OFFICE OF INSPECTOR GENERAL

OIG

U.S. DEPARTMENT OF COMMERCE

Semiannual Report to Congress

MARCH 2008

IG's Semiannual Report to Congress

March 2008

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The Washington Monument and the famous cherry blossoms.

FROM THE INSPECTOR GENERAL

We are pleased to present the Department of Commerce Office of Inspector General's *Semiannual Report to Congress* for the 6 months ending March 31, 2008.

This is the first semiannual report issued by my office since my confirmation as Inspector General this past December. In the short time since then, I have met extensively with senior officials from the various bureaus within the Department. I have been impressed by the diversity of Commerce's many critical missions and by the strong appreciation Secretary Gutierrez and his top officials have for the role of the Inspector General and the importance of oversight.

This report summarizes the work we have completed and initiated during this semiannual period on a number of important departmental activities, for example, NOAA's progress on the latest Geostationary Operational Environmental Satellites and its efforts to protect marine resources under the National Marine Sanctuary Program; real property at NOAA and personal property management at USPTO; and the outcomes of the annual financial statements audits for the Department and USPTO. In addition, our investigative activities resulted in 14 convictions and more than $12 million in fines, restitutions, and recoveries.

We had the opportunity in February to brief Congress on what we consider to be the highest risk programs and activities within Commerce. First on our list was the 2010 decennial census—specifically, the problems the Census Bureau was encountering in developing handheld computers that could support major field operations. As you know, the bureau has since abandoned plans to use these devices for collecting data from people who do not return mailed questionnaires. Instead, the bureau will use paper forms as it has in the past.

Reverting to paper processes so late in the decade poses new challenges and is certain to add to the final costs of the decennial, as the bureau must retool numerous systems and procedures to handle the change. As part of our decennial census oversight, we will closely monitor how the bureau accomplishes this major operational shift. We will promptly inform Congress, Secretary Gutierrez, and Census officials of our findings to ensure that any problems we identify are addressed expeditiously.

I wish to thank Secretary Gutierrez and his management team for their support during this time of transition for the Office of Inspector General. It is a privilege to serve as Commerce IG. I look forward to a productive partnership with the Department and Congress in ensuring sound operations Department-wide.

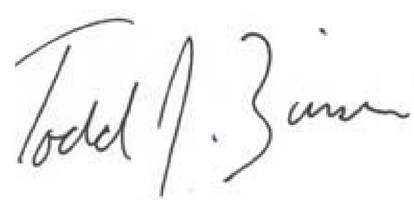


Photo by OIG

One of the many exquisite architectural details of the exterior of the Herbert C. Hoover Building, Commerce's headquarters.

MAJOR CHALLENGES FOR THE DEPARTMENT

The Reports Consolidation Act of 2000 requires inspectors general to identify the top management challenges facing their departments. At the close of FY 2007, Commerce OIG had identified 10 areas that posed significant challenges to departmental management because of their complexity, importance to the Department's mission or the nation's well-being, their sizable resource or financial requirements, or their need for large-scale management improvements. These challenges provide the focus for much of our work, as we assess the Department's progress in addressing them.

TOP 10 MANAGEMENT CHALLENGES

(As reported in the FY 2007 Department of Commerce Performance and Accountability Report)

1. Control the cost and improve the accuracy of the decennial census.
2. Strengthen Department-wide information security.
3. Effectively manage departmental and bureau acquisition processes.
4. Strengthen internal controls over financial, programmatic, and business processes.
5. Ensure that USPTO uses its authorities and flexibilities as a performance-based organization to achieve better results.
6. Effectively manage the development and acquisition of environmental satellites.
7. Promote U.S. exports and fair competition in international trade.
8. Effectively manage NOAA's stewardship of ocean and living marine resources.
9. Aggressively monitor emergency preparedness, safety, and security responsibilities.
10. Enhance export controls for dual-use commodities.

During this semiannual period, our completed and in-progress work has focused on critical programs and operations within five of the challenge areas: the Census Bureau's 2010 decennial operations (challenge 1), Department-wide IT security (challenge 2), NTIA's management of $2.5 billion in funding for the digital television conversion program and interoperable communications grants (challenge 4), NOAA satellites (challenge 6), and NOAA's stewardship of oceans and living marine resources (challenge 8).

Major Setback for 2010 Decennial Census Operations

This past April, Secretary Gutierrez informed Congress that the Census Bureau was abandoning plans to automate a major decennial operation—nonresponse follow-up—a significant setback in its efforts to reengineer decennial operations. During nonresponse follow-up, a half-million temporary workers go door-to-door in communities around the nation to collect census data from households that do not mail back their questionnaires. The bureau had intended to equip these workers with handheld computers as part of a redesign of traditional census-taking operations proposed at the conclusion of Census 2000. Officials believed such reengineered processes would improve data accuracy while containing costs. Initial estimates of costs for the entire 2010 decennial program were roughly $11.5 billion over the course of the decade. But the problems encountered in developing needed handheld capabilities and the cost of reverting to paper processes and retooling associated systems and procedures at this late date are expected to add up to $3 billion to the final decennial tab.

U.S. Census Bureau

The Census Bureau's plans to automate key decennial operations have been beset by problems developing the handheld computers and related systems. As a result, the devices' role in the 2010 Census will be much more limited than originally intended.

Long-Standing Problems with System Development

Our work throughout the decade has documented a host of technical problems with the handheld systems, which were first developed by Census as prototypes for the 2004 and 2006 tests and are being developed for the decennial under the Field Data Collection Automation (FDCA) contract.

The bureau had determined in early 2004 to contract for the systems because it did not have the in-house resources to develop them. But it took nearly 2 years to award the contract. We reported in 2005 that this late decision and initial slow pace in planning the acquisition shortened the amount of time available for developing and testing the handhelds. In addition, insufficiently defined requirements for the field systems have plagued their development. Although primarily intended as a proof of concept, the Census-developed prototype handhelds did not perform adequately in the 2004 and 2006 census tests. The bureau subsequently had to delay the start of the 2008 dress rehearsal address canvassing operation in hopes of improving the devices' performance, yet the handhelds and other critical systems continued to have serious problems, including crashes, slow response times, and lost data.

The bureau still intends to use the handheld computers for address canvassing in Census 2010, but will now need to equip only 140,000 temporary workers with handhelds instead of 500,000 workers. Yet FDCA costs—originally estimated at $600 million—may more than double to $1.3 billion, even after eliminating automated nonresponse follow-up.

Inattention to Other Operations

Automation problems have consumed an inordinate amount of the bureau's efforts, to the detriment of other decennial areas that need attention—such as paper-based operations targeting hard-to-count populations (American Indians living on reservations, the homeless, etc.).

The inadequate outcome we reported in the bureau's 2006 test of paper-based procedures for counting reservation populations is a case in point. Our evaluation found that, despite long-standing challenges to producing accurate reservation counts, Census field staff had a hard time locating housing units because the bureau's maps were poor and the address lists incorrect. In the same test, a revision to the survey designed to improve the accuracy of the count for this traditionally undercounted population identified only one additional person who might otherwise have been missed. (See September 2007 *Semiannual Report*, page 25.)

We have additional concerns with the ongoing 2008 dress rehearsal. During this final test, the bureau was supposed to conduct most decennial operations at two representative sites. But it cut the number of tested processes by half to focus on the handheld computers and related automated systems. Census attributed the cut to FY 2008 funding problems.

However, the decision to eliminate the handheld computers for nonresponse follow-up has left the bureau without enough time to plan a paper-based dress rehearsal; thus testing of the largest operation of the decennial has been cancelled.

Other significant paper-based operations, including group quarters enumeration, homeless enumeration, and update/leave (in which temporary workers update the address list and maps and leave a Census questionnaire at each housing unit), were excluded from dress rehearsal. Without testing these operations, the bureau has no data against which to assess and improve them, and this increases the risk for problems during the actual census. Such problems could reduce accuracy if people are missed in the count or increase costs if additional temporary workers are needed to meet decennial deadlines.

As the bureau retools nonresponse follow-up, it must ensure that it has sufficient management structures and plans in place to address and troubleshoot these other critical operations. We will closely monitor its efforts in this regard.

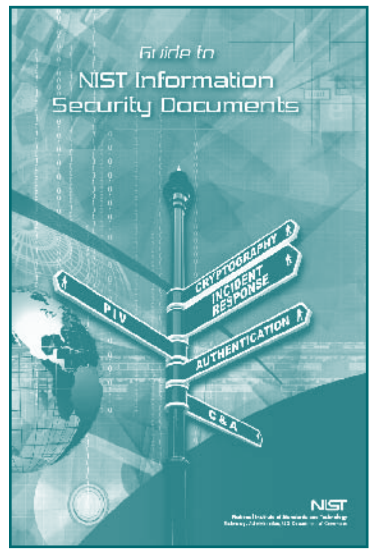
Uncertainty Regarding Background Checks for Temporary Staff

In previous decennials, the bureau obtained criminal history records for temporary decennial applicants using only a name check. This procedure checks the applicant's name, social security number, and date of birth against the FBI's database of criminal histories. The Census Bureau has reported that its use of name checks during the last two decennials was an effective way to screen a large volume of applicants at a reasonable cost without disrupting recruitment or hiring.

