



U.S. DEPARTMENT OF COMMERCE
Office of Inspector General



TOP TEN MANAGEMENT CHALLENGES

March 2004

MAJOR CHALLENGES FOR THE U.S. DEPARTMENT OF COMMERCE

TOP 10 CHALLENGES

1. Strengthen Department-wide information security.
2. Effectively manage departmental and bureau acquisition processes.
3. Successfully operate USPTO as a performance-based organization.
4. Control the cost and improve the accuracy of Census 2010.
5. Increase the effectiveness of marine resource management.
6. Promote fair competition in international trade.
7. Enhance export controls for dual-use commodities.
8. Enhance emergency preparedness, safety, and security of Commerce facilities and personnel.
9. Strengthen financial management controls and systems.
10. Continue to improve the Department's strategic planning and performance measurement in accordance with GPRA.

The Office of Inspector General, in assessing its work at the close of each semiannual period, develops the Top 10 Management Challenges the Department faces. Each challenge meets one or more of the following criteria: (1) it is important to the Department's mission or the nation's well-being, (2) it is complex, (3) it involves sizable expenditures, or (4) it requires significant management improvements. Because of the diverse nature of Commerce activities, many of these criteria cut across bureau and program lines. We believe that by addressing these challenges the Department can enhance program efficiency and effectiveness; eliminate serious operational problems; decrease fraud, waste, and abuse; and achieve substantial savings.

CHALLENGE 1

STRENGTHEN DEPARTMENT-WIDE INFORMATION SECURITY

Many of Commerce's information technology systems and the data they contain have national significance: the Bureau of Industry and Security's (BIS') export license data helps control the release of dual-use commodities to countries and entities of concern; the National Oceanic and Atmospheric Administration's (NOAA's) satellite, radar, and weather forecasting data and systems provide information used to protect lives and property; the Economics and Statistics Administration's (ESA's) economic indicators have policymaking implications that can affect the movement of global commodity and financial markets; and the U.S. Patent and Trademark Office's (USPTO's) patent and trademark information is essential to administering patent and trademark law, promoting industrial and technical progress, and strengthening the national economy. Loss of or serious damage to any of the critical systems containing this data could have devastating impacts. Therefore, identifying weaknesses in these systems and recommending solutions is a continuing top priority for the Office of Inspector General. The Federal Information Security Management Act (FISMA), signed into law on December 17, 2002, provides a comprehensive framework for ensuring that information resources supporting federal operations and assets employ effective security controls. FISMA requires OIGs to perform independent security evaluations of their agencies annually.

As we reported in our last semiannual (see September 2003 *Semiannual Report*, page 37), the Department's chief information officer (CIO), with the support of the Deputy Secretary, has worked hard to improve information security Department-wide, and noteworthy progress has been made. Considerable challenges persist, however, in ensuring adequate security on the hundreds of Commerce systems. This effort requires (1) assessing risk and determining appropriate security controls, (2) testing and evaluating these controls, (3) certifying and accrediting systems,¹ and (4) ensuring that personnel with specialized information security responsibilities receive the necessary training.

As we advised in our FISMA reports, the Department has reported information security as a Federal Management Financial Integrity Act (FMFIA) material weakness in its *Performance & Accountability Report* for the past 3 fiscal years. Similarly, USPTO, which submits its *Performance & Accountability Report* separately, reported information security as an FMFIA material weakness the past 2 fiscal years. The Department, including USPTO, had set a goal of certifying and accrediting all systems that are part of the critical infrastructure or mission critical by the end of FY 2003. Although 97 percent of the Department's systems were reported as certified and accredited by that milestone, our FY 2003 FISMA evaluation revealed that many systems

¹ Certification is the formal testing and evaluation of the security safeguards on a computer system to determine whether they meet applicable requirements and specifications. Accreditation is the formal authorization by management for system operation, including an explicit acceptance of risk.

reported as certified and accredited contained significant deficiencies in their risk assessments, security plans, and contingency plans—i.e., certification and accreditation materials. Most also lacked evidence that security controls had been tested. Using a disciplined certification and accreditation process, USPTO planned to have its mission-critical systems and its classified system certified and accredited by the end of FY 2003, but was not able to accomplish this goal. USPTO reports that all of these systems were certified and accredited by March 29, 2004. The Department is now working to complete all system certifications and accreditations and improve their quality in FY 2004. Our ongoing FISMA evaluation for this fiscal year includes reviews of the Census Bureau's information security program and the Department's computer incident response capability, as well as assessments of the quality and content of system certifications and accreditations and plans of action and milestones (POA&Ms).²

CONTRACT SECURITY WEAKNESSES

We noted in our last semiannual (see September 2003 *Semiannual Report*, page 37) that inadequate security provisions in Commerce IT service contracts also place systems at risk. The Department continued to rely heavily on contractors to provide IT services in FY 2003, spending 65 percent of its IT contract dollars on this area. Our FY 2003 FISMA evaluation found that while progress had been made in incorporating security provisions into recent IT service contracts,³ provisions for controlling contractor access to Department systems and networks were generally absent, and there was little evidence of contract oversight or of coordination among contracting, technical, and information security personnel in developing appropriate contract security. We summarized these findings in our September 2003 FISMA report, noting that the Department was finalizing standard contract clauses for safeguarding information resources. We are currently preparing a report that provides additional discussion of these findings as well as recommendations to further ensure that information and information systems are adequately secure when contractor-provided services are used. This report notes that the contract clauses were issued in November 2003. We are recommending that the Department take steps to ensure that its service contracts contain the new security clauses and that appropriate contract oversight occurs.

