reports, and any adjustments or corrections to T&A records.

This lack of T&A oversight is further compounded by the fact that the commission's 12 members generally had differing approaches to charging time incurred on commission activities. We identified a great range in the number of hours charged by the commissioners in fiscal years 2005 and 2006, from some commissioners who did not charge any time to commission activities, to one commissioner who charged almost 1,900 hours in one fiscal year. We also noted several instances where the number of hours charged to commission activities and paid to a commissioner exceeded the standard 80 hours for the pay period. While exceeding 80 hours in a given pay period is permissible, this practice and other changes to the time and attendance information resulted in numerous manual adjustments to the Commission's recorded payroll to reflect the excess hours or retroactive time.⁴⁵ Manual adjustments can lead to inaccuracies and inconsistencies and provide opportunities for error. Further, manual adjustments increase the importance of reconciliations to ensure that all data are captured and recorded in a timely fashion. The accuracy of time and attendance information is particularly important

⁴⁴GAO, *Maintaining Effective Control over Employee Time and Attendance Reporting*, GAO-03-352G (Washington, D.C.: January 2003).

⁴⁵Manual adjustments were also made to reimburse commissioners for hours retroactively if commissioners' time and attendance records were not submitted timely.

because the amount of time devoted to commission activities is a factor⁴⁶ in commission ethics filing requirements.

Conclusions

Congress created the commission almost seven years ago to advise it about the impact of China's growing economic and military capabilities on the United States. The commission's primary vehicle for communicating its findings to Congress and the American people is the annual report. However, the commission has issued none by the mandated deadline because the appointment dates for commissioners and the commission's work cycle schedule are not aligned with the annual report issuance deadline. Seven of the current 12 commissioners' terms will expire in December 2007, and a reconstituted commission will again face the challenge of meeting a June 1 reporting deadline. Unless the commissioners' appointment dates and the commission's work cycle schedule are aligned with the report issuance date, it is unlikely the commission will issue future reports on time.

Despite the permanent status of the commission indicated by the lack of a sunset provision in its charter, the commissioners have not focused their attention on the management operations of the organization. Instead, the commission has relied on its associate director, who has a small administrative staff with limited expertise and capacity, to manage the diverse and complex activities necessary to support a federal agency. The commission's ethics, human capital, procurement, and financial management policies and procedures can be improved to enhance their effectiveness and to provide reasonable assurance that the commission is not at risk of potential fraud, waste, abuse, and mismanagement. In this regard, the commission has started to take steps to address some of the issues we have identified and has requested a substantial increase in its appropriations to, in part, to address these weaknesses. Nevertheless, we found practices that the commission needs to address in the areas of human capital, procurement, ethics, and financial management. Even though the organization is small in size, the commission has a responsibility and duty to effectively and efficiently manage the resources provided by Congress. The commission has wide discretion to determine how to do so in a way appropriate for its size. The need for internal

⁴⁶Officers and employees of the legislative branch who are compensated for a period in excess of 60 days during a calendar year at the annual rate of pay equal to or in excess of 120 percent of the basic rate of pay in effect for the Grade GS-15 of the general schedule must file a public disclosure report with the Senate.

controls is heightened by the fact that it is not subject to the degree of oversight and legal requirements of most federal agencies.

Matter for Congressional Consideration

To improve the timeliness of the commission's annual reports, Congress should consider aligning the commissioners' appointment dates with the annual report issuance date. Depending on its needs, Congress could, for example, either move the commissioners' appointment date from January to July, so that the commission has enough time to plan and issue its report by June 1 the following year, or keep the commissioners' appointment date in January and move the report issuance date to December 1.

Recommendations for Executive Action

To improve management of its operations and reduce risks, the commission should apply internal control standards aimed at (1) strengthening its organizational structure so that key management duties and responsibilities are segregated and (2) improving its management policies and procedures so that they are well-documented, communicated, and consistently applied and reflect expert legal and managerial advice where appropriate.

Specifically, we recommend that the commission take the following five actions:

- Review the organization's staffing needs for management functions, including human capital, procurement, budgeting, and financial management; properly segregate key duties and responsibilities among specific officials; and ensure that these officials have appropriate knowledge, experience, and training to perform these management functions.
- Fully implement recently developed human capital policies and procedures for evaluating the commission's professional and administrative staff, and put in place comprehensive written hiring, training, and EEO-related procedures.
- Establish comprehensive written research and non-research-related procurement policies and procedures that ensure transparency and competition as much as possible.
- Expand the ethics guidance for commissioners to include guidelines for speaking engagements and payment of related travel expenses, and require

that commissioners and staff review and formally acknowledge the ethics guidance periodically.

- Put in place policy and procedures manuals and obtain advice from legal and management experts to make sure that policies and procedures are technically sound.

Furthermore, to improve internal control over financial management and reporting, the commission should document applicable policies and procedures and communicate them to applicable commission staff, and segregate key duties and responsibilities, to the extent possible, so that no one individual controls all key aspects of a transaction.

Specifically, we recommend that the commissioners take the following three actions:


- Strengthen key controls over non-payroll-related transactions by
 - ensuring that all transactions are supported by adequate documentation and are properly authorized, approved, and classified; and
 - developing and documenting criteria for classifying transactions for the purpose of official representation, and developing and documenting a means to track such transactions within its accounting and reporting structure.
- Implement key controls over the commission's government travel and purchase card programs by
 - providing training for staff who administer and use the government travel and purchase card programs, and
 - developing and documenting commission policies and procedures with regard to food provided at commission hearings, quarterly business meetings, or any related events, in compliance with federal appropriations law prohibiting free food to government employees.
- Conduct all T&A reporting in accordance with commission policies and procedures by checking for proper authorization and approval before processing T&A records as part of the biweekly payroll procedures, and verifying that approval and certification is documented.