In the years since the last decennial, there have been questions about whether the bureau will be required to submit fingerprints of its temporary decennial job applicants in order to get the criminal history information it had previously accessed with only a name check. To date, there has been no final determination as to whether the bureau will need to submit fingerprints for temporary job applicants.

As the 2010 decennial approaches, the uncertainties regarding this issue increase the risks to the operation, both in terms of the cost and the logistics involved in hiring the estimated 1.33 million temporary employees needed to run the decennial. If fingerprinting is required, it could cost the bureau hundreds of millions of dollars to purchase equipment and supplies and hire and train staff to conduct the fingerprinting. Hiring for the decennial starts in 2009, yet money to cover the cost of fingerprinting was not included in the President's 2009 budget request. It is critically important that this issue be resolved promptly.

Department-wide Information Security



http://csrc.nist.gov/publications/CSD_DocsGuide.pdf

NIST published this guide in 2007 to give IT security professionals a consolidated listing of the more than 250 NIST documents pertaining to information security. The section on certification and accreditation alone lists 28 documents—many of them required reading for federal C&A teams.

The Federal Information Security Management Act (FISMA) and OMB policy require agencies to certify that their systems and data are protected with adequate, functioning security controls before authorizing (accrediting) the system to operate. For the past 7 years, information security has been reported as a material weakness at the Department, despite fairly substantial spending to secure its 300-plus information systems. Commerce's IT security budget for FY 2008 totals $131 million—roughly 7 percent of its nearly $1.8 billion IT budget.

The material weakness is the result of insufficient certification and accreditation (C&A) processes: year after year, our reviews of the Department's C&A efforts find a process that does not adequately identify and assess needed controls. As a result, authorizing officials do not have the information they need to make sound decisions for allowing systems to operate, and some systems are at risk for compromise.

Expanded Focus for FY 2008 C&A Review

This year's FISMA work entails reviews of C&A packages for selected systems from the Bureau of Economic Analysis, Office of the Secretary, Census Bureau, National Institute of Standards and Technology, National Oceanic and Atmospheric Administration, and U.S. Patent and Trademark Office. But our focus has broadened to accommodate anticipated changes to NIST Special Publication 800-37, *Guide for the Security Certification and Accreditation of Federal Information Systems*.

NIST officials say the update will place greater emphasis on agencies' efforts to continuously monitor security controls as part of the C&A process. Continuous monitoring is designed to ensure that agencies make appropriate adjustments to security controls and the security plan as changes to the system or external environment occur. So in addition to our traditional review of the information produced by the system security certification process, we are assessing continuous monitoring activities. We also will assess security controls on a sample of system components to determine if the controls are implemented correctly, operating as intended, and meeting the system's security requirements.

In determining whether a system has been adequately certified and accredited, we will consider the findings of the C&A evaluation, the success of continuous monitoring, and the implementation of security controls on system components. The emphasis on continuous monitoring is part of a strategy that OIG and the Office of the Chief Information Officer (OCIO) are collaboratively developing to improve C&A and resolve the material weakness.

Another aspect of the strategy is to jointly develop test cases for selected operational and technical controls to assist bureaus in improving their IT security testing. OCIO has also begun to implement the Justice Department's Cyber Security Assessment and Management tool to standardize the C&A process. We have established a 2-year implementation time frame with completion targeted for the end of calendar year 2009.

NTIA's Administration of $2.5 Billion for Grants and Digital TV Converter Coupons

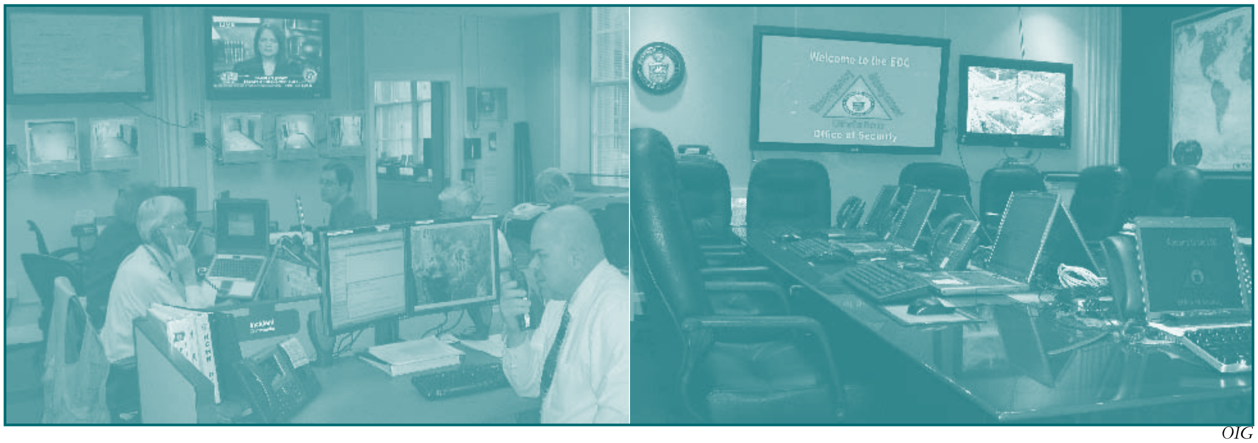
Congress enacted the Digital Television Transition and Public Safety Act of 2005 to switch television broadcasting to all-digital signals, freeing up airwaves for advanced wireless services and to enable police, fire and rescue departments, and other first responders to contact each other faster and more reliably. Under the act, NTIA will receive up to $1.5 billion to help analog television viewers access digital TV when the switch occurs, and $1 billion to fund grants for interoperable communications projects through 2010.

Digital TV Converter Coupon Program

NTIA

Congress has set February 17, 2009, as the firm date that television broadcasting will become all-digital. With the transition, the 15 million households that still rely exclusively on analog signals will lose service unless they buy digital-to-analog converter boxes or digital TVs, or subscribe to cable or satellite service. NTIA will use the $1.5 billion allocated for this program to distribute coupons worth $40 each to help defray the cost of the converters (which range in price from $40 to $70). NTIA has contracted with IBM to operate the program, which includes integrating the systems and implementing procedures for distributing and redeeming coupons and for certifying retailers. These systems must be able to handle the potentially large volume of transactions if the program is to be effective.

The agency began taking orders for coupons on January 1, 2008, and rolled out the nationwide distribution/redemption operation in February, after IBM pilot tested the systems. We monitored that test, in which a limited number of consumers received and



OIG

The events of 9/11 exposed serious weaknesses in critical emergency communications networks. Since then, most federal agencies have developed state-of-the-art emergency communications centers. The Digital Television Transition and Public Safety Act provides grants to help state and local jurisdictions improve their interoperable communications capabilities.

redeemed the coupons. The test revealed some processes and procedures that required fine-tuning.

The operation's true test will be its nationwide execution. By early April, more than 5.2 million households had ordered some 9.9 million coupons (a household may order 2 coupons). At this writing, some 300,000 had been redeemed. With less than a year remaining before the transition deadline, NTIA's senior management must closely monitor the success of coupon distribution and redemption to ensure that all American viewers are digital ready by February 2009.

Our Office of Investigations has already worked with NTIA to resolve some questionable activity related to the coupon program, such as noncertifed retailers offering to redeem coupons. We will continue to monitor the program's administration, with a particular focus on its efficiency and the agency's efforts to mitigate fraud.

Public Safety Interoperable Communications (PSIC) Grant Program

The $1 billion PSIC grant program is a huge undertaking for NTIA. Before this initiative, the agency's primary experience administering grants had been with the Public Telecommunications Facilities Program, whose FY 2008 funding availability is just $16.8 million, and the discontinued Technology Opportunities Program, which from 1994 through 2004 made grants totaling $233 million. We are closely monitoring NTIA's implementation of the PSIC initiative. We are required by law to audit the program's management annually and to conduct at least 25 financial audits of grants made under the program over the next 4 years.

The act also requires NTIA to consult with the Department of Homeland Security (DHS) in establishing and implementing the program. DHS has provided NTIA with grants management services and technical assistance. In September 2007, all 50 states, the District of Columbia, and the five American territories received grant funds that they will in turn make available to eligible public safety organizations for approved projects.

We have worked closely with NTIA, DHS, and the states and territories to ensure they understand the audit issues and federal requirements. We are currently monitoring the grant award process and reviewing applications, allocation formulas, and awards. Given the amount of funds involved, the critical importance to public safety of using them as effectively as possible, and the relative inexperience of NTIA in administering a program of this size, we consider this a major watch item.

NOAA's High-Risk Environmental Satellite Programs

NOAA is in the midst of modernizing its environmental monitoring capabilities, spending billions of dollars on two critical satellite systems: the National Polar-orbiting Operational Environmental Satellite System (NPOESS) and the next-generation Geostationary Operational Environmental Satellite (GOES-R). The $12.5 billion NPOESS project will provide continuous weather and environmental data for civilian and military needs through the coming 2 decades. The $7.7 billion GOES-R system will offer an uninterrupted flow of high-quality data for weather forecasting, severe storm detection, and climate research through 2028.

NPOESS: Cost Overruns, Schedule Delays, Reduced Capabilities

We previously described the challenges facing the troubled National Polar-orbiting Operational Environmental Satellite System (NPOESS) in our September 2006 and September 2007 semiannual reports (pages 29 and 10, respectively). This joint project of NOAA, NASA, and the Department of Defense will be a critical element in the nation's ability to provide continuous weather and environmental data for civilian and military needs through the coming 2 decades.