CHALLENGE 2

EFFECTIVELY MANAGE DEPARTMENTAL AND BUREAU ACQUISITION PROCESSES

Federal acquisition legislation in the 1990s mandated sweeping changes in the way federal agencies buy goods and services. The intent was to reduce the time and money

² OMB guidance directs agencies to develop plans of action and milestones (POA&Ms) to correct program- and system-level IT security weaknesses and track each deficiency until it is corrected.

³ The term "contract" includes task orders and delivery orders issued under multiple award contracts and government-wide agency contracts (GWACs).

spent on purchasing, and improve the efficiency of the process. The latest legislative effort to streamline acquisition is the Services Acquisition Reform Act of 2003, whose provisions further push for performance-based service contracting: the act provides that service contracts under \$25,000 may be treated as “commercial” if certain performance-based criteria are met and thereby be eligible for simplified acquisition procedures. As the Department’s reliance on contractor-provided services increases, so does the challenge to understand and effectively manage the new acquisition processes these initiatives fostered. At the same time, Commerce must be careful to ensure that taxpayer dollars are wisely spent and laws and regulations followed when using streamlined procedures.

This balance is best maintained by adhering to basic acquisition principles: careful planning, promotion of competition, prudent review of competitive bids, adept contract negotiations, well-structured contracts, and effective contract management and oversight. These are essential to ensuring that sound contracting decisions are made and contracts successfully executed. Problems we have identified with service contracting in the past include failure to use performance-based task orders where they would be beneficial; inadequate training in the use of performance-based service contracting; insufficient planning for contract administration and monitoring; and failure to ensure that adequate security provisions are included and enforced in IT service contracts.

We are currently monitoring certain major acquisitions related to the 2010 decennial census and intend to review the acquisition management process, from planning through contract closeout, at selected bureaus. The use of performance-based service contracting, where applicable, will be a key focus of our acquisition reviews. (GWACs).

DEPARTMENTAL INITIATIVES

The Department agrees that acquisition planning and management need greater emphasis, and notes that its Office of Acquisition Management (OAM) is pursuing improvements. Among other things, OAM has established a review board to oversee all major acquisitions. Additionally, it is (1) evaluating Commerce’s delegation and warrant program, with the goal of realigning contracting authorities to increase overall effectiveness and accountability; (2) revising the certification program for contracting officer’s technical representatives (COTRs) to require expanded competencies and knowledge and to improve accountability, and changing the name of this function to “contracting officer’s representative” to reflect its broader responsibilities; and (3) emphasizing the need for increased use of performance-based service contracting. It is assessing the effectiveness of these various initiatives as well.

Finally, in response to increased scrutiny from our office, Congress, and OMB, and in light of Commerce’s increasing use of purchase cards, OAM is implementing a purchase card improvement plan that includes mandatory refresher training for all cardholders and

approving officials. Under the auspices of the Chief Financial Officer and Assistant Secretary for Administration, an intradepartmental, cross-functional team was formed to evaluate options to further strengthen the Department's purchase, travel, and fleet card programs.

These actions address significant problems that we have identified in our acquisition-related reviews; we will determine their effectiveness as we conduct our acquisition review program.

NOAA/NWS Contract Modification. In this semiannual period, we continued monitoring NOAA's actions to correct the systemic deficiencies identified in our review of a major modification to a NOAA/National Weather Service (NWS) contract for a transition power source (TPS) for the NEXRAD weather radar. In our last semiannual, we reported that NOAA's Acquisition and Grants Office and NWS executed the modification without adequate negotiation or appropriate review and oversight of the contract, its management, or technical issues, and that NWS paid for defective equipment. These deficiencies resulted in an estimated increase in contract costs of \$4.5 million and purchase of a product that may not have been the best choice for NEXRAD. (See September 2003 *Semiannual Report*, page 25.)

NIST Acquisition Management. We recently began a review of NIST's acquisition management process. As we reported in our last semiannual (see September 2003 *Semiannual Report*, page 32), our review of a NIST contract using the simplified acquisition procedures test program for soliciting and evaluating commercial items revealed that an error in citing the relevant procurement law caused some confusion and, if applied, could have resulted in unfair penalties being assessed to certain offerors. Also, an incomplete explanation in the solicitation document denied offerors full information about the rules governing the procurement. In response to our review, NIST officials agreed to improve their internal quality assurance program for procurement actions, develop supplemental policy and guidance, and provide training to their acquisition workforce.

