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**United States Department of State
and the Broadcasting Board of Governors
Office of Inspector General**

Report of Inspection

Compliance Follow-up Review of the Inspection of U.S. Section of the International Boundary and Water Commission

Report Number ISP-C-07-04, October 2006

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INTRODUCTION

Compliance follow-up reviews (CFR) by the Office of Inspector General (OIG) provide senior managers of the Department of State (Department) with progress reports on the status of recommendations resulting from inspections and offer OIG a quality assurance assessment of its work.

This CFR closes OIG's report on the inspection of the U.S. Section of the International Boundary and Water Commission (USIBWC) (ISP-I-05-26, March 2005). Recommendations 1 and 12 remained open at the time of the CFR. These have been closed, and CFR recommendations were issued to address the same subjects.

Although the inspection report is closed, offices to which recommendations were addressed are not relieved of the responsibility to complete implementation or to report to OIG changed circumstances substantially affecting agreed-upon methods of implementation.

The review took place in Washington, DC, between August 14 and September 7, 2006, and at the USIBWC headquarters in El Paso, Texas, between August 20 and August 25, 2006. Ambassador Franklin Huddle (team leader), Robert Steven (deputy team leader), Theodore Aposporos, and Katherine Schultz conducted the review.

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OVERVIEW

The USIBWC has long been regarded as an independent agency created under treaty provisions and obligated to report, through its Commissioner, only to the President. There was, from the beginning, only one exception incorporated in the treaty: that the Department oversees negotiations and agreements with its Mexican counterpart. The agency's budget submission traditionally was "passed through" to the Congress as a line item in the Department's budget. USIBWC personnel are in an excepted Civil Service, not subject to all the protections afforded to competitive employees. Although the Department of Justice has recognized OIG's oversight jurisdiction over the USIBWC, there is no specific provision of law supporting that.

With the growing complexity, sensitivity, and importance of border issues affecting the agency, as well as a history of management problems in recent years, the Department has necessarily exercised oversight of some USIBWC functions beyond the mandated foreign policy aspect. In so doing, the Department's oversight authority for foreign policy and its implied responsibility for budget matters have been interpreted by the Department to justify OIG's assertion of authority over USIBWC, to require the agency to "coordinate" major personnel actions with the Department, and to permit the Bureau of Western Hemisphere Affairs (WHA) to question and influence USIBWC budget levels and priorities. The Bureau of Diplomatic Security (DS), however, has not involved itself in IBWC security, citing its lack of a legal mandate and resources to assume such a responsibility.

The legal relationship between the agency and the Department must be defined if their relationship is to be productive. Since the 2005 inspection and the departure of the previous Commissioner a year ago, the USIBWC has been unsettled as an organization. Currently, most of the senior management of the agency is "acting," as a glance at the table of Principal Officials in this review will bear out. This was due to a wholesale departure of senior and mid-level managers under the previous Commissioner. Acting managers are inhibited in making decisions, not knowing whether a new Commissioner will confirm their actions. Pending Equal Employment Opportunity lawsuits have left several positions "frozen," and the agency's limited legal and human resources staff (only about 50 white-collar employees) is inundated with legal matters. Decisions on security of facilities and personnel are held up by uncertainties of authorities and funding, which are discussed below under human resources and security issues.

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It is not within OIG's or the Department's jurisdiction (or competence or desire) to provide oversight concerning the dams, levees, power plants, sewage treatment plants, and other facilities administered by the joint commission. By all accounts, USIBWC's professionals have done well to maintain the organization's infrastructure on a barebones budget. Agency officials claim that while there is no immediate crisis, the agency is falling behind in taking preventive measures such as topping up worn levees. The USIBWC is out of the national limelight, but a major storm and flood could overwhelm the barriers and cause considerable damage. This would usher in bouts of finger pointing between Departments, agencies, and jurisdictions concerned. The agency has been forced to live on a "straight line" budget for years, even in such critical areas as infrastructure security.

The future of the agency will rest upon the views and wishes of the next (permanent) Commissioner. He or she may hope to balance the agency's interests: i.e., secure the protection and support of a major department of government where it serves USIBWC interests while preserving as much independence as possible (especially in technical areas) from the far-away Washington bureaucracy. The Commissioner, who resigned in August 2005, maintained his independence from the Department, excepting foreign policy oversight. Conversely, the Acting Commissioner has cooperated with the Department to the fullest extent of his authority, and the Department has supported him in such areas as personnel and budget, without intervention in the agency's technical responsibilities.