The project had to be restructured in 2006 after cost estimates increased and launch dates slipped. Much of the cost increase was attributable to problems developing a key sensor, the Visible/Infrared Imager Radiometer Suite (VIIRS), which is intended to collect images and data on the Earth's clouds, atmosphere, oceans, and land surfaces.

NOAA

The $81 million NOAA Satellite Operations Facility opened in June 2007. It's an underground "green" building, with a grass roof covering 146,000 square feet. The 208,000-square-foot facility houses nearly 550 employees of NOAA, contract companies, and other agencies, and more than $50 million worth of equipment. Sixteen antennas control more than $4.7 billion worth of environmental satellites. The facility currently is preparing to support the GOES-R and NPOESS satellite systems.

The restructuring of the NPOESS program was completed in 2007. The revamped program calls for more rigorous management controls and oversight, and a more objective incentive payment play for the contractor.

Despite these changes, problems with VIIRS continue, which means that the launch date for a pilot mission to test the new VIIRS instruments and bridge any gaps in data may be pushed further back while the risk of cost growth increases.

Untested Management Structure for GOES-R

GOES-R is wholly funded by Commerce, though the satellites will be developed and acquired jointly with NASA. The Department's investment in GOES-R for fiscal years 2009 to 2013 is projected to be about $3.7 billion.

The structure of the program has introduced a new element of risk: NOAA has the lead management role over the entire project (ground and space segments) for the first time, giving the Department direct oversight authority as well. These are roles for which neither has experience.

We evaluated whether NOAA and the Department have established effective mechanisms for handling their expanded responsibilities. We found that they had not adopted some crucial best practices for managing satellite acquisitions. We concluded these omissions cost the agency time and money and recommended, among other things, that Commerce and NOAA bring GOES-R oversight and management practices in line with those used by NASA and the Department of Defense in satellite acquisitions, and that the Department delegate decision-making authority at key decision points to NOAA. (See page 19.)

Since our review the Secretary of Commerce delegated key decision-making authority to the NOAA administrator while retaining overall oversight of the program. NOAA exercised this authority in January 2008, authorizing release of requests for proposals for the spacecraft and ground system. Also, NOAA agreed to follow appropriate NASA oversight and management procedures for the GOES-R program. NOAA and NASA have defined these procedures in a joint management plan, which now includes additional key decision points and a distinguished independent review team that conducts assessments and advises the agency. While these actions are major steps, proper execution of this next phase is crucial: the Department and NOAA must be vigilant in overseeing contractors and managing systems development against cost and schedule goals.

We will continue to monitor cost, schedule, and technical progress on both GOES-R and NPOESS and report our findings in future semiannual reports.

Protecting and Conserving Our Oceans and Marine Resources

This NOAA mission represents a huge federal investment: more than $1 billion is spent annually on marine-related protection and conservation programs.

During this semiannual period, we issued a report on NOAA's management of the National Marine Sanctuary Program, which encompasses more than 158,000 square miles of ocean and Great Lakes marine habitats. We identified the need for greater enforcement of regulations protecting the sanctuaries, and several areas in which improved management and interagency cooperation would enhance operations and advance the goals of the sanctuary protection program (see page 13).

Work in Progress

Privacy Program

The E-Government Act of 2002 requires agencies to (1) conduct "privacy impact assessments" to verify that personal information from or about individual citizens that is collected or otherwise processed by federal IT systems is sufficiently protected; and (2) develop privacy notices explaining their practices for handling information and post these notices on their web sites.

NOAA

DART™ monitoring systems are positioned at strategic locations throughout the ocean and play a critical role in tsunami forecasting. Each deployed system can detect and relay real-time data about tsunamis as small as 1 centimeter.

We are assessing the Department's and USPTO's adherence to these requirements as well as their progress in implementing administrative, technical, and physical controls for protecting personally identifiable information.

National Data Buoy Center

NOAA's National Data Buoy Center operates three buoy systems and a network of coastal marine observing stations that provide critical weather and environmental data to scientists, weather forecasters, commercial shippers, recreational boaters, and others. They are maintained by Science Applications International Corporation under a service contract worth up to $500 million over 10 years.

We are evaluating (1) the maintenance and repair operations for the buoys; (2) the adequacy and reliability of the buoy data; (3) the structure and administration of the support services contract; and (4) the transition of two buoy programs from research to operations.

Fisheries Finance Loan Program

We are auditing the direct loan portion of this NOAA program, which accounts for $412 million of the total amount of loans approved since the program's inception in FY 1997. Our audit is assessing the following aspects of the loan program:

1. Effective use of funding.
2. Coordination with fishery management councils to ensure loans support NOAA goals for ending overfishing, eliminating overcapacity, and rebuilding fisheries.
3. Metrics for determining whether performance measures have been met.
4. Internal controls for minimizing risk of financial loss to the government and for ensuring compliance with federal legislation.
5. Processes for verifying that borrowers and projects meet eligibility and other program requirements.

Commerce's Congressional Earmarks

We are analyzing the cost, oversight, and impact of FY 2006 congressional earmarks at the Department in response to a 2006 request from the then-chairman of the Senate Subcommittee on Federal Financial Management, Government Information, and International Security. We are examining a sample of 32 earmarks to ascertain how their administration compares with that of other grants.

Decennial Census Dress Rehearsal

The dress rehearsal is under way in San Joaquin County, California, and nine North Carolina counties. These locations offer both urban and rural conditions under which to test census operations.

We originally planned to assess the address canvassing operation, including the readiness of supporting automated systems, to determine whether canvassers properly followed canvassing procedures and made appropriate corrections to the address list using the handheld computers. We have modified our scope in response to the bureau's decision to limit the use of the handheld devices: our review now focuses on the extent to which address canvassing improved address list accuracy.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

The **National Institute of Standards and Technology** promotes U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology in ways that enhance economic security and improve quality of life. NIST manages four programs: the Advanced Technology Program, the Manufacturing Extension Partnership program, the Baldrige National Quality Program, and NIST Research Laboratories.

Nearly $900,000 Questioned in Biotech Firm's Project Performance

In September 2003, NIST awarded an Advanced Technology Program (ATP) cooperative agreement to a Maryland company to develop genetically engineered caterpillars capable of producing therapeutic human proteins at far faster rates then currently possible. These proteins are used in a variety of medications that treat autoimmune diseases. The company estimated that accelerating production of the proteins would lower drug development costs by $140 million per medication and shorten the time to market for new drugs. Estimated costs for the 3-year project totaled $2,031,208, with the federal share capped at $2 million (98.46 percent) of allowable costs.

We audited costs claimed by the recipient for the 3-year period of the award (October 1, 2003, through September 30, 2006), examined the company's annual audit reports and its compliance with laws and regulations, and evaluated internal controls for its procurement and accountability systems. The approved budget for direct costs during the first year of the award totaled $777,284 with no match. Approved costs for the second and third years were $846,101 and $407,823, respectively, with the company's total required share set at $31,208.

We found the recipient did not fully comply with award terms and conditions: among other things, it had awarded a contract that was outside the scope of the project and could not substantiate a variety of materials costs and salary expenses. We therefore questioned $880,453 in costs claimed. We recommended that NIST disallow this entire amount and recover $647,273 in excess federal disbursements. *(Office of Audits: CAR-18440)*

www.sxc.hu/Photo No. 597169

In September 2003, NIST awarded a 3-year ATP cooperative agreement to a company to research using caterpillars to grow human proteins.

Photo by C. Clark/NOAA

NOAA's National Weather Service captured this image of multiple cloud-to-ground and cloud-to-cloud lightning strikes during a night thunderstorm.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The **National Oceanic and Atmospheric Administration** studies climate and global change; ensures the protection of coastal oceans and the management of marine resources; provides weather services; and manages worldwide environmental data. NOAA does this through the following organizations:

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

National Ocean Service provides products, services, and information that promote safe navigation, support coastal communities, sustain marine ecosystems, and mitigate coastal hazards.

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

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

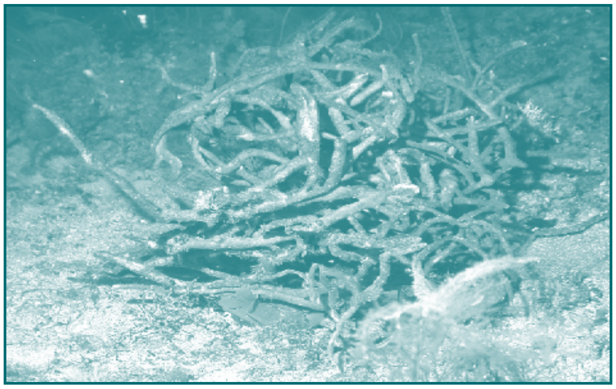
Office of Oceanic and Atmospheric Research conducts environmental research, provides scientific information and research leadership, and transfers research into products and services to help NOAA meet the evolving economic, social, and environmental needs of the nation.

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

Marine Sanctuary Program Fulfilling Its Mission But Could Improve Resource Protection

The National Marine Sanctuary System, established by the Marine Protection, Research, and Sanctuaries Act of 1972, comprises 13 marine sanctuaries and one national monument that have conservation, scientific, or historical significance. The Office of Ocean and Coastal Resource Management, located in NOAA's National Ocean Service, manages the system under a program designed to protect and enhance each sanctuary's biodiversity and ecological integrity.