Agency Comments and Our Evaluation

We provided a draft of this report to the commission and GSA. We obtained written comments from the commission, which are reprinted with our responses in appendix VIII. GSA had no comments on our draft. The commission concurred with our recommendations and noted that these recommendations have the potential to help ensure that its operations are both legal and appropriate. The commission indicated that it will follow GAO's internal control standards to develop a plan for addressing our recommendations even though these standards are not binding on legislative branch entities, such as the commission. The commission emphasized that its charter is brief and offered the commission little guidance on what internal control mechanisms it should employ and how they should be structured and applied. Regarding the commission's request for GAO to serve as the commission's official legal and management expert, in order to be able to conduct work in accordance with GAGAS, GAO prefers not to accept any nonaudit work that could potentially create an independence impairment in fact or in appearance with respect to the entities it reviews. While GAO is willing to share (nonbinding) advice, the commission is responsible for making such decisions and implementing the policies and procedures to manage its operations. The commission can secure the services of needed legal and management experts by hiring them and developing them through training, for example, or by contracting with outside parties for these services. The commission's comments on the draft of the report, including the technical comments we received from the executive director, asked that we clarify various parts of our report. We revised our report, as appropriate.

We are sending copies of this report to interested congressional committees, USCESRC, and GSA. We will also make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you and your staffs have any questions about this report, please contact me at (202) 512-4347. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix IX.

A handwritten signature in black ink that reads "Loren Yager". The signature is written in a cursive style with a large initial "L" and "Y".

Loren Yager
Director, International Affairs and Trade

Appendix I: Objectives, Scope, and Methodology

In this report, we assess the extent to which (1) the U.S.-China Economic Security Review Commission (USCESRC) has complied with its charter, (2) the commission has had an organizational structure and policies and procedures for managing its operations effectively, and (3) internal control over the commission's financial management and reporting has provided reasonable assurance that resources are not at risk.

To assess the compliance of the commission with its reporting requirements and other provisions specified in its charter, we obtained and analyzed the commission's statutory charter;¹ pertinent legislation and regulations, such as the Federal Advisory Committee Act (FACA); and related commission documentation. According to its charter, as amended, the commission must implement FACA, which provides a legal and institutional framework for the operation of advisory committees. We observed two quarterly business meetings of the commission on February 2 and May 25, 2007. We interviewed the 12 current commissioners and two former commissioners, including a former chairman of the commission and a commissioner who left the commission when his appointment expired at the end of 2006. Also, we interviewed the current executive director and the two previous executive directors of the commission. We reviewed information and met with officials from the General Services Administration (GSA) and the Congressional Research Service (CRS).

To assess the organizational structure and procedures the commission has in place to manage its administrative operations and staff and achieve its mission effectively, we obtained and analyzed commission records, such as documents describing the organizational structure of the commission and ethics and conflict of interest, human capital, procurement, and financial management procedures that the commission had in place during our review.

In reviewing these organizational structure and policy and procedures, we focused on whether they, as internal control mechanisms, are in accordance with internal control standards for the federal government, such as the internal control environment and internal control activities standards.² While these standards are not binding for legislative branch

¹The commission was created on October 30, 2000, by the Floyd D. Spence National Defense Authorization Act for 2001 § 1238, Pub. L. No. 106-398, 114 STAT. 1654A-334 (2000).

²GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

agencies, they are a statement of best practices and adherence to these standards provides reasonable assurance against fraud, waste, abuse, and mismanagement. These standards give management of federal agencies, regardless of size, the responsibility and discretion to develop and implement mechanisms for internal control necessary for achieving organizational objectives, managing operations and staff effectively, and ensuring the agency is not at risk. Effective internal control provides reasonable, not absolute, assurance of meeting agency objectives.

In analyzing the organizational structure and administrative procedures, we assessed whether they were properly documented, communicated, and implemented. In analyzing human capital and equal employment opportunity procedures, we secured commission information and reviewed GAO guidance. A GAO expert reviewed the human capital information. In reviewing procurement procedures, we obtained commission documentation and GAO information. A GAO expert reviewed the procurement information. In reviewing ethics and conflict of interest procedures, we obtained commission documentation and Senate Select Committee on Ethics, and the Secretary of the Senate Office of Public Records information. A GAO expert reviewed the ethics and conflict of interest information.

In assessing the organizational structure and administrative procedures, we observed two quarterly business meetings of the commission on February 2 and May 25, 2007, respectively. We interviewed the 12 current commissioners and 2 former commissioners, including a former chairman of the commission, and a commissioner who left the commission when his appointment expired at the end of 2006. Also, we interviewed the current executive director and the two previous executive directors of the commission. In addition, we interviewed all of the commission staff, including six program staff and six administrative staff. The latter included the associate director and office manager/assistant director who are responsible for administrative matters. We reviewed information and met with officials from the Senate Select Committee on Ethics, and the Secretary of the Senate Office of Public Records.

In order to determine the extent to which the commission effectively executes its financial management and reporting responsibilities in accordance with internal control standards, we gained an understanding of the commission's overall financial management and reporting process by interviewing the commission officials and staff with those responsibilities. We also spoke with representatives of GSA's External Services Division to gain an understanding of GSA's role in the

commission's financial management and reporting process. We used applicable law and commission policy, as well as our standards for internal control in the federal government as our criteria. We developed our understanding of the key processes and controls over non-payroll-related transactions, travel and purchase card transactions, and payroll, from inception at the commission's office up until the point that the commission submits vouchers to GSA for processing. We then assessed the extent to which certain key controls and procedures were effectively applied to the various types of transactions at the commission.