For its part, the Department has been ambivalent toward the USIBWC. It has been unwilling or unable to claim full responsibility for the agency despite the fact that most U.S. government agencies and the Congress view the Department as the parent agency and that no other logical choice exists. Options such as integration of the USIBWC into the Department of the Interior or the U.S. Army Corps of Engineers have been considered in the past and discarded for good reason (such as conflicts with treaty provisions).

OIG's original inspection identified the need to clearly establish the legal relationship between the Department and USIBWC. Several limited options have been considered since the original OIG inspection. Proposed solutions have included a formal memorandum of understanding between the USIBWC and the Department that would define the relationship, place the Commissioner in a reporting role of some nature to the Secretary of State, or establish regular prescribed meetings between the Commissioner and a ranking Department official (the Mexican Section's practice in its foreign affairs hierarchy).

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Current USIBWC management prefers a limited relationship rather than full integration into the Department, believing it can benefit from the Department's oversight and protection of its personnel system while enjoying maximum flexibility in its operations. Some Department offices share this view. The OIG inspection team does not believe that measures short of full integration of the agency into the Department will resolve the oversight issue, based on its observations of the experience of recent years in USIBWC history. Attempts to define the meaning of "report to" inevitably lead to the conclusion that legislation would be needed in any event. It is unclear what a memorandum of understanding would provide for and with what legal authority. The agency is simply too small, too isolated, and too vulnerable to management abuse to continue without the protection and oversight of a major government department. The Department was asked in early 2005 to provide its own solution to the oversight problem and could not do so.

The optimal solution is to bring the USIBWC into the Department of State. This would clear away legal ambiguities frustrating rational management and oversight of personnel, administrative, and security operations. This solution would mirror the position of the Mexican Section of the IBWC, which falls under the Mexican Ministry of Foreign Relations. The integration of the U.S. Arms Control and Disarmament Agency and the U.S. Information Agency into the Department indicate that the difficulties attached to integration of the USIBWC are not beyond the Department's ability to overcome. The Department of Justice, the Department of State, and the OIG team all agree that integrating the USIBWC into the Department of State will require legislation.

Apart from management issues, the Department must consider how to strengthen the USIBWC and its participation in the joint commission as a valuable foreign policy instrument to ease tensions with Mexico that will almost certainly develop as growing border populations compete for finite water supplies.

Therefore, Recommendation 1 of the original inspection is closed, and a CFR Recommendation issued in its place.

CFR Recommendation 1: The Bureau of Western Hemisphere Affairs, in coordination with the Bureau of Legislative Affairs, the Office of the Legal Adviser, and the Bureau of Human Resources should seek legislation making the U.S. Section of the International Boundary and Water Commission an entity of the Department of State. (Action: WHA, in coordination with H, L, and M/DGHR)

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EVALUATION OF COMPLIANCE

The USIBWC, under the Acting Commissioner, has conscientiously and assertively complied with OIG's recommendations for which it had responsibility. Moreover, it has acted on OIG's informal recommendations and dramatically improved the culture of the organization. On the two recommendations that have yet to be complied with because they are dependant on actions not yet taken by the Department, USIBWC has adopted interim measures related to improvements in security and fair personnel practices for its staff, as discussed below.

Compliance has also been hampered in several instances by circumstances beyond the control of the USIBWC and the Department. For example:

Recommendation 3 called for incorporation of the role of the USIBWC into the WHA Bureau Program Plan. OIG closed the recommendation on the assurance by WHA that this had been done, while in reality the USIBWC was awarded one sentence in a 105-page plan. OIG subsequently recognized that it was impractical for the bureau to comply meaningfully unless and until the formal relationship of the Department to the agency was defined; and closed the recommendation.

Recommendation 5, on training for the agency's foreign affairs officer/secretary, and Recommendation 8, on security clearances for the Commissioner and his foreign affairs officer/secretary, were accepted by the Department and the USIBWC but were not implemented pending designation of regular appointments to these positions.

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EXECUTIVE DIRECTION

The USIBWC, long recognized for its technical competence and effective field operations, has in recent years suffered from serious management deficiencies as well as uncertainties over authorities and procedures related to administration, human resources, and security. OIG's 2005 inspection found that the already significant problems inherited by the then-Commissioner had dramatically worsened. Morale was at its lowest; pleas for outside oversight were public; and staffing was in disarray.

Ultimately, the Commissioner was asked by the Administration to resign and did so in August 2005.