Historically, the sanctuaries have had modest budgets, limited staffs, and few assets. The FY 2008 enacted appropriation for the National Marine Sanctuary Program (NMSP) was $61 million. The President's FY 2009 budget calls for roughly $50 million, but this level is still well below the program's funding peak of $67.8 million in FY 2005.



NURC/UNCW and NOAA/FGBNMS

A ball of rope sponge living in the Flower Garden Banks National Marine Sanctuary in the Gulf of Mexico off the Texas coast.

We evaluated the sanctuary program to see if it is providing long-term protection for marine and cultural resources and effectively collaborating with the National Ocean Service and other NOAA offices, and with federal, state, and local entities. We also assessed the efficiency with which selected activities are conducted.

We found that the sanctuary program is generally fulfilling its mission. It has successfully protected certain components of marine ecosystems and certain cultural resources; and effectively complements other federal, state, and local resource protection efforts by offering benefits other laws or regulations do not. However, we identified a few areas where the program could be improved.

Enforcement of Sanctuary Regulations

The National Marine Fisheries Service's Office for Law Enforcement (OLE) has primary law enforcement responsibility for the sanctuary program. OLE works closely with the U.S. Coast Guard and, where possible, a number of state and territorial marine enforcement agencies under joint enforcement agreements. Enforcement challenges in the sanctuaries range from permit compliance to offshore vessel traffic to a range of natural resource injuries. Another challenge is that many sanctuaries are located at considerable distances from shore making them difficult to routinely patrol because of the transit time to reach them. A number of sanctuary and enforcement officials told us they believe current law enforcement presence in the sanctuary system is insufficient to meet these challenges.

We also found that most sanctuary officials do not routinely receive information about the nature and scope of ongoing and closed sanctuary violation cases from NOAA's Office of General Counsel for Enforcement and Litigation and OLE. Without such information, officials cannot appropriately target enforcement resources or public outreach activities. We recommended that NOAA's Office of General Counsel provide the sanctuary program with non-law enforcement sensitive information pertaining to ongoing and closed cases (including the type of regulations violated, date and location of violations, and penalties assessed and collected).

Sanctuary Management

Each sanctuary is required by statute to develop a management plan and to review and update it every 5 years. We found that staff at nearly all the sanctuaries have not reviewed their plans in over 10 years, although program managers are currently devoting additional resources to completing the reviews. We recommended that managers complete these reviews promptly.

We also found that prior to the FY 2008 budget process, the sanctuary program failed to plan for life-cycle costs for new vessels, data buoys, and visitor centers, particularly those that were acquired with one-time congressional funding. Program managers need to de-

Spotlight on Sanctuaries

National marine sanctuaries range in size from one-quarter square mile in American Samoa's Fagatele Bay to more than 5,300 square miles in Monterey Bay, California. At 138,000 square miles, Papahanaumokuakea Marine National Monument—added in 2006—is the largest marine protected area in the world. The sanctuaries and marine monument encompass more than 158,000 square miles of ocean and Great Lakes habitats and include deep ocean and near-shore coral reefs, whale migration corridors, deep sea canyons, areas of deep water upwelling, seamounts, kelp forests, and sea grass beds. Historic shipwrecks are also part of the system.

NOAA

Volunteers for the seal program at the Gulf of the Farallones National Marine Sanctuary in California gather on the beach for a training session.

termine how to cover these costs for existing equipment and centers.

Coordination with Partners

Most sanctuaries have active outreach and education programs to promote public awareness of marine resources, and they actively collaborate with a broad range of research partners, such as universities, other federal agencies, and nongovernmental organizations. Partners do much of the research, monitor resources, and provide data needed by the sanctuary sites. But they need to do a better job of communicating research results to the public and key constituencies.

We found that by improving coordination with several other NOAA offices and with the Navy, the sanctuary program could leverage additional resources that would enhance marine protection activities. But improved coordination with the National Marine Fisheries Service is most imperative. We found that the sanctuaries and Fisheries Service generally collaborate well to protect and manage endangered species and marine mammals, and remove marine debris and derelict gear. But the relationship can become contentious when NMSP proposes to regulate fishing within a sanctuary's boundaries.

Persistent disagreements and lack of communication among sanctuary personnel, fishery management councils, and the Fisheries Service have considerably delayed reviews of several sanctuary management plans and drawn public antipathy. We were told dissension within NOAA has compromised the agency's ability to gain or maintain public trust. We recommended that leadership officials from the National Ocean Service, Marine Sanctuary Program, and Fisheries Service commit to improved dialogue and coordination, and take action to improve working relationships across the board.

NOAA generally concurred with our recommendations and reported a series of actions it plans to take and a timeline for implementing them. *(Office of Inspections and Program Evaluations: IPE-18591)*

NOAA Could Strengthen Controls over Real Property Management

NOAA has a portfolio of more than 3,000 properties, consisting of 1,477 parcels of land, 824 buildings, and 721 other structures. NOAA's buildings alone have a current replacement value of nearly $4 billion (excluding the value of the land they occupy). This portfolio is both diverse and dispersed—ranging from state-of-the-art marine science and research facilities to operational facilities that support multibillion-dollar satellite programs.

We reviewed NOAA's management controls over its real property portfolio to identify ways in which the agency could enhance management accountability for these assets. We also evaluated (1) NOAA's compliance with Executive Order (EO) 13327, "Federal Real Property Asset Management" (see p. 16), (2) the reliability of computer-processed data produced by the agency's Integrated Facility Inspection Program, and (3) the NOAA Real Property Management Division's FY 2006 survey of real property holdings.

We found that in the past several years, NOAA has strengthened management of its real property portfolio, but could improve some management controls and its compliance with EO 13327, particularly with regard to the following issues:

Executive Order 13327

The federal government owns hundreds of billions of dollars in real property assets, and either owns or manages 1 in every 4 acres of land in the United States. Much of the federally owned real property assets are used to support agency missions, but it is not clear how many of these properties are being used efficiently, how many are underused, or how many are no longer needed.

EO 13327 directs agencies to

- Establish the position of a senior real property officer, who will be accountable for the effective management of the agency's real properties;
- Determine what they own, what they need, and how and what it costs to manage their real properties;
- Develop and implement asset management plans;
- Develop and monitor real property performance measures; and
- Dispose of unneeded properties.

Holdover Leases. NOAA's lease agreements generally contain an option for renewal under the initial lease terms, provided the government gives written notice of its intention to renew 30 days prior to the agreement's expiration. This option allows the agency to lock in favorable rates and other terms. If NOAA fails to exercise this option, the leases go into "holdover" status, during which time NOAA pays rent month-to-month while renegotiating terms.

The number of leases in holdover status is extensive and growing. In January 2006, a real estate services firm hired to evaluate the Property Management Division's lease portfolio reported 127 such leases.[1] NOAA disclosed that by September 2006, this number had increased to 318. And the consulting firm reported that 1,199 agreements would expire between 2006 and 2010, with the majority (627) expiring in 2006 and 2007. Many of the leases represent relatively small dollar amounts or rent-free arrangements. But Property Management still needs a strategy to address the growing backlog. Occupying leased property without a legal agreement puts NOAA at risk for losing these favorable terms, increasing its leasing and related expenses, or perhaps even dealing with the costs and disruptions of relocating operations.

Integrated Facilities Inspection Program Database. In order to report on real property conditions as required by EO 13327, the Property Management Division's Integrated Facilities Inspection Program (IFIP) surveys employees in NOAA's line offices regarding the current condition of various facilities. Their responses are retained in a database. As part of the survey process, the division calculates a facility condition index by dividing the estimated cost of an asset's repair needs by its current replacement value. The lower the index, the better the condition of the asset.

Property Management's FY 2006 survey generated facility condition indexes that were significantly greater than 100 percent for 13 of 670 properties. Estimated costs to repair a property should not exceed its replacement value unless the structure is in such bad shape that it would be cheaper to replace than to repair. We urged NOAA to investigate the anomalies and determine if they were attributable to data entry errors.

We also urged NOAA to continue monitoring its use of property and adhere to OMB guidance for disposing of unneeded assets because such properties are costly to maintain. Our report did not contain formal recommendations. *(Office of Audits: BSD-18256)*

OIG

The National Weather Service's Northeast River Forecast Center in Massachusetts is one of NOAA's 3,000 real properties that support critical mission activities.

[1] *Lease Portfolio Evaluation*, presentation to NOAA's Real Property Management Division by Jones Lang LaSalle, January 2006.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

USPTO Property Management Procedures Need Improvement

We audited the effectiveness of USPTO's internal controls over laptops and other accountable property after a similar audit we conducted at the U.S. Census Bureau last year found improvements were necessary despite initiatives to strengthen such controls. (See September 2007 *Semiannual Report*, pages 23-25.) The Census audit was prompted by Commerce's September 2006 announcement that 1,138 laptops had been lost Department-wide in a 5-year period, 672 of which belonged to Census.

Like Census, USPTO has substantial accountable property assets. Approximately 20 percent of these assets (mostly computer equipment) are located off-site supporting telework programs. All USPTO personnel are responsible for the proper use, care, and protection of personal property in their possession or control, but overall responsibility resides with the property management officer within USPTO's Office of Corporate Services.