We selected a statistical sample of 59 debit transactions totaling approximately \$1.1 million from a population of 1,991 debit transactions totaling approximately \$4.5 million for fiscal years 2005 and 2006 to test specific internal control activities over non-payroll-related transactions, such as adequacy of supporting documentation, evidence of proper authorization or approval, and proper classification. The non-payroll-related population included transactions related to purchasing, travel, leases, payment to contracted employees and other miscellaneous transactions. Results from the statistical sample were projected to the population of non-payroll-related transactions for years 2005 and 2006.³ To test the reliability of the non-payroll-related transaction data provided, we (1) performed electronic testing of required data elements, (2) reviewed existing information about the data and the system that produced it, and (3) worked closely with commission and GSA officials to identify any data problems. When we found discrepancies such as zero-dollar transactions or those with descriptions we could not understand such as nonfederal summary codes, we brought them to GSA's attention and worked with them to correct the discrepancies before conducting our analyses. We determined that the data were sufficiently reliable for the purposes of our report.

To examine commission travel card transactions, we obtained a database of commission travel card transactions from Citibank for fiscal years 2005 and 2006 and used data mining techniques to select potentially questionable travel card transactions. Our selections were made based on the dollar amount of an individual transaction, transaction volume on individually billed travel card accounts, group travel events, and any

³The sample population consisted of nonpayroll expenses totaling approximately \$4.5 million. This excluded transactions with \$0 and credit balances and with nonfederal summary codes.

transactions associated with what are generally considered to be popular vacation areas. We traced selected transactions to supporting documentation, examined supporting evidence, and made appropriate inquiries to the associate director for transactions meeting these criteria.

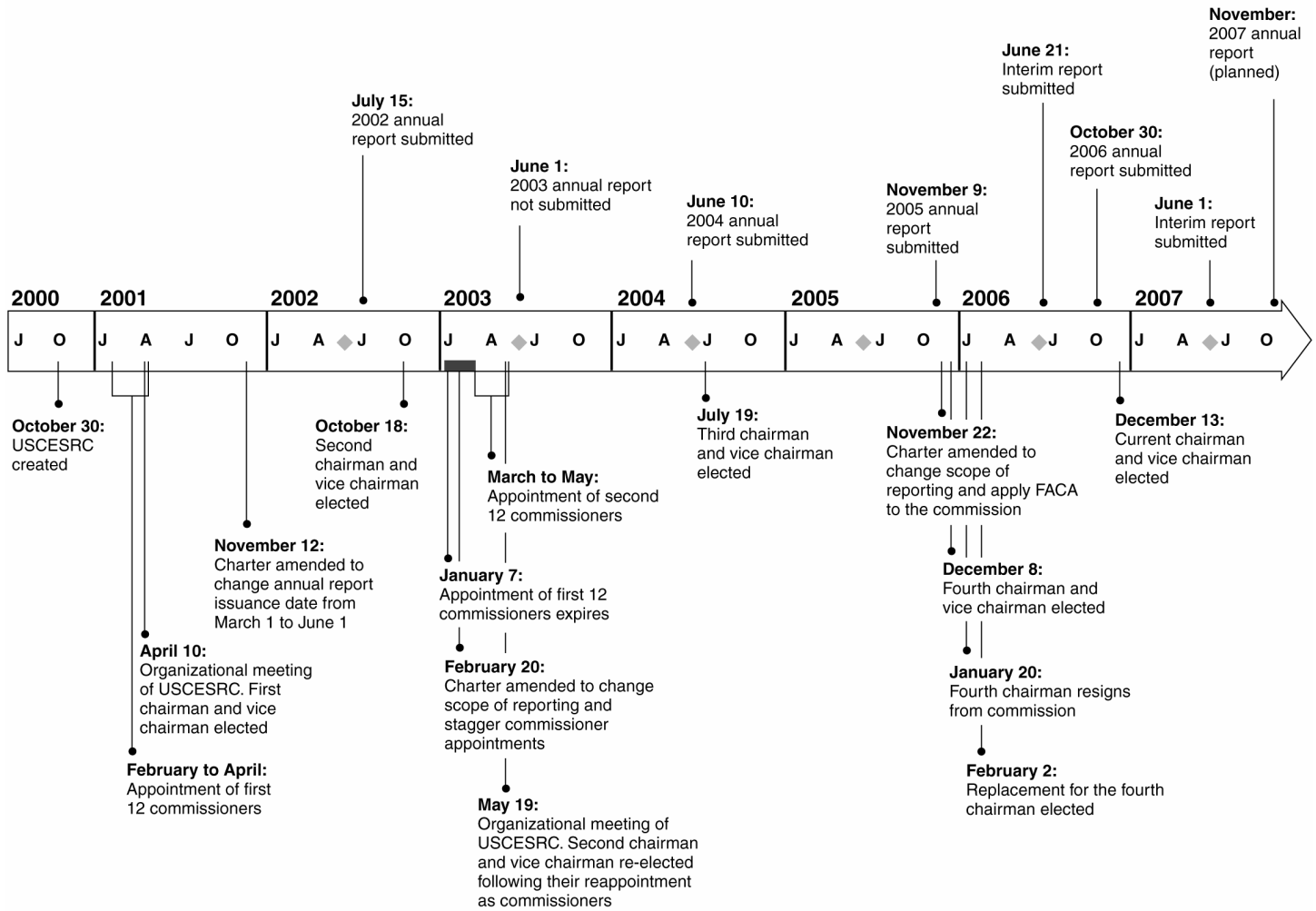
To examine commission purchase card transactions, we obtained a database of commission purchase card transactions from Citibank for July 2005 through June 2006 and used data mining techniques to select potentially questionable purchase card transactions based on merchant category codes. This database covered 3 months of fiscal year 2005 (July 1, 2005, through September 30, 2005) and 9 months of fiscal year 2006 (October 1, 2005, through June 30, 2006) which we considered sufficient for our review.