Over the past year, the Acting Commissioner has moved with skill and tact to address management shortcomings, rebuild morale, and shore up technical areas that had been neglected. Elevated from the senior principal engineer position and thus armed with solid technical skills as well as decades of hands-on experience in the agency, he has also shown himself to be an effective leader and manager. He appropriately sets out the general agenda and then lets his key professional staff function without micromanagement. Mindful of past injustices, the Acting Commissioner has been exceptionally supportive of the administrative grievance processes and shown a great willingness to try to resolve personnel matters. Most employees view him as a willing listener who hears out complaints early on in order to head off more serious problems. The Acting Commissioner has the confidence and trust of his staff and, accordingly, the once palpable climate of fear is gone. Strained relations with the Mexican Section – the key counterpart of the USIBWC – are a thing of the past. The two commissions, by all accounts, now have a highly cooperative, productive relationship.

While the Acting Commissioner has gotten the USIBWC well back on track, he has been hampered both by his nonpermanent status and by the USIBWC's ambiguous relationship with the Department and other U.S. government entities. Above all, his acting status constrains his efforts to provide guidance and act definitively on staffing issues, including prolonged gaps in key technical slots. He finds difficulty in dealing with numerous employee grievances from the past, which, among other things, generated seven lawsuits.

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CORE FUNCTIONS

There has been a dramatic improvement in the ability of the USIBWC to address its core functions of water control and allocation, electric power generation, wastewater treatment, as well as other responsibilities it shares with the Mexican Section. Authority has been returned to field project managers, the most critical vacancies have been filled, and gasoline shortages in the field are a thing of the past. The agency appears to be functioning once again at what several officials described as a “normal” level.

The USIBWC, in its budget submissions, has requested funding for security projects, initiation of studies concerning functions that might be advantageously contracted out (the “A-76” process), and for increases to allow preventive work on facilities such as levees. The agency has suffered the restrictions of a “straight-lined” budget for some years, allowing it to maintain its facilities at a minimally adequate level but not to make the capital investments needed for levee and facility restoration, etc. This must eventually be done, but this tiny agency on the border is an orphan when it comes to forceful representation in the Administration and in Congress. Although the Department has asserted more influence and supported the agency’s budget requests in recent times, its authority in this area is unclear. The Department has not in any event effectively pressed the case for increases in the USIBWC’s budget.

The inspection report discussed the status of the Texas-funded “Clean Rivers” program, managed under contract by USIBWC. The OIG inspection team criticized the management and staffing of the program but made no formal recommendation as it appeared certain that necessary attention would be given and deficiencies corrected. The CFR found that the program had been integrated into the engineering department of the USIBWC, was apparently functioning well, and that the Texas authorities were satisfied and continuing their support. No further action is considered necessary.

A severe environmental health issue was also discussed in the report, involving the lingering pollution effects (arsenic wastes) of an abandoned copper smelter overlooking USIBWC’s American Dam site in El Paso. The OIG inspection team did not issue a formal recommendation on the issue, because USIBWC’s leadership committed itself to take steps to assess the problem and to reassure employees on the site. Appropriate steps have been taken by USIBWC to protect its employees and it is pursuing environmental remediation on USIBWC property.

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Finally, even the jurisdiction of OIG over the USIBWC remains subject to dispute. While the Department of State, the Department of Justice, and the White House have supported OIG's oversight, and the current leadership of USIBC has accepted it, there is no clear legislative authority. A future Commissioner could challenge OIG oversight, as did the most recent permanent Commissioner, forcing the same scramble to find "derivative" authorities. Clarifying legislation would assure continuing inspector general oversight of the USIBWC.

ADMINISTRATIVE OPERATIONS

The CFR confirmed that the USIBWC had complied with all administrative recommendations in the March 2005 report. The attitude and detail applied in responding to recommendations addressed directly to the agency was exceptionally helpful. The USIBWC complied not only with the substance but also in the spirit of the recommendations. As a result, agency administrative operations today are more efficient and effective.

The specific recommendations of the original inspection report, with actions taken, are listed below. The OIG inspection team also reviewed the status of seven informal recommendations and confirmed compliance although this is not required in the formal OIG compliance process. The personnel system has been improved with hiring taking place pursuant to a Human Capital Restoration Plan. A new financial system is under review. This system hopefully will improve the availability of financial information and meet the requirements of the Joint Financial Management Plan. A complete inventory of all capital equipment has been completed and will provide the agency an accurate baseline from which to work in future years. A plan of action to meet Federal Information Security Management Act requirements will be in place September 30, 2006, and instructions for compliance with Executive Order 13392, Improving Agency Disclosure of Information, have been implemented.