Since the fall of 2006, USPTO has supplemented its internal control structure with new controls put forth in departmental initiatives. Current controls include a system that tracks property from receipt to disposal; quarterly inventories and certifications of accountable property; a quality control program; physical security that includes locking assets; a property review board that addresses lost, missing, and stolen property; and performance plans that establish accountability for property officials. USPTO also has an asset management team that meets regularly to discuss accountable property issues and potential solutions. The team has recommended changes to improve the quarterly inventory process, coordinated the installation of mobile data security technology on USPTO laptops, and provided input on USPTO's proposed asset management web site.

Despite these many controls, the agency needs to strengthen inventory procedures to ensure that it (1) conducts inventories as stipulated in the *Department Personal Property Management Manual*, (2) assigns properly trained personnel to perform inventories, (3) has readily accessible policies and procedures relating to accountability over personal property assets, (4) conducts an appropriate quality assurance review of the inventory, and (5) segregates inventory duties.

In addition, USPTO should strengthen its procedures

Quick Facts

- As of November 2007, USPTO owned about 84,000 pieces of accountable property (such as laptop computers, personal computers, copiers, and fax machines) valued at approximately $154 million.
- USPTO has approximately 18,000 use-at-home assets valued at approximately $13 million.

for addressing lost, missing, or stolen property by excluding property management officials from property review boards.

USPTO concurred with our recommendations and described actions it was taking to address them. For example, the agency (1) expanded property accountability training to include all individuals who support a property custodian; (2) established an asset management web site; and (3) developed a plan to notify property accountability officers that they must verify the inventory of property assigned to their property custodians. *(Office of Audits: CAR-18701)*

KPMG Renders Clean Opinion on FY 2007 Financial Statements

Potential Violation of Anti-Deficiency Act Under Review

Independent auditor KPMG rendered an unqualified opinion on USPTO's FY 2007 financial statements and reported that the agency continues to maintain a sound internal control structure that supports preparation of reliable financial and performance information.

The audit disclosed a potential instance of noncompliance with the Anti-Deficiency Act and the Patent and Trademark Fee Fairness Act of 1999: in FY 2005, obligations related to processing patent applications temporarily exceeded patent fees collected. As a result, fees intended for use in processing trademark registrations were used temporarily to fund patent obligations. The Department's Office of General Counsel is reviewing this matter to determine whether it constitutes a violation of the Anti-Deficiency and Fee Fairness acts.

As part of the financial statement audit, KPMG assessed general controls for the agency's IT systems used to process and maintain key financial data against criteria in GAO's *Federal Information System Controls Audit Manual* (FISCAM). KPMG found that USPTO had resolved one weakness reported last year—in the area of access controls. One weakness continues to be reported in the area of service continuity. Eleven new FISCAM weaknesses were identified—four in the area of entity-wide security program planning and seven in access controls. (*Financial Statements and Accountability Audits*: *FSD-18531-1 and -2)*

DEPARTMENT-WIDE MANAGEMENT

The **United States Department of Commerce** creates the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship. The Department has three stated strategic goals:

Goal 1: Provide the information and tools to maximize U.S. competitiveness.

Goal 2: Foster science and technological leadership by protecting intellectual property, enhancing technical standards, and advancing measurement science.

Goal 3: Observe, protect, and manage the Earth's resources to promote environmental stewardship.

The Department has also established a Management Integration Goal that is equally important to all bureaus: Achieve organizational and management excellence.

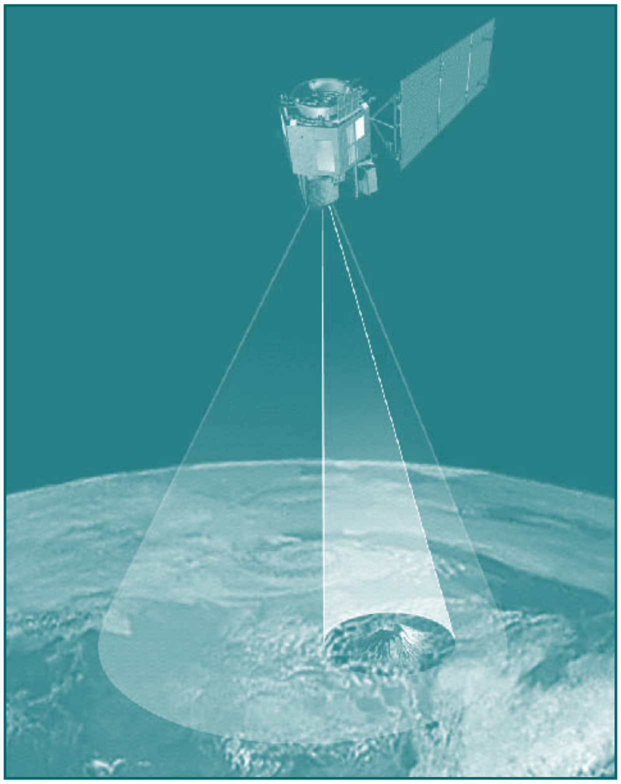
GOES-R Setbacks Caused by Lack of Standard Satellite Acquisition Practices

NOAA and NASA are 7 years into the planning and development of the next series of Geostationary Operational Environmental Satellites—dubbed GOES-R—which provide the United States with critical meteorological data for weather observation, research, and forecasting. NOAA, rather than NASA, has the lead role in GOES-R's program management and acquisition, thus giving the Department direct oversight authority for both the ground and space segments. Neither the Department nor NOAA has experience in this role.

In 2007, we evaluated whether NOAA and the Department had established effective mechanisms for handling their expanded responsibilities and found they had not adopted some crucial best practices for managing satellite acquisitions.

Because of problems in prior GOES acquisitions, NOAA initially decided to use a new acquisition approach for GOES-R: award of a single prime contract for the space and ground segments. This was a significant departure from previous GOES acquisitions, which used separate contracts for each segment and NASA as the systems integrator. This change, coupled with the Department and NOAA's expanded oversight and management roles, added risk to an already highly complex undertaking.

In October 2005, at a key decision point in the program (decision point "B"), the Secretary approved the award of three contracts for program definition and risk reduction. At that time, GOES-R costs were estimated to be $6.2 billion. Roughly 7 months into the program definition phase, new cost data prompted NOAA to revise the estimate to $11.4 billion. An independent review team subsequently confirmed that the new estimate was accurate and expressed concerns about the acquisition approach. At about the same time, problems with the National Polar-orbiting Operational En-



NASA

Artist's rendering of the first hyperspectral imager. This instrument was launched into space aboard a NASA satellite in 2000 and has since produced thousands of images of volcanoes and other features of the Earth's surface for a variety of military and civilian uses. NOAA had planned to equip GOES-R with enhanced hyperspectral instruments but scrapped the plan because it was proving too technically challenging and costly.

vironmental Satellite System (NPOESS) were putting pressure on NOAA and Commerce to reassess the approach to GOES-R. In response, NOAA revised the acquisition strategy to more closely align with the traditional approach: NOAA would acquire the ground segment and NASA would acquire the satellites and integrate the systems. But NOAA would retain acquisition decision authority and the lead role in program management. To reduce costs, NOAA eliminated several planned satellites and instruments.

Commerce Officials Had Insufficient Program Information for First Key Decision Point Review

Viewed by the Department and NOAA solely as a procurement milestone, key decision point B was held at a much earlier stage in the program's life cycle than prescribed by standard satellite acquisition processes and without the benefit of a comprehensive program assessment and independent reviews. Such assessments and reviews are key to the NASA model. Without them, Department and NOAA officials did not have the information they needed to make sufficiently informed decisions about the path forward for GOES-R, namely, thorough and accurate evaluations of cost, schedule, technological readiness, acquisition strategy, and risks. An independent assessment of the program began some 7 months after decision point B, ultimately confirming escalating cost estimates, unacceptable risks, and a flawed acquisition strategy. The changes that followed cost the agency time and money: millions to redefine the overall system architecture and management structure, and a 9-month delay in the planned schedule for awarding the space and ground contracts.

GOES-R Plan Needs Additional Key Decision Points

In NASA and DOD space acquisition processes, decision point C occurs at the completion of preliminary design, and a subsequent decision point (D) is conducted before the system is built. At the time of our review, GOES-R was roughly 2 years from completing preliminary design and even further from being ready to build the first satellite, but its final planned decision point (a combined decision point C/D) was to occur soon. Its purpose was to obtain Department authorization for releasing solicitations for the multibillion-dollar space and ground segment contracts. Particularly in light of the significant program changes since key decision point B, it was essential for the Department and NOAA to thoroughly review all aspects of the program in order to make well-informed decisions about how to proceed before releasing the solicitations—giving strong consideration to the findings and recommendations from the independent assessments. However, after decision point C/D, we recommended that the Department plan for and conduct additional key decision point reviews in accordance with NASA's procedures to determine GOES-R's readiness to proceed to subsequent phases. And if key decision point authority were to be delegated to NOAA, the Department needed to clearly delineate its authorities as well as those of NOAA.

