

# DEPARTMENT OF HOMELAND SECURITY

## **Audit of CBP Export Control Activities**

(Unclassified Summary)





Homeland  
Security

September 24, 2007

Preface

The Department of Homeland Security Office of Inspector General was established by the Homeland Security Act of 2002 (*Public Law 107-296*) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibility to promote economy, effectiveness, and efficiency within the department.

This report assesses the effectiveness of the United States government's export control policies and practices with respect to the inspection of outbound cargo by Customs and Border Protection. It is based on interviews with agency officials, direct observations, and a review of applicable documents.

The recommendations herein have been developed according to the best knowledge available to our office, and have been discussed in draft with those responsible for implementation. It is our hope that this report will result in more effective, efficient, and economical operations. We express our appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in cursive script that reads "Richard L. Skinner".

Richard L. Skinner  
Inspector General

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# OIG

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*Department of Homeland Security*  
*Office of Inspector General*

## Background

This is the eighth and final review in a series of interagency Office of Inspector General (OIG) audits. The overall objective of the interagency audits is to assess the effectiveness of the United States (U.S.) government's export control policies and practices with respect to preventing the transfer of militarily sensitive technology to countries and entities of concern.

Each year, billions of dollars in dual-use items—items that have both commercial and military applications, as well as defense items—are exported from the United States. To protect American interests, the U.S. government controls the export of dual-use commodities and munitions<sup>1</sup> for national security and foreign policy purposes under the authority of several laws, primarily the *Export Administration Act of 1979*<sup>2</sup> and the *Arms Export Control Act*.<sup>3</sup>

The U.S. Census Bureau (Census) is responsible for collecting, compiling, and publishing export trade statistics for the United States. Exporters, carriers, forwarders, and Customs brokers file this information on the Shipper's Export Declaration (SED) or electronically in the Automated Export System (AES). The majority of SEDs are filed predeparture in AES. However, the Census Option 4 program allows participants to file a SED up to 10 days after export. Option 4 was implemented by Census in March 1999 and is available to 1,982 approved exporters. While Census does allow the filing of paper SEDs predeparture, items on the Commerce Control List and the U.S. Munitions List require a license and must be filed electronically through AES prior to export. Foreign Trade Regulations (15 CFR 30.12 and 22 CFR 123.22) require that SEDs be filed between 8 and 24 hours in advance of export for licensable goods depending on the mode of transportation. SEDs for nonlicensable goods are required to be filed at the time the cargo is tendered to the exporting carrier.

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<sup>1</sup> Munitions are defense articles or technical data on the U.S. Munitions List.

<sup>2</sup> Although the Export Administration Act expired on August 21, 2001, the President has repeatedly extended existing export regulations, invoking emergency authority under the International Emergency Economic Powers Act. The most recent 1-year extension was effective August 18, 2006 (71 Federal Register 44551 dated August 7, 2006).

<sup>3</sup> Section 38 of the Arms Export Control Act (Title 22 of the United States Code, Section 2778) authorizes the President to control the export and import of defense articles.

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Customs and Border Protection's (CBP's) role in exports is:

- To enforce other U.S. government agencies' laws and regulations through the examination of export documentation and inspection of outbound cargo;
- The detention of shipments where a violation is suspected;
- The initiation of enforcement actions for those shipments found to be in violation of export control laws and regulations; and
- The facilitation of the lawful exportation of American goods and services.

CBP's specific role regarding the export licensing process for militarily sensitive commodities is to ensure that all U.S. exports comply with licensing requirements at the ports of exit. CBP uses various enforcement methods to screen export commodities.

CBP screens and inspects outbound cargo to deter and interdict the:

- Export of unauthorized militarily sensitive technology and munitions;
- Export of stolen vehicles, computers, and other goods;
- Smuggling of currency and monetary instruments out of the country; and
- Export of goods in violation of trade sanctions.

Failure to deter and interdict any of the above could allow terrorist groups, rogue nations, criminal organizations, and individuals the ability to terrorize and threaten the United States and its citizens, and could unjustly enrich criminal and terrorist organizations.

## **Executive Summary**

The objective of the audit was to determine whether CBP consistently targets and inspects outbound shipments for compliance with federal export laws and regulations. In addition, the audit team determined the status of Department of Homeland Security actions to implement the open recommendations from the prior audit reports.

We determined that outbound shipments are not consistently targeted and inspected by CBP Officers at the ports for compliance with federal export laws and regulations. This occurs because CBP does not devote sufficient resources to the function, does not have the information necessary to effectively monitor the program, and does not have performance measures to evaluate program results. The agency has reallocated resources devoted to

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export targeting and inspection since September 11, 2001. As a result, shipments could be exported that violate export laws and regulations.

We made several recommendations that, if implemented, can help CBP ensure trade adherence with federal export laws and regulations. CBP expressed partial concurrence with our first recommendation, since resolution also requires action by Census. However, CBP fully concurred with the remaining recommendations and is implementing corrective actions. There is an open recommendation from the audit report, *Review of Controls Over the Export of Chemical and Biological Commodities* (OIG-05-21), dated May 2005, for CBP to evaluate the Outbound Program, including current resources and staffing needs.

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