To test the controls over the commission's payroll transactions, we used a nonstatistical sample because we could not readily obtain detailed or aggregated salary information in electronic format for either staff or commissioners by fiscal year. We performed analytical procedures to assess if salary expenses were reasonable for fiscal year 2005 and 2006. We nonstatistically selected four commissioners and verified that they were paid at the authorized rates of pay for fiscal years 2005 and 2006. We also nonstatistically selected eight staff and recalculated their respective salaries for fiscal years 2005 and 2006 based on their authorized rate of pay. In order to assess the time and attendance part of the payroll process, we reviewed all T&A records for the same four commissioners for fiscal years 2005 and 2006 to determine whether they were completed and approved in accordance with the policy as described by the commission. We also selected three of the eight staff persons previously sampled nonstatistically, and reviewed all respective T&A records for fiscal years 2005 and 2006 to determine whether they were completed and approved in accordance with commission policy.

We did not audit the commission's Statement of Budget Execution (Standard Form 133) or the Year-End Closing Statement (Standard Form 2108), nor do we express an opinion on them.

We performed our work from October 2006 to September 2007 in accordance with generally accepted government auditing standards.

Appendix II: Timeline of Events Related to USCESRC



◆ According to its charter, USCC must issue an annual report to Congress by June 1

■ USCC did not have any commissioners appointed between January 7 and March 22

Source: GAO analysis of USCESRC information.

Appendix III: USCESRC Appropriations and Expenses

From its inception in fiscal year 2001 through fiscal year 2007, the commission has received approximately \$17.4 million in appropriations to fund its operations, as indicated in table 6. The commission has requested \$4 million for fiscal year 2008. According to the commission, the \$1 million in additional funding will support, among other things, internal and external research efforts and implementation of GAO recommendations.

Table 6: USCESRC Appropriations, Fiscal Years 2001-2007

Dollars in millions		
Fiscal year	Appropriations net of rescissions	Availability
2001	\$ 4.69 ^a	no-year ^b
2002	- ^c	—
2003	1.79	no-year
2004	1.99	1-year
2005	2.98	no-year
2006	2.96	2-year
2007	2.97	2-year
Total	\$17.38	

Source: GAO analysis of USCESRC data.

^a2001 DOD Appropriations Act, P.L. 106-259, August 9, 2000, appropriated \$3 million to the commission, and 2001 Supplemental Appropriations Act, P.L. 107-20 July 24, 2001, appropriated \$1.7 million to the commission out of the Department of the Treasury's appropriation.

^bNo-year authority indicates that appropriations are not limited to a specific fiscal year or expiration date.

^cThe commission did not receive any appropriations for fiscal year 2002, as it was just beginning operations and had not used most of the no-year funds appropriated in fiscal year 2001.

The commission's largest annual expense is for the commissioner and staff salaries, as shown in table 7. Other annual commission expenses include contracting research and professional services, leasing office space in Washington, D.C., and incurring other costs to carry out its mission.

Appendix III: USCESRC Appropriations and Expenses

Table 7: USCESRC Major Operating Expenses, Fiscal Years 2001-2006

Expense type	Fiscal Year					
	2001	2002	2003	2004	2005	2006
Salaries and benefits	\$530,008	\$1,748,600	\$984,075	\$1,427,406	\$1,313,359	\$1,114,165
Travel	20,602	220,304	43,149	213,806	278,242	165,313
Leases	20,172	277,607	242,007	281,945	300,388	289,427
Printing	8,265	49,223	13,231	22,231	21,915	18,525
Contractual labor	181,997	624,225	184,270	339,076	582,700	396,114
Other	193,841	77,965	115,154	192,783	233,644	228,255
Total expenses	\$954,855	\$2,997,924	\$1,581,886	\$2,477,246	\$2,730,248	\$2,211,798

Source: GAO summary of USCESRC data.

Note: Balances are unaudited.

The commission is not subject to any financial reporting or audit requirements. The commission developed a set of rules that require the commission to prepare a report detailing budget and expenditure information to be submitted to the commissioners for their review. The *Commission Rules* also require quarterly reporting of the status of funds, personnel actions, status of procurement of contracts, and other financial information.¹ According to the executive director, the status of funds report is an internal document used to keep track of commission expenditures against its approved annual spending plan.

The commission entered into an agreement with the GSA Heartland Finance Center in Kansas City, Missouri, to perform financial reporting

¹The commission maintains and heavily relies on an internal custom-built database which stores information on various areas such as payroll and personnel, travel, purchases, and other spending data. This database is the source for internal reports on open obligations, vendors, travel, budget estimates and the Status of Funds. This system does not interface with the official execution of budgeted funds as maintained and reported by GSA on behalf of the commission.

and accounting each fiscal year.² This includes processing (1) obligations and payments that have been authorized by the commission, (2) receipts and disbursements of funds available to the commission from the U.S. Treasury, and (3) all applicable payroll functions. GSA also provides quarterly reports and year-end financial information to OMB and the Department of the Treasury. GSA does not have an oversight role described in its memorandum of understanding with the commission.