The Department Must Align Independent Review Procedures With Those of NASA

Commerce lacks adequate capacity and experience for effective oversight of the highly technical and complex issues of space acquisitions, and it has no independent reviewers. Therefore, the Department should consult directly with NOAA and NASA independent reviewers at each decision point to help identify any serious program weaknesses and determine the best path forward for GOES-R. The Department should require documentation and explanation for any decisions made on the basis of assumptions or findings that differ from those of the independent assessments. In addition, both the Department and NOAA should use NASA Procedural Requirement (NPR) 7120.5D for satellite acquisition as guidance to better focus these reviews on the key objectives and products of each program phase.

NOAA Has Not Adapted Relevant NASA Processes to GOES-R Ground System Acquisition

The GOES-R memorandum of agreement between NOAA and NASA stipulates that the space segment will be managed according to NPR 7120.5D, but the agreement is silent on NOAA's use of the directive for the ground segment. NOAA needs to define how these processes will apply to that segment and to the overall program. We recommended that NOAA describe in the GOES-R management control plan, how it will use NASA's procedural guidelines to manage and oversee the overall program as well as the ground segment. NOAA should plan and document its approach for handling key decision points.

The Department lacks procedures for reporting and approving major deviations from plans. Commerce has not described its requirements and procedures for reporting and managing variances for GOES-R, or determined thresholds for holding special decision reviews when considering program enhancements. We recommended the Department establish thresholds and procedures for reporting and approving major deviations from GOES-R's capability, cost, and schedule baseline, as well as enhancements to the baseline.

NOAA

This giant antenna at the Command and Data Acquisition Station located at Wallops Island, VA, transmits commands to the GOES satellites and downloads data from them. Wallops Island is the primary ground station interface with GOES satellites.

Response from the Department and NOAA

The Department disagreed with certain of our findings and with our recommendation that it implement procedures similar to NASA's for key decision point reviews. The Department suggested instead that application of NASA's procedural guidance is more appropriately the role of NOAA. Accordingly, we recommended that decision authority for key decision points be delegated to NOAA. NOAA subsequently sought and received decision-making authority. In January 2008 it exercised this authority for decision point C/D.

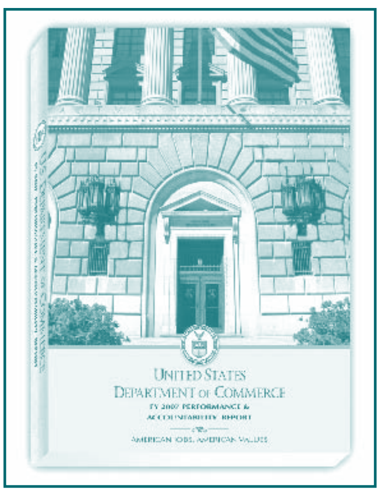
NOAA concurred with the recommendations directed to the Under Secretary for Oceans and Atmosphere and revamped its acquisition management and oversight procedures. *(Office of Systems Evaluation: OSE-18291)*

FY 2007 Consolidated Financial Statements Earn Clean Opinion

For the 9th consecutive year, the Department received an unqualified opinion on its consolidated statements, and its financial management systems were in full compliance with the Federal Financial Management Improvement Act of 1996. However, independent auditor KPMG noted continuing deficiencies in information technology controls that together constitute a significant deficiency. Commerce was also cited for one instance of noncompliance with the Anti-Deficiency Act in connection with an indemnification clause contained in a NOAA contract, which was identified in the FY 2005 audit.

Weaknesses in Financial Systems Controls Persist

The auditors assessed general IT controls over the Department's major financial reporting systems against the six criteria in GAO's *Federal Information System Controls Audit Manual*, finding weaknesses in all six areas—entity-wide security, security access controls, application software development and change control, system software, segregation of duties, and service continuity. Effective general IT controls are essential to ensuring the integrity and reliability of data used to prepare and report financial information. Weaknesses in these controls have been a problem for Commerce since 1998, though each year the Department has taken steps to strengthen them



The Department reports the findings of our financial statements audits in its annual Performance and Accountability Report.

Noncompliance with Anti-Deficiency Act Largely Resolved

As mentioned earlier, the FY 2005 audit reported that the Department's Office of General Counsel had identified a real property agreement between NOAA and a nonprofit entity that contained an indemnification clause. The clause was in violation of the Anti-Deficiency Act because it constituted an open-ended obligation of government funds.

NOAA subsequently identified another 81 agreements containing indemnification clauses or provisions involving questionable liability. The Department's Office of General Counsel determined that these agreements also constituted violations of the Anti-Deficiency Act. The Secretary reported these violations to the President, Congress, and the Comptroller General as required by 31 USC § 1517(b). Our FY 2007 audit found that 79 of these agreements have been amended, terminated, or allowed to expire, and NOAA is taking action to correct the 3 remaining.

"Special Purpose" Statements Also Receive Clean Opinion

As part of the FY 2007 consolidated audit, KPMG examined Commerce's special purpose financial statements and assessed the Department's compliance with financial reporting requirements stipulated in the *Treasury Financial Manual*. The Treasury Department uses the audited special purpose statements to prepare the *Financial Report of the U.S. Government*. KPMG rendered an unqualified opinion on the special purpose statements and reported no material weaknesses in internal control over financial reporting and no instances of noncompliance with the Treasury manual. (Special-purpose statements include the reclassified balance sheet, statements of net cost and of changes in net position, and accompanying notes.) *(Financial Statements and Accountability Division: FSD-18530-1, -2, -3)*

Preaward Financial Assistance Screening

As part of our ongoing emphasis on prevention of fraud, waste, and abuse, we continue to work with the Office of Acquisition Management, NOAA and NIST grant offices, and EDA program offices to screen the Department's proposed grants and cooperative agreements before they are awarded. Our screening serves two functions: it provides information on whether the applicant has unresolved audit findings and recommendations on earlier awards, and it identifies any negative financial or investigative history on individuals or organizations connected with a proposed award.

On January 1, 2004, we implemented new policies and procedures for our preaward screening process. OIG and the Department determined that there are several categories of recipients for whom the costs and administrative burden of the screening process may well outweigh the government's risk of financial loss. Our new policies exempt from review, recipients who (1) receive awards of $100,000 or less, (2) have received financial assistance from the Department for 3 or more consecutive years without any adverse program or audit findings, or (3) are units of a state or local government.

During this period we screened 17 proposed awards. For 4 of the awards, we found major deficiencies that could affect the ability of the prospective recipients to maintain proper control over federal funds. On the basis of the information we provided, the Department delayed all 4 awards to resolve concerns. *(Office of Audits)*

Preaward Screening Results		
Results	**Award Number**	**Amount**
Awards delayed to resolve concerns	4	$ 2,662,775

Nonfederal Audit Activities

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

We examined 166 audit reports during this semiannual period to determine whether they contained any audit findings related to Department programs. For 82 of these reports, the Department acts as oversight agency and monitors the audited entity's compliance with OMB Circular A-133 or NIST's program-specific reporting requirements. The other 84 reports are from entities for which other federal agencies have oversight responsibility. We identified 14 with findings related to the Department.

Report Category	OMB A-133 Audits	ATP-Program-Specifics Audits	Total
Pending (October 1, 2007)	26	3	29
Received	130	37	167
Examined	131	35	166
Pending (March 31, 2008)	25	5	30

The following table shows a breakdown by bureau of approximately $397 million in Commerce funds audited.

Bureau	Funds
EDA	$ 60,285,111
ITA	367,523
NIST*	67,021,273
NOAA	75,250,694
NTIA	2,013,157
Office of the Secretary	12,018
USPTO	795,815
Multiagency	191,488,396
Total	**$ 397,233,987**

* Includes $65,257,379 in ATP program-specific audits.

We identified a total of $2,978,303 in federal questioned costs and $104,711 in funds to be put to better use. In most reports the subject programs were not considered major programs; thus the audits involved limited transaction and compliance testing against laws, regulations, and grant terms and conditions. The 14 reports with Commerce findings are listed in Appendix B-1. *(Regional Offices of Audits)*

OFFICE OF INSPECTOR GENERAL

The mission of the **Office of Inspector General** is to promote economy, efficiency, and effectiveness and detect and prevent waste, fraud, abuse, and mismanagement in the programs and operations of the U.S. Department of Commerce. Through its audits, inspections, performance evaluations, and investigations, OIG proposes innovative ideas and constructive solutions that lead to positive changes for the Department. By providing timely, useful, and reliable information and advice to departmental officials, the administration, and Congress, OIG's work helps improve Commerce management and operations as well as its delivery of services to the public.

Office of Investigations

Telemarketing Fraud Investigation Continues to Produce Convictions, Fines, and Imprisonment

An ongoing OIG investigation of a major international telemarketing fraud scheme based in Costa Rica (see September 2007 *Semiannual Report,* page 50) resulted in additional arrests and convictions this semiannual period. On January 31, 2008, a key defendant was convicted by a jury in U.S. District Court for the Western District of North Carolina on one count of conspiracy to commit wire fraud and 22 counts of wire fraud. The jury also found him liable for criminal forfeitures totaling more than $8.4 million. The defendant faces a potential sentence of 30 years to life in prison and payment of restitution to victims of the fraud. A sentencing date has not been set.

Four other participants in the scheme also were arrested during this period, and 10 defendants entered guilty pleas on conspiracy and wire fraud charges. In addition, 2 defendants previously convicted of conspiracy, wire fraud, and making false statements were sentenced to 10 years' incarceration and ordered to pay restitution of $1,797,557 each.