MAJOR CONSTRUCTION AND RENOVATION PROJECTS

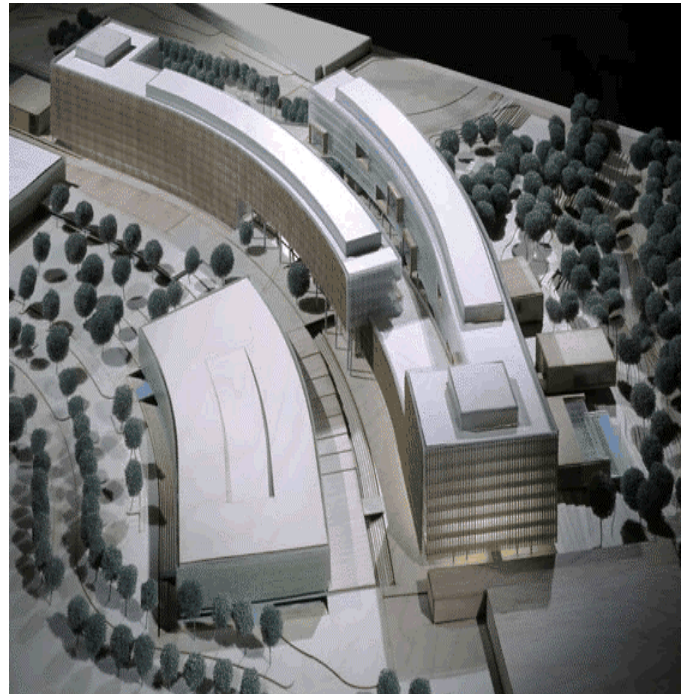
Contracts for large, costly, and complex capital improvement and construction projects carry numerous inherent risks. This is an area of particular vulnerability for the Department, given the many construction and/or renovation projects it has planned or under way for Commerce facilities. Departmental leadership and OIG oversight are needed to maximize Commerce's return on its investment in these projects. Detecting and addressing potential problems during the developmental stages rather than after a project is begun or completed saves time and money. For this reason, we continue to monitor the progress of the Department's current and planned construction projects.

At present we are reviewing USPTO's progress in completing, furnishing, and occupying its new headquarters complex in northern Virginia (see Challenge 3). Over time, we will

also assess several of the Department's other major⁴ renovation and construction projects, which include the following:

- ❑ **NOAA.** According to NOAA, 21 projects are currently scheduled or in process including construction of a Pacific Region Center in Hawaii, projected to cost \$210-\$230 million; a fisheries research facility in Juneau, Alaska; and a Center for Weather and Climate Prediction in College Park, Maryland.
- ❑ **NIST.** The bureau continues its multimillion-dollar program to upgrade existing laboratories in Gaithersburg, Maryland, and Boulder, Colorado: it has begun occupying its new Advanced Measurement Laboratory in Gaithersburg and constructing a central utilities plant in Boulder.
- ❑ **Census.** Two buildings will be constructed at the bureau's Suitland, Maryland, headquarters. Construction drawings are nearly completed.
- ❑ **Commerce Headquarters (Herbert C. Hoover Building).**

The Department is planning the modernization of its headquarters in Washington, D.C., and has established a Renovation Program Office to oversee and monitor this multiyear, multiphase project through completion.



Artist's rendering of the new Census headquarters complex in Suitland, Maryland, estimated to cost \$331 million and be ready for occupancy in 2008—at the height of the bureau's preparation for Census 2010.
Source: Census Bureau

⁴ According to the U.S. Department of Commerce's Office of Real Estate Policy and Major Programs, "major" projects are those costing \$2.3 million or more.

CHALLENGE 3

SUCCESSFULLY OPERATE THE U.S. PATENT AND TRADEMARK OFFICE AS A PERFORMANCE-BASED ORGANIZATION

USPTO's operation as a performance-based organization continues to warrant special attention. According to USPTO, the efficiency with which it issues patents has a huge impact on the pace of technological advancement worldwide. The prompt registration of trademarks protects commercial investment, informs consumer choices, and promotes the availability of new goods and services.

Though USPTO has assumed responsibility for certain operational functions that were once controlled or monitored at the departmental level, it is essential that the bureau effectively use its expanded authority over budget allocations and expenditures, personnel decisions and processes, procurement, and information technology operations to process patent and trademarks in a high-quality and timely manner.

In June 2002, USPTO issued its *21st Century Strategic Plan*. The 5-year plan was intended to help the agency overcome the challenges accompanying its transition to performance-based operations; successfully develop necessary personnel policies; establish procurement and administrative policies as well as performance-oriented processes and standards for evaluating cost-effectiveness; and, simultaneously, meet its performance goals under the Government Performance and Results Act (GPRA) and the timeliness goals of the American Inventors Protection Act.

In February 2003, USPTO revised this plan. According to the agency, it is now more aggressive and far-reaching and provides a roadmap for major changes in patent and trademark processes. These include steps to (1) improve and maintain patent and trademark quality, (2) move to a paperless environment and promote e-government, (3) enhance employee development, and (4) explore competitive sourcing. The plan also calls for the agency to work with international intellectual property offices to create a global framework for enforcing intellectual property rights.