Finally, the agency completed an Office of Management and Budget (OMB) Program Assessment Rating Tool exercise. The OMB rating for the USIBWC was “Effective (92 percent).” Effective is the OMB’s highest rating and only one of 10 Department of State programs scored higher. (It should be noted that OMB considered the USIBWC to be part of the Department of State in evaluating its performance.)

USIBWC management expressed concern over the need for additional operating funds. With the basic facility infrastructure dating from the 1930s and 1950s, continued funding of the maintenance requirements for the lower Rio Grande River system and levees is essential for flood control protection. Future funding based on the development agreement for the implementation of a secondary wastewater treatment plant (the “Bajagua” project) in the San Diego/Tijuana area is also needed. Further, security merits upgrading beyond the vulnerability assessment that has already been funded. The USIBWC budget is submitted through the Department to OMB, and

the Department has not forcefully and at a high level pressed for increased funding. The need to ensure the viability of the USIBWC both for construction and security projects must be considered a priority.

HUMAN RESOURCES

The Human Capital Department, managing all personnel resources for the USIBWC, has worked constructively and productively to improve the personnel process. As a result of the inspection, a Human Capital Restoration Plan was developed in August 2005, under the leadership of the Acting Human Resource Director and the Acting Commissioner. Since then, some 60 positions have been filled, and 28 additional positions are in the process of being filled. These positions are at all levels of the organization. Some of the acting positions are being filled because the one-year competitive promotions have nearly expired.

The personnel system itself has been a source of confusion within the USIBWC and a management headache. The confusion began after the Office of Personnel Management (OPM), following an OPM audit conducted in 2003, directed the agency to convert employees from competitive Civil Service to “excepted service.” OPM determined that the agency is exempt from the competitive provisions of Title V of the United States Code because its appointment authority is derived from the treaties and conventions establishing the agency.

The position of OPM during the review, and in discussions during the inspection, was that the agency’s personnel system had been wrongly classified as “competitive service.” The OPM Dallas Field Office Group informed the OIG inspectors that OPM’s legal office is reviewing this decision. The issue has resurfaced for OPM in part due to another OPM review scheduled for September 2006, to approve the interchange agreement that expires at year’s end. This agreement is critical, as it permits USIBWC staff to move noncompetitively to other Civil Service positions and vice versa. Unfortunately, the change in the personnel system was not adequately explained to agency staff at the time of transfer in 2003. With the pending OPM on-site review there is an opportunity for OPM to explain more effectively the rationale of the change to the agency’s staff.

Personnel actions taken by the prior Commissioner, and considered by most of the staff as abusive and improper, were seen by them as a result of the change to excepted service status itself, enabling the Commissioner to act without restraint or accountability. In reality, there were only minor changes in USIBWC directives; rather, a particular Commissioner abused his authority. The absence of effective and

concerned oversight leaves open the possibility that a future Commissioner could reverse or disregard USIBWC personnel protections. If the USIBWC became part of the Department, or if OIG had confirmed statutory authority, there would be routine oversight, opportunities for appeals of personnel actions, and advice and support available to the agency and the Commissioner.

SECURITY

USIBWC security posture has improved significantly since the inspection. This is due primarily to the efforts of USIBWC management and the security officer appointed in 2005, who have tried to lay the foundation for an effective security program. The security officer has been able to establish strong relationships with his counterparts from the Department of Homeland Security, the Federal Bureau of Investigation, the Army Corps of Engineers, and local law enforcement. Unfortunately, the USIBWC geared the security officer's position description towards "advice and assistance" consulting (reporting to the Principal Engineer for Operations) instead of an operational, working, security role. This has hampered the establishment of a true security program. Given the incumbent's ample security experience, he would effectively fill the position of a traditional security professional reporting directly to the Commissioner. He, of course, will work with the appropriate agency managers in most instances but should have clearly defined authority to go to the Commissioner when necessary. This is essential when he has classified information to share, as only the Commissioner will have the security clearance to receive it.