Since its inception nearly 5 years ago, our investigation has netted 36 arrests, 29 convictions, and nearly $12 million in fines, forfeitures, and restitution. Some 9,600 people have fallen victim to the scam, which was perpetrated by callers posing as agents of a bogus national lottery purportedly sanctioned by the Department of Commerce and other federal agencies. Victims were persuaded to wire money to various locations in Costa Rica, purportedly to cover insurance and customs fees required to redeem cash prizes supposedly worth up to $4 million. Identified losses to U.S. residents total more than $30 million to date. *(Atlanta Field Office)*

Former Commerce Intern Convicted of Credit Card Fraud

In January 2008, a former intern of the Department was convicted of felony credit card fraud in Fairfax County, Virginia, Circuit Court after a joint OIG/Fairfax County Police investigation established that he had fraudulently used the government travel card account numbers of several senior Commerce employees and other personal credit card numbers to purchase

thousands of dollars worth of international plane tickets and hotel accommodations through an Internet travel site. Sentencing is scheduled for May 2008. (*Silver Spring Resident Office)*

NOAA Employee Sentenced on Purchase Card Fraud

As reported in our September 2007 *Semiannual Report* (page 49), in August 2007, a NOAA employee was convicted of theft of government property after an OIG investigation found he had used his government purchase card to charge nearly $4,000 worth of personal items including cigarettes, beer, gift cards, CDs, video games, and a television. On November 14, 2007, the defendant was sentenced in U.S. District Court for the Southern District of Mississippi to 2 years' probation and ordered to pay $3,938.80 in restitution. *(Denver Resident Office)*

OIG Forensic Analysis Contributes to Successful State Murder Prosecution

In our September 2007 *Semiannual Report* (page 51), we described assistance provided by our Computer Crimes Unit to the Fairfax County, Virginia, police in connection with its investigation of a Census employee charged with murdering a man who was dating the employee's former girlfriend. OIG was initially asked to join the investigation to seize government computer equipment assigned to the defendant and examine it for evidence linking the employee to the crime. Working with local police, OIG investigators subsequently seized a number of home computers at the defendant's residence. We conducted a forensic analysis of 13 computers and hundreds of removable disks, which revealed, among other things, that the defendant had been accessing the woman's personal e-mail account for months and reading personal messages from the victim. After a trial in Fairfax County Circuit Court in March 2008, the jury found the defendant guilty of first degree murder, and hewas sentenced to 35 years' imprisonment. Data recovered during the OIG analysis helped establish motive. *(Computer Crimes Unit)*

OIG Aids Money Laundering Prosecution of Census Contractor

During this period, we provided assistance to Immigration and Customs Enforcement (ICE) with the investigation of a Census Bureau contractor suspected of laundering the proceeds of illegal drug deals. On December 11, 2007, the defendant was tried in U.S. District Court for the District of Columbia and found guilty of one count of conspiracy to launder monetary instruments. Sentencing was scheduled for April 2008. ICE has also been working with the General Services Administration to debar the defendant and his CPA firm from obtaining future government contracts. (*Washington Field Office)*

Other OIG Activities

IG Briefs House Subcommittee on Oversight Priorities

On February 27, 2008, Commerce Inspector General Todd J. Zinser briefed the House Subcommittee on Commerce, Justice, Science, and Related Agencies about OIG's oversight operations at the Department, emphasizing the most critical areas he believed deserved close watch: the Census Bureau's 2010 decennial operations, NOAA satellite programs, Department-wide IT security, and NTIA's management of $2.5 billion in funding authorized by the Digital Television Transition and Public Safety Act.

2010 Decennial Census

The Inspector General told subcommittee members that the bureau's plan to use handheld computers to collect certain data was in serious jeopardy because the $600 million Field Data Collection Automation contract had yet to produce systems that could support Census operations. He also discussed several nonautomated census programs in need of improvement that were not receiving proper attention because the bureau has had to focus so much energy on the FDCA-related problems.

NOAA Satellites

IG Zinser recounted some of the problems and challenges facing the Department and NOAA in completing the multibillion-dollar National Polar-orbiting Operational Environmental Satellite System (NPOESS) and the next-generation Geostationary Operational Environmental Satellite (GOES-R). Both systems will provide critical weather and environmental data, but both have been scaled back because of significant delays and ballooning cost estimates.

The IG stressed that agency officials and program planners must maintain strong mechanisms for promptly identifying and mitigating problems, and must quickly apprise the Secretary and Congress of any issues that threaten the timely, cost-effective completion of critical tasks.

Department-wide Information Security

Mr. Zinser discussed the root cause of the Department's material weakness in IT security: inadequate processes for certifying and accrediting computer systems. He reported that senior Department officials are very aware of the need for improving the IT security program and described their efforts to do so.

NTIA's Administration of Consumer Coupon Program and Public Safety Grants

The Inspector General gave a status report on NTIA's efforts to help analog television viewers purchase digital converter boxes in advance of the February 17, 2009, switch to all-digital TV broadcasting. He also discussed OIG's oversight of NTIA's $1 billion grants program for interoperable communications projects designed to enhance state and local emergency response efforts. OIG staff will review the program's management annually and conduct at least 25 financial audits of funded programs over the next 4 years.

Other Watch List Items

The IG also described several other oversight priorities the office has added to its watch list:

- *NOAA's Expanding Responsibilities for Protecting Oceans and Marine Resources.* The Magnuson-Stevens Fishery Conservation and Reauthorization Act of 2006 provides new authority to combat Illegal, Unreported, or Unregulated (IUU) fishing, and the 2008 Omnibus Appropriations Act specifies that the Secretary develop a list of vessels and vessel owners engaged in IUU fishing. NOAA's use of these new authorities and its implementation of the 2008 appropriations requirement are important items for follow-up.

- *BIS' Dual-Use Export Control System.* In 2007, GAO added the Bureau of Industry and Security's dual-use export control system to its government-wide high-risk list because the Department was unable to readily identify weaknesses in the system or implement corrective measures. OIG has carried out a substantial amount of work in this area over the past 9 years, and will continue monitoring the progress of BIS and the Department in addressing this high-risk area.

- *Department-wide Grant Oversight.* OIG's inventory of criminal investigations contains cases involving grant recipients under investigation for converting grant funds to their own personal use. Such activity indicates the need for stronger oversight. Mr. Zinser stated that he plans to follow up on this issue and report back to the subcommittee.

TABLES AND STATISTICS

Statistical Overview

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Table 1. Investigative Statistical Highlights for this Period

Criminal Investigative Activities	
Arrests	4
Indictments and informations	6
Convictions	14
Personnel actions	1
Fines, restitutions, judgments, and other civil and administrative recoveries	$12,072,102
Allegations Processed	
Accepted for investigation	26
Referred to operating units	5
Evaluated but not accepted for investigation or referral	43
Total	74

Audit Resolution and Follow-Up

The Inspector General Act Amendments of 1988 require us to present in this report those audits issued before the beginning of the reporting period (October 1, 2007) for which no management decision had been made by the end of the period (March 31, 2008). Six audit reports remain unresolved for this reporting period (see page 34).

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

Table 2. Audit Resolution Follow-Up

Report Category	Modifications	Appeals
Actions pending (October 1, 2007)	0	7
Submissions	1	5
Decisions	1	6
Actions pending (March 31, 2008)	0	6

Table 3. Audit and Inspection Statistical Highlights for this Period

Questioned Costs	$ 3,845,197*
Value of audit recommendations that funds be put to better use	104,711
Value of audit recommendations agreed to by management	4,236,568

**This number includes costs questioned by state and local government auditors or independent public accountants.*

Table 4. Audits with Questioned Costs

	Report Category	Number	Questioned Costs	Unsupported Costs
A.	Reports for which no management decision had been made by the beginning of the reporting period	22	$ 31,168,505	$ 6,724,891
B.	Reports issued during the reporting period	15	3,845,197	624,028
Total reports (A+B) requiring a management decision during the period		37	35,013,702	7,348,919
C.	Reports for which a management decision was made during the reporting period[2]	16	11,383,909	2,806,979
	i. Value of disallowed costs		3,878,361	157,673
	ii. Value of costs not disallowed		7,960,548	2,649,306
D.	Reports for which no management decision had been made by the end of the reporting period	21	23,629,793	4,541,940

NOTES:

[1] *Four audit reports included in this table are also included among reports with recommendations that funds be but to better use (see table 5). However, the dollar amounts do not overlap.*

[2] *In Category C, lines i and ii do not always equal the total line C because resolution may result in values greater than the original recommendations.*

Table 5. Audits with Recommendations that Funds Be Put to Better Use

Report Category		Number	Value
A.	Reports for which no management decision had been made by the beginning of the reporting period	6	$ 456,405
B.	Reports issued during the reporting period	1	104,711
Total reports (A+B) requiring a management decision during the period[1]		7	561,116
C.	Reports for which a management decision was made during the reporting period[2]	6	456,405
	i. Value of recommendations agreed to by management		358,207
	ii. Value of recommendations not agreed to by management		98,198
D.	Reports for which no management decision had been made by the end of the reporting period	1	104,711

NOTES:

[1] *Four audit reports included in this table are also included among reports with questioned costs (see table 4). However, the dollar amounts do not overlap.*

[2] *In Category C, lines i and ii do not always equal the total line C because resolution may result in values greater than the original recommendations.*

Definitions of Terms Used in the Tables

Questioned cost: a cost questioned by OIG because of (1) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; (2) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or (3) a finding that an expenditure of funds for the intended purpose is unnecessary or unreasonable.