Our office is currently reviewing aspects of USPTO's Office of Human Resources in response to complaints of noncompliance with merit system principles and a subsequent request for review from the agency's chief financial officer/chief administrative officer. In addition, we are auditing selected aspects of USPTO's trademark review process and evaluating certain efforts to increase productivity and reduce the time it takes to process trademark applications. The review covers fiscal years 1999 through 2003. Similarly, we are evaluating patent examiner production goals, awards, and performance appraisal plans to determine their effect on production.

We are also reviewing progress on construction of the agency's new, state-of-the-art headquarters complex in Alexandria, Virginia, and its plans for relocating to these facilities. This project is one of the federal government's largest real estate ventures. When completed in 2005, the five-building complex will bring together the majority of

USPTO employees and contractors, who are currently scattered among 18 buildings in Crystal City, Virginia. USPTO has occupied two of the new buildings earlier than anticipated and is working with the General Services Administration to ensure the project stays on schedule.

Our current focus is USPTO's management of the project—we are looking at the agency's handling of issues we identified during the project's planning and design phases, such as relocation strategies and actual versus estimated costs and completion schedules. Accomplishing the relocation with minimal disruptions to operations is critical to minimizing adverse impacts on costs, employees, and services to patent and trademark applicants and the public.

CHALLENGE 4

CONTROL THE COST AND IMPROVE THE ACCURACY OF CENSUS 2010

Few Commerce activities have more ambitious goals, higher costs, or more intensive resource requirements than the constitutionally mandated decennial census, and with each decade, this undertaking becomes more costly, complex, and challenging. Costs of \$1 billion in 1980, for instance, rose to \$2.6 billion in 1990, and to \$6.5 billion in 2000. For 2010, Census estimates the cost will be between \$10 billion and \$12 billion. (Note: Dollar amounts are not adjusted for inflation.)

Much has changed in the methods and technologies used for decennial census taking over the past 3 decades. And during that time, the nation's population has increased and diversified dramatically. But the primary weaknesses we have noted in monitoring the 1980, 1990, and 2000 decennials have remained the same and are at least partially responsible for the ballooning costs: insufficient planning and lack of upfront funding for an operation that by its very nature requires long-term vision and development, as well as continued testing at key points along the way.

Our work on the 2010 decennial began when we issued *Improving Our Measure of America: What Census 2000 Can Teach Us in Planning for 2010*. Using our recommendations from that report, we have established a comprehensive agenda for monitoring a broad range of critical decennial activities from their planning through execution. Our goal, as always, is to support and enhance the bureau's readiness by identifying problems early, offering solutions, and informing the key decision-makers—departmental officials, Congress, and the administration.

CENSUS 2010 REVIEW AGENDA

In addition to work already completed or under way, OIG plans a series of targeted reviews over the coming months and years on key aspects of the following areas:

- The plan for the 2010 census—its completeness, as well as coordination and integration of its elements.
- Systems and software design, acquisition, development, testing, and security.
- Corrections to address and map information.
- Field tests planned for 2004 and 2006.
- Conduct of the American Community Survey.
- Approach to measuring data quality.
- Conduct of the 2008 dress rehearsal.
- Impact of construction and occupancy of Census' new headquarters on decennial scheduling.
- Implementation of decennial operations beginning in 2009.

The Census Bureau has taken numerous steps toward improving 2010 operations and controlling costs. In September 2002 it adopted a reengineered framework for conducting the decennial: an American Community Survey to collect and tabulate long-form data throughout the decade; an enhanced address list and geographic information database; and a program of early planning, development, and testing for a short-form-only census. The three-pronged strategy is aggressive and intended to capitalize on the latest technology, such as handheld computers for nonresponse follow-up data collection, which will incorporate a global positioning system to register the correct geographic location of households. In addition, the Department is seeking an increased level of upfront funding.

We have assessed Census's progress in modernizing its MAF/TIGER processing system thus far (see September 2003 *Semiannual Report*, page 19), and are concerned that the bureau's late start in establishing a strong project management structure and its lack of a plan for accelerating its software improvement process may delay completion of the new system, preventing it from being thoroughly tested before the dress rehearsal in 2008. The successful redesign of this system is crucial to improving Census 2010 operations, and it must be ready to support the dress rehearsal. We are closely monitoring this and other aspects of systems and software acquisition and development, as well as the bureau's actions to ameliorate any problems we identify.