CFR Recommendation 2: The U.S. Section of the International Boundary and Water Commission should change its security officer position from a consulting role to that of a traditional official security officer reporting directly to the Commissioner. (Action: USIBWC)

There is a legitimate and pressing need for the Commissioner and secretary/foreign affairs officer to have the necessary security clearances to receive classified threat information as well as to see other classified material concerned with foreign relations with Mexico. Until the Commissioner has a security clearance, the security officer cannot share threat information, nor can the Commissioner or the secretary/foreign affairs officer review other classified information they should see in connection with their responsibilities. Whether the Commissioner is acting or permanent, he or she needs at least an interim SECRET level clearance to make informed decisions. The OIG inspection team initially accepted the Department's position that the costs and time factors involved in obtaining security clearances warranted delay until

a permanent Commissioner was appointed. The inspection team now believes that an interim SECRET clearance, at least for the Acting Commissioner, should be obtained as soon as possible, given that it is not known when a permanent appointment may be made. Such interim clearances are relatively easily and quickly accomplished. The OIG team and the USIBWC agree that there is no need for retention of classified documents in USIBWC facilities, thus avoiding considerable expense and the complications of securing such facilities.

CFR Recommendation 3: The U.S. Section of the International Boundary and Water Commission should fund investigative costs and, in coordination with the Bureau of Western Hemisphere Affairs, submit the Acting U.S. Section of the International Boundary and Water Commission Commissioner's application to the Bureau of Diplomatic Security for an interim SECRET clearance. (Action: USIBWC, in coordination with WHA and DS)

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STATUS OF INSPECTION RECOMMENDATIONS

Recommendation 1: The Bureau of Western Hemisphere Affairs, in coordination with the Bureau of Human Resources and the Office of the Legal Adviser, should develop and implement a plan to ensure effective oversight of the personnel structure of the U.S. Section of the International Boundary and Water Commission and its adherence to applicable laws and regulations governing personnel administration. (Action: WHA, in coordination with DGHR and L)

The Department (WHA and the Legal Adviser's office) has considered some proposals for limited legislative changes affecting personnel oversight of the USIBWC and has consulted with OPM on the issues, but there has been no effective action. Progress has stalled for 18 months. The Department and other key U.S. government elements have interpreted treaty provisions and other laws and regulations to give them derived authorities over the USIBWC, but these are not clearly defined or universally accepted. No one in the Department or elsewhere has taken the lead in resolving the issue.

This state of limbo, as described above, has stalled movement in many areas and should be resolved as quickly as possible. If CFR Recommendation 1 is implemented, OIG believes that the USIBWC will more readily recover from the damaging effects of mismanagement and neglect it has suffered in recent years.

Recommendation 1 of the inspection report is closed, with CFR Recommendation 1 taking its place.

Inspection Status: Closed CFR Action: CFR Recommendation 1

Recommendation 2: The Bureau of Western Hemisphere Affairs, in coordination with the Bureau of Legislative Affairs, should request that the position of Commissioner, U.S. Section of the International Boundary and Water Commission, be made subject to the advice and consent of the Senate. (Action: WHA, in coordination with H)

WHA opposed this recommendation, arguing that the intent of the recommendation could be accomplished by improved consultation between the White House and the Department regarding candidates for the position of Commissioner. Given the specialized nature of the position and the size of the agency involved, OIG was willing to reconsider the recommendation and closes it on the basis of acceptable noncompliance.

Inspection Status: Closed CFR Action: Confirmed

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Recommendation 3: The Bureau of Western Hemisphere Affairs should incorporate the role of the U.S. Section of the International Boundary and Water Commission into the Bureau Performance Plan. (Action: WHA)

WHA did not incorporate the USIBWC into its Bureau Performance Plan in any meaningful way and cannot be expected to do so until the status of the agency and the Department's oversight authorities are clarified. OIG recognizes the dilemma faced by the bureau and closes the recommendation on the basis of acceptable noncompliance. If CFR Recommendation 1 is implemented, it is expected that the bureau's strategic planning document will incorporate the USIBWC.

Inspection Status: Closed CFR Action: Confirmed

Recommendation 4: The U.S. Section of the International Boundary and Water Commission, in coordination with the Bureau of Western Hemisphere Affairs, should define qualification and performance standards for appointments to the position of secretary/foreign affairs officer in the commission. (Action: USIBWC, in coordination with WHA)

Examination of documentation held by WHA and by the USIBWC, confirmed in discussion with appropriate officials, shows full compliance.

Inspection Status: Closed CFR Action: Confirmed

Recommendation 5: The Bureau of Western Hemisphere Affairs, in coordination with the Foreign Service Institute and the U.S. Section of the International Boundary and Water Commission, should arrange for the secretary/foreign affairs officer of the U.S. Section of the International Boundary and Water Commission to attend a basic Foreign Service officer training course or other appropriate course that would provide familiarization with the Department and with diplomatic practice. (Action: WHA, in coordination with FSI and USIBWC)

Compliance material provided by WHA/MEX/IBWC for the CFR includes documentary evidence that a serious effort has been made to identify appropriate training, as recommended. The bureau does not wish to proceed, however, until it is clear that the position will be encumbered with a regular appointment. This response parallels other recommendations where action has been suspended pending confirmation of permanent appointments. OIG has accepted closure on the basis of the commitment to proceed when appropriate.