²The General Services Administration in Kansas City, Missouri, services the commission's payroll and accounting reporting needs. GSA's National Payroll Center (NPC) furnishes all necessary payroll support functions as provided by GSA's Payroll Accounting and Reporting System. NPC tracks and monitors all activities, from initial hire through final payment at separation or retirement. Payroll services include processing time and attendance (T&A) records as submitted online through GSA's Electronic Time and Attendance System. The GSA External Services Division provides financial reporting and necessary accounting functions related to the commission's Treasury account. This includes processing all accounting transactions and reporting certain information to OMB and the Department of the Treasury regarding the commission's status of fund balances on a quarterly basis as well as the year-end reporting.

Appendix IV: Economic and Security Issues Covered by 2002 USCESRC Annual Report

We found the commission's 2002 annual report covered the 10 economic and security issue areas mandated at the time. Table 8 provides details on the issue areas covered by the commission's 2002 annual report.

Table 8: Economic and Security Issue Areas Covered by the 2002 Annual Report

Ten economic and security issue areas required by statute	Issue areas covered by chapter in 2002 annual report
(1) The portion of trade in goods and services with the United States that the People's Republic of China dedicates to military systems or systems of a dual nature that could be used for military purposes.	Chapter 10: Technology Transfers and Military Acquisition Policy
(2) The acquisition by the People's Republic of China of advanced military or dual-use technologies from the United States by trade (including procurement) and other technology transfers, especially those transfers, if any, that contribute to the proliferation of weapons of mass destruction or their delivery systems, or that undermine international agreements or United States laws with respect to nonproliferation.	Chapter 9: The Defense Budget and the Military Economy Chapter 10: Technology Transfers and Military Acquisition Policy
(3) Any transfers, other than those identified under subparagraph (B), to the military systems of the People's Republic of China made by United States firms and United States-based multinational corporations.	Chapter 6: China's Presence in U.S. Capital Markets Chapter 9: The Defense Budget and the Military Economy
(4) An analysis of the statements and writing of the People's Republic of China officials and officially-sanctioned writings that bear on the intentions, if any, of the Government of the People's Republic of China regarding the pursuit of military competition with, and leverage over, or cooperation with, the United States and the Asian allies of the United States.	Chapter 1: China's Perceptions of the United States and Strategic Thinking
(5) The military actions taken by the Government of the People's Republic of China during the preceding year that bear on the national security of the United States and the regional stability of the Asian allies of the United States.	Chapter 7: Proliferation and Chinese Relations with Terrorist-Sponsoring States Chapter 8: Cross-Strait Security Issues
(6) The effects, if any, on the national security interests of the United States of the use by the People's Republic of China of financial transactions and capital flow and currency manipulations.	Chapter 6: China's Presence in U.S. Capital Markets
(7) Any action taken by the Government of the People's Republic of China in the context of the World Trade Organizational structure that is adverse or favorable to the United States national security interests.	Chapter 3: China and the World Trade Organizational structure
(8) Patterns of trade and investment between the People's Republic of China and its major trading partners, other than the United States, that appear to be substantively different from trade and investment patterns with the United States and whether the differences have any national security implications for the United States.	Chapter 2: Trade and Investment
(9) The extent to which the trade surplus of the People's Republic of China with the United States enhances the military budget of the People's Republic of China.	Chapter 2: Trade and Investment

**Appendix IV: Economic and Security Issues
Covered by 2002 USCESRC Annual Report**

Ten economic and security issue areas required by statute	Issue areas covered by chapter in 2002 annual report
(10) An overall assessment of the state of the security challenges presented by the People's Republic of China to the United States and whether the security challenges are increasing or decreasing from previous years.	Chapter 5: China's Growth as a Regional Economic Power
(No requirement)	Chapter 4: Political and Civil Freedoms

Source: GAO analysis of USCESRC data.

Appendix V: Economic and Security Issues Covered by 2004 and 2005 USCESRC Annual Reports

We found the commission's 2004 and 2005 annual reports covered the nine economic and security issue areas mandated at the time. Table 9 provides details on the issue areas covered by the commission's 2004 and 2005 annual reports.

Table 9: Economic and Security Issue Areas Covered by the 2004 and 2005 Annual Reports

Nine economic and security issue areas required by statute	Issue areas covered by chapter in 2004 annual report	Issue areas covered by chapter in 2005 annual report
(1) Proliferation practices	Chapter 5: China's Proliferation Practices and the Challenges of North Korea	Chapter 4: China's Global and Regional Activities and Geostrategic Developments
(2) Economic reforms and United States economic transfers	Chapter 1: China's Industrial Investment, and Exchange Rate Policies Chapter 7: China's High-Technology Development and U.S.-China Science and Technology Cooperation	Chapter 1: U.S.-China Trade and Economic Relationship
(3) Energy	Chapter 6: China's Energy Needs and Strategies	Chapter 4: China's Global and Regional Activities and Geostrategic Developments
(4) United States capital markets	Chapter 3: China's Presence in the Global Capital Markets	Chapter 1: U.S.-China Trade and Economic Relationship Chapter 4: China's Global and Regional Activities and Geostrategic Developments
(5) Corporate reporting	Chapter 1: China's Industrial Investment, and Exchange Rate Policies Chapter 3: China's Presence in the Global Capital Markets	Chapter 1: U.S.-China Trade and Economic Relationship
(6) Regional economic and security impacts	Chapter 4: China's Regional Economic and Security Impacts and the Challenges of Hong Kong and Taiwan Chapter 8: China's Military Modernization and the Cross-Strait Balance	Chapter 3: China's Military Power and America's Interests Chapter 4: China's Global and Regional Activities and Geostrategic Developments
(7) United States-China bilateral programs	Chapter 7: China's High-Technology Development and U.S.-China Science and Technology Cooperation	Chapter 2: China's High-Technology Development and Implications for the U.S. Defense Industrial Base
(8) World Trade Organizational structure compliance	Chapter 2: China in the World Trade Organizational structure: Compliance, Monitoring, and Enforcement	Chapter 1: U.S.-China Trade and Economic Relationship
(9) Media control	Chapter 9: Media and Information Control in China	Chapter 5: China's Media and Information Controls

Source: GAO analysis of USCESRC data.