**OIG Recommendations for
Improving the Decennial Census**

1. **Reach early consensus on the 2010 design to facilitate effective planning and obtain sufficient funding.** Delays in finalizing the Census 2000 design and obtaining needed funding left insufficient planning, development, and testing time for many key components.
2. **Produce accurate, complete address lists and maps.** The bureau's master address file (MAF) and associated mapping system (Topologically Integrated Geographic Encoding and Referencing, or TIGER) contained a higher-than-acceptable level of unreliability, which meant too many forms and too many enumerators could not reach the intended households.
3. **Conduct a carefully targeted and aggressive public awareness campaign.** The bureau's efforts to increase public awareness of and participation in Census 2000 were successful, enabling the bureau to achieve a response rate of 67 percent—6 percentage points beyond the projected rate of 61 percent. Census needs to further refine its public outreach program to achieve even higher rates in 2010.
4. **Strengthen quality control of nonresponse follow-up.** Instances of falsified and questionable data in Census 2000 required costly reenumeration and undermined confidence in the overall census results.
5. **Implement clear policies and guidance for managing temporary staff.** The logistics of hiring, training, and supervising nearly 1 million temporary workers require strong management policies and procedures.
6. **Determine whether sampling has a role beyond measuring coverage.** Sampling has been a contentious issue in the past two decennials, and initial plans to use it to improve coverage were ultimately overruled.
7. **Implement rigorous system and software development processes and effective information security measures.** The bureau's approach to systems and software development for Census 2000 provided inadequate controls, insufficient testing, and poor or no documentation, all of which led to inefficiency and disruptive errors.
8. **Upgrade and maintain contracting and program management expertise.** The bureau lacked adequate in-house management skills to oversee decennial contracts and contractor-operated programs.
9. **Generate timely and accurate management and operational information.** The bureau lacked procedures for evaluating operations and thus failed to identify improprieties in a timely manner. Nor did it have expeditious methods for collecting and disseminating information to stakeholders.
10. **Mitigate potential disruptions and distractions to the work environment and workforce.** The bureau must have plans to counter the potentially negative impacts of two major events: the possible retirement of roughly half of the bureau's decennial staff during this decade, and the anticipated move to new facilities in 2008—the year of the dress rehearsal for Census 2010.

Source: *Improving Our Measure of America: What Census 2000 Can Teach Us in Planning for 2010*. U.S. Department of Commerce Office of Inspector General. Report No. OIG-14431, Spring 2002.

We are also focused on the bureau's 2004 testing of new approaches to staffing census operations and improving data quality and coverage. Specifically, we will evaluate (1) enumerator hiring, training, and quality control processes; (2) new methods for improving coverage of population and housing, including procedures to minimize address duplication; (3) the effectiveness of improved definitions and methods for distinguishing between group quarters and housing units; (4) the impact of handheld computers and associated systems on enumerator performance; and (5) the efficiency and effectiveness of support functions at 2004 local census office test sites.

CHALLENGE 5

INCREASE THE EFFECTIVENESS OF MARINE RESOURCE MANAGEMENT

The National Marine Fisheries Service (NMFS) must balance two competing interests: (1) promoting commercial and recreational fishing as vital elements of our national economy and (2) preserving populations of fish and other marine life. Eight regional fishery management councils, along with NMFS, are responsible for developing plans for governing domestic fisheries in federal waters. Their combined goal is to prevent overfishing, rebuild overfished stocks, and protect, restore, and promote the long-term health and stability of U.S. fisheries.

Developing conservation and management measures requires collecting, analyzing, and reporting demographic information about fish populations via stock assessments. These reports are a key element of the fishery management process; they are used to determine whether additional regulations are necessary to rebuild fish stocks or whether greater fishing opportunities can be allowed. Because of their potential impact on commercial and recreational fishing, these assessments are often controversial, and the methods used to create the estimates typically undergo intense scrutiny by fishers and conservation groups.

Following on our recent assessments of data collection processes and equipment used by an NMFS science center to survey New England groundfish (see September 2003 *Semiannual Report*, page 30) and enforcement of fishing regulations by NMFS' Office for Law Enforcement (see March 2003 *Semiannual Report*, page 25), we reviewed the agency's observer program. Observers deployed on U.S. commercial fishing vessels collect catch statistics, monitor bycatch and protected species interactions, and perform biological sampling to obtain information that NMFS, industry, and academic researchers use to supplement their own work and to aid in the management of living resources. We reviewed seven programs to determine how NMFS ensures data quality, and whether the data is meeting research and fishery management needs. Although we found a number of best practices that may lend themselves to replication across all observer programs, we noted several problematic issues: procedures for choosing observers' vessel assignments were improperly designed and/or implemented in ways that could potentially introduce bias; retaining qualified observer staff is difficult; and

NMFS did not adequately monitor the performance of the programs or of contractors hired to provide observers. We made recommendations to address each of these issues (see March 2004 issue, page 30), and also suggested that—to foster better industry cooperation with the observer program—NMFS’ National Observer Program office and the regional science centers do more outreach to the fishing industry.

Also during this semiannual period, we concluded an audit of NMFS’ acquisition of services to secure fishery research support (see March 2004 *Semiannual Report to Congress*, page 33). This review was prompted by our audit of an NMFS financial assistance recipient conducting biological sampling and data collection for Pacific salmon, which turned up information suggesting that NMFS may have inappropriately used cooperative agreements to acquire the services. Our follow-up assessment revealed that these services were for work that directly benefited the federal government, and as such, should have been secured by contracts, not cooperative agreements.

CHALLENGE 6

PROMOTE FAIR COMPETITION IN INTERNATIONAL TRADE

To compete effectively in today’s global marketplace, many U.S. companies need help identifying and taking advantage of new or expanded export market opportunities as well as addressing unfair trade practices, trade disputes with foreign firms, noncompliance with or violations of trade agreements, inadequate intellectual property protection, and other impediments to fair trade. Commerce must ensure that its export promotion assistance and trade compliance and market access efforts adequately serve U.S. exporters and its enforcement of U.S. trade laws helps eliminate unfair competition from imports priced at less than fair market value or subsidized by foreign governments.