Inspection Status: Closed CFR Action: Confirmed

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Recommendation 6: The U.S. Section of the International Boundary and Water Commission should reestablish the position of language specialist in the foreign affairs office. (Action: USIBWC)

In June 2006, a highly qualified professional translator and simultaneous interpretation language specialist entered on duty in the USIBWC in the foreign affairs office.

Inspection Status: Closed CFR Action: Confirmed

Recommendation 7: The Bureau of Western Hemisphere Affairs, in coordination with the U.S. Section of the International Boundary and Water Commission, should develop standard operating procedures governing the sharing of foreign affairs material, including communications from the Mexican Section and records of meetings and consultations with the Mexican Section. (WHA, in coordination with USIBWC)

An extensive file of regular letters and memoranda from the USIBWC reporting on all aspects of meetings and relations with Mexican authorities was examined in WHA/MEX/IBWC. These reports began on September 20, 2005, after the departure of the former Commissioner, and have continued since that time. Copies of appropriate communications also are being passed to Embassy Mexico to ensure that the embassy is fully informed on anything of interest in the bilateral relationship. There has been exemplary compliance with the intent of the recommendation.

Inspection Status: Closed CFR Action: Confirmed

Recommendation 8: The Bureau of Western Hemisphere Affairs, in coordination with the Bureau of Human Resources, should designate the positions of Commissioner and secretary/foreign affairs officer in the U.S. Section of the International Boundary and Water Commission as requiring SECRET national security clearances, and arrange such clearances for the current incumbents. (Action: WHA, in coordination with DGHR)

WHA decided, and OIG in the compliance process agreed, that applications for the recommended clearances could be delayed pending confirmation of regular appointments to the two positions. It was not expected that the period during which persons in acting capacity occupied them would be extended. The Department is reluctant to undertake clearance investigations, for which it has a large backlog, if it is not reasonably certain that the recipients will remain in those positions for some time. As soon as a permanent Commissioner and secretary/foreign affairs officer are in place, the clearance applications are to go forward. The newly appointed USIBWC security officer has an active TOP SECRET clearance from previous em-

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ployment that remains valid. This permits his effective interaction with other agencies along the border. The need for interim security clearance for the Commissioner is addressed in CFR Recommendation 2.

Inspection Status: Closed CFR Action: CFR Recommendation 2

Recommendation 9: The U.S. Section of the International Boundary and Water Commission should restore normal, historic authorities to its supervisors and project managers to permit them to carry out their assigned missions. (Action: USIBWC)

Documentation examined in the USIBWC and interviews with field project managers confirms that the recommendation has been implemented.

Inspection Status: Closed CFR Action: Confirmed

Recommendation 10: The U.S. Section of the International Boundary and Water Commission should institute a program of regular visits by the Commissioner and headquarters staff to its field projects and reestablish regular project manager meetings with the Commissioner. (Action: USIBWC)

Documentation examined in USIBWC and interviews with field project managers confirms that the recommendation has been implemented.

Inspection Status: Closed CFR Action: Confirmed

Recommendation 11: The U.S. Section of the International Boundary and Water Commission, in coordination with the Bureau of Western Hemisphere Affairs and the Bureau of Diplomatic Security, should seek a Memorandum of Understanding with the U.S. Border Patrol defining the security support that the border patrol is able and willing to provide to commission field facilities. (Action: USIBWC, in coordination with WHA and DS)

USIBWC was unable to establish a memorandum of understanding with the border patrol. That agency continues to offer assistance informally but does not believe a formal memorandum is appropriate. However, the USIBWC took the initiative to establish a security officer position after the inspection report was published. The individual selected for this job is a retired, career military person, who joined the agency in September 2005. Although he is creating a security office from scratch, he has already had a significant and positive impact on security operations of the agency. He has established effective unofficial channels to the Border Patrol, Department of Homeland Security, Federal Bureau of Investigation, and local law enforcement. USIBWC headquarters and field office personnel interviewed stated that the Border

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Patrol has provided good support within an unofficial working relationship. The existing ad hoc arrangements between the USIBWC field offices and Border Patrol field elements are working well. This situation is adequate until such time as the recommended formal integration of the agency into the Department is accomplished and DS assumes oversight.