Appendix VI: USCESRC Procurement, Fiscal Year 2005

Description	Amount	Notes
Research procurement		
Manufacturing Policy Project	\$40,000	Report on advanced technology products for Palo Alto hearing
Manufacturing Policy Project	\$6,000	U.S. patent laws working paper
MBG Information Services	\$3,000	Briefing paper Palo Alto hearing
MBG Information Services	\$14,000	Monitor and analyze U.S.-China economic development
McBee Strategic Consulting	\$10,000	Advice, strategies, and facilitation for Seattle hearing
Michael Pillsbury	\$22,475	Report on Chinese plan to acquire and utilize U.S. technology
Stewart & Stewart	\$10,000	World Trade Organization compliance study for Feb. Hearing (Feb. 2005)
Total, research procurement	\$105,475	
Nonresearch procurement		
Hearings		
Bell Harbor International Conference Center, Hoover Institute, Stanford University, Prague Security Studies	\$10,533	Field hearing rental program equipment
Bell Harbor International Conference Center, Lotos Club, Stanford University, Prague Security Studies	\$18,357	Field hearing expenses
U.S. Senate Catering, Corner Bakery, and others	\$12,327	D.C. hearings, meetings, and briefings (catering expenses)
Total, hearings	\$41,217	
IT support		
Karterian Systems Group Richard Harris	\$46,116	IT Support Contract
Consultant services		
Jefferson Communications	\$5,800	Media relations for WTO hearing Feb. 3-4, 2005
Robert F. Ellsworth	\$18,900	Hearing consulting—multiple hearings
Sequoia Public Relations	\$2,000	Media relations for Palo Alto hearing April 22-23, 2005
James Swanson	\$1,344	Consulting Proliferation Hearing March 10, 2005
Maochun Yu (US Naval Academy)	\$4,790	Translation of news articles Chinese to English
Blanka Owensova	\$1,002	Translations from Czech to English (Prague symposia)
Total, consultant services	\$33,836	
Hearing photographers		
Kittner & Kittner Inc., Robert March, Elsa Ruiz, Ralph Alswang	\$3,040	

**Appendix VI: USCESRC Procurement, Fiscal
Year 2005**

Description	Amount	Notes
Hearing transcription		
Miller Reporting & Alderson Reporting	\$17,419	D.C. hearings and classified briefings
Miller Reporting, Quail & Cook Realtime and others	\$12,224	Field hearings
Total, hearing transcription	\$29,643	
Other nonresearch procurement		
Staples, Bond Business Products and others	\$21,187	General operating supplies
CDWG, Circuit City, Corex Technology, Dell, Dr. Symantec, Foxit, Iolo Technology, HP, and others	\$10,787	Computer hardware and software
Business Week, <i>China Trade Extra</i> , <i>Financial Times</i> , <i>Inside U.S.-China Trade</i> , IWP newsletters, <i>The Hill</i> , <i>Kanwa</i> , leadership directories, <i>National Journal</i> , <i>New York Times</i> , <i>OAG Online</i> , <i>Rollcall</i> , <i>South China Morning Post</i> , trade reports, <i>Washington Post</i> , <i>Wall Street Journal</i> and others	\$8,510	Subscriptions Publications
Amazon, Brookings Institute, Duke Press, USGPO and others		
State Services Organization	\$6,019	Office upgrade and property management
Total, other nonresearch procurement	\$46,503	
Total, all nonresearch procurement	\$200,355	
Total, all procurement	\$305,830	

Source: GAO analysis of USCESRC data.

Note: Balances are unaudited.

Appendix VII: USCESRC Procurement, Fiscal Year 2006

Description	Amount	Notes
Research procurement		
MBG Information Services	\$10,500	Economic and trade data analysis
John K. Douglas and Matthew Nelson	\$5,600	China's energy strategy and diplomacy with the Middle East
The University Group	\$15,000	Defense industrial base issues and recommendations
Eurasia Group	\$22,826	Oil and gas investments outside China
Michael Pillsbury	\$24,000	China's antisatellite and space warfare policy
Total, research procurement	\$77,926	
Nonresearch Procurement		
Hearing costs		
University of Michigan	\$750	Detroit field hearing
U.S. Senate Catering, U.S. House Catering (Haute on the Hill), Au Bon Pain, Corner Bakery, Park Place Catering, High Noon Catering, and others	\$10,168	D.C. hearings, meetings, and briefings (catering expenses)
State Services Organization	\$2,400	D.C. meetings and briefings
Total, hearing costs	\$13,318	
IT support		
Karterian Systems Group	\$45,000	IT support contract
Consultant services		
Robert F. Ellsworth	\$6,300	Advisory consulting for multiple hearings
Andrew Gudgel	\$5,495	Technical editing of annual report
State Department	\$4,024	In-Country interpreters Asia trip
Maochun Yu	\$2,579	Executive Summary translation English to Chinese
Jefferson Communications	\$2,228	Media relations for annual report
Total, consultant services	\$20,626	
Hearing photographers	\$0	
Hearing transcription		
Miller Reporting	\$10,497	D.C. hearings
McLaughlin Reporting	\$8,713	D.C. hearings
McLaughlin Reporting	\$1,870	Detroit field hearings
Total, hearing transcription	\$21,080	
Other nonresearch procurement		
Staples, Bond Business Products, and others	\$24,000	General operating supplies
C2 Solutions Group, CDWG, CompUSA, Dell, HP, Netgear, Newegg, Softmart, and others	\$30,300	Computer hardware, software, and equipment

**Appendix VII: USCESRC
Procurement, Fiscal Year 2006**

Description	Amount	Notes
<i>Business Week, China Trade Extra, Inside U.S.-China Trade, Financial Times Online, The Hill, leadership directories, Manufacturing News, National Journal, New York Times, Nexis, OAG Online, Rollcall, South China Morning Post, trade reports, Washington Post, Wall Street Journal, World Trade Online, Washington Trade Daily, and others</i>	\$8,700	Subscriptions Publications
Amazon, Powells, and others		
Regional Construction Company	\$91,690	Office upgrade (construction and materials)
Total, other nonresearch procurement	\$154,690	
Total, all nonresearch procurement	\$254,714	
Total, all procurement	\$332,640	

Source: GAO analysis of USCESRC data.