To help meet the challenges in highly competitive world markets, Commerce and its International Trade Administration (ITA) work with the Office of the U.S. Trade Representative, the Departments of State and Agriculture, and numerous other federal agencies to monitor and enforce trade agreements. The number and complexity of those agreements have increased substantially in recent years, and the Secretary of Commerce has made monitoring and enforcing trade agreements a top priority for ITA and the Department as a whole. Over the years, Commerce has received additional funding for trade compliance activities, such as placing compliance officers overseas in several key markets. Our work has shown that the increased funding enabled ITA to attract needed staff for its Market Access and Compliance unit without having to request special hiring authority or offer recruitment incentives (see March 2003 *Semiannual Report*, page 20).

Commerce has numerous mechanisms to monitor and help enforce U.S. trade agreements and review trade complaints. When warranted, its Trade Compliance Center forms teams to follow up on complaints and bring them to satisfactory conclusion. In addition,

ITA's overseas offices, operated by the U.S. and Foreign Commercial Service (US&FCS), as well as its other operating units perform a substantial amount of market access and trade compliance work. Overall, ITA's approach to trade compliance and market access is to engage the issue at the working level wherever possible, thus avoiding formal dispute settlement structures such as the World Trade Organization, which can take years to resolve trade disagreements. The Department and ITA pursue important matters of policy—such as intellectual property rights protection, standards development, trading rights, and distribution services—in government-to-government negotiations.

Commerce's many overseas US&FCS offices and domestic U.S. Export Assistance Centers (USEACs) help U.S. companies identify specific export market opportunities or trade leads and offer other trade promotion and export finance counseling services, especially to small and medium-size firms that are new to exporting or looking to expand their overseas markets. During this semiannual period, we reviewed three USEAC networks—Chicago, Pacific Northwest, and Philadelphia—assessing their management, operations, and performance; their ability to provide value-added export counseling to U.S. companies; and their success at developing relationships with federal and nonfederal trade promotion partners (see March 2004 issue, page 24). In all three cases, we found that client satisfaction was high, strong relationships generally existed with local partners, and financial and administrative operations were generally sound. However, in all three networks, we found some inconsistencies in reporting and oversight that led to overstated export success dollar values—one key barometer of performance—for the periods we reviewed. When presented with these issues, ITA demonstrated that it was aware of and was taking systematic organization-wide steps to address some of these reporting problems.

We are currently analyzing the crosscutting, systemic issues we identified in these three reviews. One such issue is that US&FCS is not recovering the full costs for some of its fee-based products and services. OMB Circular A-25 requires federal agencies to recover the full costs of goods and services they provide to customers when such resources convey benefits beyond those enjoyed by the general public. In addition, US&FCS' own fee policy conflicts with OMB's in that it requires recovery of direct costs only. ITA has asked OMB to waive the requirement and is awaiting a decision. In requesting the waiver, ITA contends that it is not able to comply with Circular A-25 because compliance would jeopardize its congressionally mandated mission to increase U.S. exports.

Our USEAC findings mirror those of our recent reviews of overseas operations. Inspections of US&FCS posts in Greece and Turkey revealed that, again, most customers were satisfied with the products and services they received, but both posts had overstated the value of their export successes. (For more detail on Greece, see September 2003 *Semiannual Report*, page 22. For Turkey, see the March 2003 issue, page 19.) As noted earlier, however, we learned during follow-up discussions with ITA management that ITA was addressing this issue organization-wide to ensure that US&FCS staff consistently adhere to reporting guidelines.

We will continue our oversight of the Department's promotion of U.S. exports and also look at Commerce's efforts to track, detect, and combat unfair competition to U.S. industry in domestic markets.

CHALLENGE 7

ENHANCE EXPORT CONTROLS FOR DUAL-USE COMMODITIES

In today's political climate, hostile countries and terrorist groups seeking weapons of mass destruction and the systems to deliver them pose new threats to global security and U.S. foreign policy goals. In this environment, advancing U.S. national and economic security interests through export controls has become an ever greater challenge for the agencies that share this responsibility, particularly for Commerce's Bureau of Industry and Security, which oversees the federal government's export licensing and enforcement system for goods and technologies that have both civilian and military uses ("dual-use commodities"). Strengthening dual-use export licensing and enforcement requires new, comprehensive legislative authority to replace the expired Export Administration Act of 1979 and appropriately address current export control needs and realities. Passed during the Cold War, the act sought to prevent the export of critical goods and technologies to Communist bloc countries. Legislation is needed to address the new threats posed by terrorism as well as to bolster BIS' regulatory authority, strengthen penalties for violations, and maintain strong export controls while encouraging other countries to do the same.

Given the importance of export controls to national security, we devote considerable attention to the challenges facing BIS. The National Defense Authorization Act (NDAA) for Fiscal Year 2000, as amended, directed the inspectors general of the Departments of Commerce, Defense, Energy, and State, in consultation with the directors of the Central Intelligence Agency and the Federal Bureau of Investigation, to report to Congress by March 30, 2000, and annually until the year 2007, on the adequacy of export controls and counterintelligence measures to prevent the acquisition of sensitive U.S. technology and technical information by countries and entities of concern. In addition, NDAA for FY 2001 requires the IGs to discuss in their annual interagency report the status or disposition of recommendations made in earlier reports submitted in accordance with the act. To date, we have completed five reviews of export controls in compliance with the act as well as four separate follow-up reports. Together with the other IGs, we have also issued five interagency reports on export controls for dual-use items and munitions.