Inspection Status: Closed

CFR Action: Confirmed

Recommendation 12: The U.S. Section of the International Boundary and Water Commission, in coordination with the Bureau of Western Hemisphere Affairs and the Bureau of Diplomatic Security, should determine responsibility for security operations in the U.S. Section of the International Boundary and Water Commission and ensure coordinated oversight of all aspects of security including physical protection of U.S. Section International Boundary and Water Commission facilities. (Action: USIBWC, in coordination with WHA and DS)

DS advised that it could not offer support because the USIBWC was not part of the Department. This may change, but DS's inability to assume security responsibilities for the agency under present circumstances is understandable given the current legislative ambiguities. While DS recommended that the USIBWC contact the Federal Protective Service for security assistance, the Federal Protective Service has authority only for General Services Administration (GSA)-owned and GSA-leased properties. Only the USIBWC headquarters and the Yuma field office buildings have GSA leases while all of its other facilities are owned by the agency. The new security officer has made significant progress in both improving security at USIBWC and in obtaining informal security support from DHS and other local and federal law enforcement entities, but this has not extended to provision of funding by DHS or any other office. To date, the USIBWC has not secured adequate security funding in its own budget.

Unless and until the USIBWC is given the support of a major government department, the present unsatisfactory ad hoc security situation probably will continue, risking lives and property. With integration into the Department, security oversight will fall automatically to DS. Under the circumstances, OIG has no alternative but to close the recommendation and rely upon implementation of CFR Recommendation 1 to resolve the issue.

Inspection Status: Closed

CFR Action: Confirmed

Recommendation 13: The U.S. Section of the International Boundary and Water Commission should combine all administrative activities into one office under a qualified administrative officer/ chief executive officer position and fill the position through competitive procedures. (Action: USIBWC)

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USIBWC is recruiting an administrative officer, with the position announcement to close on August 25, 2006. At present there is an acting chief administrative officer. This recommendation was closed by OIG in the regular compliance process on the basis of the agency's commitment to proceed; the CFR confirms this.

Inspection Status: Closed

CFR Action: Confirmed

Recommendation 14: The U.S. Section of the International Boundary and Water Commission should update its 1999 Employee Information Guide to reflect the conversion of all employees to the excepted service. (Action: USIBWC)

USIBWC updated its Employee Information Guide in September 2005. The document clearly explains the ramifications of the conversion of employees to excepted service.

Inspection Status: Closed

CFR Action: Confirmed

Recommendation 15: The U.S. Section of the International Boundary and Water Commission should conduct orientation sessions on the excepted service for all headquarters and field office employees, and request that the Office of Personnel Management provide a knowledgeable subject matter expert to assist with the sessions. (Action: USIBWC)

USIBWC has conducted orientation sessions regarding excepted service at the headquarters and at several, but not all, field stations. In 2005, the acting chief administrative officer and the acting chief human resources officer visited the field offices in Nogales, Yuma, and San Diego to explain excepted service. Other sites were not visited, the agency relying instead on the explanation in the employee Information Guide. A team of two Department human resources officers also presented in September of 2005 an explanation of what excepted service meant to employees. Together with the handbook the meaning of the conversion to excepted service has been disseminated to all employees. The pending OPM visit in September 2006 will provide another opportunity for discussions with employees about the 2003 conversion to excepted service.

Inspection Status: Closed

CFR Action: Confirmed

Recommendation 16: The U.S. Section of the International Boundary and Water Commission should formally request training plans from all divisions and field offices, promptly review and approve the plans, and return authority to approve training to supervisors and managers. (Action: USIBWC)

UNCLASSIFIED

USIBWC has established formal training plans and provided a lengthy listing of all training by all sections. Each cost center has its own training budget and about \$160,000 was expended for training in FY 2005. The training completed was comprehensive and covered all divisions in the organization.

Inspection Status: Closed

CFR Action: Confirmed

Recommendation 17: The U.S. Section of the International Boundary and Water Commission should prepare a hiring plan before creating new positions or filling long-vacant positions. (Action: USIBWC)

A hiring plan was developed by the agency in August 2005. Termed the Restoration Plan, it was updated in July 2006. The latest Human Capital Department status report, dated August 18, 2006, lists 60 hires since the Restoration Plan was developed with 28 positions in the process of being filled.