Note: Balances are unaudited.

Appendix VIII: Comments from USCESRC

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

HALL OF THE STATES, SUITE 602
444 NORTH CAPITOL STREET, N.W.
WASHINGTON, D.C. 20001



PHONE: 202.624.1407
FAX: 202.624.1406
E-MAIL: contact@uscc.gov
www.uscc.gov

U.S.-CHINA ECONOMIC & SECURITY REVIEW COMMISSION
CAROLYN BARTHOLOMEW, CHAIRMAN
DANIEL BLUMENTHAL, VICE CHAIRMAN

September 11, 2007

Mr. Loren Yager, Director
International Affairs and Trade
United States Government Accountability Office
441 G Street, NW
Washington, DC 20548

RE: Draft Report GAO-07-1128, "U.S.-China Economic and Security Review Commission: Actions Needed to Improve Controls over Key Management Functions."

Dear Mr. Yager:

The U.S.-China Economic and Security Review Commission ("the Commission") appreciates the opportunity to comment on the draft report referenced above.

The Commission appreciates the thorough evaluation of its activities and administrative processes GAO conducted, and the thoughtful recommendations GAO is offering to improve and enhance those activities and processes. The Commission also wishes to express its appreciation for the very professional and courteous way in which the GAO audit staff undertook its work on this audit.

The Commission is particularly pleased that GAO has concluded that the Commission "has complied with its statutory charter with regard to the subjects on which it reports and the scope of its activities," even as Congress has amended its charter twice since the Commission was established in 2000 regarding the number of issue areas it is to address concerning key economic and security features of the U.S.-China relationship and the language defining their scope.

With respect to the *Recommendations for Executive Action* that begin on page 47 of the draft report, the Commission agrees that the five recommendations for applying internal control standards in order to "strengthen its organizational structure," and the three recommendations for "improv[ing] internal control over financial management and reporting" offer potential benefit to the Commission and its operation, and can help ensure that its operations are seen to be both legal and appropriate. During the next 60 days, the Commission with the assistance of its staff will develop a proposed plan and timetable for addressing these eight recommendations and will discuss these with GAO's staff.



The Commission commends GAO's observation that it is difficult or impossible for the Commission satisfactorily to comply with the current statutory annual report issuance date because of its misalignment with the schedule for appointment of Commissioners by Congressional leaders, and agrees with the recommendation that "Congress should consider aligning the commissioners' appointment dates with the annual report issuance date" by either moving the commissioners' appointment date from January to July, or by moving the report issuance date to December 1. (Indeed, for this very reason, the Commission in both of the past two years has requested Congress to move the report issuance date, and the House of Representatives has passed legislation containing such a provision in both years.)

See comment 1.

The measures GAO applied to the Commission's organizational and financial management activities during its audit are contained in the GAO document "*GAO Report on Standards for Internal Control in the Federal Government, GAO/AIMD-00-21.3.1*," published in November 1999. This document enumerates what GAO sees as standards that "define the minimum level of quality acceptable for internal control in the government and provide the basis against which internal control is to be evaluated." The Commission requests that GAO note as early as possible in its report, and preferably in the first or second paragraph of its "Highlights" page, that this is the set of standards it has applied to the Commission, and that it note at the same point in the report – as it does at several later points – that many of these standards are not binding on Legislative Branch agencies such as the Commission, and therefore the fact the Commission has not adhered to all of them does not constitute a failure to comply with standards specifically applicable to the Commission.

See comment 2.

The Commission believes it is important to highlight the fact that the statute that created it is very brief and, with respect to what internal control mechanisms the Commission should employ and how those should be structured and applied, offers no guidance on most such matters and very little on those it addresses. The Commission has sought guidance on a number of these matters from various Legislative Branch and Executive Branch authorities, but every potential source of guidance the Commission has sought to consult has responded that it has no authority to provide formal guidance or otherwise is precluded from doing so. The Commission has attempted to fill this vacuum in ways it believes are both legal and responsible, but until GAO's audit and report, no agency or official, including GAO, has suggested the Commission should adopt and apply GAO's standards and the Commission has not to this point applied those standards to its activities. The Commission agrees with GAO that adhering to these standards will help to ensure that the Commission's operations are strong and responsible in all respects.



See comment 3.

The Commission also believes it is important to note, and asks GAO to reflect in its report, that the audit did not reveal any Commission action or failure GAO has concluded warrants referral to authorities for further investigation or legal action. With respect to the Commission's control system to ensure its expenditures are not illegal or otherwise impermissible, GAO indicates that it estimates, based on its application of statistical sampling rules to the Commission's records it reviewed, that "the total dollar value of non-payroll related debit transactions with ineffective controls is not more than \$1.2 million" during the applicable two-year period. The Commission requests GAO to confirm in the report that this sampling-derived estimate does not mean that all or any specific transactions were in any way improper or illegal, but, instead, means that GAO has concluded that the internal controls applied to the Commission's transactions are insufficiently rigorous to *ensure* that they are not improper or illegal.