REVIEW OF DEEMED EXPORT CONTROLS

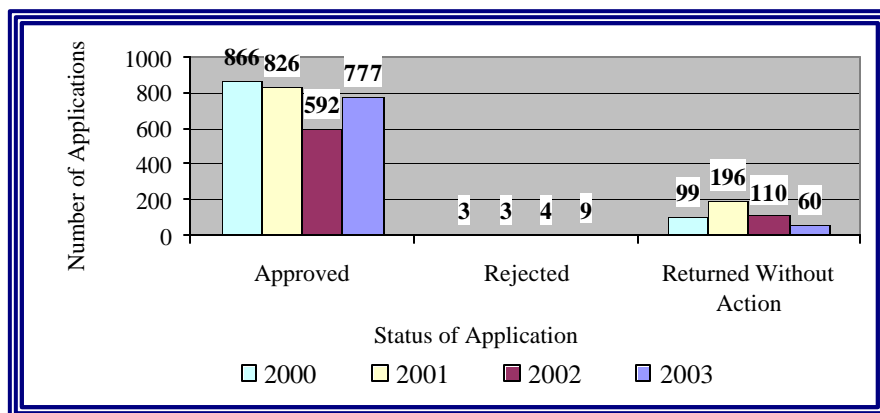
To comply with the NDAA's FY 2004 requirement, we sought to assess (1) the effectiveness of the dual-use deemed export regulations and policies,⁵ including their implementation by BIS, and (2) compliance with the regulations by U.S. industry and academic institutions. We also followed up on prior OIG findings and recommendations from our March 2000 report, *Improvements Are Needed in Programs Designed to Protect Against the Transfer of Sensitive Technologies to Countries of Concern* (IPE-12454-1), as appropriate.

Our report highlights some areas that are working well, such as certain aspects of BIS' deemed export outreach program. However, we identified problems that hamper the efforts of both BIS and the U.S. government to more effectively prevent the transfer of sensitive technology to foreign nationals from countries or entities of concern while they are in the United States. To address these issues, we recommended that BIS (1) modify or clarify some of the dual-use deemed export licensing regulations and policies, (2) expand its efforts to raise awareness of deemed export control regulations by refocusing its outreach and periodically updating its deemed export guidance, and (3) institute a deemed export compliance program.

We also encouraged BIS to work with Congress and the National Security Council to reexamine the broadly applied licensing exemptions contained in the Export Administration Regulations that allow foreign nationals access to otherwise controlled technology. (See March 2004 *Semiannual Report*, page 14.)

In addition to our assessment of Commerce-administered deemed export regulations and policies, the interagency OIG review team (Commerce, Defense, Energy, State, and the CIA) and the Department of Homeland Security's OIG⁶ completed a crosscutting

Number of Deemed Export License Applications Processed in FYs 2000-2003



Source: Export Administration, Bureau of Industry and Security

⁵ According to the Export Administration Regulations, any release to a foreign national of technology or software subject to the regulations is deemed to be an export to the home country of the foreign national. These exports are commonly referred to as "deemed exports," and may involve the transfer of sensitive technology to foreign visitors or workers at U.S. research laboratories and private companies.

⁶ Homeland Security participated in this year's assessment because of the nature of the review topic.

review of the adequacy and effectiveness of government-wide deemed export control laws and regulations to determine if they protect against the transfer of controlled U.S. technologies and technical information. The interagency OIG report will be discussed in detail in our September 2004 report to Congress.

FOCUSED PRIORITIES

While BIS, the administration, and Congress work to (1) target federal licensing and enforcement efforts on exports that present the greatest proliferation and national security risks and (2) streamline or eliminate controls that hamper trade and are not necessary to address national security or foreign policy concerns, congressional enactment of a new Export Administration Act is vital to the success of the U.S. government's efforts to enhance export controls. We will continue to monitor BIS' efforts to improve dual-use export controls through the annual reviews required by the National Defense Authorization Act.

CHALLENGE 8

ENHANCE EMERGENCY PREPAREDNESS, SAFETY, AND SECURITY OF COMMERCE FACILITIES AND PERSONNEL

Since our March 2002 report on the status of emergency preparedness and security programs at a cross-section of Commerce facilities, the Department has made significant improvements, but the challenge remains. Heightened security requires a variety of measures: infrastructure risk assessments, emergency backup sites, upgraded physical security, and employee awareness and training, to name a few. The Department has made significant progress in these areas, but it will need to regularly revisit that progress to ensure it adequately provides for the safety and security of employees and operations, and must make modifications as needed.

Commerce has taken a number of actions to enhance security thus far this year. This includes its completion of a new draft policy on security and a new chapter in its security manual, both of which relate to foreign national visitors and guest researchers in Commerce facilities. The draft policy is currently being coordinated with Commerce bureaus. The Department also is developing a counterespionage risk assessment program, using an emergency operations center to oversee crisis management response during and after an emergency, updating its continuity of operations and emergency operations plans, and providing regular information and training on emergency preparedness to Commerce employees.