Unsupported cost: a cost that, at the time of the audit, is not supported by adequate documentation. Questioned costs include unsupported costs.

Recommendation that funds be put to better use: an OIG recommendation that funds could be used more efficiently if Commerce management took action to implement and complete the recommendation, including (1) reductions in outlays; (2) deobligation of funds from programs or operations; (3) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds; (4) costs not incurred by implementing recommended improvements related to Commerce, a contractor, or a grantee; (5) avoidance of unnecessary expenditures identified in preaward reviews of contracts or grant agreements; or (6) any other savings specifically identified.

Management decision: management's evaluation of the findings and recommendations included in the audit report and the issuance of a final decision by management concerning its response.

Appendix A. Report Types this Period

Type	Number of Reports	Appendix Number
Performance audits	2	A-1
Financial assistance audits	1	A-2
Financial statements audits	5	A-3
Inspections and systems evaluations	2	A-4
Total	10	

Appendix A-1. Performance Audits

Report Title	Report Number	Date Issued	Funds to Be Put to Better Use
National Oceanic and Atmospheric Administration			
Real Property Portfolio: Opportunities to Strengthen Management Accountability	BSD-18256-8-0001	03/06/08	—
U.S. Patent and Trademark Office			
USPTO Has Reasonable Controls Over Personal Property, but Additional Improvements Are Needed	CAR-18701-8-0001	03/27/08	—

Appendix A-2. Financial Assistance Audits

Report Title	Report Number	Date Issued	Value of Funds to Be Put to Better Use	Federal Amount	Federal Amount Unsupported
National Institute of Standards and Technology					
Chesapeake Perl, Inc., MD	CAR-18440-8-0001	02/25/08	—	$ 866,894	$ 395,263

Appendix A-3. Financial Statements Audits

Report Title	Report Number	Date Issued
Office of the Secretary		
Assessment of Information Technology Controls Supporting the Department's Financial Management Systems FY 2007 Financial Statement Audit	FSD-18530-8-0001	10/05/07
Department of Commerce's FY 2007 Consolidated Financial Statements	FSD-18530-8-0002	11/09/07
Department of Commerce's FY 2007 Special Purpose Financial Statements	FSD-18530-8-0003	12/12/07

Appendix A-3, continued

Report Title	Report Number	Date Issued
U.S. Patent and Trademark Office		
Assessment of Information Technology Controls Supporting USPTO's Financial Management Systems FY 2007 Financial Statement Audit	FSD-18531-8-0001	10/05/07
USPTO's FY 2007 Financial Statements	FSD-18531-8-0002	11/06/07

Appendix A-4. Inspections and Evaluations

Report Title	Report Number	Date Issued	Funds to Be Put to Better Use
National Oceanic and Atmospheric Administration			
Successful Oversight of GOES-R Requires Adherence to Accepted Satellite Acquisition Practices	OSE-18291	11/20/2007	—
National Marine Sanctuary Program Protects Certain Resources, But Further Actions Could Increase Protection	IPE-18592	02/12/2008	—

Appendix B. Processed Audit Reports

The Office of Inspector General reviewed and accepted 166 audit reports prepared by independent public accountants and local, state, and other federal auditors. The reports processed with questioned costs, recommendations that funds be put to better use, and/or nonfinancial recommendations are listed in Appendix B-1.

Agency	Audits
Economic Development Administration	60
International Trade Administration	3
National Institute of Standards and Technology*	39
National Oceanic and Atmospheric Administration	25
National Telecommunications and Information Administration	4
Office of the Secretary	1
United States Patent and Trademark Office	1
Multiagency	33
Total	**166**

**Includes 35 ATP program-specific audits.*

Appendix B-1 - Processed Reports with Audit Findings

Report Title	Report Number	Date Issued	Funds to Be Put to Better Use	Federal Amount Questioned	Federal Amount Unsupported
Economic Development Administration					
Tri-County Economic Development District, WA	ATL-09999-8-3084	03/21/08	0	$ 57,158	$ 57,158
City of Akron, OH	ATL-09999-8-3086	03/26/08	0	12,618	0
Portable Practical Educational Preparation, Inc., AZ	ATL-09999-8-2988	03/26/08	0	197,343	0
Vermont Council on Rural Development, Inc.	ATL-09999-8-3132	03/26/08	0	43,878	43,878
EDC Loan Corporation, MO	ATL-09999-8-2950	03/28/08	0	1,163,349	0
National Institute of Standards and Technology					
DAFCA, Inc., MA	ATL-09999-8-3017	03/13/08	0	190,748	0
Icoria, Inc., NC	ATL-09999-8-3122	03/13/08	0	171,276	0
NexTech Materials, Ltd., OH	ATL-09999-8-3113	03/17/08	0	513,845	0
Cinetec Landis Corporation, PA	ATL-09999-8-3121	03/20/08	0	11,241	11,241
Aether Wire & Location, Inc., CA	ATL-09999-8-3118	03/31/08	104,711	268,938	0
National Oceanic and Atmospheric Administration					
State of Louisiana	ATL-09999-8-2949	03/26/08	0	144,000	0
State of Rhode Island and Providence Plantations	ATL-09999-8-2876	03/26/08	0	116,488	116,488
The JASON Project, VA	ATL-09999-8-2929	03/26/08	0	57,421	0
Commonwealth of Puerto Rico, Department of Natural and Environmental Resources	ATL-09999-8-2927	03/28/08	0	30,000	0

AUDITS UNRESOLVED FOR MORE THAN 6 MONTHS

Census Bureau

ITS Services, Inc. In March 2005, we reported that 3 of the 32 task orders awarded under an IT services contract were audited to determine whether the costs billed by the firm were reasonable, allowable, and allocable under contract terms and conditions and federal regulations. We found that the firm had failed to comply with numerous contract and federal requirements, and questioned more than $8.5 million in direct labor and reimbursable costs.

Computer & High Tech Management, Inc. We reported in our September 2005 *Semiannual Report* (page 14) the results of audits of 2 of the 21 task orders for another firm providing IT services to Census. We sought to determine whether the firm had complied with contract terms and conditions and federal regulations and had billed Census for work performed in accordance with specifications of the task order. We found that the firm failed to comply with numerous contract and federal requirements, which caused us to question more than $10.7 million in direct labor and other reimbursable costs.

We have suspended audit resolution on both of these contract audits pursuant to an agreement with Census.

NIST

Computer Aided Surgery Inc., New York. An OIG audit of this NIST cooperative agreement (see September 2004 issue, page 35, and March 2005 issue, page 33—ATL-16095) questioned costs totaling $547,426 in inappropriately charged rent, utilities, and certain salary, fringe benefit, and other expenses because these costs were unallowable, in excess of budgetary limits, or incorrectly categorized. This audit remains unresolved because we requested that NIST postpone its submission of an audit resolution proposal.

REPORTING REQUIREMENTS

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

Section		Page
4(a)(2)	Review of Legislation and Regulations	35-36
5(a)(1)	Significant Problems, Abuses, and Deficiencies	11-27
5(a)(2)	Significant Recommendations for Corrective Action	11-27
5(a)(3)	Prior Significant Recommendations Unimplemented	35
5(a)4	Matters Referred to Prosecutive Authorities	28
5(a)(5) and 6(b)(2)	Information or Assistance Refused	36
5(a)(6)	Listing of Audit Reports	31-33
5(a)(7)	Summary of Significant Reports	11-27
5(a)(8)	Audit Reports—Questioned Costs	29
5(a)(9)	Audit Reports—Funds to Be Put to Better Use	30
5(a)(10)	Prior Audit Reports Unresolved	36
5(a)(11)	Significant Revised Management Decisions	36
5(a)(12)	Significant Management Decisions with Which OIG Disagreed	36

Section 4(a)(2): Review of Legislation and Regulations

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

Section 5(a)(3): Prior Significant Recommendations Unimplemented

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

To include a list of all significant unimplemented recommendations in this report would be duplicative.

Information on the status of any audit recommendations can be obtained through OIG's Office of Audits.

Sections 5(a)(5) and 6(b)(2): Information or Assistance Refused

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

Section 5(a)(10): Prior Audit Reports Unresolved

This section requires a summary of each audit report issued before the beginning of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of why a decision has not been made, and a statement concerning the desired timetable for delivering a decision on each such report. There were five Census reports and one NIST report more than 6 months old.

Section 5(a)(11): Significant Revised Management Decisions

This section requires an explanation of the reasons for any significant revision to a management decision made during the reporting period. Department Administrative Order 213-5, Audit Resolution and Follow-up, provides procedures for revising a management decision. For performance audits, OIG must be consulted and must approve in advance any modification to an audit action plan. For financial assistance audits, OIG must concur with any decision that would change the audit resolution proposal in response to an appeal by the recipient. The decisions issued on the six appeals of audit-related debts were finalized with the full participation and concurrence of OIG.

Section 5(a)(12): Significant Management Decisions with Which OIG Disagreed

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

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