See comment 4.

The Commission requests that, on page 44 of the draft report, GAO insert language that reads along the lines of the following:

Note: Page numbers in draft report may differ from those in this report.

In late 2005, after being advised that use of funds appropriated to the commission to purchase food and beverages, except as official representation expenses, was impermissible, the commissioners established a procedure where the commission deducts from the per diem payments earned by and payable to commissioners an amount sufficient to reimburse the commission's appropriated funds fully for the cost of purchase card payments for non-representation food and beverages. Consequently, there has been no net expenditure of appropriated funds for food and beverages for commissioners or staff after that point. The amount shown on line one of Table 5 is a total of commission expenditures before that point plus expenditures for hearing-related food and beverages that have been reimbursed to the commission's appropriated funds account since that point.

See comment 5.

At several points in the report, GAO notes that the Commission has not vetted various policies or procedures with legal and management experts to ensure, as specifically noted on page 33, "they are technically sound, in accordance with best practices." The fifth recommendation for executive action on page 48 of the draft is that the Commission should "obtain advice from legal and [government] management experts to make sure that [its] policies and procedures are technically sound." As GAO is aware, the Commission on numerous occasions during its existence has sought to identify experts within the government who will agree to offer formal opinions on the legality, soundness, sufficiency, and appropriateness of various policies and procedures, and repeatedly has been told – by Senate and House officials and officials within the Executive Branch – that they are proscribed from performing, or for other reasons will not perform, this function for the Commission. The Commission asks that GAO agree to serve in this capacity – as the Commission's official "legal and [government] management expert" resource for checking the legality, soundness,



sufficiency, and appropriateness of all Commission administrative policies and procedures and of the compliance with those policies and procedures of all significant administrative decisions and actions being contemplated by the Commission and its staff. If GAO believes it needs statutory authority to serve in this capacity, the Commission requests that it formally recommend that Congress enact such authority.

We look forward to working with you and your staff to implement the recommendations in the draft report, and hope that GAO will assist the Commission directly and closely in this process.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Carolyn Bartholomew", written over a horizontal line.

Carolyn Bartholomew
Chairman

A handwritten signature in cursive script, appearing to read "Daniel Blumenthal", written over a horizontal line.

Daniel Blumenthal
Vice Chairman

cc: Commission Members
Commission Executive Director

The following are GAO's comments on the commission's letter dated September 11, 2007.

GAO Comments

1. In the Highlights and on page 2, it is clear that GAO's assessment of organizational structure and management policies and procedures is based on internal control standards for the federal government. While these standards are not binding for legislative branch agencies, we advocate all federal entities follow them because they are a statement of best practices and adherence provides reasonable assurance regarding the prevention or prompt detection of fraud, waste, abuse, and mismanagement. We encourage the commission to adopt these standards, which give management of federal agencies, regardless of size, the responsibility and discretion to develop and implement the mechanisms for internal control necessary for providing reasonable assurance that the objectives of the agency are being achieved with regard to effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations.
2. We characterize the commission's views on pages 5 and 46.
3. With regard to the section on internal control over financial reporting, and the projection of the results of the statistical sample over nonpayroll transactions, the commission requested specific wording changes related to the potential impropriety or illegality of all or any specific transactions. We did not make those changes because the objective of the sampling performed was to determine whether the controls over non-payroll-related transactions were in place and operating effectively. As stated in the objectives, scope, and methodology in appendix I, we selected a statistical sample of 59 debit transactions totaling approximately \$1.1 million from a population of 1,991 debit transactions totaling approximately \$4.5 million for fiscal years 2005 and 2006 to test specific internal control activities over non-payroll-related transactions, such as adequacy of supporting documentation, evidence of proper authorization or approval, and proper classification. The non-payroll-related population included transactions related to purchasing, travel, leases, payment to contracted employees and other miscellaneous transactions. Results from the statistical sample were projected to the population of non-payroll-related transactions for fiscal years 2005 and 2006, where we estimated that the dollar value on non-payroll-related debit transactions with ineffective controls during the 2-year period we examined is not more than \$1.2 million. Because this \$1.2 million

estimate exceeds the tolerable error of \$224,715, we concluded that the controls were ineffective as stated in the report.

4. The commission partially disagreed with our observation that free food was being provided to the commissioners because, beginning in fiscal year 2006, it began a practice of deducting the cost of the food from commissioner salaries. We did not review the specific transaction details related to this practice, and we are unable to say to what portion of the \$9,386 this practice applies. Further, this practice does not ensure that the commission prevents the use of appropriated funds to furnish free food to government employees and is subject to errors and inconsistencies.
5. On page 46 of the report, we note that GAO prefers not to accept any nonaudit work that could potentially create an independence impairment in fact or in appearance with respect to the entities it reviews.

Appendix IX: GAO Contact and Staff Acknowledgments

GAO Contact

Loren Yager, (202) 512-4347 or yagerl@gao.gov

Staff Acknowledgments

In addition to the contact named above, Adam Cowles (Assistant Director), Sharon Byrd, Richard Cambosos, Stephen Donahue, Mark Dowling, Elizabeth Martinez, Mary Arnold Mohiyuddin, Jeremy Rothgerber, Juan Tapia-Videla, McCoy Williams, and Matthew Wood made key contributions to this report. The team benefited from the expert advice and assistance of Martin de Alteriis, Karen Deans, Francine DelVecchio, William Doherty, Etana Finkler, Carol Henn, India Jenkins, Ramon Rodriguez, Debra Rucker, Jena Sinkfield, and William Woods.

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