Given the size of its workforce and the geographical spread of its hundreds of facilities nationwide and at more than 150 overseas locations, complying with recent security-related guidance is a complex, resource-intensive undertaking for Commerce. Our inspections of overseas posts and domestic U.S. Export Assistance Centers operated by

the U.S. and Foreign Commercial Service identified the need for more timely security upgrades, improved oversight of security operations, and in some cases, specific security improvements.

Security of U.S. embassies throughout the world remains an important priority. The Department has requested an appropriations increase of \$4.5 million in FY 2005 to help fund ITA's share of the State Department's Capital Security Cost Sharing Program, which proposes to build more than 150 high-security embassies and consulates during the coming years, at a total cost of more than \$15 billion. Under the cost-sharing program, all agencies represented in U.S. embassies and consulates will be charged on a worldwide per capita basis.

We believe Commerce is making progress on many emergency preparedness, safety, and security fronts, but the challenge is massive. We will continue to monitor its efforts and report our findings accordingly.

CHALLENGE 9

STRENGTHEN FINANCIAL MANAGEMENT CONTROLS AND SYSTEMS

The Chief Financial Officers Act of 1990, the Government Performance and Results Act of 1993, the Government Management Reform Act of 1994, and the Federal Financial Management Improvement Act of 1996 require that agencies prepare information needed by Congress, agency executives, and the public to assess the management of federal programs and operations. Also required are audits of an entity's financial statements to determine whether its financial position and results of operations are presented fairly and whether its financial management systems comply with federal requirements.

The Department as a whole has made substantial improvements in financial management, and received an unqualified (clean) opinion on its FY 2003 consolidated financial statements—the fifth consecutive year for this accomplishment. The Department resolved the weaknesses in its accounting for personal property and made noteworthy improvements in its financial management systems (both problems noted in the previous year's audit). One reportable condition related to financial management systems was identified (which had in prior years been a material weakness⁷) as well as two repeat findings of noncompliance with laws and regulations (see March 2004 *Semiannual Report*, page 39).

⁷ Material weaknesses are serious flaws in the design or operation of an internal control component that increase the risk that errors, fraud, or noncompliance in material amounts may occur and not be readily detected. Reportable conditions are significant deficiencies in the design or operation of an internal control component that could adversely affect the organization's ability to record, process, summarize, and report financial statement data.

In FY 2003, the Department substantially complied with the Federal Financial Management Improvement Act and OMB Circular A-127 requirements for a single, integrated financial management system, by having completed implementation of the Commerce Administrative Management System (CAMS)⁸ at all but one bureau, and using it in conjunction with a Commerce-wide database for consolidated financial reporting. Ten departmental entities, including the Bureau of the Census and NOAA, used CAMS as their financial system of record in fiscal year 2003. In addition, CAMS was deployed at NIST at the beginning of FY 2004, thus replacing the only remaining system not in compliance with federal requirements.

Despite these accomplishments, maintaining a clean audit opinion remains a major challenge under the accelerated financial reporting dates mandated by the Office of Management and Budget (OMB) for fiscal year 2004. The Department must now have its FY 2004 consolidated financial statements prepared and audited within 45 days of fiscal year-end.

CHALLENGE 10

CONTINUE TO IMPROVE THE DEPARTMENT'S STRATEGIC PLANNING AND PERFORMANCE MEASUREMENT IN ACCORDANCE WITH THE GOVERNMENT PERFORMANCE AND RESULTS ACT

Congress and agency managers require relevant performance measures and credible performance data to effectively oversee federal programs. The Government Performance and Results Act of 1993 was designed to ensure the availability of such data by mandating that agencies set goals for program performance and report outcomes measured against them. The validity of reported performance results is essential in order for government agencies to develop integrated budget and performance information and use performance data to make funding decisions.

Over the past several years, we have reviewed the collection and reporting of performance data by 6 of Commerce's 14 operating units. Our audits have identified the need for (1) stronger internal controls to ensure that reported data is accurate and (2) improved explanations and disclosures of results to clarify and enhance the usefulness of the results. In every case we offered recommendations to address these problems.

During this past semiannual period, these same issues emerged in our audit of performance measures at the Bureau of the Census. We found that the reliability and usefulness of reported information is undercut by (1) imprecise measures and related targets, (2) incorrect descriptions of verification procedures, and (3) conflicting and

⁸ CAMS is a software package based on a commercial off-the-shelf accounting system application that was extensively modified and substantially augmented with capabilities to support both departmental accounting and financial management needs as well as individual Commerce unit requirements.

incomplete disclosures. (See March issue, page 22.) An in-progress audit at NOAA is finding similar issues, suggesting a possible systemic weakness in these areas.

The operating units for which we have completed audits have been responsive to our recommendations: they have generally developed action plans to address identified deficiencies and have revised previously reported performance information accordingly. As each unit takes such steps, we are more confident that performance data will become increasingly reliable and useful, and thus better serve the purpose and intent of GPRA.