Inspection Status: Closed

CFR Action: Confirmed

Recommendation 18: The U.S. Section of the International Boundary and Water Commission should develop and implement procedures to follow prescribed federal procurement practices for simplified acquisitions. (Action: USIBWC)

USIBWC published a directive entitled Procurement Integrity in June 2006 that clearly describes procurement operations. An additional directive on the use of purchase cards was being drafted at the time of the CFR. At present an e-mail message from March 2005 sets the authorization for the purchase card threshold.

Inspection Status: Closed

CFR Action: Confirmed

Recommendation 19: The U.S. Section of the International Boundary and Water Commission should audit the Commissioner's travel vouchers, verifying the nonavailability of lodging at government rates in cases where actual expenses are claimed, and bill the Commissioner for any overcharges, if warranted. (Action: USIBWC)

The agency attempted to review the former Commissioner's travel vouchers claiming nonavailability of lodgings within the authorized per diem but, owing to the lapse of time, could not determine whether alternative accommodations might have been available at the time of the Commissioner's travels. In at least one other instance of questioned costs charged by the Commissioner, the agency did bill him and he did reimburse the cost. OIG accepted the agency's efforts in the regular compliance process and closed the recommendation.

Inspection Status: Closed.

CFR Action: Confirmed

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Recommendation 20: The U.S. Section of the International Boundary and Water Commission should review its travel policy to ensure compliance with federal regulations and distribute it to all employees. (Action: USIBWC)

The USIBWC, to better control travel expenses, published a Travel and Transportation Manual in May 2006, and distributed it to all employees. In addition, a new travel manager program alerts the finance section if claimed lodging is over the established per diem allowance. Using this program, the finance section can verify nonavailability of lodging within the per diem prior to travel.

Inspection Status: Closed

CFR Action: Confirmed

Recommendation 21: The U.S. Section of the International Boundary and Water Commission should designate a qualified employee other than the internal auditor to serve as the internal controls administrator for the commission. (Action: USIBWC)

USIBWC designated the chief administrative officer (CAO) to be the internal controls administrator. The position description for the CAO includes duties as the internal control officer. At present, the acting CAO serves as the internal controls administrator.

Inspection Status: Closed

CFR Action: Confirmed

Recommendation 22: The U.S. Section of the International Boundary and Water Commission should separate responsibility for its budgeting and contracting functions. (Action: USIBWC)

The agency separated the responsibility for budgeting and contracting by appointing a supervisory contracting specialist. This person has an unlimited contracting warrant and supervises five contracting specialists.

Inspection Status: Closed

CFR Action: Confirmed

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PRINCIPAL OFFICIALS

Title	Name	Entered on Duty
Acting Commissioner	Carlos Marin	08/79
Acting Principal Engineer Operations Department	Kenneth Rakestraw	06/73
Acting Principal Engineer Engineering Department	Steve Smullen	04/86
Acting Secretary/Foreign Affairs Officer	Sally Spener	05/99
Acting Director of Human Resources	Fred Graf	07/92
Acting Chief Administrative Officer	Diana Forti	04/02
Legal Adviser	Susan Daniel	10/02

Field Offices

American Dam (El Paso TX)	Tony Solo	11/90
Las Cruces (Las Cruces NM)	Richard Galindo	09/75
Zac Dominguez (Ft. Hancock TX)	Manny Galindo	01/81
Presidio (Presidio TX)	Hector Hernandez	06/90
Mercedes (Mercedes TX)	Enrique Reyes	03/85
Falcon Dam (Falcon Heights TX)	Silverio Garza Jr.	08/87
Yuma (Yuma AZ)	Al Goff	04/70
Amistad Dam (Del Rio TX)	Kenneth Breiten	01/86
Nogales Plant (Rio Rico AZ)	John Light	10/98
San Diego Office (San Ysidro CA)	Dion McMicheaux	09/87
Dept. of State Liaison (Washington DC)	Mary Brandt	01/00

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ABBREVIATIONS

CAO	Chief Administrative Officer
Department	Department of State
DHS	Department of Homeland Security
DS	Bureau of Diplomatic Security
FBI	Federal Bureau of Investigation
FPS	Federal Protective Service
IBWC	International Boundary and Water Commission
OIG	Office of Inspector General (Department of State)
OMB	Office of Management and Budget
OPM	Office of Personnel Management
USIBWC	U.S. Section, International Boundary and Water Commission
WHA	Bureau of Western Hemisphere Affairs (Department of State)
WHA/MEX	Office of Mexican Affairs, Bureau of Western Hemisphere Affairs